



Export of Goods and Services under Indian FEMA

INDEX

S. NO	Particulars	Page No.
	(A) Introduction on Exports of Goods and Services (EoGS) under Indian FEMA	4 & 5
	(B) General Guidelines for Exports of Goods and Services (EoGS)	
1	Exemption from filling of Export Declaration Form (EDF)	6
2	Modes for Receipt of the Payment	6 to 10
3	Realization and Repatriation against exports of goods, software and services	10 & 11
4	Foreign Currency Account (FCA) for International Exhibition or Trade Fair outside India	11 & 12
5	Diamond Dollar Account (DDA)	12
6	Exchange Earners' Foreign Currency (EEFC)	12 to 14
7	Establishing overseas office on lease (rent) or buying of immovable property	14 & 15
8	Receipt of the advance payments against the EoGS	15 to 18
9	EDF Approval for the Trade Fairs or Exhibitions outside India	18
10	EDF approval for the Exports of Goods against the re-imports	18 & 19
11	Re-exports of unsold rough diamonds from SNZ of Customs without EDF formality	19
12	Part Drawings or Undrawn Balances	19 & 20
13	Exports of goods on consignment basis	20
14	Opening or Hiring of the Ware houses outside India	20 & 21
15	Direct dispatch of documents by the exporter	21 & 22

16	<i>Invoicing against Exports of software's</i>	22
17	<i>Short Shipments and Shut out Shipments</i>	23
18	<i>Exports and Imports under Counter-Trade Arrangements (CTAs)</i>	23 & 24
19	<i>Exports of Goods on Lease and Hire Purchase etc. basis</i>	24
20	<i>Exports on Elongated Credit Terms</i>	24
21	<i>Exports of goods by Special Economic Zones (SEZs)</i>	24 & 25
22	<i>Exports of Projects + Exports of Services</i>	25 & 26
23	<i>Exports of Indian Currency (Indian notes) with or without permission from the RBI</i>	26 & 27
24	<i>Forfeitures against exports receivables</i>	27
25	<i>Factoring against Exports Receivables on non-recourse basis by the banks</i>	27 & 28
26	<i>Exports to the neighboring countries through Road, Rail or River like Nepal etc.</i>	28
27	<i>Switching from Barter Trade to Normal Trade at Indo-Myanmar Border</i>	28 & 29
28	<i>Repayment of Exports of Goods and Services through State Credits Systems</i>	29
29	<i>Counter -Trade Arrangements with the Romania</i>	29
30	<i>Issue of Guarantees by the Banks to the Exporters</i>	29 & 30
(c) Operational Guidelines for the AD Category-I Banks (Banks)		
1	<i>Citing of Specific Identification Numbers (SIN)</i>	31
2	<i>EDF and SOFTEX</i>	31
3	<i>EDF</i>	31 to 33
4	<i>High-Sea Trans-shipment of the catches (fishing etc.) by the Deep Sea Fishing Vessels</i>	33 & 34
5	<i>Exports of goods or software through the EDI ports</i>	34 & 35
6	<i>Submission of SOFTEX Forms by the Software Exporters</i>	35
7	<i>Random verifications by the Banks</i>	35

8	<i>Certification for the EEFC Credits</i>	36
9	<i>Consolidation of the Air Cargo + the Sea Cargo</i>	36
10	<i>Delay in submission of shipping documents by exporters</i>	37
11	<i>Return of Documents by Banks to Exporters</i>	37
12	<i>Handing Over Negotiable Copy of BoL to Master of Vessel or Trade Representative</i>	37
13	<i>Register for Exports of Bills by Banks</i>	37
14	<i>Follow-up for Overdue outstanding bills by Banks</i>	37 & 38
15	<i>Reduction in Invoice Value for Prepayment of Usance Bills</i>	38
16	<i>Reduction in the Invoice Value for non prepayments of Usance bills</i>	38 & 39
17	<i>Repatriation against Exports Claims by Banks</i>	39
18	<i>Change in name of buyer by banks</i>	39
19	<i>1st Extension of Time by Banks</i>	39 & 40
20	<i>Write off of exports bills by exporters</i>	40 to 43
21	<i>Write off against claims already settled by ECGS or by private insurance companies regulated by IRDA</i>	43
22	<i>Relaxation against Write-off</i>	43 & 44
23	<i>Lost of Shipments in Transit</i>	44
24	<i>Netting off of exports receivables against imports payables for Units in SEZs</i>	44 & 45
25	<i>Set-off of exports receivables against imports payables</i>	45
26	<i>Payments of Agent's Commissions on exports of goods and services</i>	45 & 46
27	<i>Remittances for Refund against Exports Proceeds already received from Outside India</i>	46 & 47
28	<i>Names of Exporters in Caution List as issued by the RBI</i>	47

A. Introduction on Exports of Goods and Services (EoGs) under Indian FEMA

1. (i) EoGS from India is **regulated** by the Directorate General of Foreign Trade (DGFT) through its regional offices as functioning under the Ministry of Commerce and Industry, Department of Commerce, Government of India (Govt.).
(ii) **Policies** and procedures as required are to be followed for EoGS as announced by the DGFT from time to time.
2. (i) **Banks** are permitted to conduct the **exports transactions** in accordance to Foreign Trade Policy (FTP) and the Rules thereon as framed by the Govt. and through the Directions as issued by the Reserve Bank of India (the RBI) from time to time.
(ii) Banks are permitted to exercise the **powers** as conferred through the section 7(1a) and (3) and section 47 (2) under the Foreign Exchange Management Act (FEMA) 1999
3. RBI has **notified** the Foreign Exchange Management (Exports of Goods and Services) Regulations, 2015 for EoGS. These Regulations have been notified through Notification No. FEMA 23(R)/2015-RB dated January 12, 2016 also amended from time to time.
4. (i) Exporters are permitted to issue the **contracts** and **invoices** in **INR** in accordance to the Rules, Regulations, Notifications and Directions as framed under the FEMA, 1999.
(ii) Exporters are also permitted to issue **contracts** and **invoices** in freely convertible currency (FCC) under provisions as given in Para 2.52 of the FTP (2015-2020)
(iii) **Generally** exporters are **not permitted** to receive the **payments** against the EoGS in **INR**. Hence exporters are permitted to receive the payments against EoGS in **FCC** only.
(iv) **Specifically** exporters are **permitted** to receive the **payments** against the specific EoGS in **INR** where freely convertible vostro account (FCVA) of the non- resident banks are located in the country where the overseas importers (**buyers**) country is **not a member** of Asian Clearing Union (ACU) or buyers is situated in **Nepal** or **Bhutan**.



5. (i) *Generally* the Banks are required to make a *reference* to the *RBI* through the *regional office* as situated in the jurisdiction where the exporters are residing, the firm or company is functioning.
 - (ii) *Specifically* the Banks are permitted to make a *reference* to the *RBI* through different regional offices with the *specific reasons* and also the banks are required to take prior *approval* from the *RBI* through regional office as situated in the jurisdiction.
6. *Financial Year* (April to March) is to be reckoned as the time base for all transactions pertaining to EoGS matters.



B. General Guidelines for Exports of Goods and Services (EoGS)

1. Exemption from filling of Export Declaration Form (EDF)

(i) Export declaration Form (EDF) Exemption

- (a) The Exporters are **not required** to submit a **declaration** against exports of goods and software in the prescribed form as indicated in the Regulation 4 of Foreign Exchange Management (Exports of Goods and Services) Regulations, dated January 12, 2016.
- (b) However the exporters are liable to **realize** and **repatriate** the exports proceeds in accordance to the FEMA Regulations.

(ii) Grant of the EDF waiver

- (a) Banks are permitted to consider the requests for **granting** of the **EDF waiver** against the request as received from the **general** exporters for exports of goods at **zero cost** for the purpose of exports promotion where exports of goods at zero cost are **not exceeding 2%** of the average annual exports **turnover** of last **3 preceding** financial **years** or **not exceeding 5 lac** in lump sum whichever is **lower**.
- (b) Banks are permitted to consider the requests for granting of the EDF waiver against the request from the **Star holder** exporters for exports of goods at **zero cost** for the purpose of exports promotion where exports of goods at zero cost are **not exceeding 2%** of the average annual exports **turnover** of last **3 preceding** financial **years** or **not exceeding 10 lac** in lum sum whichever is **lower**.
- (c) Exporters of the goods are permitted to obtain an **approval** from the **RBI** through banks for the waiver of EDF procedures where the exports of goods at **zero cost** and also **not involving** any foreign exchange directly or indirectly.

