



MASTER CIRCULARS

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Master Circular on Export of Goods and Services

RBI/2015-16/83

Master Circular No.14/2015-16

July 01, 2015

(Updated as on November 5, 2015)

To,

All Category – I Authorised Dealer Banks

Madam / Sir,

Master Circular on Export of Goods and Services

Export of Goods and Services from India is allowed in terms of 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, as amended from time to time.

2. This Master Circular consolidates the existing instructions on the subject of "Export of Goods and Services from India" at one place. The list of underlying circulars/notifications consolidated in this Master Circular is furnished in Appendix.
3. This Master Circular is being updated from time to time as and when the fresh instructions are issued. The date up to which the Master Circular has been updated is suitably indicated.
4. This Master Circular may be referred to for general guidance. The Authorised Persons and the Authorised Dealer Category – I banks may refer to respective circulars/ notifications for detailed information, if so needed.

Yours faithfully,

(A.K.Pandey)

Chief General Manager

INDEX

PART - 1

A. Introduction

PART - 2

- B. General guidelines for Exports
- B.1 Exemption from Declarations
 - B.2 Manner of Receipt and Payment
 - B.3 Realization and Repatriation of proceeds of export of goods / software / services
 - B.4 Foreign Currency Account
 - B.5 Diamond Dollar Account (DDA)
 - B.6 Exchange Earners' Foreign Currency (EEFC) Account
 - B.7 Setting up of Offices Abroad and Acquisition of Immovable Property for Overseas Office
 - B.8 Advance Payments against Exports
 - B.9 EDF Approval for Trade Fair/Exhibitions abroad
 - B.10 EDF approval for Export of Goods for re-imports
 - B.11 Re-export of unsold rough diamonds from Special Notified Zone of Customs without Export Declaration Form (EDF) formality
 - B.12 Part Drawings /Undrawn Balances
 - B.13 Consignment Exports
 - B.14 Opening / Hiring of Ware houses abroad
 - B.15 Direct dispatch of documents by the exporter
 - B.16 Invoicing of Software Exports
 - B.17 Short Shipments and Shut out Shipments
 - B.18 Counter-Trade Arrangement
 - B.19 Export of Goods on Lease, Hire, etc.
 - B.20 Export on Elongated Credit Terms
 - B.21 Export of goods by Special Economic Zones (SEZs)
 - B.22 Project Exports and Service Exports
 - B.23 Export of Currency
 - B.24 Forfeiting
 - B.25 Export factoring on non-recourse basis
 - B.26 Exports to neighboring countries by Road, Rail or River
 - B.27 Switching from Barter Trade to Normal Trade at Indo-Myanmar Border

- B.28 Repayment of State Credits
- B.29 Counter –Trade Arrangements with Romania

PART – 3

- C. Operational Guidelines for AD Category – I banks
- C.1 Citing of Specific Identification Numbers
- C.2 EDF/SOFTEX procedure
- C.3.1. EDF Form (Erstwhile GR and PP Form)
- C.3.2. Mid-Sea Trans-shipment of catch by Deep Sea Fishing Vessels
- C.4 In case of export of goods / software taking place through EDI ports
- C.5 SOFTEX Forms
- C.6 Random verification
- C.7 Certification for EEFC Credits
- C.8 Consolidation of Air Cargo/ Sea Cargo
- C.9 Delay in submission of shipping documents by exporters
- C.10 Return of Documents to Exporters
- C.11 Handing Over Negotiable Copy of Bill of Lading to Master of Vessel / Trade Representative
- C.12 Export Bills Register
- C.13 Follow-up of Overdue Bills
- C.14 Reduction in Invoice Value on Account of Prepayment of Usance Bills
- C.15 Reduction in Invoice Value in other cases
- C.16 Export Claims
- C.17 Change of buyer/consignee
- C.18 Extension of Time
- C.19 Write-off of export bills
- C.20 Write off in cases of Payment of Claims by ECGC and private insurance companies regulated by Insurance Regulatory and Development Authority (IRDA)
- C.21 Write-off - Relaxation
- C.22 Shipment Lost in Transit
- C.23 'Netting off' of export receivables against import payments – Units in Special Economic Zones (SEZs)
- C.24 Set-off of export receivables against import payables
- C.25 Agency Commission on Exports
- C.26 Refund of Export Proceeds
- C.27 Exporters' Caution List

PART – 4

- Annex-1 - Current Account Transaction Rules
- Annex-2 – Form EFC
- Annex- 3 – Common SOFTEX Form
- Annex- 4 – Revised SOFTEX Procedure
- Annex -5 - Delay in Utilization of Advance Received for Exports
- Appendix

PART-1

A. 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 Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 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 23/2000-RB dated May 3, 2000, as amended from time to time.
- (iii) The Directions contained in this Circular 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, (Annex - 1) as also Regulations notified by Reserve Bank vide its Notification No. FEMA 23/2000-RB dated May 3, 2000, as amended from time to time
- (iv) In terms of Regulation 4 of the Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide Notification No. FEMA 8/2000-RB dated May 3, 2000, 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 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.

