

## Master Circular on Export of Goods and Services

### 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.

(ii) Resident individuals are permitted to include resident close relative(s) as defined in the Companies Act 1956 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) It may be noted that the provisions at paragraph (iv) a) and (iv) b) above will apply, mutatis mutandis, also to holder of either a Resident Foreign Currency Account (Domestic) or a Diamond Dollar Account (DDA).

(vi) 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 unit in Domestic Tariff Area (DTA) for supplying goods to a unit in Special Economic Zone out of its foreign currency account.

(vii) 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.

(viii) 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.

## **B.7 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.

(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.

## **B.8 Advance Payments against Exports**

(1) In terms of Regulation 16 of [Notification No. FEMA 23/2000-RB dated May 3, 2000](#), 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 (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.

(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. 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

(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 DBR.

(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 bona-fide 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 (as per Annex -5) may be forwarded to the concerned Regional Offices of RBI within 21 days from the end of each quarter.

### **B.9 EDF Approval for Trade Fair/Exhibitions abroad**

1. 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 sale proceeds of the items sold are repatriated to India in accordance with the Foreign Exchange Management (Realization, Repatriation, and Surrender of Foreign Exchange) Regulations, 2000.

(iii) 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.

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

#### **B.10 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.

#### **B.11 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.

(iii) For the lot/ lots cleared at the Precious Cargo Customs Clearance Centre, Mumbai, 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.

#### **B.12 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.

#### **B.13 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.

#### **B.14 Opening / Hiring of Ware houses 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.

#### **B.15 Direct dispatch of documents by the exporter**

1. 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:

(i) 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.

(ii) 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.

2. 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:

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

(ii) 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.

3. 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, up to USD 1 million or its equivalent, per export shipment, subject to the following conditions:

(i) The export proceeds have been realized in full.

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

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

(iv) The AD Category – I bank is satisfied about the bona-fides of the transaction.

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

## **B.16 Invoicing of Software Exports**

(i) 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.

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

(iii) 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.

(iv) The invoices raised on overseas clients as at (i) and (ii) 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.17 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.18 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.

### **B.19 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.

### **B.20 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.

### **B.21 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.

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.

(ii) Export of Services by Special Economic Zones (SEZs) to DTA Unit. 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.

### **B.22 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 offering deferred payment terms to overseas buyers and those participating in global tenders for undertaking turnkey/civil construction contracts abroad 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) The stipulation of time limit of 30 days for the exporter undertaking Project Exports and Service contracts abroad to submit form DPX1/ PEX-1 /TCS-1 to the Approving Authority (AA) for seeking post award approval will not apply henceforth.

(iv) 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 (ies) 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.

## **B.23 Export of Currency**

In terms of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 notified vide [Notification No. FEMA 6/ 2000-RB dated 3rd May 2000](#), 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 notes 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 and 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.

## **B.24 Forfeiting**



Export-Import Bank of India (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.

### **B.25 Export factoring on non-recourse basis**

Taking into account the recommendation made by the Technical Committee on Facilities and Services to the Exporters (Chairman: Shri G. Padmanabhan), it has been decided to permit AD banks 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:

- a) 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.
- b) 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.
- c) AD bank, being the Export Factor, should have an arrangement with the Import Factor for credit evaluation & collection of payment.
- d) Notation should be made on the invoice that importer has to make payment to the Import Factor.
- e) 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.
- f) In case of single factor, not involving Import Factor overseas, the Export Factor may obtain credit evaluation details from the correspondent bank abroad.
- g) KYC and due diligence on the exporter shall be ensured by the Export Factor.

### **B.26 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.

### **B.27 Border Trade with Myanmar**

This is governed by the Agreement on Border Trade between India and Myanmar. People living along both sides of the India-Myanmar border are permitted to exchange certain specified locally produced commodities (Annex 5) under the barter trade arrangement. They can also trade in freely convertible currency. AD banks should follow the guidelines stipulated in A.P.(DIR Series) Circular No.17 dated October 16, 2000.

### **B.28 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.

### **B.29 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.

## **PART – 3**

### **C. Operational Guidelines for AD Category – I banks**

#### **C.1 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.

#### **C.2 EDF/SOFTEX procedure**

In terms of Regulation 6 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide [Notification No. FEMA.23/2000-RB dated 3rd May 2000](#), as amended from time to time export declaration forms should be disposed of as under:

##### **C.3.1. EDF Form**

- i) The procedure relating to the exports of goods through EDI ports will remain the same. However, the requirement of declaring the exports of goods / software in the SDF in case of exports taking place through the EDI ports has been dispensed with as the mandatory statutory requirements contained in the erstwhile SDF have been subsumed in the Shipping Bill format.
- ii) The EDF will be used for declaration of export of Goods at Non-EDI ports. EDF forms should be completed by the exporter in duplicate and both the copies submitted to the Customs at the port of shipment along with the shipping bill.