2. Modes for Receipt of the Payment

- (i) **100% payments** against the EoGS are to be received **through** the **banks** in accordance to the manner as specified in the Foreign Exchange Management (Manner of Receipt &



Payment) *Regulations, 2000* as notified through Notification No. FEMA.14/2000-RB dated May 3, 2000 in the following modes:

- (a) Bank *drafts*, pay orders, banker's cheques or personal cheques.
- (b) Foreign currency *notes*, foreign currency travellers' cheques from the buyers during their *personal visit* to India.
- (c) Payment out of the funds as held in the *FCNR* or *NRE* account as *maintained* by the buyers in India.
- (d) *International Credit Cards* of the buyers.

(ii) Modes for settlement of the exports transactions:

● **Exports to the Nepal or Bhutan**

- (a) *Generally* the exporters are permitted to *settle* with the residents of *Nepal* or *Bhutan* in the *INR* only.
- (b) *Specifically* the exporters are required to receive the payments in *FCC* through *ACU mechanism* where the *Nepal Rashtra Bank* (similar to the RBI in India) has permitted the buyers to make payments in *FCC* and also payments are to be routed through *ACU mechanism* only.

● **Exports of the precious metals through the units as located in the SEZs or EOUs**

- (a) Exporters are required to enter in the *sale contracts* along with the indication for approximate equivalent value of the exports of *jewellery* of the *precious metals* in the relevant *EDF* where the exporters are exporting the precious metal like Gold, Silver and Platinum through Gem and Jewellery through the *units* as located in the *SEZs* or *EOUs*.

(iii) Processing of exports related receipts through Online Payment Gateway Service Providers (OPGSPs):

- Banks are permitted to offer the *facility* for *repatriation* against exports related remittances through entering into standing arrangements for *OPGSPs* subject to satisfaction of the certain conditions:



- (a) Banks are required to carry out the *due diligence* for the OPGSP.
- (b) OPGSP facility is available for EoGS *not exceeding USD 10,000*.
- (c) (ca) Banks are required to open a *NOSTRO* collection *account* for the receipts against payments where the exporters are availing this facility.

(cb) Banks are required to ensure that *no funds* are *allowed* to be retained in the *other* accounts and also *100% receipts* should be *automatically swept* and pooled into the *NOSTRO* collection accounts as opened by the banks in India.
- (d) Banks are required to open the *separates NOSTRO* collection *accounts* for each OPGSP or the banks should be able to delineate the transactions in the *NOSTRO* account of each OPGSP.
- (e) *Permissible debits* to the *NOSTRO* collection *accounts* for the repatriation of funds against payment of the fee or commission for the OPGSP in accordance to the *predetermined rates*, frequency or arrangement and also *charge back* to the buyers where the exporters have failed in discharging his obligations under the sale contract.
- (f) The *balances* as held in *NOSTRO* collection *account* are to be credited to the respective exporter's account an immediately on receipt of the confirmation from the buyers within maximum *7 days* from the date of *credit* into *NOSTRO* collection *account*.
- (g) Banks are required to satisfy about the *bona fides* of the transactions and also to ensure that the *purpose codes* as reported to the *RBI* against the online payment gateways are correct.

(iv) Settlement System under the ACU Mechanism

- (a) (aa) Banks are permitted to *facilitate* the transactions or settlements through the *participations* in the *ACU Mechanism* along with the option to settle the transactions either in ACU Dollar or in ACU Euro. This facility is *effective from January 01, 2009*



- (ab) Hence the Asian Monetary Unit (AMU) is to be denominated as ACU USD and ACU Euro which is equivalent in value of 1 USD and 1 Euro respectively.
- (b) Exporters are permitted to open and maintain the ACU USD and ACU Euro accounts with the banks. Hence all payments are to be settled by the concerned banks through these accounts.
- (c) Trade transactions with the Myanmar may be settled in any FCC in addition to the ACU mechanism.
- (d) Trade transactions with Iran may be settled in permitted currency outside the ACU mechanism. This facility is effective from December 27, 2010.
- (v) **3rd Party payments for the exports transactions**
- RBI has decided to permit the 3rd party payments for the exports transactions after satisfaction of the certain conditions:
 - (i) (a) Bank are required to ensure that the firm irrevocable order for the exports are backed by the tripartite agreement.
 - (b) Banks are not permitted to insist for firm recoverable order for the exports as backed by the tripartite agreement where documentary evidences for the circumstances as leading to 3rd party payments or name of the 3rd party is already mentioned in the irrevocable order or invoice as produced by the exporters after satisfaction of the certain conditions:
 - (c) Banks are to be satisfied with the bona fides of the transactions and also the exports documents like an invoice and Foreign Inward Remittance Certificate (FIRC).
 - (ii) Banks are required to consider the Financial Action Task Force (FATF) statements before handling the transactions.
 - (iii) 3rd party payments are to be routed through the banking channel only.



- (iv) Exporters are required to **declare** the **3rd party remittance** in the EDF and also to realize and to repatriate the exports proceeds from the **3rd party** as named in the EDF
- (v) Exporters are required to **realize** and to **repatriate** the exports proceeds from the **3rd party** at named in the EDF.
- (vi) Banks are required to **report** the **outstanding** in the **XOS** and also to be continued as shown against the name of the exporters. Banks are further required to show the name of the buyers where the proceeds are to be realized and the **name** of the **declared 3rd party** should be appeared in the XOS.
- (vii) Banks are required to **receive payments** from the **Open Cover Country (OCC)** where the shipments are being made to a country as existed in the Group-II of the **Restricted Cover Countries (RCC)** like **Sudan and Somalia etc.**
- (viii) Settlement in the currencies not having a direct exchange rate**
- Banks are permitted to facilitate the settlements of exports transactions where the invoicing is in a FCC but direct exchange rates are **not available** after satisfaction of the certain conditions:
 - (a) Exporters should be **customers** of the Banks.
 - (b) Signed contract or **invoice** should be in the **FCC**
 - (c) Exporters should be ready to **receive** the payments in the **currency** of the **buyers** as full and final settlement.
 - (d) Banks should be satisfied with the **bona fides** of the transactions
 - (e) Buyers should not be from a **country** or jurisdiction as updated in **FATF Public Statement** on High Risk and Non Co- operative Jurisdictions where **FATF** has called for the counter measures.

3. Realization and Repatriation against exports of goods, software and services

- Exporters are **legally** required to realize and **repatriate** the **100% value** of exports of goods, software and services within a **stipulated time**:
 - (i) Exporters are required to realize and repatriates the **100% value** of exports within maximum **9 months** from the date of exports by the exporters including:



- (a) SEZs
 - (b) Status Holder Exporters
 - (c) EOUs Units in EHTPs, STPs and BTPs
- (ii) Exporters are required to **realize** and repatriates the **100% value** of exports of goods from the **warehouse** as established **outside India** within maximum **15 months** from the date of shipment of goods.

4. Foreign Currency Account (FCA) for International Exhibition or Trade Fair outside India

- (i) (a) Exporters are permitted to **open FCA** outside India for **participating** in the international exhibition or trade fair under **general permission** route through Regulation **5(E)(5)** of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) **Regulations** dated January **21, 2016** as amended from time to time for opening the temporary foreign currency account outside India.
- (b) Exporters are permitted to **deposit** the **foreign exchange** as obtained against **sale** of **goods** at the international exhibition or trade fair and also to operate the account **during** their **stay** outside India.
- (c) Exporters are required to **repatriate** the **foreign exchange** as obtained against **sale** of **goods** through normal banking channels within maximum **1 month** from the date of **closure** of the exhibition or trade fair and also the full details are to be submitted to the banks.
- (ii) (a) RBI is permitted to consider the **applications** in **Form EFC** as received from the exporters having good track record for opening a **FCA** in India and **outside India (both)** after satisfaction of certain terms and conditions
- (b) **Applications** by the exporters for opening the **FCA in India** are to be submitted to the **RBI** through the banks and also applications for **opening** the accounts **outside India** are to be submitted through the banks in India.



- (iii) Exporters are permitted to open, hold and maintain the **FCA outside India** in the name of overseas office or **branch** through the remittances under the head **normal business operations** after satisfaction of the terms and conditions as stipulated under Regulation 5 (B) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016 as amended from time to time
- (iv) **Units** as located in a Special Economic Zone (**SEZ**) are permitted to open hold and maintain the **FCA** with the **banks in India** after satisfaction of the terms and conditions as stipulated in Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016 as amended from time to time.
- (v) Ordinary Residents of India (**ORoI**) are permitted to open hold and maintain a **FCA** with the **banks in India** and outside India being the project and service exporters after the satisfaction of the terms and conditions in accordance to **Memorandum PEM**.

5. Diamond Dollar Account (DDA)

- (i) (a) Exporters as dealing in purchase or sale of **rough** or **cut** and polished **diamonds**, precious metal jewellery plain, minakari and/or studded with or without diamond and / or other stones are permitted to open hold and maintain **DDA in India** and outside **under licensing** through Govt. of India.
- (b) Exporters are required to have the **track records** minimum **2 years** against imports, exports of diamonds, colored gemstones, diamond and colored gemstones studded jewellery, plain gold jewellery.
- (c) And also exporters are required to have minimum average **annual turnover (AAT)** of minimum **3 crore** during the **3** preceding the **licensing years**
- (ii) Exporters are **not permitted** to open more than **5 DDAs** with their banks.

