



RBI/FED/2015-16/11  
FED Master Direction No. 16/2015-16

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(Updated as on October 19, 2020)  
(Updated as on January 12, 2018)  
(Updated as on November 16, 2017)  
(Updated as on September 15, 2017)  
(Updated as on May 26, 2016)  
(Updated as on May 12, 2016)

To,

All Authorised Dealer Category – I banks and Authorised Banks

Madam / Sir,

### Master Direction – Export of Goods and Services

Export of Goods and Services from India is governed by clause (a) of sub-section (1) and sub-section (3) of Section 7 of the Foreign Exchange Management Act 1999 (42 of 1999), read with Notification No. G.S.R. 381(E) dated May 3, 2000 viz. Foreign Exchange Management (Current Account Transactions) Rules, 2000, further read with [FEMA Notification No.23\(R\)/2015-RB dated January 12, 2016](#). These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/ constituents with a view to implementing the regulations framed.

3. Instructions issued on export of goods and services from India have been compiled in this Master Direction. The list of underlying circulars/ notifications which form the basis of this Master Direction is furnished in the Appendix. Reporting instructions can be found in Master Directions on reporting ([Master Direction No. 18 dated January 01, 2016](#))

4. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents. The Master Direction issued herewith shall be amended suitably simultaneously.

Yours faithfully,

(R. S. Amar)  
Chief General Manager

<sup>1</sup> FEM (Export of Goods and Services) Regulations, 2000 was repealed and replaced by FEM (Export of Goods and Services) Regulations, 2015 with effect from January 12, 2016.

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## **PART-A General**

### **A.1 Introduction**

(i) Export trade is regulated by the Directorate General of Foreign Trade (DGFT) and its regional offices, functioning under the Ministry of Commerce and Industry, Department of Commerce, Government of India. Policies and procedures required to be followed for exports from India are announced by the DGFT, from time to time.

(ii) AD Category – I banks may conduct export transactions in conformity with the Foreign Trade Policy in vogue and the Rules framed by the Government of India and the Directions issued by Reserve Bank from time to time. In exercise of the powers conferred by clause (a) of sub-section (1) and sub-section (3) of Section 7 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank has notified the <sup>2</sup>Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 relating to export of goods and services from India, hereinafter referred to as the 'Export Regulations'. These Regulations have been notified vide [Notification No. FEMA 23\(R\)/2015-RB dated January 12, 2016](#).

(iii) The Directions contained in this Document should be read with the Rules notified by the Government of India, Ministry of Finance, vide Notification No.G.S.R.381 (E) dated May 3, 2000, as also Regulations notified by Reserve Bank vide its <sup>3</sup>[Notification No. FEMA 23\(R\)/2015-RB dated January 12, 2016](#).

(iv) In terms of Regulation 4 of the Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide <sup>3</sup>[Notification No. FEMA 8/2000-RB dated May 3, 2000](#) as amended from time to time, AD Category – I banks have been permitted to issue guarantees on behalf of exporter clients on account of exports out of India subject to specified conditions.

(v) There is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020),

“All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a

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<sup>2</sup> FEM (Export of Goods and Services) Regulations, 2000 was repealed and replaced by FEM (Export of Goods and Services) Regulations, 2015 with effect from January 12, 2016.

<sup>3</sup> FEM (Export of Goods and Services) Regulations, 2000 was repealed and replaced by FEM (Export of Goods and Services) Regulations, 2015 with effect from January 12, 2016.

member country of Asian Clearing Union (ACU) or Nepal or Bhutan.” Indian Rupee is not a freely convertible currency, as yet.

(vi) Any reference to the Reserve Bank should first be made to the Regional Office of the Foreign Exchange Department situated in the jurisdiction where the applicant person resides, or the firm / company functions, unless otherwise indicated. If, for any particular reason, they desire to deal with a different office of the Foreign Exchange Department, they may approach the Regional Office of their jurisdiction for necessary approval.

(vii) “Financial Year” (April to March) is reckoned as the time base for all transactions pertaining to trade related issues.

## **A.2 Realization and repatriation of proceeds of export of goods / software / services**

It is obligatory on the part of the exporter to realize and repatriate the full value of goods / software / services to India within a stipulated period from the date of export, as under:

(i) It has been decided in consultation with the Government of India that the period of realization and repatriation of export proceeds shall be nine months from the date of export for all exporters including Units in Special Economic Zones (SEZs), Status Holder Exporters, Export Oriented Units (EOUs), Units in Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) & Bio-Technology Parks (BTPs) until further notice.

<sup>4</sup>(ii) In view of the outbreak of pandemic COVID-19, it has been decided, in consultation with the Government of India, to increase the period of realization and repatriation to India of the amount representing the full export value of goods or software or services exported, from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020.

(iii) For goods exported to a warehouse established outside India, the proceeds shall be realized within fifteen months from the date of shipment of goods.

## **A.3 Manner of receipt and payment**

(i) The amount representing the full export value of the goods exported shall be received through an AD Bank in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations, 2016 notified vide [Notification No. FEMA.14 \(R\)/2016-RB dated May 02, 2016](#).

(ii) When payment for goods sold to overseas buyers during their visits is received in this manner, EDF (duplicate) should be released by the AD Category – I banks only on receipt of funds in their Nostro account or if the AD Category – I bank concerned is not the Credit Card

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<sup>4</sup> Inserted by [AP \(DIR Series\) Circular 27 dated April 01, 2020](#)

servicing bank, on production of a certificate by the exporter from the Credit Card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange, AD Category – I banks may also receive payment for exports made out of India by debit to the credit card of an importer where the reimbursement from the card issuing bank/ organization will be received in foreign exchange.

**(iii) Processing of export related receipts through Online Payment Gateway Service Providers (OPGSPs)**

Authorised Dealer Category – I (AD Category – I) banks have been allowed to offer the facility of repatriation of export related remittances by entering into standing arrangements with Online Payment Gateway Service Providers (OPGSPs) subject to the following conditions –

a) The AD Category-I banks offering this facility shall carry out the due diligence of the OPGSP.

b) This facility shall only be available for export of goods and services of value not exceeding USD 10,000 (US Dollar ten thousand).

c) AD Category-I banks providing such facilities shall open a NOSTRO collection account for receipt of the export related payments facilitated through such arrangements. Where the exporters availing of this facility are required to open notional accounts with the OPGSP, it shall be ensured that no funds are allowed to be retained in such accounts and all receipts should be automatically swept and pooled into the NOSTRO collection account opened by the AD Category-I bank.

d) A separate NOSTRO collection account may be maintained for each OPGSP or the bank should be able to delineate the transactions in the NOSTRO account of each OPGSP.

e) Under this arrangement, the permissible debits to the NOSTRO collection account are for repatriation of funds representing export proceeds to India for credit to the exporters' account, payment of fee/commission to the OPGSP as per the predetermined rates / frequency/ arrangement; and charge back to the importer where the exporter has failed in discharging his obligations under the sale contract.

f) The balances held in the NOSTRO collection account shall be repatriated and credited to the respective exporter's account with a bank in India immediately on receipt of the confirmation from the importer and, in no case, later than seven days from the date of credit to the NOSTRO collection account.

- g) AD Category -I banks shall satisfy themselves as to the bona-fides of the transactions and ensure that the purpose codes reported to the Reserve Bank in the online payment gateways are appropriate.
- h) AD Category -I banks shall submit all the relevant information relating to any transaction under this arrangement to the Reserve Bank, as and when advised to do so.
- i) Each NOSTRO collection account should be subject to reconciliation and audit on a quarterly basis.
- j) Resolution of all payment related complaints of exporters in India shall remain the responsibility of the OPGSP concerned.
- k) AD Category-I banks desirous of entering into such an arrangement/s should report the details of each such arrangement as and when entered into to the Foreign Exchange Department, Central Office, Reserve Bank of India, Mumbai.
- l) <sup>5</sup>A start-up can realise the receivables of its overseas subsidiary and repatriate them through Online Payment Gateway Service Providers (OPGSPs).

**(iv) Settlement System under ACU Mechanism**

- <sup>6</sup>a) In order to facilitate transactions / settlements, effective March 06, 2020, participants in the Asian Clearing Union will have the option to settle their transactions either in ACU Dollar or in ACU Euro or in ACU Japanese Yen. Accordingly, the Asian Monetary Unit (AMU) shall be denominated as 'ACU Dollar', 'ACU Euro' and 'ACU Yen' which shall be equivalent in value to one US Dollar, one Euro and one Japanese Yen, respectively.
- b) Further, AD Category – I banks are allowed to open and maintain ACU Dollar, ACU Euro and ACU Japanese Yen accounts with their correspondent banks in other participating countries. All eligible payments are required to be settled by the concerned banks through these accounts.
- c) Relaxation from ACU Mechanism- Indo-Myanmar Trade - Trade transactions with Myanmar can be settled in any freely convertible currency in addition to the ACU mechanism.
- d) In view of the difficulties being experienced by importers/exporters in payments to / receipts from Iran, it has been decided that with effect from December 27, 2010, all eligible current account transactions including trade transactions with Iran should be settled in any permitted currency outside the ACU mechanism, until further notice.

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<sup>5</sup> Inserted by [AP \(DIR Series\) Circular 51 dated February 11, 2016](#) with effect from February 11, 2016.

<sup>6</sup> Inserted by [AP \(DIR Series\) Circular 22 dated March 17, 2020](#)

e) In view of the understanding reached among the members of the ACU during the 44th Meeting of the ACU Board in June, 2015, use of the Nostro accounts of the commercial banks of the ACU member countries, i.e., the ACU Dollar, ACU Euro and ACU Japanese Yen accounts, for settling the payments of both exports and imports of goods and services among the ACU countries is permitted.

f) Notwithstanding the above, it may be noted that operations in 'ACU Euro' have been temporarily suspended with effect from July 01, 2016.

**(v) Third party payments for export / import transactions**

Taking into account the evolving international trade practices, it has been decided to permit third party payments for export / import transactions can be made subject to conditions as under:

a) Firm irrevocable order backed by a tripartite agreement should be in place. However, it may not be insisted upon in cases where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order/ invoice has been produced subject to:

(i) AD bank should be satisfied with the bona-fides of the transaction and export documents, such as, invoice / FIRC.

