Reserve Bank of India introduces the Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020.

Introduction

The Reserve Bank of India ("**RBI**") vide a notification bearing number No. FEMA. 399/RB-2020 introduced a new regulation Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020 ("**Regulations**") which came in force on 23 October 2020, which now allows margin to be posted and collected against permitted derivative contracts.

Important Definitions

Section 2 of the Regulation sets out certain important definitions that make clear the extent to which these Regulations permit the posting and collecting of margin. These include:

1. "Margin" which has been defined to mean the collateral that the parties to a derivative contract post with or collect from each other (whether directly or through a third party) to cover some or all of the credit risk that the provider of the collateral poses for the receiver of the collateral.

2. "Permitted derivative contract", which has been defined to include:
   a) Foreign Exchange Derivative Contract undertaken in terms of the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 and Master Direction– Risk Management and Inter-bank Dealings (as amended from time to time);
   b) Interest Rate Derivative Contract undertaken in terms of the Rupee Interest Rate Derivatives (Reserve Bank) Directions, 2019 (Notification no. FMRD.DIRD.20/2019 dated 26 June 2019), (as amended from time to time);
   c) Credit Derivative Contract undertaken in terms of notification No. IDMD.PCD. No.10/14.03.04/2012-13 dated 7 January 2013, (as amended from time to time); and
   d) Any other derivative contract as may be specified by the RBI from time to time

Key Features and Analysis

Authorised dealers are now permitted to (a) post and collect margin (whether in India and outside India) on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India and (b) receive and pay interest on margin posted and collected on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India. This is now likely to result in an increase in permitted derivative contracts as persons resident in India will now be able to post collateral security to cover some or all of the credit risk involved in such transactions, thereby making it more attractive for persons resident outside India to enter into such transactions with persons resident in India. The exact manner of implementation remains to be seen as the form and manner for doing so is yet to be specified by the RBI.

DISCLAIMER

For further clarification and details on the above, you may write to the Exchange Control team comprising of among others Ms. Siddhi Ghatlia (Partner) at sghatlia@almtlegal.com, Ms. Khusbu Jasani (Senior Associate) at kjasani@almtlegal.com and Ms. Amishi Vira (Associate) at avira@almtlegal.com.