6. Exchange Earners' Foreign Currency (EEFC)

- (i) **ORoI** are **permitted** to open hold and maintain the **EEFC account** subject to satisfaction of the terms under Regulation 4 (D) of Foreign Exchange Management (Foreign Currency



Accounts by a person Resident in India) *Regulations, 2015* dated January 21, 2016, as amended from time to time.

- (ii) Resident individuals (*RIs*) are also *permitted* to open hold and maintain *EEFC account* along with Joint holder account with close relative(s) on former or *survivor* basis.
- (iii) (a) *EEFC account* is to be maintained as *non-interest bearing current account*.
(b) *Credit facilities* as fund-based or non-fund based are *not permitted* against the *security* of the balances as held in the *EEFC accounts* with the banks.
- (iv) Exporters are *permitted* to *credit 100%* of their foreign exchange earnings to their *EEFC accounts* after satisfaction of the terms and conditions:
 - (a) Exporters are required to *convert* the all credits *into INR* and the end of *calendar month* after adjusting for utilization of the balances for approved purposes or forward commitments.
 - (b) *EEFC accounts facility* is *intended* to enable the exporters to save *actual fluctuation* on conversion and also the transaction costs.
 - (ba) *EEFC accounts facility* is *not intended* to enable the exporters to maintain the assets in foreign currency. Govt. is *not permitting 100% convertibility* against the Capital Account.
- (v) **Eligible credits for the EEFC account includes:**
 - (a) *100% Inward remittances* as received against EoGS through the normal *banking channels* are permitted to be credit in the *EEFC account*.
 - (aa) *100% Inward remittances* as received through normal banking channel are *not permitted to credit* in the *EEFC account* where inward remittances are received against the *undertaking* as given to the *RBI*, received against foreign *currency loan*, received against investments from outside India or received for *meeting* the specific *obligations* of the account holder.
 - (b) *100% Inward remittances* as received through normal *banking channel* by the units in Domestic Tariff Area (*DTA*) for supplying of the goods to a *unit* in Special Economic Zone (*SEZ*).



- (vi) Banks are permitted to *allow* the exporters to grant trade related *loans* or *advances* to the buyers out of the EEFC account *without* any monetary *limit* subject to satisfactions of the terms and conditions as notified through *Notification* No. FEMA 3/2000-RB dated May 3, 2000 as amended from time to time.
- (vii) Banks are permitted to *allow* the exporters to *repay* against the *packing credit advances* as already availed in *INR* or foreign currency out of the EEFC account.

7. *Establishing overseas office on lease (rent) or buying of immovable property*

- (i) (a) Banks are permitted to allow the *remittances* to the exporters for the *initial expenses not exceeding* the *15%* of the average annual *sales*, incomes or turnover during the last *2* financial *years*
- or*
- (b) *25%* of *net worth* whichever is *higher*
- (ii) ● Banks are permitted to allow the *remittances* to the exporters for the *recurring expenses not exceeding* the *10%* of the average annual *sales*, incomes or turnover during the last *2* financial *years* for normal business operations of the trading or *non trading* office, branch or representative office outside India subject to the satisfaction of the certain terms and conditions:
- (a) The branch, office or representative as posted outside India should be for *conducting* the normal *business activities* of the exporters.
- (b) The branch, office or representative as posted outside India should *not enter* into any *contract* or agreement in *contravention* of the Act, Rules or *Regulations*.
- (c) The branch, office as trading / non trading or representative office outside India is *not permitted* to create any *financial liability*, contingent liability or other liability for the head office in India
- (ca) And also *not permitted* to invest the *surplus funds* as available outside India *without* prior *approval* of the *RBI* and also the surplus funds as available should be an immediately repatriate to India.
- (iii) Exporters are required to quickly *inform* to the *banks* about the details of bank account as opened out India.



- (iv) Banks are also permitted to allow the exporters to send **remittances** for acquiring an **immovable property** outside India for its business or for resident of its staff.
- (v) Exporters are permitted to **100% repatriate** to India against **contract** value of **off-site** contract through office or branch outside India for the software.
- (vi) Exporters are permitted to **100% repatriate** to India against **contract** value of **on-site** contract through office or branch outside India for the software against the profits **after completion** of the contract.
- (vii) Exporters are required to send the **audited** yearly **statement** to the **banks** in India clearly showing the receipts, expenses, repatriation to India against the off-site and on-site contracts (**both**).

8. Receipt of the advance payments against the EoGS

- (i)
 - (a) Exporters are required to make **shipment** within maximum **1 year** from the date of receipt of the advance payments
 - (b) Exporters are **not permitted** to pay **interest** exceeding London Inter-Bank Offered Rate (**LIBOR**) + **100** basis Points (**1%**)
 - (c) Exporters are required to **route** the **documents** against the shipments **through** the **bank** where advance payment is deposited.
 - (d) Exporters are **not permitted** to **refund** the utilized portion of the advance payments and also **not permitted** to make payment for **interest without** prior **approval** of the **RBI** where exporters are unable to make **100% shipment** or **partly shipment** within maximum **1 year**
- (ii) Banks are permitted to **allow** the exporters to receive **long term** exports **advances** against the long term supply contracts for maximum **10 years** where exporters have **3 years** satisfactory **track record**. Banks are same after satisfaction of the certain terms and conditions:
 - (a) Exporters should have **Firm** irrevocable **orders** for supply and contracts should also be in place. The product pricing should also be in accordance to the prevailing **international prices**.
 - (b) Exporters should have **capacity**, systems and **processes** in place to ensure that the orders over the duration of the said tenure can actually be executed.



- (c) Exporters should *not* be *under adverse notice* of the Enforcement Directorate (ED) or any other regulatory agency.
- (d) Exporters are required to *adjust* the *advance* payments against the *future exports*.
- (e) Exporters are *not permitted* to pay *interest* exceeding the LIBOR + 2%
- (f) Exporters are required to send the documents *through* the *same bank* only.
- (g) Banks are required to ensure the *compliances* of the Anti-Money Laundering (AML) and Know Your Customer (KYC) guidelines as issued by the RBI.
- (h) Exporters are *not permitted* to *adjust* the exports *advance* against to liquidate the *Rupee loans* which are already classified as Non Performing Asset (NPA).
- (i) Exporters are *not permitted* to have *double financing* through working capital loan for execution of exports orders where *100% advances* are already received from the buyers.
- (j) Banks are required to *report* to the Trade Division, Foreign Exchange Department, RBI, Central Office, Mumbai where *advance* against exports are *exceeding USD 100 million*
- (k) Banks are required to *issue* the bank guarantee (BG) or Stand by Letter of Credit (SBLC) against the exports performance after rigorous *evaluation* and the *prudential norms* as allowed through board of directors approved policy. The other terms and conditions include:
- Banks are permitted to *issue* the BG or SBLC maximum *not exceeding 2 years* and also further *rollover* is permitted maximum *not exceeding 2 years* after satisfaction of the certain terms and conditions:
- (ka) Banks are permitted to *issue* the BG or SBLC against the receipt of *advance* based on the producing *balance method*.
- (kb) Banks are required to ensure that the BG or SBLC as issued *from* the *India* in favor of the buyers should *not* be *discounted* by the overseas branch or subsidiary of a bank as *incorporated* in *India* and *registered* with the RBI.
- (l) Banks are permitted to allow the *exporters* to *purchase* the *foreign exchange* from the *market* for *refunding advance* payments as already credited to EEFC

account after **100% utilizing** the balance as available in EEFC account as maintained in India.

- (iii) Banks are permitted to allow the exporters to **receive advance** payments against exports of good through **manufacturing** for **exceeding 1 year** after satisfaction of the certain term and conditions:
- (a) Banks are required to ensure the **KYC** and **due diligence** exercise against the buyers.
 - (b) Banks are required to ensure the **compliances** against the **AML standards**.
 - (c) Banks are required to ensure that the advance received against exports should execute the exports orders. Hence exporters are **not permitted** to utilize the **advance** payments received against the export for the **other purpose**.
 - (d) Exporters are required to receive the **progress payments** directly from the **buyers** strictly in accordance to the terms and conditions of the contract for the exports
 - (e) Exporters are **not permitted** to pay **interest** against the advance payments for the exports **exceeding the LIBOR + 1%**.
 - (f) Banks are required to ensure that the **refunds** against the **advance payments** for the exports are **not exceeding 10%** of total advances as received in preceding **3 years**
 - (g) Exporters are required to route the shipment **documents** through the **same banks**.
 - (h) Exporters are **not permitted to refund** against the **advance payments** received by the exporters. Hence exporters are **not permitted to refund** where an inability to make **100% shipment** or **parts shipment without** prior approval of the **RBI**.
- (iv) (a) Banks are required to efficiently to **follow up** with the exporters where exports are **not completed** within maximum **1 year** and also advance against exports are **outstanding** as on date.
- (b) Banks are required to ensure a proper **due diligence** and the compliances with the **KYC** and **AML guidelines** as issued by the RBI. Hence the RBI wishes to have **bona fide** exports advances **flow into India**



(c) Banks are required to *refer* the *doubtful cases* against chronic defaulters to the office of *ED* for further investigation and also to file a *quarterly statement* indicating details of the cases to the concerned regional office of the RBI within maximum *21 days* from the end of *each quarter*.

