Master Direction – Export of Goods and Services

FED Master Direction No. 16/2015-**16** Dated 1st January, 2016 amended up to 12th January, 2018

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Banks may conduct export transactions:

-In conformity with the **FTP**

-The **Rules** framed by the Government of India

-The Directions issued by **RBI**

-The Foreign Exchange Management **Act**, 1999

-The Foreign Exchange Management (Export of Goods and Services) **Regulations**, 2000 (Export Regulations)

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

The exporters shall be **liable** to realize and repatriate export proceeds as per FEMA Regulations.

3rd Party Payments

a) Firm irrevocable order backed by a tripartite agreement.

b) Bank should be satisfied with the bona-fides of the transaction.

c) Bank should consider the **Financial Action Task Force** FATF- country.

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

e) The exporter should declare the third party remittance in the Export Declaration Form / shipping bill.

Circular no. 70 dated 08.11.2013

Circular no. 100 dated 04.02.2014

The period of realization and repatriation of export proceeds shall be **9** months from the date of export for all exporters.

Circular no. 37 dated 20.11.2014

EEFC Account

(i) A person resident in India may open EEFC account with a bank in India.

(ii) It will be **non-interest** bearing current account.

(iii) No credit facilities shall be permitted.

(iv) 100%.

(v) 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.

Receipt of Advance against Exports

Where an exporter receives advance payment from the overseas buyer,

The exporter shall be under an obligation to export the goods within **1 year.**

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

and

The documents covering the shipment are routed through the bank through whom the advance payment is received.

If exporter is unable to ship the goods, within said 1 year,

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 1 year, **without the prior approval of the RBI.**

Export Data Processing and Monitoring System (EDPMS)

1. EDPMS is a single platform to monitor the FOREX.
2. It is automated.
3. The export data in EDPMS is captured from the shipping bills (Customs/EDI).
4. The details of FOREX realised / received including advances for exports is reported by the bank. (e- FIRC).
5. Extension when given by Bank, it will be reported on EDPMS.
6. Write off will also reflected on EDPMS.

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EDPMS:

7. Any outstanding payment beyond permissible time limit is also reflect on this system.
8. All the **overdue** export advances will reflect into the system.
9. The exporters would be **caution listed** if any shipping bill against them remains open for more than **two years** .
10. Banks can access the updated list of caution listed exporters through EDPMS on daily basis.

EDPMS:

Procedure by Bank for caution listed exporters

1. Bank will intimate the exporters about their caution listing, giving the details of outstanding shipping bills.
2. The banks will accept shipping documents of these exporters only if the full payment is received in advance or there is a Letter of Credit.
3. Banks should obtain prior approval from the RBI for issuing guarantees for caution-listed exporters.
4. Once related bills are realised and closed or extension for realisation is granted, the exporter will automatically be de-caution listed.

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EDPMS:

5. The exporters can also be caution listed even **before** the expiry of 2 years:

-On the recommendation of banks.

- Where exporter has come to adverse notice of the (ED) / (CBI) / (DRI).

-Exporter is not traceable.

-Exporter is not making any serious efforts for realisation.

- Details of all export outstanding bills can be obtained by the exporter from the EDPMS through its Bank.

Reduction in Invoice Value

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

(a) The reduction does not exceed 25% of invoice value:

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

(c) The exporter is not on the exporters' caution list of the RBI.

(d) The exporter has to surrender proportionate export incentives.

(ii) In the case of exporters who have been in the export business for more than **3 years**, reduction in invoice value may be allowed, **<u>without</u>** any percentage ceiling,

subject to the above conditions.

The exporter's track record should be satisfactory,

i.e., the export outstanding do not exceed 5% of the average annual export realization during the preceding 3 financial years.

Change of buyer/consignee

Prior approval of the RBI 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% of the invoice value

and

the realization of export proceeds is not delayed Beyond the period of 9 months from the date of export.