(ii) AD bank should consider the FATF statements while handling such transaction.

b) Third party payment should be routed through the banking channel only;

c) The exporter should declare the third party remittance in the Export Declaration Form and it would be responsibility of the Exporter to realize and repatriate the export proceeds from such third party named in the EDF;

d) It would be responsibility of the Exporter to realize and repatriate the export proceeds from such third party named in the EDF;

e) Reporting of outstanding, if any, in the XOS would continue to be shown against the name of the exporter. However, instead of the name of the overseas buyer from where the proceeds have to be realized, the name of the declared third party should appear in the XOS;

f) In case of shipments being made to a country in Group II of Restricted Cover Countries, (e.g. Sudan, Somalia, etc.), payments for the same may be received from an Open Cover Country; and

g) In case of imports, the Invoice should contain a narration that the related payment has to be made to the (named) third party, the Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party and



the importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods.

**(vi) <sup>7</sup>Settlement of Export transactions in currencies not having a direct exchange rate**

To further liberalize the procedure and facilitate settlement of export transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such export transactions (excluding those put through the ACU mechanism), subject to conditions as under:

- a) Exporter shall be a customer of the AD Bank,
- b) Signed contract / invoice is in a freely convertible currency,
- c) The beneficiary is willing to receive the payment in the currency of beneficiary instead of the original (freely convertible) currency of the invoice/ contract, Letter of Credit as full and final settlement,
- d) AD bank is satisfied with the bonafides of the transactions, and
- e) The counterparty to the exporter/ importer of the AD bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures.

**A.4 Foreign Currency Account**

(i) Participants in international exhibition/trade fair have been granted general permission vide <sup>8</sup>Regulation 5(E)(5) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016 for opening a temporary foreign currency account abroad. Exporters may deposit the foreign exchange obtained by sale of goods at the international exhibition/ trade fair and operate the account during their stay outside India provided that the balance in the account is repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair and full details are submitted to the AD Category – I banks concerned.

(ii) Reserve Bank may consider applications in Form EFC from exporters having good track record for opening a foreign currency account with AD banks in India and outside India subject to certain terms and conditions. Applications for opening the account with a branch of an AD Category – I bank in India may be submitted through the branch at which the account

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<sup>7</sup> Inserted by [AP \(DIR Series\) Circular 42 dated February 4, 2016](#).

<sup>8</sup> Inserted by FEM (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 with effect from January 21, 2016. Prior to insertion it read as "*Regulation 7(7) of the Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations, 2000 notified vide [Notification No. FEMA 10/2000-RB dated May 3, 2000](#)*"

is to be maintained. If the account is to be maintained abroad the application should be made by the exporter giving details of the bank with which the account will be maintained.

(iii) An Indian entity can also open, hold and maintain a foreign currency account with a bank outside India, in the name of its overseas office/branch, by making remittance for the purpose of normal business operations of the said office/branch or representative subject to conditions stipulated in <sup>9</sup>Regulation 5 (B) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016.

(iv) A unit located in a Special Economic Zone (SEZ) may open, hold and maintain a Foreign Currency Account with an AD Category – I bank in India subject to conditions stipulated in <sup>10</sup>Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016.

(v) A person resident in India being a project / service exporter may open, hold and maintain foreign currency account with a bank outside or in India, subject to the standard terms and conditions in the Memorandum PEM.

#### **A.5 Diamond Dollar Account (DDA)**

(i) Under the scheme of Government of India, firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, minakari and / or studded with / without diamond and / or other stones, with a track record of at least 2 years in import / export of diamonds / colored gemstones / diamond and colored gemstones studded jewellery / plain gold jewellery and having an average annual turnover of Rs. 3 crores or above during the preceding three licensing years (licensing year is from April to March) are permitted to transact their business through Diamond Dollar Accounts.

(ii) They may be allowed to open not more than five Diamond Dollar Accounts with their banks.

(iii) Eligible firms and companies may apply for permission to their AD Category – I banks in the format prescribed.

<sup>11</sup>Omitted

(iv) Conditions mentioned at Para A.6 (iv) a) & b) shall also apply.

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<sup>9</sup> Inserted by FEM (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 with effect from January 21, 2016. Prior to insertion it read as "*Regulation 7 of [Notification No. FEMA 10/2000-RB dated May 3, 2000](#)*"

<sup>10</sup> Inserted by FEM (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 with effect from January 21, 2016. Prior to insertion it read as "*Regulation 6 (A) of [Notification No. FEMA 10/2000-RB dated May 3, 2000](#)*"

<sup>11</sup> The submission of fortnightly and quarterly reports to RBI on balances of DDA accounts and opening/ closing of DDA accounts has since been done away with vide [AP \(DIR Series\) Circular No. 54 dated March 23, 2016](#) and FEM (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 with effect from January 21, 2016

## **A.6 Exchange Earners' Foreign Currency Account (EEFC Account)**

(i) A person resident in India may open with, an AD Category – I bank in India, an account in foreign currency called the Exchange Earners' Foreign Currency (EEFC) Account, in terms of <sup>12</sup>Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 dated January 21, 2016.

(ii) Resident individuals are permitted to include resident close relative(s) as defined in the Companies Act 2013 as a joint holder(s) in their EEFC bank accounts on former or survivor basis.

(iii) This account shall be maintained only in the form of non-interest bearing current account. No credit facilities, either fund-based or non-fund based, shall be permitted against the security of balances held in EEFC accounts by the AD Category – I banks.

(iv) All categories of foreign exchange earners are allowed to credit 100% of their foreign exchange earnings to their EEFC Accounts subject to the condition that

a) The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

b) The facility of EEFC scheme is intended to enable exchange earners to save on conversion/transaction costs while undertaking forex transactions. This facility is not intended to enable exchange earners to maintain assets in foreign currency, as India is still not fully convertible on Capital Account.

(v) The eligible credits represent –

a) inward remittance received through normal banking channel, other than the remittance received pursuant to any undertaking given to the Reserve Bank or which represents foreign currency loan raised or investment received from outside India or those received for meeting specific obligations by the account holder.

b) payments received in foreign exchange by a 100 per cent Export Oriented Unit or a unit in Export Processing Zone, Software Technology Park or Electronic Hardware Technology Park for supply of goods to similar such unit or to a unit in Domestic Tariff Area and also payments received in foreign exchange by a unit in Domestic Tariff Area for supply of goods to a unit in Special Economic Zone (SEZ);

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<sup>12</sup> Inserted by FEM (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 with effect from January 21, 2016. Prior to insertion it read as "Regulation 4 of the Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations, 2000 notified vide [Notification No. FEMA 10/2000-RB dated May 3, 2000](#)"

(vi) AD Category – I banks may permit their exporter constituents to extend trade related loans/ advances to overseas importers out of their EEFC balances without any ceiling subject to compliance of provisions of [Notification No. FEMA 3/2000-RB dated May 3, 2000](#) as amended from time to time.

(vii) AD Category – I banks may permit exporters to repay packing credit advances whether availed in Rupee or in foreign currency from balances in their EEFC account and / or Rupee resources to the extent exports have actually taken place.

(viii) Where a part of the export proceeds are credited to an EEFC account, the export declaration (duplicate) form may be certified as: “Proceeds amounting to ..... representing ..... percent of the export realization credited to the EEFC account maintained by the exporter with.....”

### **A.7 Counter-Trade Arrangement**

Counter trade proposals involving adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in US Dollar will be considered by the Reserve Bank subject to following conditions:

(i) All imports and exports under the arrangement should be at international prices in conformity with the Foreign Trade Policy and Foreign Exchange Management Act, 1999 and the Rules and Regulations made there under.

(ii) No interest will be payable on balances standing to the credit of the Escrow Account but the funds temporarily rendered surplus may be held in a short-term deposit up to a total period of three months in a year (i.e., in a block of 12 months) and the banks may pay interest at the applicable rate.

(iii) No fund based/or non-fund based facilities would be permitted against the balances in the Escrow Account.

(iv) Application for permission for opening an Escrow Account may be made by the overseas exporter / organization through his / their AD Category – I bank to the Regional Office concerned of the Reserve Bank.

## **A.8 Exports to neighboring countries by road, rail or river**

The following procedure should be adopted by exporters for filing original copies of EDF where exports are made to neighboring countries by road, rail or river transport:

(i) In case of exports by barges/country craft/road transport, the form should be presented by exporter or his agent at the Customs station at the border through which the vessel or vehicle has to pass before crossing over to the foreign territory. For this purpose, exporter may arrange either to give the form to the person in charge of the vessel or vehicle or forward it to his agent at the border for submission to Customs.

(ii) As regards exports by rail, Customs staff has been posted at certain designated railway stations for attending to Customs formalities. They will collect the EDF for goods loaded at these stations so that the goods may move straight on to the foreign country without further formalities at the border. The list of designated railway stations can be obtained from the Railways. For goods loaded at stations other than the designated stations, exporters must arrange to present EDF to the Customs Officer at the Border Land Customs Station where Customs formalities are completed.

## **A.9 Border trade with Myanmar**

In supersession of instructions contained in A.P. (DIR Series) Circular No. 17 dated October 16, 2000, barter system of trade at the Indo-Myanmar border has been discontinued and replaced with normal trade with effect from December 1, 2015. Accordingly, all trade transactions with Myanmar, including those at the Indo-Myanmar border with effect from December 1, 2015 shall be settled in any permitted currency in addition to the Asian Clearing Union mechanism.

## **A.10 Counter –Trade arrangements with Romania**

The Reserve Bank will consider counter trade proposals from Indian exporters with Romania involving adjustment of value of exports from India against value of imports made into India in terms of a voluntarily entered arrangement between the concerned parties, subject to the condition, among others that the Indian exporter should utilize the funds for import of goods from Romania into India within six months from the date of credit to Escrow Accounts allowed to be opened.