9. EDF Approval for the Trade Fairs or Exhibitions outside India

- (i) Exporters are permitted to *participate* in the *trade fairs* or exhibition for the exhibition and sale outside India *without* the prior *approval* of the *RBI*
- (ii) Exporters are permitted to *sale* the *unsold goods* outside the exhibition or trade fair in the *same country* or in a *3rd country*.
- (iv) Exporters are permitted to *sales* at the *discounted value* and also permitted to *gift* against the *unsold goods* for value *not exceeding* *USD 5000* per exhibition or trade fair
- (v) Banks are permitted to *approve* the EDF against the exports items for *display-cum-sale* in the trade fairs or exhibitions *outside India* after satisfaction of certain terms and conditions:
- (a) Exporters should *produce* the Bill of Entry (*BoE*) within maximum *1 month* from the date of *re-imports* into India against the *unsold items*.
- (b) Exporters are required to *repatriate* to India against the *sale proceeds* in accordance to Foreign Exchange Management (Realization, Repatriation, and Surrender of Foreign Exchange) *Regulations, 2000*.
- (c) Exporters are required to *report* to the *banks* about the method as used against *disposal* of *100% items* as already exported for the exhibitions or trade fairs and also to report about *repatriation* of proceeds into India.
- (d) Banks are required to *approve* the transactions and to have *100% audit* by the internal inspectors or auditors.

10. EDF approval for the Exports of Goods against the re-imports

- (i) Banks are permitted to consider the *request* from the exporters for granting *EDF approval* where goods are being exports for the *re-imports* after repairs, maintenance, *testing* and calibration etc. after assurance from the exporters to *produce* the *BoE* within maximum *1 month* against the re-imports after already exported the items from the India.



(ii) Banks are permitted to obtain a *certificate* as to be issued by the *testing agency* that the goods which were exported for testing are destroyed during the testing. Hence banks are permitted to obtain the *certificate* in lieu of BoE against the *re-imports*.

11. *Re-exports of unsold rough diamonds from SNZ of Customs without EDF formality*

(i) (a) Banks are permitted to facilitate the *re-exports* of *unsold* rough diamonds as already imported at *free of cost* basis at Special Notified Zone (SNZ).

(b) Banks are permitted to *re-exports* from SNZ *without EDF* formality where goods are being re-exported *without entering into DTA*.

(ii) (a) Exporters are permitted to enter into *SNZ* accompanied by a declaration of *notional value* by way of an invoice and a *packing list* indicating the *free cost* nature of the consignment of the *rough diamonds*.

(b) Exporters are *not permitted* to enter into DTA for the rough diamonds under any circumstance.

(iii) Banks are *permitted* for payments against imports after satisfaction about the *bona fide* of the transactions through the Precious Cargo Customs Clearance Centre, Mumbai where importers have filed the BoE

12. *Part Drawings or Undrawn Balances*

(i) Banks are permitted to *negotiate* the bills where *small part* of the invoice value is *undrawn* for the payments after the *adjustments* against the *differences* in weight and quality etc. as to be ascertained after arrival and *inspection*, weightment or analysis of the goods. Banks are permitted to subject the certain *terms* and conditions:

(a) Banks are permitted to *allow* the amount of *undrawn balance* maximum *10%* of the full exports *value*

(b) Banks are required to obtain an *undertaking* from the exporters on *duplicate EDF* that they will surrender or account for the balance proceed of the *shipment* within the maximum *1 year* as permitted for the realization.

(ii) (a) Banks are permitted to allow the exporters for *waiver of undrawn balance* where exporters are *unable* to arrange the *repatriation* from outside India against the undrawn balance beside their *best human efforts*.



(b) Banks are required to ensure that exporters have *realize* minimum *90%* of the *value* as declare in EDF or original amount of bill as originally issued whichever is *more* and also maximum *1 year* from the date of shipment have already been expired.

13. Exports of goods on consignment basis

(i) Banks are permitted to allow the exports of goods on *consignment basis* and also to ensure that exporters have forwarded the documents to the branch or correspondent outside India where exporters have *instructed* to *deliver* the goods against trust receipt or undertaking to deliver the sale proceeds of exports of goods within the *specified the period* for realization.

(ii) *Agents or consignees* are permitted to deduct the *normal expenses* against receipt, storage and sale of goods like *landing charges*, warehouse rent and handling charges etc. and also to *remit* the *net proceeds* to the Indian exporters.

(iii) Banks are required to *verify* the *account of sales* as received from the agents or consignees and also deductions in the account sales should be *supported* by the bills or receipts in *original* except in the case of petty items like postage, cable charges and stamp duty etc.

(iv) Exporters are required to arrange for the *freight* and marine time *insurance* in India against the exports of goods on consignment basis.

(v) Banks are permitted to allow the exporters of books to *abandon* the *unsold books* which are unsold after expiry of the period of contract sales. Hence exporters are permitted to show the value of the unsold books as *deduction* from the exports proceeds in the accounts of sales.

14. Opening or Hiring of the Ware houses outside India

- Banks are permitted to consider the *applications* as received from the exporters to grant the permissions for *opening* or hiring warehouses *outside India* after satisfaction of the certain terms and conditions:

(i) Exporters' export outstanding is *not exceeding 5%* of the *exports* as made during the previous financial year.



- (ii) Exporters' have a minimum exports **turnover** USD 1 lac during the previous financial year.
- (iii) Exporters are required to obtain the **remittance** from outside India within maximum **1 year**.
- (iv) Exporters are required to **route** the all transactions with the **same banks**.
- (v) Exporters are **initially permitted** for maximum **1 year** and thereafter renewals are permitted after satisfaction of above mentioned terms and conditions.

15. Direct dispatch of documents by the exporter

- (i) Banks are **generally** dispatching the **shipping documents** to the overseas branches or correspondents expeditiously. However banks are **specifically** may **dispatch** the shipping documents **directly** to the **consignees** or agents in the country of final destination after satisfaction of the certain terms and conditions:
 - (a) Where **advance payments** or an **Irrevocable** Letters of Credits (**LC**) have been **received** for the full value of the exports shipment and also the underlying sale contracts or LoC have been provided for **dispatch** of documents **direct** to the **consignee** or the agents in the country of final destination of goods.
 - (b) Banks are permitted to accept the requests from the exporters where exporters are **regular customers** and banks also satisfied about the **track record** of the exporters and the arrangements made for **realization** of exports proceeds.
- (ii) Banks are permitted to allow the Status Exports Holders (**SEH**) and **units** in Special Economic Zones (**SEZ**) to **dispatch** the exports documents **directly** to the consignee as located **outside India** after satisfaction of certain terms and conditions:
 - (a) Exports proceeds are to be **repatriated** through **same banks** as named in the EDF.
 - (b) **Duplicate copy** of the EDF is to be submitted to the banks for **monitoring purpose** by the exporters within **21** days from the date of shipment of exports.
- (iii) Banks are permitted to **regularize** the **cases** of dispatch of shipment by the exporters directly to the consignees or their agent as resident in the country of **final destination** of goods where value of goods are **not exceeding** USD 1 million per exports shipment subject to satisfaction of the certain terms and conditions:



- (a) *100% Exports proceeds* have already been *realized*.
- (b) Exporters are a *regular customer* of banks for the minimum *6 months*.
- (c) Exporters's account with the banks are *fully compliant* with the guidelines as issued by the *RBI* for the purpose of Know Your Customer (*KYC*) and Anti Money Laundering (*AML*).
- (d) Banks are required to satisfy about the *bona-fides* of the transactions.
- (e) Banks are *required* to file Suspicious Transaction Report (*STR*) with Financial Intelligence Unit in India (*FIU_IND*) where the transactions are *not bona-fides*.