(iii) Customs will give their running serial number on both the copies after admitting the corresponding shipping bill. The Customs serial number will have ten numerals denoting the code number of the port of shipment, the calendar year and a six- digit running serial number.

(iv) Customs will certify the value declared by the exporter on both the copies of the EDF form at the space earmarked and will also record the assessed value.

(v) They will then return the duplicate copy of the form to the exporter and retain the original for transmission to the Reserve Bank.

(vi) Exporters should submit the duplicate copy of the EDF form again to Customs along with the cargo to be shipped.

(vii) After examination of the goods and certifying the quantity passed for shipment on the duplicate copy, Customs will return it to the exporter for submission to the AD Category – I banks for negotiation or collection of export bills.

(viii) Within 21 days from the date of export, exporter should lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice with the AD Category – I banks named in the EDF form.

(ix) After the documents have been negotiated / sent for collection, the AD Category – I banks should report the transaction through Export Data Processing and Monitoring System (EDPMS) to the Reserve Bank.

(x) The duplicate copy of the form together with a copy of invoice etc. shall be retained by the AD Category – I banks and may not be submitted to the Reserve Bank.

(xi) In the 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 should be recorded at the appropriate place on the EDF form.

(xii) Where Duplicate copy of EDF form is misplaced or lost, AD Category – I banks may accept another copy of duplicate EDF form duly certified by Customs.

Note: EDF Form numbers are now made available on-line on the Reserve Bank's website [www.rbi.org.in](http://www.rbi.org.in).

(Link: - Notification → FEMA → Forms → Foreign Exchange Management Act Forms → for Printing of EDF/Softex Form No)

(xiii) Postal Authorities will allow export of goods by post only if the original copy of the form has been countersigned by an AD Category – I bank. Therefore, EDF forms which involve sending goods by post should be first presented by the exporter to an AD Category – I bank for countersignature. The procedure is as under:

(a) The AD Category – I banks will countersign the forms after ensuring that the parcel is being addressed to their branch or correspondent bank in the country of import and return the original copy to the exporter, who should submit the form to the post office with the parcel.

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

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

(d) AD Category – I banks may, however, countersign EDF forms covering parcels addressed direct to the consignees, provided:

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

Or

The full value of the shipment has been received in advance by the exporter through an AD Category – I banks. Or

The AD Category – I bank is satisfied, on the basis of the standing and track record of the exporter and the arrangements made for realization of the export proceeds, that he could do so.

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

(g) Any alteration in the name and address of consignee on the EDF form should also be authenticated by the AD Category – I banks under his stamp and signature.

### **C.3.2. 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.23/2000/RB dated May 3, 2000](#).

(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.23/2000-RB dated May 3, 2000](#).

(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 transfer of catch, etc.

(b) The date of transfer of catch may be indicated in the column for 'Date of Shipment' with suitable remarks.

(c) Bill of Lading / Receipt of Trans-shipment issued by the carrier vessel should include the EDF Number.

(d) The EDF should be duly supported by a certificate from an international cargo surveyor.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

#### **C.4 In case of export of goods / software done through EDI ports**

(i) The relative shipping bill should be submitted in duplicate to the Commissioner of Customs concerned.

(ii) After verifying and authenticating, the Commissioner of Customs will hand over to the exporter, one copy of the shipping bill marked 'Exchange Control Copy' for being submitted to the AD Category – I banks within 21 days from the date of export.

(iii) The AD Category – I banks should accept the Exchange Control (EC) copy of the shipping bill submitted by the exporter for collection/negotiation of shipping documents.

(iv) The manner of disposal of EC copy of Shipping Bill is the same as that for EDF. The duplicate copy of the form together with a copy of invoice etc. shall be retained by the AD Category – I banks and may not be submitted to the Reserve Bank.

(v) In cases where ECGC and private insurance companies regulated by Insurance Regulatory and Development Authority (IRDA) initially settles the claims of exporters in respect of exports insured with them and subsequently receives the export proceeds from the buyer/buyer's country through the efforts made by them, the share of exporters in the amount so received is disbursed through the bank which had handled the shipping documents. In such cases, ECGC and private insurance companies regulated by IRDA will issue a certificate to the bank, which had handled the relevant shipping documents after full proceeds have been received. The certificate will indicate the number of declaration form, name of the exporter, name of the AD Category – I banks, date of negotiation, bill number, invoice value and the amount actually received by ECGC and private insurance companies regulated by IRDA.