### **A.11 Repayment of State credits**

Export of goods and services against repayment of state credits granted by erstwhile USSR will continue to be governed by the extant directions issued by the Reserve Bank, as amended from time to time.

### **A.12 Forfaiting**

EXIM Bank and AD Category – I banks have been permitted to undertake forfaiting, for financing of export receivables. Remittance of commitment fee / service charges, etc., payable by the exporter as approved by the EXIM Bank / AD Category – I banks concerned may be done through an AD bank. Such remittances may be made in advance in one lump sum or at monthly intervals as approved by the authority concerned.

### **A.13 Export factoring on non-recourse basis**

AD banks have been permitted to factor the export receivables on a non-recourse basis, so as to enable the exporters to improve their cash flow and meet their working capital requirements subject to conditions as under:

- (i) AD banks may take their own business decision to enter into export factoring arrangement on non-recourse basis. They should ensure that their client is not over financed. Accordingly, they may determine the working capital requirement of their clients taking into account the value of the invoices purchased for factoring. The invoices purchased should represent genuine trade invoices.
- (ii) In case the export financing has not been done by the Export Factor, the Export Factor may pass on the net value to the financing bank/ Institution after realising the export proceeds.
- (iii) AD bank, being the Export Factor, should have an arrangement with the Import Factor for credit evaluation & collection of payment.
- (iv) Notation should be made on the invoice that importer has to make payment to the Import Factor.
- (v) After factoring, the Export Factor may close the export bills and report the same in the Export Data Processing and Monitoring System (EDPMS) of the Reserve Bank of India.
- (vi) In case of single factor, not involving Import Factor overseas, the Export Factor may obtain credit evaluation details from the correspondent bank abroad.
- (vii) KYC and due diligence on the exporter shall be ensured by the Export Factor.

## **A.14 Project Exports and Service Exports**

(i) Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as 'Project Exports'. Indian exporters are required to obtain the approval of the AD Category – I banks/ Exim Bank at post-award stage before undertaking execution of such contracts. Regulations relating to 'Project Exports' and 'Service Exports' are laid down in the revised Memorandum of Instructions on Project and Service Exports (PEM-July 2014).

(ii) Accordingly, AD banks / Exim Bank may consider awarding post-award approvals without any monetary limit and permit subsequent changes in the terms of post award approval within the relevant FEMA guidelines / regulations. Project and service exporters may approach AD banks / Exim Bank based on their commercial judgment. The respective AD bank / Exim Bank should monitor the projects for which post-award approval has been granted by them.

(iii) In order to provide greater flexibility to project & service exporters in conducting their overseas transactions, facilities have been provided as under:

a) Inter-Project transfer of machinery - The stipulation regarding recovery of market value (not less than book value) of the machinery, etc., from the transferee project has been withdrawn. Further, exporters may use the machinery / equipment for performing any other contract secured by them in any country subject to the satisfaction of the sponsoring AD Category – I bank(s) / Exim Bank and also subject to the reporting requirement and would be monitored by the AD Category – I bank(s) / Exim Bank.

b) Inter-Project transfer of funds - AD Category – I bank(s) / Exim Bank may permit exporters to open, maintain and operate one or more foreign currency account/s in a currency/currencies of their choice with inter-project transferability of funds in any currency or country. The Inter-project transfer of funds will be monitored by the AD Category – I bank(s) / Exim Bank.

c) Deployment of temporary cash surpluses - Subject to monitoring by the AD Category – I bank(s) / Exim Bank, Project / Service exporters may deploy their temporary cash surpluses, generated outside India investments in short-term paper abroad including treasury bills and other monetary instruments with a maturity or remaining maturity of one year or less and the rating of which should be at least A-1/AAA by Standard & Poor or P-1/-AAA by Moody's or F1/AAA by Fitch IBCA etc., and as deposits with branches / subsidiaries outside India of AD Category – I banks in India.

d) Repatriation of funds in case of On-site Software Contracts - The requirement of repatriation of 30 per cent of contract value in respect of on-site contracts by software exporter company / firm has been dispensed with. They should, however, repatriate the profits of on-site contracts after completion of the contracts.

#### **A.15 Export of goods on lease, hire, etc.**

Prior approval of the Reserve Bank is required for export of machinery, equipment, etc., on lease, hire basis under agreement with the overseas lessee against collection of lease rentals/hire charges and ultimate re-import. Exporters should apply for necessary permission, through an AD Category – I banks, to the Regional Office concerned of the Reserve Bank, giving full particulars of the goods to be exported.

#### **A.16 Export on elongated credit terms**

Exporters intending to export goods on elongated credit terms may submit their proposals giving full particulars through their banks for consideration to the Regional Office concerned of the Reserve Bank.

#### **A.17 Export of Currency**

In terms of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 notified vide [Notification No. FEMA 6 \(R\)/2015-RB dated December 29, 2015](#), as amended from time to time, permission of Reserve Bank is required for any export of Indian currency except to the extent permitted under any general permission granted under the Regulations as under:

(i) Any person resident in India may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India up to an amount not exceeding Rs.25,000 (Rupees twenty five thousand only); and

(ii) Any person resident outside India, not being a citizen of Pakistan and Bangladesh and also not a traveler coming from and going to Pakistan or Bangladesh, and visiting India may take outside India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 25,000 (Rupees twenty five thousand only) while exiting only through an airport.



## **PART-B EDF / SOFTEX Procedure**

### **B.1 Export of goods through Customs ports**

(i) Customs shall certify the value declared and give running serial number on the two copies of Export Declaration Form (EDF), submitted by exporter at Non- Electronic Data Interchange (EDI) port.

(ii) Customs shall retain the original EDF for transmission to the Reserve Bank and return the duplicate copy to the exporter.

(iii) At the time of shipment of goods, exporters shall submit the duplicate copy of the EDF to Customs. After examining the goods, Customs shall certify the quantity in the form and return it to the exporter for submission to AD for negotiation or collection of export bills.

(iv) Within 21 days from the date of export, exporter shall lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice to the AD named in the EDF.

(v) After the documents have been negotiated / sent for collection, the AD shall report the transaction through Export Data Processing and Monitoring System (EDPMS) to the Reserve Bank and retain the documents at their end.

(vi) In case of exports made under deferred credit arrangement or to joint ventures abroad against equity participation or under rupee credit agreement, the number and date of the Reserve Bank approval and/or number and date of the relative RBI circular shall be recorded at the appropriate place on the EDF.

(vii) Where duplicate copy of EDF is misplaced or lost, AD may accept copy of duplicate EDF duly certified by Customs.

### **B.2 Export of goods/ software done through EDI ports**

(i) The shipping bill shall be submitted in duplicate to the authority concerned (Commissioner of Customs or the SEZ, if the export is made through it).

(ii) After verifying and authenticating, the authority concerned shall hand over to the exporter, one copy of the shipping bill marked 'Exchange Control (EC) Copy' for being submitted to the AD bank within 21 days from the date of export for collection/negotiation of shipping documents. However, in cases where EC copy of shipping bill is not printed in terms of CBEC's Circular No. 55/2016-Customs dated November 23, 2016 and data of shipping bill is integrated with EDPMS, requirement of submission of EC copy of shipping bill with the AD bank would not be there.

(iii) The manner of disposal of EC copy of Shipping Bill shall be the same as that for EDF. The duplicate copy of the form together with a copy of invoice etc. shall be retained by ADs and may not be submitted to the Reserve Bank. The question of disposal of EC copy of shipping bill will, however, not arise where EC copy of shipping bill is not printed in terms of CBEC's Circular No.55/2016-Customs dated November 23, 2016 and data of shipping bill is integrated with EDPMS.

Note: - In cases where ECGC/private insurance companies regulated by Insurance Regulatory and Development Authority (IRDA) initially settles the claims of exporters and the export proceeds are subsequently received from the buyer/buyer's country, the share of exporters in the amount so received is disbursed through the AD which had handled the shipping documents post receipt of certificate issued by ECGC/ private insurance companies. The certificate will indicate the number of declaration form, name of the exporter, name of the AD, date of negotiation, bill number, invoice value and the amount actually received by ECGC/private insurance company.

### **B.3 Export of goods through Post**

Postal Authorities shall allow export of goods by post only if the original copy of the EDF has been countersigned by an AD. Therefore, EDF which involve sending goods by post should be first presented by the exporter to an AD for countersignature. The procedure is as under:

(i) AD shall countersign EDF after ensuring that the parcel has been addressed to their branch or correspondent bank in the country of import and return the original copy to the exporter, who shall then submit the EDF to the post office with the parcel.

(ii) The duplicate copy of EDF shall be retained by the AD to whom the exporter shall submit relevant documents together with an extra copy of invoice for negotiation/collection, within the prescribed period of 21 days.

(iii) The concerned overseas branch or correspondent shall be instructed to deliver the parcel to consignee against payment or acceptance of relative bill.

(iv) AD may, however, countersign EDF covering parcels addressed direct to the consignees, provided:

(a) An irrevocable letter of credit for the full value of export has been opened in favor of the exporter and has been advised through the AD concerned.

Or

(b) The full value of the shipment has been received in advance by the exporter through an AD.

Or

(c) The AD is satisfied, on the basis of the standing and track record of the exporter and the arrangements made for realization of the export proceeds.

In such cases, particulars of advance payment/letter of credit / AD's certification of standing, etc., of the exporter should be furnished on the form under proper authentication.

(v) Any alteration in the name and address of consignee on the EDF form should also be authenticated by AD under its stamp and signature.

#### **B.4 Mid-sea trans-shipment of catch by deep sea fishing vessels**

(i) Since deep sea fishing involves continuous sailing outside the territorial limit, trans-shipment of catches takes place in the high sea leading to procedural constraints in regulatory reporting requirement viz. the Declaration of Export in terms of [Notification No.FEMA.23\(R\)/2015-RB dated January 12, 2016](#).