16. Invoicing against Exports of software's

- (i) Exporters are permitted to issue the *periodically invoices* where contracts are for *long duration* and also involving series of transmissions
 - (a) Exporters are required to issue minimum *monthly invoices* or after *completing* the *milestone* as prescribed in the contract whichever is *earlier*
 - (b) Exporters are required to issue the *last invoices* within maximum *15 days* from the date of completion of the contract.
 - (c) Exporters are required to *submit* a *combined SOFTEX* form for all the invoices as raised on the importers as located outside India.
- (ii) Exporters are required to *issue* the *invoices* within maximum *15 days* from the date of transmission where contracts are involving as *one-shot operation*.
- (iii) Exporters are required to submit the *declarations* in *SOFTEX* Form in *quadruplicate* against the exports of *computer software* and audio, video or television software to the designated officials of the Government of India (*Govt.*) at STPI, EPZ, FTZ or SEZ for valuation or *certification* within maximum *30 days* from the date of periodical invoices or date of *last invoices*. Designated officials are required to *certify* the *SOFTEX* Forms of the EOUs.
- (iv) Invoices as raised on the importers as located outside India as above mentioned under para (i) and (ii) are to be subject to *valuation* of the exports as *declared* on *SOFTEX* form by the designated official of the Govt. and the *consequent amendments* as made in the invoice values if needed.



17. Short Shipments and Shut out Shipments

- (i) (a) Exporters are required to *give notice* to the *customs department* when *part shipments* are being shipped against the EDF already filed with Customs deptt. in the forms as prescribed.
- (b) Exporters are required to give an *undertaking* to the *banks* that they have filed *short-shipment notice* with the customs deptt. where *delay* in obtaining *certified* the short-shipment notices from the Customs deptt.
- (ii) (a) Exporters are required to give the *notices* in *duplicate* to the customs deptt. in the prescribed forms where *100% shipments* have been *shut down* and also there are *delay* in arranging the *re-shipments*.
- (b) Customs deptt. are required to *verify* that the shipments were *actually shut down* and also certify copies of the notices for the *shut downs* are *correct* and are forwarded it to the RBI along with *unused duplicate copy* of EDF.
- (c) Customs deptt. are required to *cancel* the *original EDF* as received earlier from the exporters. However *fresh set* of the *EDF's* are to be issued where subsequent shipment is to be made.

18. Exports and Imports under Counter-Trade Arrangements (CTAs)

- (i) (a) Exports and Imports under the *CTAs* are permitted in India.
- (b) Hence also permitted for *adjustments* of value of the goods to be *imported* into India against value of the goods to be *exported* outside India in accordance to the arrangements as *voluntarily* entered between the Indian party and the foreign party.
- (c) *Adjustments* are permitted through opening an *Escrow account* in the banks in India in the *USD* subject to satisfactions of the certain terms and conditions:
- (ii) *100% exports* and imports under the arrangements are to be made at *international prices* in accordance to the Foreign Trade Policy (*FTP*) and Foreign Exchange Management Act (*FEMA*) 1999 and the Rules and Regulations made there under.
- (iii) (a) Banks are *not permitted* to pay any *interest* on the balances as outstanding in credit of the Escrow Account.



- (b) Banks are *permitted* to pay interest on the *temporary funds* as outstanding in credit in the Escrow Account under the head *short-term* deposits for the period in aggregate *not exceeding 3 months* in a block of *12 months*.
- (iv) Banks are *not permitted* for allowing any *fund based* or non-fund based facilities against the outstanding in credit of the Escrow account.
- (v) Banks are *permitted* to open the *Escrow Account* after receiving an *application* from the exporters.

19. Exports of Goods on Lease and Hire Purchase etc. basis

- (i) Exporters are required to take prior *approval* from the *RBI* for exports of machineries and *equipments etc.* on the lease and hire purchase basis under the agreement with the *lessee outside India* against the *collection of lease rentals* or hire purchase charges.
- (ii) Exporters are required to *apply* to the *RBI* through banks for *ultimate re-imports* of the machineries and equipments etc.

20. Exports on Elongated Credit Terms

- Exporters are required to take prior *approval* from the *RBI* through banks for exports of goods on the *elongated credit* terms basis.

21. Exports of goods by Special Economic Zones (SEZs)

- (i) Exporters through units in the SEZs are permitted to *undertake* the *job work* and also to exports of goods by *purchasing* of *goods* from the *same country* outside India where job work is undertaking outside India after satisfaction of the certain terms and conditions:
- (a) Processing or *manufacturing charges* are to be *reasonably loaded* in the exports price and are to be borne by the *ultimate* buyers (*importers*).
- (b) Exporters are required to make the *satisfactory arrangements* for realization of the *100%* exports *proceeds* subject to execution of the usual EDF procedure.
- (c) Banks are permitted to allow the units as located in the Domestic Tariff Areas (*DTAs*) for *purchasing* the *foreign exchanges* for making payments against goods to be supplied to the units as located in SEZs.
- (ii) **(a) Exports of Services by the SEZs units to the DTAs units**



Banks are allowed to sell the *foreign exchange* to the *importers* of services as located in DTAs areas for *making payments* against imports of services from the units as located in SEZs areas.

- (b) Importers of the services are required to *ensure* that the Letter of Approval (LoA) as issued to the SEZs units by the Development Commissioner (DC) of the SEZs areas is to contain the provisions for *exports* of *goods* or services and receipts of *foreign exchanges* against exports of services by the units as located in SEZs areas.

22. Exports of Projects + Exports of Services

(i) Exports of the Projects

- (a) Exporters are permitted for *exports* of the *engineering goods* on the basis of *deferred payments* terms and for execution of *turnkey projects* or civil construction contracts outside India are *collectively known* as Exports of Projects.

- (b) Exporters are required to take prior *approval* from the *banks* or *Exim bank* before undertaking any *execution* of the exports of *project* contracts on the basis of *deferred payments*.

- (c) *Regulations* for the *Project Exports* and Service Exports are laid down in the *revised Memorandum* of Instructions on Project and Service Exports (PEM-July 2014)

- (ii) (a) Banks or Exim bank are permitted to consider the *post-award approvals without* any monetary *limit* and also to permit the *subsequent changes* in terms of *post award approval* in accordance to the FEMA guidelines or regulations.

- (b) Exporters for exports of the *projects* and exports of the services are permitted to approach the banks or Exim Bank based on the *commercial judgment*.

- (c) Banks or Exim bank are required to *monitor* the *projects* where the *post-award approvals* have been granted by them.

(iii) Special facilities for exports of projects + exports of services

(a) Inter-Project Transfer of Machinery

- (aa) *Now* exporters are *not required* to *recover* the market *value* which is also *not* to be *lower* than the book value from the *transferee projects* against the supply of machineries or equipments etc.



(ab) Banks or Exim bank is required to **monitor** the exports of the projects.

(b) Inter-Project Transfer of Funds

(ba) Banks or Exim bank is permitted to open, **maintain** and operate **1 or more** foreign **currency accounts** in a currency of their choice along with **inter-project transferability** of funds in any currency or country.

(bb) Banks or Exim bank is required to **monitor** the Inter-project **transfer** of funds.

(c) Deployment of Temporary Cash Surpluses

(ca) Banks or Exim Bank are permitted for **deploying** the temporary **cash surpluses** as generated outside India in **short-term investments**, treasury bills and other monetary instruments with a **maturity** or remaining maturity for maximum **1 year**

(cb) Banks or Exim Bank are required to ensure that **rating** of the above mentioned investments should **not be lower** than the rating as provided by the **A-1 or AAA** by the Standard and Poor, **P-1 or Aaa** by the Moody's or **F1 or AAA** by Fitch IBCA etc.

(cc) Banks or Exim bank are required to ensure that the **deposits** be with the **branches** or subsidiaries **outside India** of banks as located in India.

(d) Repatriation of Funds in case of On-site Software Contracts

(da) **Now** exporters of the software's are **not permitted** to repatriate **exceeding 30%** of the contract **value** against on-site contracts.

(db) Exporters of the software's are required to repatriate the **profits** against on-site contracts **after completion** of the contracts.

23. Exports of Indian Currency (Indian notes) with or without permission from the RBI

(i) **Exports** of the Indian notes are **permitted** in accordance to the terms of Foreign Exchange Management (Exports and Imports of Currency) **Regulations, 2000** as notified through **Notification** No. FEMA 6/2000-RB dated **3rd May 2000** as amended from time to time.



- (ii) Exports of the Indian notes are permitted with the prior **approval** from the **RBI** where INRs are **exceeding 25 thousands**.
- (iii) Exports of the Indian notes are permitted **without** the prior **approval** from the **RBI** where **general permission** has already been granted under the RBI regulations for **INR not exceeding 25 thousands** subject to satisfaction of certain terms and conditions:
- (a) Residents of India are **permitted without permission** from the **RBI** to take Indian notes **not exceeding 25 thousands**
- (aa) Residents of India are **not permitted without permission** from the **RBI** to take Indian notes while visiting to **Nepal and Bhutan**
- (b) **Non Residents** of India are **not permitted without permission** from the **RBI** to take Indian notes **exceeding 25 thousands**.

24. Forfeitures against exports receivables

- (i) Exports-Imports Bank of India (**EXIM Bank**) and banks are permitted to **undertake** the **Forfeitures** for financing of exports **receivable**, commitment **fee** or service **charges etc**.
- (ii) Exim bank and banks are permitted to remit in **advance in 1 lump sum** or at monthly intervals as **approved** by the **authority** concerned.

