

RBI/2013-14/452 A.P. (DIR Series) Circular No.95

January 17, 2014

Merchanting Trade Transactions

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular Nos.106 & 4 dated June 19, 2003 and July 19, 2003 respectively, containing directions relating to merchanting or intermediary trade transactions. In the light of the recommendations of the Technical Committee on Services/Facilities to Exporters (Chairman: Shri G. Padmanabhan) to further liberalise and simplify the procedure, the existing guidelines for merchanting or intermediary trade transactions have been reviewed. Accordingly in supersession of the existing guidelines, the revised guidelines will come into effect immediately.

2. While handling merchant trade transactions or intermediary trade transactions, AD Category - I bank may keep the following guidelines in view:

Goods involved in the merchanting or intermediary trade transactions would be the ones that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India, at the time of entering into the contract and all the rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry) are complied with for the export leg and import leg respectively;

Both the legs of a merchanting or intermediary trade transaction are routed through the same AD bank. The bank should verify the documents like invoice, packing list, transport documents and insurance documents and satisfy itself about the genuineness of the trade.

The entire merchanting or intermediary trade transactions should be completed within an overall period of nine months and there should not be any outlay of foreign exchange beyond four months.

The commencement of merchanting or intermediary trade would be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date would be the date of shipment / export leg receipt or import leg payment, whichever is the last;

Short-term credit either by way of suppliers' credit or buyers' credit will be available for merchanting or intermediary trade transactions including the discounting of export leg LC by an AD bank, as in the case of import transactions ;

AD bank should ensure one-to-one matching in case of each merchanting or intermediary trade transaction and report defaults in any leg by the traders to the concerned Regional Office of RBI on half yearly basis in the format as annexed. The deadline for submission of the report would be 15 calendar days after the close of each half year. In case of repeated defaults i.e. three cases or more in a year, ADs should restrain the traders from entering

into any further transaction in merchanting or intermediary trade and consider recommending caution listing of the trader, to the Reserve Bank of India;

3. The merchanting traders have to be genuine traders of goods and not mere financial intermediaries. Confirmed orders have to be received by them from the overseas buyers. Authorised Dealer should satisfy itself about the capabilities of the merchanting trader to perform the obligations under the order. The transactions should result in reasonable profits to the merchanting trader.

4. The inward remittance from the overseas buyer should preferably be received first and the outward remittance to the overseas supplier will be made subsequently. Alternatively, an irrevocable Letter of Credit (LC) should be opened by the buyer in favour of the merchant. On the strength of such LC the merchant in turn may open a LC in favour of the overseas supplier. The terms of payment under both the LCs should be such that payment for import LC is required to be made after receipt of payment under export LC. The export LC should be issued in the name of original merchanting trader in India and import LC should be favouring the original supplier. In case export leg payment is received in advance, AD banks need not insist on opening of export LC.

5. In case advance against the export leg is received by the merchanting trader, the advance payment may be held in a separate deposit / current account in foreign currency or Indian Rupees. The amount required for import leg should be earmarked till the payment of import and should not be made available to the merchanting trader for use, other than for import payment or short-term deployment of fund limited to the import payable, with the same AD for the intervening period. If advance for the import leg is demanded by the overseas seller, the same should be paid against bank guarantee from an international bank of repute;

6. Reporting for merchanting or intermediary trade for compilation of R-return should be done on gross basis, against the undernoted codes :

Trade	Purpose Code under FETERS	Description
Export	P0108	Goods sold under merchanting /receipt against export leg of merchanting trade
Import	S0108	Goods acquired under merchanting /payment against import leg of merchanting trade

7. AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned and note the guidelines for strict compliance.

8. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(C. D. Srinivasan)
Chief General Manager