(ii) For mid-sea trans-shipment of catches by Indian owned vessels, as per the norms prescribed by the Ministry of agriculture, Government of India, the EDF declaration procedure in this regard has been rationalized in consultation with the Government of India as outlined below should be followed by the exporter in conformity with Regulation 3 of [Notification No.FEMA.23 \(R\)/2015-RB dated January 12, 2016](#).

a) The exporters may submit the EDF, duly signed by the Master of the vessel in lieu of Custom certification, indicating the composition of the catch, quantity, export value, date of shipment (date of transfer of catch), etc duly supported by a certificate from an international cargo surveyor.

b) Bill of Lading / receipt of trans-shipment issued by the carrier vessel should include the EDF Number.

c) The prescribed period of realization and repatriation should be reckoned with reference to the date of transfer of catch as certified by the Master of the vessel or the date of the invoice, whichever is earlier.

d) The EDF, both original and duplicate, should indicate the number and date of Letter of Permit issued by Ministry of Agriculture for operation of the vessel.

e) The exporter will complete the EDF in duplicate and both the copies may be submitted to the Customs at the registered port of the vessel or any other port as approved by Ministry of Agriculture. EDF (Original) will be retained by the Customs for capturing of data in Customs' Electronic Data Interchange.

f) Customs will give their running serial number on both the copies of EDF and will return the duplicate copy to the exporter as the value certification of the export has already been done as mentioned above.

g) Rules, Regulations and Directions issued in respect of the procedure for submission of the EDF by exporter to the AD Category-I banks, and the disposal of these forms by these banks will be same as applicable to the other exporters.

## **B.5 SOFTEX Forms**

(i) All software exporters can now file single as well as bulk SOFTEX form in the form of a statement in excel format to the competent authority for certification. Since the SOFTEX data from STPI/SEZ are being transmitted in electronic format to RBI, the exporters now have to submit the SOFTEX form in duplicate as per the revised procedure. STPI/SEZ will retain one copy and handover duplicate copy to exporters after due certification. As hitherto, the exporters have to provide information about all the invoices including the ones lesser than US\$25000, in the bulk statement in excel format.

(ii) A common "SOFTEX Form" has been devised to declare single as well as bulk software exports.

(iii) Reserve Bank of India has extended the facility for online generation of the EDF Form Number and the SOFTEX Form Number (Single as well as Bulk for use in off-site software exports). The facility of manual allotment of single as well bulk SOFTEX form number by Regional Offices of RBI has been dispensed with accordingly.

### **(iv) Invoicing of software exports**

a) For long duration contracts involving series of transmissions, the exporters should bill their overseas clients periodically, i.e., at least once a month or on reaching the 'milestone' as provided in the contract entered into with the overseas client and the last invoice / bill should be raised not later than 15 days from the date of completion of the contract. It would be in order for the exporters to submit a combined SOFTEX form for all the invoices raised on a particular overseas client, including advance remittances received in a month.

b) Contracts involving only 'one-shot operation', the invoice/bill should be raised within 15 days from the date of transmission.

c) The exporter should submit declaration in Form SOFTEX in quadruplicate in respect of export of computer software and audio / video / television software to the designated official concerned of the Government of India at STPI / EPZ / FTZ / SEZ for valuation / certification not later than 30 days from the date of invoice / the date of last invoice raised in a month, as indicated above. The designated officials may also certify the SOFTEX Forms of EOUs, which are registered with them.

d) The invoices raised on overseas clients as at (a) to (c) above will be subject to valuation of export declared on SOFTEX form by the designated official concerned of the Government of India and consequent amendment made in the invoice value, if necessary.

### **B.6 Citing of specific identification numbers**

In all applications / correspondence with the Reserve Bank, the specific identification number as available on the EDF and SOFTEX forms should invariably be cited.

### **B.7 Export of Services**

It is clarified that, in respect of export of services to which none of the Forms specified in these Regulations apply, the exporter may export such services without furnishing any declaration, but shall be liable to realise the amount of foreign exchange which becomes due or accrues on account of such export, and to repatriate the same to India in accordance with the provisions of the Act, and these Regulations, as also other rules and regulations made under the Act.

### **B.8 Third party export proceeds**

Realization of export proceeds in respect of export of goods / software from third party should be duly declared by the exporter in the appropriate declaration form.

### **B.9 Random verification**

In all the above procedures, AD Category – I bank should ensure, by random check of the relevant duplicate forms by their internal / concurrent auditors, that non-realization or short realization allowed, if any, is within the powers delegated to them or has been duly approved by the Reserve Bank, wherever necessary.

### **B.10 Short Shipments and Shut out Shipments**

(i) When part of a shipment covered by an EDF already filed with Customs is short-shipped, the exporter must give notice of short-shipment to the Customs in the form and manner prescribed. In case of delay in obtaining certified short-shipment notice from the Customs, the exporter should give an undertaking to the AD banks to the effect that he has filed the short-shipment notice with the Customs and that he will furnish it as soon as it is obtained.

(ii) Where a shipment has been entirely shut out and there is delay in making arrangements to re-ship, the exporter will give notice in duplicate to the Customs in the form and manner prescribed, attaching thereto the unused duplicate copy of EDF and the shipping bill. The Customs will verify that the shipment was actually shut out, certify the copy of the notice as correct and forward it to the Reserve Bank together with unused duplicate copy of the EDF. In

this case, the original EDF received earlier from Customs will be cancelled. If the shipment is made subsequently, a fresh set of EDF should be completed.

### **B.11 Consolidation of air cargo/sea cargo**

#### (i) Consolidation of air cargo

a) Where air cargo is shipped under consolidation, the airline company's Master Airway Bill will be issued to the Consolidating Cargo Agent. The Cargo agent in turn will issue his own House Airway Bills (HAWBs) to individual shippers.

b) AD Category – I banks may negotiate HAWBs only if the relative letter of credit specifically provides for negotiation of these documents in lieu of Airway Bills issued by the airline company.

#### (ii) Consolidation of sea cargo

a) AD Category – I banks may accept Forwarder's Cargo Receipts (FCR) issued by IATA approved agents, in lieu of bills of lading, for negotiation / collection of shipping documents, in respect of export transactions backed by letters of credit, if the relative letter of credit specifically provides for negotiation of this document, in lieu of bill of lading even if the relative sale contract with the overseas buyer does not provide for acceptance of FCR as a shipping document, in lieu of bill of lading

b) Further, Authorized Dealers may, at their discretion, also accept FCR issued by Shipping companies of repute/IATA approved agents (in lieu of bill of lading), for purchase/discount/collection of shipping documents even in cases, where export transactions are not backed by letters of credit, provided their 'relative sale contract' with overseas buyer provides for acceptance of FCR as a shipping document in lieu of bill of lading. However, the acceptance of such FCR for purchase/discount would purely be the credit decision of the bank concerned who, among others, should satisfy itself about the bona fides of the transaction and the track record of the overseas buyer and the Indian supplier since FCRs are not negotiable documents. It would be advisable for the exporters to ensure due diligence on the overseas buyer, in such cases.

### **B.12 Exemption from Declaration**

The requirement of declaration of export of goods and software in the prescribed form will not apply to the cases indicated in Regulation 4 of <sup>13</sup>Foreign Exchange Management (Export of Goods and Services) Regulations dated January 12, 2016. The exporters shall, however, be liable to realize and repatriate export proceeds as per FEMA Regulations.

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<sup>13</sup> FEM (Export of Goods and Services) Regulations, 2000 was repealed and replaced by FEM (Export of Goods and Services) Regulations, 2015 with effect from January 12, 2016

## **PART-C Obligations of Authorised Dealers**

### **C.1 Grant of EDF waiver**

<sup>14</sup>AD Category – I banks may consider requests for grant of EDF waiver from exporters as under:

Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit as below:

- a) Annual limit of 2% of average annual export realization during preceding three licensing years for all exporters (excluding the exporters of following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).
- b) Annual limit of Rupees One Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower. (for exporters of the following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).
- c) In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes, the annual limit shall be upto 8% of the average annual export realisation during preceding three licensing years.

Such free of cost supplies shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme.

Exports of goods not involving any foreign exchange transaction directly or indirectly requires the waiver of EDF procedure from the Reserve Bank.

### **C.2 Receipt of advance against exports**

(1) In terms of Regulation 15 of [Notification No. FEMA 23 \(R\)/2015-RB dated January 12, 2016](#), where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under an obligation to ensure that the shipment of goods is made within one year from the date of receipt of advance payment; the rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate

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<sup>14</sup> Inserted vide Gazette Notification No. 28.2015-2020 dated August 27, 2018. Prior to deletion it read as:” AD Category – I banks may consider requests for grant of EDF waiver from exporters as under: Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of Rupees One Crore or 2% of average annual export realisation during preceding three licensing years, whichever is lower. For export of pharma products by pharmaceutical companies, the annual limit would be 2% of average annual export realisation during preceding three licensing years. In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes, the annual limit shall be upto 8% of the average annual export realisation during preceding three licensing years. Such free of cost supplies shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme.” which was inserted [Gazette Notification No 23/2015-2020 dated August 23, 2017](#).

(LIBOR) + 100 basis points; and the documents covering the shipment are routed through the AD Category – I bank through whom the advance payment is received.

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.

<sup>15</sup>EDPMS will capture the details of advance remittances received for exports in EDPMS. Henceforth, AD Category – I banks will have to report all the inward remittances including advance as well as old outstanding inward remittances received for export of goods/ software to EDPMS. Further, AD Category – I banks need to report the electronic FIRC to EDPMS wherever such FIRCs are issued against inward remittances.

The quarterly return being submitted for delay in utilization of advances received for export stands discontinued.

(2) AD Category- I banks can also allow exporters having a minimum of three years' satisfactory track record to receive long term export advance up to a maximum tenor of 10 years to be utilized for execution of long term supply contracts for export of goods subject to the conditions as under:

(i) Firm irrevocable supply orders and contracts should be in place. The contract with the overseas party/ buyer should be vetted and the same shall clearly specify the nature, amount and delivery timelines of the products over the years and penalty in case of non-performance or contract cancellation. Product pricing should be in consonance with prevailing international prices.

(ii) Company should have capacity, systems and processes in place to ensure that the orders over the duration of the said tenure can actually be executed.

(iii) The facility is to be provided only to those entities, which have not come under the adverse notice of Enforcement Directorate or any such regulatory agency or have not been caution listed.