25. Factoring against Exports Receivables on non-recourse basis by the banks

- Banks are permitted for factoring against the **exports receivable** or non-recourse basis to enable the exporters to **improve** their **cash flow** and to meet their **working capital** requirements subject to satisfaction of certain terms and conditions:
- (i) (a) Banks are required to take their own **business decision** to enter into exports factoring against exports receivables on **non-recourse basis**.
- (b) Banks are required to ensure that their clients are **not over financed**.
- (c) Banks are permitted to **determine** the **working capital** requirement of their clients taking into account the value of the invoices as **purchased** for factoring.
- (d) Banks are required to ensure that the invoices as purchased for **factoring** should be represented with **genuine trade invoices**.



- (ii) Banks are required to *pass* the *net value* to the *financing* bank or financing institution after realizing the exports proceeds where banks have *not made* any exports *financing* through the *factoring* against exports
- (iii) Banks are required to have an *arrangement* with the *imports factor* for *credit evaluation* and collection of payments where banks are themselves factoring against the *exports receivables*.
- (iv) Banks are required to *close* the *exports bills* and *report* to the Export Data Processing and Monitoring System (*EDPMS*) of the *RBI* after factoring against the exports receivables.
- (v) Banks are required to obtain *credit evaluation* details from the correspondent bank outside India where *single factoring without* involving Imports *Factor* as located outside India
- (vi) Banks are required to obey the *KYC guidelines* and *due diligence* on the exporters to ensure the factoring against the exports receivables.

26. Exports to the neighboring countries through Road, Rail or River like Nepal etc.

- Exporters are permitted for exports to the neighboring countries through Road, Rail or River like *Nepal etc.* Exporters are required to adopt the following procedures for *filing* of *original copies* of the *EDF* where exports are being made to the neighboring countries through Road, rail or river like Nepal etc.
- (i) Exporters are required to *submit* the *EDF* by themselves or through their agents at the custom station *nearest* to the *border* of India.

(ii) Exports through Rail

- (a) Exporters are required to submit with the custom staffs as posted *nearest* to the *railway station*.
- (b) Exporters are required to submit the *EDF* to the custom officers at the border of India where goods are loaded at the station *other than* the *designated station*.

27. Switching from Barter Trade to Normal Trade at Indo-Myanmar Border

- (i) Now exporters are *not permitted* to have *Barter Trade* with the *Myanmar* in accordance to instructions as contained through A.P. (DIR Series) Circular No. *17* dated October *16, 2000* and applicable from December *01, 2015*



(ii) Now **100% trade transactions** with Myanmar are to be conducted as **normal trade transactions** from December 01, 2015.

(iii) Now permitted **FCCs** and **ACU** mechanism are to be used for the **settlement** of the **normal trade transactions** including from December 01, 2015.

28. Repayment of Exports of Goods and Services through State Credits Systems

(i) Exporters of goods and services are permitted to **receive the payments** through state credits systems **like** with **USSR** and **Iran** etc.

(ii) Repayment through state credit systems are **generally known rupee trade systems**.

(iii) Exporters are required to obey the **guidelines** and **directions** as issued by the **RBI** and also amended from time to time.

29. Counter –Trade Arrangements with the Romania

(i) Exporters are permitted for counter trade with the **importers** of the **Romania** where **adjustments** of the **value** of exports from India against value of imports into India are permitted by the **RBI**.

(ii) Exporters are permitted to have **voluntary adjustments** with the **importers** of the Romania

(iii) Exporters are required to **utilize the funds** as **received** against exports for making payments against imports from Romania within maximum **6 months** from the date of **credit** to **Escrow account** as to be opened by the exporters.

30. Issue of Guarantees by the Banks to the Exporters

(i) Banks are permitted to give **guarantee against** any **debt**, obligation or other **liability** as to be incurred by a person **resident of India** with a person **resident outside India** where the debt, obligation or other liability as incurred by the exporters on account of the exports from India.

(ii) Banks are permitted to give **guarantee against** any **debt**, obligation or other liability as to be incurred by a person **resident outside India** in the following circumstances:

(a) Where the debt, obligation or other liability is owned to a person **resident of India** in connection with a **bona fide trade transaction**.



- (b) Above mentioned guarantee is to be given along with a *counter guarantee* by the *international reputed bank* outside India
- (c) Counter-guarantee is to be covered with a guarantee as issued by the branch or correspondent bank outside India *on behalf* of the Indian *exporters* where guarantees of resident banks are only *acceptable* by the *importers* outside India.

Satish Agarwal



C. Operational Guidelines for the AD Category-I Banks (Banks)

1. Citing of Specific Identification Numbers (SIN)

Banks are required to **put SIN** in all **applications** or **correspondence** to be sent to the **RBI**. **SIN** number is **already** available on the **Export Declaration Form (EDF)** and **SOFTEX** forms.

2. EDF and SOFTEX

Banks are required to **dispose** the **EDF** in accordance to **Regulation 6** of **Foreign Exchange Management (Exports of Goods and Services) Regulations, 2000** notified through **Notification** No. **FEMA 23/2000-RB** dated **May 03rd 2000** as amended from time to time.

3. EDF

- (i) (a) **Procedure** for **submission** of the **EDF** against the exports of goods through **EDI** ports is to be continued **without any change**.
- (b) Now **submission** of **EDF** is **not required** where exports of goods or software's are taking place **through the EDI port**. **SDF** is **subsumed** in the **shipping bill** format.
- (ii) (a) **EDF** is to be used for **declaration** of exports of Goods at **Non-EDI ports**.
- (b) **EDF** is to be **completed** by the exporters in **duplicate** and both the copies are to be submitted to the **Customs** at the **port** of shipment along with the **shipping bill**.
- (iii) (a) **Customs office** is to **give** the running **serial number** on both the copies after admitting the corresponding **shipping bill**.
- (b) **Customs serial number** is to be **10 numerals** denoting the **code number** of the port of shipment, the calendar year and a **6 digit** running serial number.
- (iv) **Customs** are to **certify** the value as **declared** by the **exporters** on both the copies of the **EDF** at the space as marked and also to record the assessed value.
- (v) **Customs office** is to **return** the **duplicate copy** of **EDF** to the exporters and to retain the **original copy** for transmission to the **RBI**.
- (vi) **Exporters** are required to **submit** the **duplicate copy** of the **EDF** **again** to the **Customs** along with the cargo as to be shipped.



- (vii) Customs office is to **return the duplicate copy** after **examination** of the goods and also **certifying the quantity** as an approved for shipment to the exporters for submission to the banks for **negotiation** or collection of the exports bills.
- (viii) Exporters are required to **lodge the duplicate copy** along with the relative shipping documents and an **extra copy** of the **invoice** to the Banks as named in EDF.
- (ix) Banks are required to **report the transaction** through Export Data Processing and Monitoring System (**EDPMS**) of the **RBI** After the documents have been negotiated or sent for collection.
- (x) Banks are **not required to submit the duplicate copy** of the form together with a copy of invoice to the **RBI**.
- (xi) (a) Exports under **deferred credit arrangements** or to **Joint ventures** outside India
- (b) Exporters are required to **put the number and date** of the **approval** as obtained from the **RBI** in the EDF where exports are made under deferred credit arrangements or to the **Joint ventures** outside India against the equity participation or under rupee credit arrangements (**rupee trade transactions**).
- (xii) (a) Banks are permitted to **accept another duplicate copy** of EDF as duly certified by the Customs where duplicate copy is
- (b) Banks are required to **countersign the original copy** of EDF for exports of goods through postal. Banks have to follow the **misplaced or lost**.
- (xiii) **Exports through Postal Authorities**
- (a) Postal authorities are **permitted** to allow the **exports** of goods through postal where **original copy** of the EDF has been **countersigned** by the Banks procedure as under:
 - (aa) Banks are required to countersign the EDF after ensuring that the **parcel** is being **addressed** to the **branch** or correspondent bank **outside India** and to return the **original copy** to the exporters to as be submitted the EDF to the postal **authorities** along with the parcel.