Extension of Time

(i) The RBI has permitted the 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 6 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 ED/CBI or other investigating agencies,

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(b) The 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 1 million or 10% of the average export realizations during the preceding three financial years, whichever is **higher**.

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

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(ii) Cases which are not covered by the above instructions would require prior approval from the RBI.

(iii) Reporting should be done in EDPMS.

Write off of export bills

(i) An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the bank, who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write off of the unrealized portion subject to the fulfillment of stipulations regarding surrender of incentives prior to” write-off”.

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The limits prescribed for write off are as follow:

- Self “write-off” by an exporter (Other than Status Holder Exporter)- 5%*
- Self “write-off” by Status Holder Exporters- 10%*
- ‘Write-off” by bank- 10%* of the total export proceeds **realized** during the previous **calendar year.**

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(ii) The above limits will be related to total export proceeds realized during the previous calendar year and will be **cumulatively** available in a year.

(iii) The above "write-off" will be subject to conditions that the relevant amount has remained outstanding for **more than 1 year.**

Satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realize the dues.

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The case falls under any of the undernoted categories:

(a) 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.

(b) The overseas buyer is not traceable over a reasonably long period of time.

(c) The goods exported have been auctioned or destroyed by the Port / Customs / Health authorities in the importing country.

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(d) 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;

(e) 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;

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

(g) 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.

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(iv) The exporter has surrendered proportionate export incentives.

The bank should obtain documents evidencing surrender of export incentives availed of before permitting the relevant bills to be written off.

(v) In case of self-write-off, the exporter should submit to the concerned bank, a Chartered Accountant's certificate, indicating the export realization in the preceding calendar year and also the amount of write-off already availed of during the year, if any,

the relevant EDF to be written off, Bill No., invoice value, commodity exported, country of export.

The CA certificate may also indicate that the export benefits, if any, availed of by the exporter have been surrendered.

(vi) However, the following 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 banking authorities of the country.

(b) EDF which are under investigation by agencies like, Enforcement Directorate, DRI , CBI, etc.

as also the outstanding bills which are subject matter of civil / criminal suit.

vii) Banks should report write off of export bills through **EDPMS** to the Reserve Bank.

viii) Cases not covered by the above instructions / beyond the above limits, may be referred to the concerned Regional Office of RBI.

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- **Master Direction – Import of Goods and Services**

FED Master Direction No. 17 DT-1.1.16 Amended up to 1.4.19

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- Banks should follow normal banking procedures

- Adhere to the provisions of UCP, while opening LC for import into India.

- Banks may also advise importers to ensure compliance with the provisions of Income Tax Act.

Except for goods included in the negative list which require licence under the FTP, banks may freely open LC and allow remittances for import.

Any person acquiring foreign exchange is permitted to use it either for the purpose mentioned in the declaration made by him to bank or for **<u>any other purpose</u>** for which acquisition of foreign exchange is permissible.

Import Data Processing and Monitoring System (IDPMS)

-Bill of Entry is generated by the Customs at the time of import.

-It is available on EDI for most of the ports.

-BoE is downloaded from “BoE Master” in IDPMS (in case of EDI ports.)

-In case of Non-EDI ports duplicate copy/ Customs certified copy is to be submitted by Import.

- **IDPMS:**

The importer shall submit BoE number, date and port code for, marking evidence of import under IDPMS.

Banks will remit the payment for import.

Banks will create Outward Remittance Message (ORM) for all outward remittances for import payments.

For **advance** remittance against import, banks will create Outward Remittance Message (ORM) in IDPMS.

Bank will also create ORM in IDPMS for all **old** Outstanding Outward remittance for import payments.

The importer furnishes evidence of import as in IDPMS. Banks will confirm that goods equivalent to the value of remittance have been imported.

Banks shall enter BoE number, date and port code for ORM Associated with the advance payments for import transactions as per the message format "BoE settlement".