(iv) Such advances should be adjusted through future exports.

(v) The rate of interest payable, if any, should not exceed LIBOR plus 200 basis points.

(vi) The documents should be routed through one Authorized Dealer bank only.

(vii) Authorised Dealer bank should ensure compliance with AML / KYC guidelines

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<sup>15</sup> Inserted vide [AP \(DIR Series\) Circular No. 74 dated May 26, 2016](#)



(viii) Such export advances shall not be permitted to be used to liquidate Rupee loans classified as NPA.

(ix) Double financing for working capital for execution of export orders should be avoided.

(x) Receipt of such advance of USD 100 million or more should be immediately reported to the Trade Division, Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai.

(xi) In case Authorized Dealer banks are required to issue bank guarantee (BG) / Stand by Letter of Credit (SBLC) for export performance, then the issuance should be rigorously evaluated as any other credit proposal keeping in view, among others, prudential requirements based on board approved policy.

a) BG / SBLC may be issued for a term not exceeding two years at a time and further rollover of not more than two years at a time may be allowed subject to satisfaction with relative export performance as per the contract.

b) BG / SBLC should cover only the advance on reducing balance basis.

c) BG / SBLC issued from India in favor of overseas buyer should not be discounted by the overseas branch / subsidiary of bank in India.

Note: AD Category – I banks may also be guided by the Master Circular on Guarantees and Co-acceptances issued by Department of Banking Regulation.

(xii) AD Category – I banks may allow the purchase of foreign exchange from the market for refunding advance payment credited to EEFC account only after utilizing the entire balances held in the exporter's EEFC accounts maintained at different branches/banks.

(3) AD Category- I banks may allow exporters to receive advance payment for export of goods which would take more than one year to manufacture and ship and where the 'export agreement' provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment subject to the following conditions:-

(i) The KYC and due diligence exercise has been done by the AD Category – I bank for the overseas buyer;

(ii) Compliance with the Anti-Money Laundering standards has been ensured;

(iii) The AD Category-I bank should ensure that export advance received by the exporter should be utilized to execute export and not for any other purpose i.e., the transaction is a bonafide transaction;

(iv) Progress payment, if any, should be received directly from the overseas buyer strictly in terms of the contract;

(v) The rate of interest, if any, payable on the advance payment shall not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points;

(vi) There should be no instance of refund exceeding 10% of the advance payment received in the last three years;

(vii) The documents covering the shipment should be routed through the same authorised dealer bank; and

(viii) In the event of the exporter's inability to make the shipment, partly or fully, no remittance towards refund of unutilized portion of advance payment or towards payment of interest should be made without the prior approval of the Reserve Bank.

(4) (i) As it has been observed that there is substantial increase in the number and amount of advances received for exports remaining outstanding beyond the stipulated period on account of non-performance of such exports (shipments in case of export of goods), AD Category – I banks are advised to efficiently follow up with the concerned exporters in order to ensure that export performance (shipments in case of export of goods) are completed within the stipulated time period.

(ii) It is further reiterated that AD category – I banks should exercise proper due diligence and ensure compliance with KYC and AML guidelines so that only bonafide export advances flow into India. Doubtful cases as also instances of chronic defaulters may be referred to Directorate of Enforcement (DoE) for further investigation. A quarterly statement indicating details of such cases may be forwarded to the concerned Regional Offices of RBI within 21 days from the end of each quarter.

### **C.3 EDF Approval for Trade Fair/Exhibitions abroad**

Firms / Companies and other organizations participating in Trade Fair/Exhibition abroad can take/export goods for exhibition and sale outside India without the prior approval of the Reserve Bank. Unsold exhibit items may be sold outside the exhibition/trade fair in the same country or in a third country. Such sales at discounted value are also permissible. It would also be permissible to 'gift' unsold goods up to the value of USD 5000 per exporter, per exhibition/trade fair. AD Category – I banks may approve EDF of export items for display or display-cum-sale in trade fairs/exhibitions outside India subject to the following:

(i) The exporter shall produce relative Bill of Entry within one month of re-import into India of the unsold items.

(ii) The exporter shall report to the AD Category – I banks the method of disposal of all items exported, as well as the repatriation of proceeds to India.

(iii) Such transactions approved by the AD Category – I banks will be subject to 100 per cent audit by their internal inspectors/auditors.

#### **C.4 EDF approval for export of goods for re-imports**

(i) AD Category – I banks may consider request from exporters for granting EDF approval in cases where goods are being exported for re-import after repairs / maintenance / testing / calibration, etc., subject to the condition that the exporter shall produce relative Bill of Entry within one month of re-import of the exported item from India.

(ii) Where the goods being exported for testing are destroyed during testing, AD Category – I banks may obtain a certificate issued by the testing agency that the goods have been destroyed during testing, in lieu of Bill of Entry for import.

#### **C.5 Re-export of unsold rough diamonds from Special Notified Zone of Customs without Export Declaration Form (EDF) formality**

(i) In order to facilitate re-export of unsold rough diamonds imported on free of cost basis at SNZ, it is clarified that the unsold rough diamonds, when re-exported from the SNZ (being an area within the Customs) without entering the Domestic Tariff Area (DTA), do not require any EDF formality.

(ii) Entry of consignment containing different lots of rough diamonds into the SNZ should be accompanied by a declaration of notional value by way of an invoice and a packing list indicating the free cost nature of the consignment. Under no circumstance, entry of such rough diamonds is permitted into DTA.

<sup>16</sup>(iii) For the lot/ lots cleared at the center/s which are duly notified under Customs Act, 1962/specified by the Central Board of Indirect Taxes & Customs, Department of Revenue, Ministry of Finance, Government of India for the above purpose, Bill of Entry shall be filed by the buyer. AD bank may permit such import payments after being satisfied with the bona-fides of the transaction. Further, AD bank shall also maintain a record of such transactions.

#### **C.6 Setting up of Offices abroad and acquisition of immovable property for Overseas Offices**

(i) At the time of setting up of the office, AD Category – I banks may allow remittances towards initial expenses up to fifteen per cent of the average annual sales/income or turnover during the last two financial years or up to twenty-five per cent of the net worth, whichever is higher.

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<sup>16</sup> Inserted vide [AP\(DIR Series\) Circular No.10 dated November 22, 2019](#)

(ii) For recurring expenses, remittances up to ten per cent of the average annual sales/income or turnover during the last two financial years may be sent for the purpose of normal business operations of the office (trading/non-trading)/branch or representative office outside India subject to the following terms and conditions:

a) The overseas branch/office has been set up or representative is posted overseas for conducting normal business activities of the Indian entity;

b) The overseas branch/office/representative shall not enter into any contract or agreement in contravention of the Act, Rules or Regulations made there under;

c) The overseas office (trading / non-trading) / branch / representative should not create any financial liabilities, contingent or otherwise, for the head office in India and also not invest surplus funds abroad without prior approval of the Reserve Bank. Any funds rendered surplus should be repatriated to India.

(iii) The details of bank accounts opened in the overseas country should be promptly reported to the AD Bank.

(iv) AD Category – I banks may also allow remittances by a company incorporated in India having overseas offices, within the above limits for initial and recurring expenses, to acquire immovable property outside India for its business and for residential purpose of its staff.

(v) The overseas office / branch of software exporter company/firm may repatriate to India 100 per cent of the contract value of each 'off-site' contract.

(vi) In case of companies taking up 'on site' contracts, they should repatriate the profits of such 'on site' contracts after the completion of the said contracts.

(vii) An audited yearly statement showing receipts under 'off-site' and 'on-site' contracts undertaken by the overseas office, expenses and repatriation thereon may be sent to the AD Category – I banks.

### **C.7 Delay in submission of shipping documents by exporters**

In cases where exporters' present documents pertaining to exports after the prescribed period of 21 days from date of export, AD Category – I banks may handle them without prior approval of the Reserve Bank, provided they are satisfied with the reasons for the delay.

### **C.8 Return of documents to exporters**

The duplicate copies of EDF and shipping documents, once submitted to the AD Category – I banks for negotiation, collection, etc., should not ordinarily be returned to exporters, except for rectification of errors and resubmission.

## **C.9 Landlocked countries**

AD Category – I banks may deliver one negotiable copy of the Bill of Lading to the Master of the carrying vessel or trade representative for exports to certain landlocked countries if the shipment is covered by an irrevocable letter of credit and the documents conform strictly to the terms of the Letter of Credit which, inter alia, provides for such delivery.

## **C.10 Direct dispatch of documents by the exporter**

(i) AD Category – I banks should normally dispatch shipping documents to their overseas branches/correspondents expeditiously. However, they may dispatch shipping documents direct to the consignees or their agents resident in the country of final destination of goods in cases where:

a) Advance payment or an irrevocable letter of credit has been received for the full value of the export shipment and the underlying sale contract/letter of credit provides for dispatch of documents direct to the consignee or his agent resident in the country of final destination of goods.

b) The AD Category – I banks may also accede to the request of the exporter provided the exporter is a regular customer and the AD Category – I bank is satisfied, on the basis of standing and track record of the exporter and arrangements have been made for realization of export proceeds.

(ii) AD Category – I banks may also permit 'Status Holder Exporters' (as defined in the Foreign Trade Policy), and units in Special Economic Zones (SEZ) to dispatch the export documents to the consignees outside India subject to the terms and conditions that:

a) The export proceeds are repatriated through the AD banks named in the EDF.

b) The duplicate copy of the EDF is submitted to the AD banks for monitoring purposes, by the exporters within 21 days from the date of shipment of export.

<sup>17</sup>(iii) AD Category – I banks may regularize cases of dispatch of shipping documents by the exporter direct to the consignee or his agent resident in the country of the final destination of goods, irrespective of the value of export shipment, subject to the following conditions:

a) The export proceeds have been realized in full except for the amount written off, if any, in accordance with the extant provisions for write off.

b) The exporter is a regular customer of AD Category – I bank for a period of at least six months.