- b) Banks are required to **retain** the **duplicate copy** of EDF as submitted by the exporters with an **extra copy** of the invoice for **negotiation** or collection within maximum **21 days**.
- (c) Banks are required to **instruct** to the **branch** or correspondence office **outside India** to deliver the parcel to the **consignee** against **payment** or acceptance of relative bill.
- (d) Banks are permitted to **countersign** the EDF as covering the **parcels** addressed **direct** to the **consignees**.
- (e) Banks are required to **open** an irrevocable **letter of credit** for the full value of the exports of goods in **favor** of the **exporters**.
- (f) Exporters are required to **furnish** the form under **proper authentication** for advance payment, **LC** or bank **certifications** of standing etc.
- (g) Banks are required to **authenticate** under the stamp and signatures against any **alteration** in the name and **address** of the consignee on the **EDF**

4. High-Sea Trans-shipment of the catches (fishing etc.) by the Deep Sea Fishing Vessels

- (i) Banks are required to **regulate** the requirement of **filling** EDF where **Deep sea fishing** outside **Indian Territory** limit is existed in accordance to the **terms** and conditions as notified vide **Notification** No. FEMA.23/2000/RB dated **May 3, 2000**
- (ii) Exporters are required to **obey** the **norms** as prescribed by **Ministry of agriculture**, Government of India for filling of **EDF** as notified vide Regulation **3** of **Notification** No. FEMA.23/2000-RB dated **May 3, 2000**
 - (a) Exporters are required to **submit** the **EDF** as duly signed by the **master** of the **vessels** in lieu of Custom Certification, indicating the **composition** of the catch, **quantity**, exports value and date of transfer of catch **etc.**
 - (b) Exporters are required in the EDF about **date of transfer of catch** as also to indicate in the column for Date of Shipment with the **suitable remarks**
 - (c) Exporters are required to ensure that **EDF number** is included in the Bill of Landing (**BoL**) or receipt of **trans-shipment** as issued by the carrier of the vessel.



- (d) Exporters are required to **ensure** that **EDF** should be duly **supported** by the **certificates** as obtained from international cargo surveyor.
- (e) Exporters are required to ensure that the **prescribed period** of realization + **repatriation** should be reckoned with **reference date** of transfer of the catches as **duly certified** by Master of Vessel or date of the invoice whichever is **earlier**.
- (f) Exporters are required to ensure that the **EDF** in **original + duplicate** (both) should indicate the number and date of Letter of Permit (**LoP**) as duly issued by Ministry of Agriculture for **operating** the **vessel**.
- (g) Exporters are required to **complete** the EDF in **original + duplicate** (both) and also to be submitted to the **custom office** at the registered port of the vessel or any other port as duly **approved** by Ministry of Agriculture (**MoA**). Original EDF is to be **retained** by the custom office for capturing of data in the Customs Electronic Data Interchange (**CEDI**)
- (h) Exporters are required to **obtain** running serial **number** on the original + duplicate (**both**) copies of the EDF and the exporters are required to treat the duplicate copy as **value certification** of the exports
- (i) Exporters are required to **obey** the rules, **regulations** and directions as issued by the RBI for submission of EDF etc.

5. Exports of goods or software through the EDI ports

- (i) Exporters are required to **submit** the **shipping bill** in duplicate to the **Commissioner** of the **Customs**.
- (ii) Exporters are required to **submit 1 copy** of the **shipping bill** duly marked as exchange control copy within **21 days** from the date of exports **after** obtaining verified and **authenticated** shipping bill from the **Commissioner** of the Customs.
- (iii) Banks are required to **accept** the Exchange Control (**EC**) copy of the **shipping bill** as submitted by the exporters for **collection** or **negotiation** of the shipping documents.
- (iv) Banks are required to **retain + disposal** the duplicate copy of the **shipping bills** along with copy of invoice + EDF etc. and to submit to the RBI if required.



- (v) (a) Banks are required to **co-ordinate** the distribution of the exports proceed as received by the exporters **from** the **buyers** where the **insurance claim** has already been received by the exporters **from** the Export Credit Guarantee Corporation (**ECGC**) or private insurance companies.
- (b) Banks are required to **obtain** a **certificate** from the ECGC or private insurance companies to **verify** the **amount paid** to the exporter against the insurance claim.

6. **Submission of SOFTEX Forms by the Software Exporters**

- (i) (a) Software exporters through their units in **STPI** or **SEZ** are permitted to file **single** or **bulk** SOFTEX form in a **excel format** statement with the competent **authority** for the **certification** purpose.
- (b) Software exporters are required to file the **SOFTEX** form in **duplicate** in accordance to revise procedure as prescribed as these forms are being transmitted in **electronic format** to the **RBI**. The **STPI** or **SEZ** is to **retain 1 copy** and to handover **duplicate copy** to the exporters after due certification.
- (c) Software exporters are permitted to provide **100% information's** about the invoices in the **bulk statement** in excel format where amount of the invoices are **not exceeding USD 25000**
- (ii) Now exporters are permitted to file a **common SOFTEX Form** to declare **single** or **bulk** software exports.
- (iii) (a) Now RBI has extended the facility for **online generation** of the **EDF Number** and the **SOFTEX Form Number** for single and bulk for use in **off-site** software exports.
- (b) Now facility of **manual allotment** of single and bulk **SOFTEX** form **number** by the Regional Offices of the **RBI** are **stop** accordingly.

7. **Random verifications by the Banks**

- (i) Banks are required to ensure through random check of the relevant duplicate forms by their internal or **concurrent auditors** for non-realization or **short realization** are allowed within the **powers** as **delegated** to the banks and also duly **approved** by the RBI wherever if any needed.



8. Certification for the EEFC Credits

- (i) Exporters are required to provide the exports *declaration* in *duplicate forms* where the sales proceeds are *credited* into *EEFC account* in the following Performa:
- (ii) Proceeds amounting to representing percent of the exports realization credited to the EEFC account maintained by the exporters with.....

9. Consolidation of the Air Cargo + the Sea Cargo

(i) Consolidation of Air Cargo

- (a) Airline company's *Master Airway Bill* is to be issued to the *Consolidating Cargo Agent* where air cargo is shipped under consolidation. Consolidating Cargo agent is to *issue* his own House Airway Bills (*HAWBs*) to the exporters.
- (b) Banks are permitted to *negotiate* the *HAWBs* where the relative LC is specifically *providing* for the *negotiation* of these documents in lieu of Airway Bills as issued by the airline company.

(ii) Consolidation of Sea Cargo

- (a) Banks are permitted to *accept* the Forwarder's Cargo Receipts (*FCR*) as issued by the IATA approved agents in lieu of the bills of lading (*BoL*) for *negotiation* or collection of *shipping documents* against the exports transactions as backed by LC where the LC is specifically *providing* for negotiation in lieu of BoL *beside* the sale contract with the buyers are *not providing* for the acceptance of FCR as a shipping bill in *lieu of bill* of lading.
- (b) (ba) Banks are permitted at their *discretion* to *accept* the *FCR* as issued by the shipping companies of the repute or IATA approved agents for *purchase*, discount or collection of the shipping documents where exports transactions are *not backed* by LC against the *sale contract* with the buyers for acceptance of FCR as a shipping document in *lieu of bill* of lading.
 - (bb) However the *acceptance* of FCR for *purchase* or discount is to be a *credit decision* of the banks those are to be satisfy about *bona fides* of the transaction and *track record* of the *buyers + suppliers* since FCRs are *not negotiable* documents.



10. Delay in submission of shipping documents by exporters

- (i) Exporters are required to **submit** exports **documents** maximum in **21 days** from the date of exports.
- (ii) Banks are permitted to **carry** the **matter** where shipping documents are **not submitted** maximum in **21 days without approval** of the **RBI** where banks are **satisfied** with the **reasons** of delay.

11. Return of Documents by Banks to Exporters

- **Generally** banks are **not returning** the duplicate copies of **EDF + shipping documents** as **received** for negotiation or collection etc. **except** for **rectification** of the **errors + resubmission**.

12. Handing Over Negotiable Copy of BoL to Master of Vessel or Trade Representative

- Banks are permitted to **deliver 1 negotiable copy** of the **BoL** to the **Master** of the carrying **vessel** or trade representative for exports to the **landlocked countries** where the **shipment** is covered by an **irrevocable LC + the documents** conform strictly in accordance to the terms of **LC**.

13. Register for Exports of Bills by Banks

- (i) Banks are required to **maintain** the Exports **Bills Register** in **physical** or **electronic** form in accordance with Export Data Processing and Monitoring System (**EDPMS**).
- (ii) **Bill numbers** are being given to **all types** of the exports **transactions** on a financial year basis i.e. April to March and same also be **reported** in **EDPMS**.

14. Follow-up for Overdue outstanding bills by Banks

- (i) (a) Banks are **closely** to **watch** the **realization** of the **bills** where bills are **outstanding beyond** the **due date** for the realization. The matter should be promptly taken up with the exporters.
- (b) Banks are required to **reports** to the **RBI** through the regional office where exporters **failed** to **arrange** exports **realization** into India or failed to take permission for **extension** of delay of realization.