#### **C.5 SOFTEX Forms**

(i) A software exporter, whose annual turnover is at least Rs. 1000 crore or who files at least 600 SOFTEX forms annually, will be eligible to submit a statement in excel format as per Annexure A, giving all particulars along with quadruplicate set of SOFTEX form to the nearest STPI. STPI will then verify the details and decide on a percentage sample check of the documents in details. Software companies will submit all the documents on demand to STPI within 30 days of their advice or any reasonable/extended time at the discretion of the Director, STPI, at the request from the exporter. STPI will thus certify the statement and SOFTEX forms in bulk on the "Top Sheet" regarding the values etc. and will thereafter forward the first copy of the revised SOFTEX format to the concerned Regional Office of RBI, the duplicate copy along with bulk statement in excel format to Authorised Dealers for negotiation / collection / settlement, the third copy to the exporter

and the last copy will be retained by STPI for its own record. Under the revised procedure, the exporters, however, will have to provide information about all the invoices including the ones lesser than US\$25000, in the bulk statement in excel format. [The revised procedure for submission of the SOFTEX form and other relevant documents are detailed in the Annex 4]

The procedure has been effective at all STPIs and SEZs / EPZs / 100%EOU / DTA since 1.1.2013.

(ii) A common “SOFTEX Form” (Annex 3) 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.

### **C.6 Random verification**

(iv) 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.

### **C.7 Certification for EEFC Credits**

Where a part of the export proceeds are credited to an EEFC account, the export declaration (duplicate) form may be certified as under:

“Proceeds amounting to ..... representing ..... percent of the export realization credited to the EEFC account maintained by the exporter with.....”

### **C.8 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.

### **C.9 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.10 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.11 Handing Over Negotiable Copy of Bill of Lading to Master of Vessel/Trade Representative**

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.12 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.13 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) 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.14 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.15 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. The exporter is not on the exporters' caution list of the Reserve Bank, and

(c) 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.

#### **C.16 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.

#### **C.17 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 12 months from the date of export.



### **C.18 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.

(e) 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.

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

(ii) In cases where an exporter has not been able to realize proceeds of a shipment made within the extended period for reasons beyond his control, but expects to be able to realize proceeds if further extension of the period is allowed to him, as well as in respect of cases not covered under Para (i) above necessary application (in duplicate) should be made to the Regional Office concerned of the Reserve Bank in form ETX through his AD Category – I bank with appropriate documentary evidence.

### **C.19 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 AD Category – I banks, 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" adduced in the [A.P. \(DIR Series\) Circular No. 03 dated 22 July 2010](#). After liberalizing and simplifying the procedure, the limits prescribed for "write-offs" of unrealized export bills are as under:

Self "write-off" by an exporter (Other than Status Holder Exporter)	5%*
Self "write-off" by Status Holder Exporters	10%*
'Write-off" by Authorized Dealer Bank-	10%*

\*of the total export proceeds realized during the previous calendar year.

- (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 one year, satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realize the dues, and 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.
- (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;
- (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.
- (iv) The exporter has surrendered proportionate export incentives (for the cases not covered under [A. P. \(DIR. Series\) Circular No.03 dated July 22, 2010](#)), if any, availed of in respect of the relative shipments. The AD Category – I banks 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 AD 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, Directorate of Revenue Intelligence, Central Bureau of Investigation, etc. as also the outstanding bills which are subject matter of civil / criminal suit.

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

viii) AD banks are advised to put in place a system under which their internal inspectors or auditors (including external auditors appointed by authorised dealers) should carry out random sample check / percentage check of “write-off” outstanding export bills.

ix) Cases not covered by the above instructions / beyond the above limits, may be referred to the concerned Regional Office of Reserve Bank of India.

### **C.20 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 and delete them from the XOS statement.

(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.21 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.

### **C.22 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.23 '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 FET-ERS 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.24 – Set-off of export receivables against import payables**

AD category – I banks may deal with the cases of set-off of export receivables against import payables, subject to following terms and conditions:

(i) The import is as per the Foreign Trade Policy in force.

(ii) Invoices/Bills of Lading/Airway Bills and Exchange Control copies of Bills of Entry for home consumption have been submitted by the importer to the Authorized Dealer bank.

(iii) Payment for the import is still outstanding in the books of the importer.

(iv) Both the transactions of sale and purchase may be reported separately in 'R' Returns.

(v) The relative EDF will be released by the AD bank only after the entire export proceeds are adjusted / received.

(vi) The " set-off" of export receivables against import payments should be in respect of the same overseas buyer and supplier and that consent for "set-off" has been obtained from him.

(vii) The export / import transactions with ACU countries should be kept outside the arrangement.

(viii) All the relevant documents are submitted to the concerned AD bank who should comply with all the regulatory requirements relating to the transactions.

## **C.25 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 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.

## **C.26 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 are required to:

(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 incentives have been availed by the exporter against the relevant export or the proportionate incentives availed, if any, for the relevant export have been surrendered

(iv) Obtain an undertaking from the exporter that the goods will be re-imported within three months from the date of remittance and

(v) Ensure that all procedures as applicable to normal imports are adhered to.