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<sup>17</sup> Inserted vide [AP\(DIR Series\) Circular No.08 dated December 04, 2020](#)

c) The exporter's account with the AD Category – I bank is fully compliant with the Reserve Bank's extant KYC / AML guidelines.

d) The AD Category – I bank is satisfied about the bonafides of the transaction.

In case of doubt, the AD Category – I bank may consider filing Suspicious Transaction Report (STR) with FIU\_IND (Financial Intelligence Unit in India).

### **C.11 Part Drawings/ Undrawn Balances**

(i) In certain lines of export trade, it is the practice to leave a small part of the invoice value undrawn for payment after adjustment due to differences in weight, quality, etc., to be ascertained after arrival and inspection, weighment or analysis of the goods. In such cases, AD Category – I banks may negotiate the bills, provided:

a) The amount of undrawn balance is considered normal in the particular line of export trade, subject to a maximum of 10 per cent of the full export value.

b) An undertaking is obtained from the exporter on the duplicate of EDF forms that he will surrender/account for the balance proceeds of the shipment within the period prescribed for realization.

(ii) In cases where the exporter has not been able to arrange for repatriation of the undrawn balance in spite of best efforts, AD Category – I banks, on being satisfied with the bona fides of the case, should ensure that the exporter has realized at least the value for which the bill was initially drawn (excluding undrawn balances) or 90 per cent of the value declared on EDF form, whichever is more and a period of one year has elapsed from the date of shipment.

### **C.12 Consignment Exports**

(i) When goods have been exported on consignment basis, the AD Category-I bank, while forwarding shipping documents to his overseas branch/ correspondent, should instruct the latter to deliver them only against trust receipt/undertaking to deliver sale proceeds by a specified date within the period prescribed for realization of proceeds of the export. This procedure should be followed even if, according to the practice in certain trades, a bill for part of the estimated value is drawn in advance against the exports.

(ii) The agents/consignees may deduct from sale proceeds of the goods expenses normally incurred towards receipt, storage and sale of the goods, such as landing charges, warehouse rent, handling charges, etc. and remit the net proceeds to the exporter.

(iii) The account sales received from the Agent/Consignee should be verified by the AD Category – I banks. Deductions in Account Sales should be supported by bills/receipts in original except in case of petty items like postage/cable charges, stamp duty, etc.

(iv) In case the goods are exported on consignment basis, freight and marine insurance must be arranged in India.

(v) AD Category – I banks may allow the exporters to abandon the books, which remain unsold at the expiry of the period of the sale contract. Accordingly, the exporters may show the value of the unsold books as deduction from the export proceeds in the Account Sales.

### **C.13 Opening / hiring of warehouses abroad**

AD Category – I banks may consider the applications received from exporters and grant permission for opening / hiring warehouses abroad subject to the following conditions:

(i) Applicant's export outstanding does not exceed 5 per cent of exports made during the previous financial year.

(ii) Applicant has a minimum export turnover of USD 100,000/- during the last financial year.

(iii) Period of realization should be as applicable.

(iv) All transactions should be routed through the designated branch of the AD Banks.

(v) The above permission may be granted to the exporters initially for a period of one year and renewal may be considered subject to the applicant satisfying the requirement above.

(vi) AD Category – I banks granting such permission/approvals should maintain a proper record of the approvals granted.

### **C.14 Export Bills Register**

AD Category – I banks should maintain Export Bills Register, in physical or electronic form aligned with Export Data Processing and Monitoring System (EDPMS). The bill number should be given to all type of export transactions on a financial year basis (i.e. April to March) and same should be reported in EDPMS.

### **C.15 Follow-up of overdue bills**

(i) AD Category – I banks should closely watch realization of bills and in cases where bills remain outstanding, beyond the due date for payment from the date of export, the matter should be promptly taken up with the concerned exporter. If the exporter fails to arrange for delivery of the proceeds within the stipulated period or seek extension of time beyond the stipulated period, the matter should be reported to the Regional Office concerned of the Reserve Bank stating, where possible, the reason for the delay in realizing the proceeds.

(ii) The duplicate copies of EDF/SOFTEX Forms should, continue to be held by AD Category – I banks until the full proceeds are realized, except in case of undrawn balances.

(iii) AD Category – I banks should follow up export outstanding with exporters systematically and vigorously so that action against defaulting exporters does not get delayed. Any laxity in the follow up of realization of export proceeds by AD Category – I banks will be viewed seriously by the Reserve Bank, leading to the invocation of the penal provision under FEMA, 1999.

(iv) <sup>18</sup>With operationalization of EDPMS on March 01, 2014, realization of all export transaction for shipping documents after February 28, 2014 should be reported in EDPMS.

#### **C.16 Reduction in invoice value on account of prepayment of usance bills**

Occasionally, exporters may approach AD Category – I banks for reduction in invoice value on account of cash discount to overseas buyers for prepayment of the usance bills. AD Category – I banks may allow cash discount to the extent of amount of proportionate interest on the unexpired period of usance, calculated at the rate of interest stipulated in the export contract or at the prime rate/LIBOR of the currency of invoice where rate of interest is not stipulated in the contract.

#### **C.17 Reduction in invoice value in other cases**

(i) If, after a bill has been negotiated or sent for collection, its amount is to be reduced for any reason, AD Category – I banks may approve such reduction, if satisfied about genuineness of the request, provided:

a) The reduction does not exceed 25 per cent of invoice value:

b) It does not relate to export of commodities subject to floor price stipulations

c) The exporter is not on the exporters' caution list of the Reserve Bank,

d) The exporter is advised to surrender proportionate export incentives availed of, if any.

(ii) In the case of exporters who have been in the export business for more than three years, reduction in invoice value may be allowed, without any percentage ceiling, subject to the above conditions as also subject to their track record being satisfactory, i.e., the export outstanding do not exceed 5 per cent of the average annual export realization during the preceding three financial years.

(iii) For the purpose of reckoning the percentage of export bills outstanding to the average export realizations during the preceding three financial years, outstanding of exports made to countries facing externalization problems may be ignored provided the payments have been made by the buyers in the local currency.

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<sup>18</sup> Inserted by [AP \(Dir\) Series Circular 74 dated May 26, 2016](#), to be effected from June 15, 2016. Prior to insertion it read as: "With operationalization of EDPMS on March 01, 2014, realization of all export transaction for shipping documents after February 28, 2014 should be reported in EDPMS and old outstanding shipping bills prior to March 01, 2014 should continue to be reported in XOS till completion of the cycle."



### **C.18 Change of buyer/consignee**

Prior approval of the Reserve Bank is not required if, after goods have been shipped, they are to be transferred to a buyer other than the original buyer in the event of default by the latter, provided the reduction in value, if any, involved does not exceed 25 per cent of the invoice value and the realization of export proceeds is not delayed beyond the period of 9 months from the date of export. Where the reduction in value exceeds 25%, all other relevant conditions stipulated in paragraph C.17 should also be satisfied.

### **C.19 Export of goods by Special Economic Zones (SEZs)**

(i) Units in SEZs are permitted to undertake job work abroad and export goods from that country itself subject to the conditions that:

a) Processing / manufacturing charges are suitably loaded in the export price and are borne by the ultimate buyer.

b) The exporter has made satisfactory arrangements for realization of full export proceeds subject to the usual EDF procedure.

(ii) AD Category – I banks may permit units in DTAs to purchase foreign exchange for making payment for goods supplied to them by units in SEZs. Authorised Dealer Banks are permitted to sell foreign exchange to a unit in the DTA for making payment in foreign exchange to a unit in the SEZ for the services rendered by it (i.e. a unit in SEZ) to a DTA unit. It must be ensured that in the Letter of Approval (LoA) issued to the SEZ unit by the Development Commissioner(DC) of the SEZ, the provisions pertaining to the goods / services supplied by the SEZ unit to the DTA unit and for payment in foreign exchange for the same should be mentioned.

### **C.20 Extension of time**

(i) The Reserve Bank of India has permitted the AD Category – I banks to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export subject to the following conditions:

a) The export transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies,

b) The AD Category – I bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control,

c) The exporter submits a declaration that the export proceeds will be realized during the extended period,

d) While considering extension beyond one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.

<sup>19</sup>Omitted

<sup>20</sup>e) In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.

(ii) Cases which are not covered by the above instructions would require prior approval from the concerned Regional Office of the Reserve Bank.

(iii) Reporting should be done in EDPMS.

### **C.21 Shipments lost in transit**

(i) When shipments from India for which payment has not been received either by negotiation of bills under letters of credit or otherwise are lost in transit, the AD Category – I banks must ensure that insurance claim is made as soon as the loss is known.

(ii) In cases where the claim is payable abroad, the AD Category - banks must arrange to collect the full amount of claim due on the lost shipment, through the medium of their overseas branch/correspondent and release the duplicate copy of EDF only after the amount has been collected.

(iii) A certificate for the amount of claim received should be furnished on the reverse of the duplicate copy.

(iv) AD Category – I banks should ensure that amounts of claims on shipments lost in transit which are partially settled directly by shipping companies/airlines under carrier's liability abroad are also repatriated to India by exporters.

### **C.22 Export claims**

(i) AD Category – I banks may remit export claims on application, provided the relative export proceeds have already been realized and repatriated to India and the exporter is not on the caution list of the Reserve Bank.

(ii) In all such cases of remittances, the exporter should be advised to surrender proportionate export incentives, if any, received by him.

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<sup>19</sup> Omitted by [AP \(DIR\) Series Circular 74 dated May 26, 2016](#) with effect from June 15, 2016. Prior to deletion it read as: "All the export bills outstanding beyond six months from the date of export may be reported in XOS statement. However, where extension of time has been granted by the AD Category – I banks, the date up to which extension has been granted may be indicated in the 'Remarks' column."