PART 2

B. General guidelines for Exports

B.1 Exemption from Declarations

(i) EDF Exemption

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 Notification No. FEMA 23/2000-RB dated May 3, 2000. The exporters shall, however, be liable to realize and repatriate export proceeds as per FEMA Regulations.

(ii) Grant of EDF waiver

AD Category – I banks may consider requests for grant of EDF waiver from exporters for export of goods free of cost, for export promotion up to 2 per cent of the average annual exports of the applicant during the preceding three financial years subject to a ceiling of Rs.5 lakhs. For status holder exporters, the limit as per the present Foreign Trade Policy is Rs.10 lakhs or 2 per cent of the average annual export realization during the preceding three licensing years (April-March), whichever is higher.

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

B.2 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, 2000 notified vide Notification No. FEMA.14/2000-RB dated May 3, 2000 in the following manner:

- a. Bank draft, pay order, banker's or personal cheques.
- b. Foreign currency notes/foreign currency travelers' cheques from the buyer during his visit to India.
- c. Payment out of funds held in the FCNR/NRE account maintained by the buyer
- d. International Credit Cards of the buyer.

Note: 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 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.

(ii) Trade transactions can also be settled in the following manner:

- a. All transactions between a person resident in India and a person resident in Nepal or Bhutan may be settled in Indian Rupees. However, in case of export of goods to Nepal, where the importer has been permitted by the Nepal Rashtra Bank to make payment in free foreign exchange, such payments shall be routed through the ACU mechanism.
- b. In precious metals i.e. Gold / Silver / Platinum by the Gem & Jewellery units in SEZs and EOUs, equivalent to value of jewellery exported on the condition that the sale contract provides for the same and the approximate value of the precious metals is indicated in the relevant EDF Forms.

(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. OPGSPs who are already providing such services as per the specific holding-on approvals issued by the Reserve Bank shall open a liaison office in India within three months from November 16, 2010, after duly finalizing their arrangement with the AD-Category-I banks and obtaining approval from the Reserve Bank for this purpose. In respect of all new arrangements, the OPGSP shall open a liaison office with the approval of the Reserve Bank before operationalising the arrangement. AD Category-I banks desirous of entering into such an arrangement/s should approach the Reserve Bank for obtaining one time permission in this regard and thereafter report the details of each such arrangement as and when entered into.

(iv) Settlement System under ACU Mechanism

a) In order to facilitate transactions / settlements, effective January 01, 2009, participants in the Asian Clearing Union will have the option to settle their transactions either in ACU Dollar or in ACU Euro. Accordingly, the Asian Monetary Unit (AMU) shall be denominated as 'ACU Dollar' and 'ACU Euro' which shall be equivalent in value to one US Dollar and one Euro, respectively.

b) Further, AD Category – I banks are allowed to open and maintain ACU Dollar and ACU Euro 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.

(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.

B.3 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 SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs & BTPs until further notice.

(ii) Goods exported to a warehouse established outside India: As soon as it is realized and in any case within fifteen months from the date of shipment of goods.

B.4 Foreign Currency Account

(i) Participants in international exhibition/trade fair have been granted general permission vide Regulation 7(7) of the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations, 2000 notified vide Notification No. FEMA 10/2000-RB dated May 3, 2000 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 (Annex 2) from exporters having good track record for opening a foreign currency account with 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 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 Regulation 7 of Notification No. FEMA 10/2000-RB dated May 3, 2000 and as amended from time to time.

(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 Regulation 6 (A) of Notification No. FEMA 10/2000-RB dated May 3, 2000 and as amended from time to time.

(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.

B.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.

(iv) AD Category-I banks are required to submit quarterly reports to the Foreign Exchange Department, Reserve Bank of India, Central Office, Trade Division, Mumbai, giving details of name and address of the firm / company in whose name the Diamond Dollar Account is opened, along with the date of opening / closing the Diamond Dollar Account, by the 10th of the month following the quarter to which it relates.

(v) AD Category - I banks are required to submit a statement giving the data on the DDA balances maintained by them on a fortnightly basis within seven days of close of the fortnight to which it relates, to the Foreign Exchange Department, Reserve Bank of India, Central Office, Trade Division, Mumbai.

(vi) Condition mentioned at Para B.6 (iv) shall also apply.

B.6 Exchange Earners' Foreign Currency (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 Regulation 4 of the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations, 2000 notified under Notification No. FEMA 10/2000-RB dated May 3, 2000 as amended from time to time.