- **IDPMS:**

Multiple ORMs can be settled against single BoE and also multiple BoE can be settled against one ORM.

- **IDPMS:**

In respect of imports on DA basis, bank shall verify the evidence of import from IDPMS at the time effecting remittance of import bill.

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- **IDPMS:**

On settlement of ORM with evidence of import bank shall issue an acknowledgement slip to the importer covering full particulars:

- **IDPMS:**

“Submission of Exchange Control copy” of BoE to the bank, has been discontinued with effect from 1.12.16 as the same is available in IDPMS.

Remittances against imports should be completed not later than **6** months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc.

Banks can consider granting extension of time for settlement of import dues up to a period of 6 months at a time (maximum up to the period of 3 years) irrespective of the invoice value.

Advance Remittance for the Import of Services:

Bank may allow advance remittance for import of services **without any ceiling** subject to:

Where the amount of advance exceeds USD 500,000, a guarantee from a bank of international repute situated outside India, or a guarantee from an bank in India, if such a guarantee is issued against the counter-guarantee of a bank of international repute situated outside India, should be obtained from the overseas beneficiary.

In case replacement goods for defective import are being sent by the overseas supplier before the defective goods imported earlier are reshipped out of India, banks may issue guarantees at the request of importer client for dispatch/return of the defective goods, according to their commercial judgment.

Merchanting Trade

- Goods acquired should not enter the Domestic Tariff Area.

- The state of the goods should not undergo any transformation.

- Bank may handle bonafide Merchanting Trade Transactions.

Merchanting Trade

- Goods involved in the transactions are permitted for export / import under the prevailing (FTP) as on the date of shipment.

- All the rules, regulations and directions applicable to export (except Export Declaration Form)

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- import (except Bill of Entry) are complied with for the export leg and import leg, respectively.

- Both the legs of a Merchanting Trade Transaction are routed through the **same** bank.

- The bank should verify the documents like invoice, packing list, transport documents and insurance documents

and

- Satisfy itself about the genuineness of the trade.

- The entire Merchanting Trade Transactions should be completed within an overall period of **<u>9</u>** months

and

There should not be any outlay of foreign exchange beyond **4** months.

- The commencement of Merchanting Trade would be:
- The date of shipment
- Export leg receipt
- Import leg payment, whichever is first.

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- The completion date would be:
- The date of shipment /
- Export leg receipt or
- Import leg payment, whichever is the last.

- In case advance against the export leg is received by the Merchanting Trader,
- Bank should ensure that the same is earmarked for making payment for the respective import leg.
- However, bank may allow short-term deployment of such funds for the intervening period in an interest bearing account.

- Merchanting Traders may be allowed to make advance payment for the import leg on demand made by the overseas seller.
- In case where inward remittance from the overseas buyer is not received before the outward remittance to the overseas supplier,
- Bank may handle such transactions by providing facility based on commercial judgment.

- It may, however, be ensured that any such advance payment for the import leg beyond USD 200,000/- per transaction, should be made against Bank Guarantee / LC from an international bank of repute, except in cases and to the extent where payment for export leg has been received in advance.

- LC to the supplier is permitted against confirmed export order keeping in view the outlay and completion of the transaction within **9** months.

- Payment for import leg may also be allowed to be made out of the balances in Exchange Earners Foreign Currency Account (EEFC) of the Merchant Trader.

- Bank should ensure one-to-one matching in case of each Merchanting Trade transaction and report defaults to RBI.

- Defaulting Merchanting Traders, whose outstanding reach 5% of their annual export earnings, would be caution-listed.

- The KYC and AML guidelines should be observed by the bank while handling such transactions.

- Merchanting Traders have to be **genuine** traders of goods and not mere financial intermediaries.
- Confirmed orders have to be received by them from the overseas buyers.
- Banks should satisfy themselves about the capabilities of the Merchanting Trader to perform the obligations under the order. The overall Merchanting Trade should result in reasonable profits to the Merchanting Trader.

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