<sup>20</sup> The existing sub-para (f) has been re-numbered as (e) on the deletion of the existing sub-para (e) by [AP \(DIR\) Series Circular 74 dated May 26, 2016](#)

## **<sup>21</sup>C.23 “Write-off” of unrealized export bills**

C.23.1. An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Category – I banks, who had handled the relevant shipping documents, with appropriate supporting documentary evidence. The limits prescribed for write-offs of unrealized export bills are as under:

<b>Particulars</b>	<b>Limit</b>	<b>Limit(%) in relation to</b>
Self-write-off by an exporter (Other than the Status Holder Exporter)	5%	Total export proceeds realized during the calendar year preceding the year in which the write-off is being done
Self-write-off by Status Holder Exporter	10%	
Write-off by AD Category-1 Bank	10%	

C.23.2. The above limits of self-write-off and write-off by the AD Category-1 Bank shall be reckoned cumulatively and shall be available subject to the following conditions:

- a) The relevant amount has remained outstanding for more than one year;
- b) Satisfactory documentary evidence is furnished indicating that the exporter had made all efforts to realise the export proceeds;
- c) The exporter is a regular customer of the bank for a period of at least 6 months, is fully compliant with KYC/AML guidelines and AD Category – 1 Bank is satisfied with the bonafides of the transaction.
- d) The case falls under any of the undernoted categories:
  - i. The overseas buyer has been declared insolvent and a certificate from the official liquidator, indicating that there is no possibility of recovery of export proceeds, has been produced.
  - ii. The unrealized amount represents the balance due in a case settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organization;
  - iii. The goods exported have been auctioned or destroyed by the Port / Customs / Health authorities in the importing country;
  - iv. The overseas buyer is not traceable over a reasonably long period of time.
  - v. The unrealized amount represents the undrawn balance of an export bill (not exceeding 10% of the invoice value) remaining outstanding and turned out to be unrealizable despite all efforts made by the exporter;
  - vi. The cost of resorting to legal action would be disproportionate to the unrealized amount of the export bill or where the exporter even after winning the Court case

<sup>21</sup> Inserted vide [AP\(DIR Series\) Circular No.08 dated December 04, 2020](#)

against the overseas buyer could not execute the Court decree due to reasons beyond his control;

- vii. Bills were drawn for the difference between the letter of credit value and actual export value or between the provisional and the actual freight charges but the amounts have remained unrealized consequent on dishonor of the bills by the overseas buyer and there are no prospects of realization.

C.23.3. Notwithstanding anything contained in para C.23.1 and C.23.2 above, the AD Category-1 bank may, on request of the exporter, write-off unrealised export bills without any limit in respect of cases falling under any of the categories specified at C.23.2 (d) (i), (ii) and (iii) above provided AD Category -1 bank is satisfied with the documentary evidence produced.

C.23.4. AD Category-1 banks may also permit write-off of outstanding amount of export bills up to the specified ceilings indicated in para C.23.1 above, where the documents have been directly dispatched by the exporter to the consignee or his agent resident in the country of final destination of goods if the case falls under any of the categories specified at C.23.2 (d) (i), (ii) and (iii) above.

C.23.5. The AD Category-1 banks shall ensure that the exporter seeking write-off has submitted documentary evidence towards surrendering of proportionate export incentives if any, availed of in respect of the relative export bill.

C.23.6. In case of self-write-off, the AD Category-1 bank shall obtain from the exporter, a certificate from Chartered Accountant indicating the export realization in the preceding calendar year and details of the amount of write-off, if any, already availed of during the current calendar year along with the requisite details of the EDF/Export Bill under the write-off request. This certificate shall also indicate that the export benefits, if any, availed by the exporter have been surrendered.

C.23.7. The following cases, however, would not qualify for the “write-off” facility:

- a. Exports made to countries with externalization problem i.e. where the overseas buyer has deposited the value of export in local currency but the amount has not been allowed to be repatriated by the Central Bank/ authorities of the country concerned.
- b. EDF/Softex which are under investigation by agencies like, Enforcement Directorate, Directorate of Revenue Intelligence, Central Bureau of Investigation, etc. as also the outstanding bills which are subject matter of civil / criminal suit.

C.23.8. AD Category – 1 banks shall report write-off of export bills in Export Data Processing and Monitoring System (EDPMS).

C.23.9. AD banks shall put in place a system to carry out random check / percentage check of the export bills so written-off by their internal Inspectors/Auditors (including external Auditors).

C.23.10. Requests of write-off not covered under the above instructions may be referred to the Regional Office concerned of the Reserve Bank.

#### **C.24 Write off in cases of payment of claims by ECGC and private insurance companies regulated by Insurance Regulatory and Development Authority (IRDA)**

(i) AD Category – I banks shall, on an application received from the exporter supported by documentary evidence from the ECGC and private insurance companies regulated by IRDA confirming that the claim in respect of the outstanding bills has been settled by them, write off the relative export bills <sup>22</sup>in EDPMS.

(ii) Such write-off will not be restricted to the limit of 10 per cent indicated above.

(iii) Surrender of incentives, if any, in such cases will be as provided in the Foreign Trade Policy.

(iv) The claims settled in rupees by ECGC and private insurance companies regulated by IRDA should not be construed as export realization in foreign exchange.

#### **C.25 Write-off – relaxation**

As announced in the Foreign Trade Policy (FTP), 2015-20, realization of export proceeds shall not be insisted upon under any of the Export Promotion Schemes under the said FTP, subject to the following conditions:

a) The write off on the basis of merits is allowed by the Reserve Bank or by AD Category – I bank on behalf of the Reserve Bank, as per extant guidelines;

b) The exporter produces a certificate from the Foreign Mission of India concerned, about the fact of non-recovery of export proceeds from the buyer; and

c) This would not be applicable in self write off cases.

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<sup>22</sup> Inserted by [AP \(DIR\) Series Circular 74 dated May 26, 2016](#) with effect from June 15, 2016. Prior to insertion it read as: “and delete them from the XOS statement.”

## <sup>23</sup>C.26 Set-off of export receivables against import payables

C.26.1. AD category – I banks may deal with the following requests received from their Exporter/Importer constituents for allowing set-off of outstanding export receivables against outstanding import payables:

- i. Set-off of outstanding export receivables against outstanding import payables from/to the same overseas buyer/supplier.
- ii. Set-off of outstanding export receivables against outstanding import payables with their overseas group/associate companies either on net basis or gross basis, through an in-house or outsourced centralized settlement arrangement.

The set-off shall be subject to the following conditions:

- a. The arrangement shall be operationalized/supervised through/by one AD Category – I bank only
- b. AD Category – I bank is satisfied with the bonafides of the transactions and ensures that there are no KYC/AML/CFT concerns;
- c. The invoices under the transaction are not under investigation by Directorate of Enforcement/Central Bureau of Investigation or any other investigative agency;
- d. Import/export of goods/services has been undertaken as per the extant Foreign Trade policy
- e. The export / import transactions with ACU countries are kept outside the arrangement;
- f. Set-off of export receivables against goods shall not be allowed against import payables for services and vice versa.
- g. AD Category – I bank shall ensure that import payables/export receivables are outstanding at the time of allowing set-off. Further, set-off shall be allowed between the export and import legs taking place during the same calendar year.
- h. In case of bilateral settlement, the set-off shall be in respect of same overseas buyer/supplier subject to it being supported by verifiable agreement/mutual consent.
- i. In case of settlement within the group/associates companies, the arrangement shall be backed by a written, legally enforceable agreement/contract. AD Category – I bank shall ensure that the terms of agreement are strictly adhered to;
- j. Set-off shall not result in tax evasion/avoidance by any of the entities involved in such arrangement.

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<sup>23</sup> Inserted vide [AP\(DIR Series\) Circular No.08 dated December 04, 2020](#)

- k. Third party guidelines shall be adhered to by the concerned entities, wherever applicable;
- l. AD Category – I bank shall ensure compliance with all the regulatory requirement relating to the transactions;
- m. AD Category – I bank may seek Auditors/CA certificate wherever felt necessary.
- n. Each of the export and import transaction shall be reported separately (gross basis) in FETERS/EDPMS/IDPMS, as applicable.
- o. AD Category – I bank to settle the transaction in E/IDPMS by utilizing the ‘set-off indicator’ and mentioning the details of shipping bills/bill of entry/invoice details being settled in the remark column (including details of entities involved).

### **C.27 Netting-off of export receivables against import payments – Units in Special Economic Zones (SEZs)**

AD Category - I banks may allow requests received from exporters for ‘netting off’ of export receivables against import payments for units located in Special Economic Zones subject to the following:

- (i) The netting off of export receivables against import payments is in respect of the same Indian entity and the overseas buyer / supplier (bilateral netting) and the netting may be done as on the date of balance sheet of the unit in SEZ.
- (ii) The details of export of goods are documented in EDF (O) forms / DTR as the case may be while details of import of goods / services are recorded through A1 / A2 form as the case may be. The relative EDF will be treated as complete by the designated AD Category – I banks only after the entire proceeds are adjusted / received.
- (iii) Both the transactions of sale and purchase in R- Returns under FETERS are reported separately.
- (iv) The export / import transactions with ACU countries are kept outside the arrangement.
- (v) All the relevant documents are submitted to the concerned AD Category – I banks who should comply with all the regulatory requirements relating to the transactions.

## C.28 Exporters' Caution List

<sup>24</sup>1) An exporter would be caution-listed by the Reserve Bank based on the recommendations of the AD bank concerned, depending upon the exporters track record with the AD bank and investigative agencies.

The AD bank would make recommendations in this regard to the Regional Office concerned of the Foreign Exchange Department of the Reserve Bank in case the exporter has come to the adverse notice of the Enforcement Directorate(ED) / Central Bureau of Investigation (CBI) / Directorate of Revenue Intelligence (DRI) /any such other law enforcement agency and/or the exporter is not traceable and/or is not making sincere efforts to realise the export proceeds.

The AD bank would also make recommendations to the Regional Office of the Reserve Bank for de-caution-listing an exporter as per the laid down procedure.

2) AD Category – I banks should follow the procedure mentioned below while handling shipping documents in respect of caution listed exporters:

(a) They will intimate the exporters about their caution listing, giving the details of outstanding shipping bills. When caution listed exporters submit shipping documents for negotiation / purchase/ discount/ collection, etc. the AD Category – I bank may accept the documents subject to following conditions:-

- (i) The exporters concerned should produce evidence of having received advance payment or an irrevocable letter of credit in their favour covering the full value of the proposed exports;
- (ii) In case of usance bills, the relative letter of credit should cover full export value and also permit such drawings. Besides, the usance bills should also mature within prescribed realisation period reckoned from date of shipment.

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<sup>24</sup> Inserted by [A.P. \(DIR\) Series Circular No. 03 dated October 09, 2020](#). Prior to insertion it read as: "(1) Caution Listing/ de-caution Listing of exporters is automated in EDPMS. The updated list of caution listed exporters can be accessed through EDPMS on a daily basis. Criteria laid down for cautioning/ de-cautioning of exporters in EDPMS are as under: (a) The exporters would be caution listed if any shipping bill against them remains open for more than two years in EDPMS provided no extension is granted by AD Category –I bank / RBI. Date of shipment will be considered for reckoning the realisation period. (b) Once related bills are realised and closed or extension for realisation is granted, the exporter will automatically be de-caution listed. (c) The exporters can also be caution listed even before the expiry of two years period based on the recommendation of AD banks. The recommendation may be based on cases where exporter has come to adverse notice of the Enforcement Directorate (ED)/ Central Bureau of Investigation (CBI)/ Directorate of Revenue Intelligence (DRI)/ any such other law enforcement agency or the case where exporter is not traceable or not making any serious efforts for realisation of export proceeds. In such cases, AD may forward its findings to the concerned regional office of RBI recommending inclusion of the name of the exporter in the caution list. (d) Reserve Bank will caution / de-caution the exporters in such cases based on the recommendation of AD Category – I banks.



- (iii) Except under the above mentioned conditions given in 2 (a) (i) and (ii), AD banks should not handle the shipping documents of caution listed exporters.

(b) AD Category – I banks should obtain prior approval of the Reserve Bank for issuing guarantees for caution-listed exporters.

### **C.29 Issue of Guarantees by an Authorised Dealer**

(1) An authorized dealer may give guarantee in respect of any debt, obligation or other liability incurred by a person resident in India and owned to a person resident outside India, where the debt, obligation or other liability is incurred by the person resident in India as an exporter, on account of exports from India.

(2) An authorised dealer may give a guarantee in respect of any debt, obligation or other liability incurred by a person resident outside India, in the following cases, namely:

(i) where such debt, obligation or liability is owned to a person resident in India in connection with a bonafide trade transaction:

Provided that the guarantee given under this clause is covered by a counter-guarantee of a bank of international repute resident abroad;

(ii) as a counter-guarantee to cover guarantee issued by his branch or correspondent outside India, on behalf of Indian exporter in cases where guarantees of only resident banks are acceptable to overseas buyers.

### **C.30 Issuance of Electronic Bank Realisation Certificate (eBRC)**

<sup>25</sup>AD Category-I banks are required to update the EDPMS with data of export proceeds on “as and when realised basis” and, with effect from October 16, 2017, they are required to generate Electronic Bank Realisation Certificate (eBRC) only from the data available in EDPMS, to ensure consistency of data in EDPMS and consolidated eBRC.

## **PART-D Remittances connected with Export**

### **D.1 Agency commission on exports**

(i) AD Category – I banks may allow payment of commission, either by remittance or by deduction from invoice value, on application submitted by the exporter. The remittance on agency commission may be allowed subject to conditions as under:

a) Amount of commission has been declared on EDF/SOFTEX form and accepted by the Customs authorities or Ministry of Information Technology, Government of India / EPZ authorities as the case may be. In cases where the commission has not been declared on

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<sup>25</sup> Inserted vide [AP \(DIR Series\) Circular No.04 dated September 15, 2017](#)

EDF/SOFTEX form, remittance may be allowed after satisfying the reasons adduced by the exporter for not declaring commission on Export Declaration Form, provided a valid agreement/written understanding between the exporters and/or beneficiary for payment of commission exists.

b) The relative shipment has already been made.

(ii) AD Category – I banks may allow payment of commission by Indian exporters, in respect of their exports covered under counter trade arrangement through Escrow Accounts designated in US Dollar, subject to the following conditions:

a) The payment of commission satisfies the conditions as at (a) and (b) stipulated in paragraph (i) above.

b) The commission is not payable to Escrow Account holders themselves.

c) The commission should not be allowed by deduction from the invoice value.

(iii) Payment of commission is prohibited on exports made by Indian Partners towards equity participation in an overseas joint venture / wholly owned subsidiary as also exports under Rupee Credit Route except commission up to 10 per cent of invoice value of exports of tea & tobacco.

## **<sup>26</sup>D.2 Refund of export proceeds**

AD Category – I banks, through whom the export proceeds were originally realized may consider requests for refund of export proceeds of goods exported from India and being re-imported into India on account of poor quality. While permitting such transactions, AD Category – I banks shall:

(i) Exercise due diligence regarding the track record of the exporter;

(ii) Verify the bona-fides of the transactions;

(iii) Obtain from the exporter a certificate issued by DGFT / Custom authorities that no export incentive has been availed by the exporter against the relevant export or the proportionate incentives availed, if any, have been surrendered;

(iv) Not insist on the requirement of re-import of goods, where exported goods have been auctioned or destroyed by the Port / Customs / Health authorities/ any other accredited agency in the importing country subject to submission of satisfactory documentary evidence.

D.2.1. In all other cases AD banks shall ensure that procedures as applicable to normal imports are adhered to and that an undertaking from the exporter, to re-import the goods within three months from the date of refund of export proceeds, shall be obtained.

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<sup>26</sup> Inserted vide [AP\(DIR Series\) Circular No.08 dated December 04, 2020](#)

**List of Circulars which have been consolidated in the  
Master Direction on Export of Goods and Services**

Sl No	Circular No.	Subject	Date
1	FEMA Notification No.23(R)/2015-RB dated January 12, 2016	Foreign Exchange Management (Export of Goods and Services) Regulations, 2015	January 1, 2016
2	<a href="#">A.P. (DIR Series) Circular No.28</a>	Opening, holding and maintaining Foreign Currency Account in India by Unit in Special Economic Zones (SEZs)	October 3, 2002
3	<a href="#">A.P. (DIR Series) Circular No.41</a>	Issue of Corporate Guarantee in lieu of Bid Bond Guarantee	November 8, 2002
4	<a href="#">A.P. (DIR Series) Circular No.91</a>	Export of Goods and Services - Facilities to Units in Special Economic Zones (SEZs)	April 1, 2003
5	<a href="#">A.P. (DIR Series) Circular No.100</a>	Export of Goods and Services - Exports to Warehouses Abroad	May 2, 2003
6	<a href="#">A.P. (DIR Series) Circular No.77</a>	Foreign Exchange Management Act, 1999 - Guidelines for Compilation of R>Returns	March 13, 2004
7	<a href="#">A.P. (DIR Series) Circular No.71</a>	Data on Project Export Finance	June 8, 2007
8	<a href="#">A.P. (DIR Series) Circular No.30</a>	Compilation of Bank-wide consolidated R-Return	February 25,2008
9	<a href="#">A.P. (DIR Series) Circular No.43</a>	Settlement system under ACU Mechanism	December 26, 2008
10	<a href="#">A.P. (DIR Series) Circular No.84</a>	Compilation of R>Returns : Reporting under FETERS	February 29, 2012
11	<a href="#">A.P. (DIR Series) Circular No.46</a>	Supply of Goods and Services by Special Economic Zones to Units in Domestic Tariff Areas	October 23, 2012
12	<a href="#">A.P. (DIR Series) Circular No.60</a>	Export Outstanding Statement (XOS) Online Bank wide Submission	October 01, 2013
13	<a href="#">A.P. (DIR Series) Circular No.62</a>	Closing of Old Outstanding Bills : Export - Follow-up - XOS Statements	October 14, 2013
14	<a href="#">A.P. (DIR Series) Circular No.63</a>	Memorandum of Procedure for Channeling Transactions through Asian Clearing Union (ACU)	October 18, 2013
15	<a href="#">A.P.(DIR Series) Circular No.146</a>	Export & Import of Currencies: Enhanced facilities for residents and non-residents	June 19, 2014
16	<a href="#">A.P. (DIR Series) Circular No. 11</a>	Export of Goods and Services - Project Exports	July 22, 2014
17	<a href="#">A.P. (DIR Series) Circular No.93</a>	Export of Goods and Services - Project Exports	April 1, 2015
18	<a href="#">A.P.(DIR Series) Circular No. 21</a>	Memorandum of Procedure for channeling transactions through Asian Clearing Union (ACU)	October 08, 2015
19	<a href="#">A.P. (DIR Series) Circular No. 68 [(1)/23(R)]</a>	Foreign Exchange Management (Exports of Goods and Services) Regulations, 2015	May 12, 2016
20	<a href="#">A.P. (DIR Series) Circular No. 74</a>	Export Data Processing and Monitoring System (EDPMS) – Additional Modules for caution listing of exporters, reporting of advance remittance for exports and migration of old XOS data	May 26, 2016
21	<a href="#">A.P. (DIR Series) Circular No. 04</a>	Export Data Processing and Monitoring System (EDPMS) Issuance of Electronic Bank Realisation Certificate (eBRC)	September 15, 2017
22	<a href="#">A.P. (DIR Series) Circular No. 10</a>	Re-export of unsold rough diamonds from Special Notified Zone of Customs without Export Declaration Form (EDF) formality	November 22, 2019
23	<a href="#">A.P. (DIR Series) Circular No. 22</a>	Settlement system under Asian Clearing Union (ACU) Mechanism	March 17, 2020
24	<a href="#">A.P. (DIR Series) Circular No. 27</a>	Export of Goods and Services- Realisation and Repatriation of Export Proceeds-Relaxation	April 01, 2020
25	<a href="#">A.P. (DIR Series) Circular No. 03</a>	Export Data Processing and Monitoring System (EDPMS) Module for 'Caution/De-caution Listing of Exporters' – Review	October 09, 2020
26	<a href="#">A.P. (DIR Series) Circular No. 08</a>	External Trade – Facilitation - Export of Goods and Services	December 04, 2020