- (ii) Banks are required to *hold duplicate copies* of *EDF* or *SOFTEX* forms until *100% realization* except in the case the *undrawn balances* are permitted.
- (iii) (a) *Generally* Banks are required to *follow-up* for the exports realization *vigorously*
(b) The *RBI* is permitted to *invoke* the *penal provisions* under the *FEMA, 1999* where banks are proved for *laxity* in the *follow-up* of realization.
- (iv) (a) Banks are required to *reports* in *EDPMS* of the *RBI* for realization of *100% new exports transactions* against shipping documents as received *from March 01, 2014*
(b) Banks are required to *report* in *XOS* of the *RBI* for realization of *100% old exports transactions* against shipping documents as received *before March 01, 2014*

15. Reduction in Invoice Value for Prepayment of Usance Bills

- (i) *Occasionally* exporters are permitted to *approach* the banks *for reduction* in invoice value against *cash discount* to the buyers *for prepayment* of the usance bills.
- (ii) (a) Banks are permitted to allow the *cash discount* maximum *proportionate* to the *interest* against *unexpired period* of usance.
(b) *Cash discount* is to be *calculated* at *rate* of interest as *stipulated* in the exports *contract* or as available at the prime rate or *LIBOR* of the currency of invoice where rate of interest is *not stipulated* in the *contract*.

16. Reduction in the Invoice Value for non prepayments of Usance bills

- (i) Banks are permitted to *reduce* the invoice *value* after the *bills* have been *negotiated* or send for collection where banks are satisfied about *genuineness* of *request* and subject to satisfactions of the followings:
 - (a) Where reduction is *not exceeding 25%* of the invoice value.
 - (b) (ba) Where reduction is *not relating* to *exports* of the *commodities* and also subject to *floor price stipulations*.
(bb) Where exporters are *not in* the exporters *caution list* of the *RBI*
 - (c) Where exporters are advised to *surrender* the *proportionate* exports *incentives* as availed if any.



- (ii) (a) Banks are permitted for **reduction** in invoice price **without any % ceiling** where exporters are engaged in exports business minimum **3 years** and also **track records** of exporters are satisfactory.
- (b) Banks also required to ensure that exports **outstanding** of the exporters are **not exceeding 5%** of the annual exports **realization** during the preceding **3 financial years**.
- (iii) **Computation** of outstanding is **not to include** the countries as facing **externalization problems**

17. Repatriation against Exports Claims by Banks

- (i) Banks are permitted to **remit** against **exports claims** where exports **proceeds** have already been **realized** and repatriated into India and also the exporters are **not** in the **caution list** as issued by the RBI.
- (ii) Banks are required to **instruct** to the exporters to **surrender** the **proportionate** exports **incentives** if any received by them.

18. Change in name of buyer by banks

- (i) Banks are permitted to change the names of the buyers with the prior **approval** of the **RBI** where **goods** have already been **shipped+original buyer** has **defaulted** in payments.
- (ii) Banks are required to ensure that **reduction** in **values** are **not exceeding 25%** of the invoice **value** and also **realization** of exports proceeds are **not delayed** beyond **12 months** from the date of exports.

19. 1st Extension of Time by Banks

- (i) **Generally** RBI has permitted the banks to **extend** the **period** of **realization** of exports proceeds **beyond** maximum **180 days** 1st time subject to satisfaction of certain terms and conditions:
 - (a) Where the exports **transactions** are **not under investigations** by the Enforcement Directorate (**ED**), Central Bureau of Investigation (**CBI**) or any **other** investigation **agency**
 - (b) Where banks are **satisfied** that the exporters have been **unable to realize** the exports proceeds **beyond the reasons** in their **control**.



- (c) Where exporters have already *submitted* the *declaration* that the exports proceeds are to be *realized during* the *extended period*.
- (d) Where total *outstanding* of the exporters are *not exceeding 10%* of the average exports *realizations* during the preceding *3 financial years* or *not exceeding USD 1 million* whichever is *higher*.
- (e) Banks are required to *report in XOS* statement where *outstanding* are *exceeding 6 months + the extension* of time as *granted* by the banks.
- (f) Banks are permitted to allow *extension* of time where the *exporters* have already been *filed* the *court suits* outside India against the buyers *beside* any *quantum* of *outstanding*.

(ii) 2nd Extension of Time by Banks

- (a) Banks are permitted to permit *2nd extension* of time after obtaining prior *approval* of the *RBI* through regional office where the exporters have *not been able to realize* the exports proceeds for the *reasons beyond* their *controls* within the time allowed in *1st extension*
- (b) Banks are required to ensure that necessary *applications* should be filed in *duplicate* with the *RBI* through regional office.

20. Write off of exports bills by exporters

- (i) (a) Exporters are permitted to *self write off* or to *approach* the *banks* along with shipping documents and appropriate supporting documentary evidences where exporters are *not able to realize* the outstanding exports dues despite their best human efforts
- (b) *Banks* are permitted to allow *write off* where exporters have already been *surrender* the *exports incentives* and also subject to satisfactions of the certain terms and conditions as *notified* vide A.P. (DIR Series) Circular No. *03* dated *July 22nd 2010*:
 - (ba) *Self write off* by the *ordinary* exporters are *not permitted* where self write off are *exceeding 5%* of the total exports proceeds *realized* during the previous *calendar year*



- (bb) *Self write off* by the *Star holder* exporters are *not permitted* where *self write off* are *exceeding 10%* of the total exports proceeds *realized* during the previous *calendar year*
- (bc) *Write off* by the *banks* are *not permitted* where *self write off* are *exceeding 10%* of the total exports proceeds *realized* during the previous *calendar year*
- (ii) Above mentioned *limits* for the write off are *cumulatively available* in a *calendar year*
- (iii) Above mentioned *limits* for the write off is permitted where *outstanding* is minimum for *1 year +* exporters have *submitted satisfactory* documentary *evidences* for the *best* human possible *efforts* of the exporters having made all efforts to realize the dues and also subject to following circumstances:
- (a) Where the *buyers* have already been *declared as insolvent* and a *certificate* from the official *liquidator* indicating that there is *no possibility of recovery* of exports proceeds have also been produced.
- (b) Where the *buyers* are *not traceable* over a reasonably long time tracking.
- (c) Where the exported *goods* have already been *auctioned* or *destroyed* by the *Port, Customs* or *Health authorities outside India*.
- (d) Where the *unrealized amounts* are representing the *balances due* in the cases which were *through the intervention* of the *Indian Embassy, Foreign Chamber of Commerce* or similar Organizations
- (e) Where *unrealized amounts* are representing the *balance undrawn* of the exports bill *not exceeding 10%* of the invoice *value + unrealized amounts* are outstanding *despite* the all *best human efforts* as made by the exporters.
- (f) (fa) Where *cost* of resorting to the *legal actions* are likely to be *disproportionate* to the *unrealized* amount
- or*
- (fb) Where the exporters are *not able to execute* the court *degree* against the buyer due to *reasons beyond* their human *control*.



- (g) (ga) Where bills were drawn for the *differences* between the *value* of *LC* and *value* of *actual exports* or differences between the *provisional* and the *actual freight charges*
- and*
- (gb) Where the amounts which have remained *unrealized* due to *dishonor* of the *bills* by the buyers + *no prospects* of the *realization*.
- (iv) Banks are permitted to allow the *write off* of unrealized *outstanding* balance *after* obtaining the *evidences* from the exporters *for surrender* of *proportionate* exports *incentives* where *surrender* of proportionate exports *incentives* are *not covered* under the A. P. (DIR. Series) Circular No. *03* dated July *22, 2010*.
- (v) Exporters are required to *submit* to the banks the *certificates* as obtain from the practicing Chartered Accountants (*CA*) Firms in India indicating the following *information's*:
- (a) *Exports realization* in the preceding calendar year
 - (b) *Amount* of write-off already availed of during the year if any
 - (c) Relevant *EDF* to be written off
 - (d) *Bill No*
 - (e) *Invoice value*
 - (f) *Commodity* exported
 - (g) *Country* of export
 - (h) Surrendered proportionate exports *benefits* as *availed* by the exporters.
- (vi) *Write off not permitted*
- (a) Where the exports were made to the *countries* with the *externalization problems* like the *buyers* have *deposited* the value of exports in the *local currency* + banks outside India have *not been allowed* to *repatriate* by the central banking *authorities* of the country.
 - (b) Where the *EDFs* are *under the investigation* for the *civil* or *criminal suits* by the agencies like:



- (ba) Enforcement Directorate (ED)
- (bb) Directorate of Revenue Intelligence (DRI)
- (bc) Central Bureau of Investigation (CBI) etc.

(vii) Banks are required to **report write off** of exports bills through EDPMS to the **RBI**.

(viii) Banks are advised to put in place a **systems for their internal inspectors** or the **auditors** including the external auditors as appointed by the banks to **carry out the random sample check** or **percentage check** of the write-off against outstanding exports bills.

(ix) Banks are required to **refer** the cases to the **RBI** through regional office where the **cases** are **not covered** under the above mentioned **instructions** or **exceeding** the **limits** as prescribed.

21. Write off against claims already settled by ECGS or by private insurance companies regulated by IRDA

(i) (a) Banks are permitted to **allow** the **write offs** where exporters have filed their request **applications** for **write offs** as duly **supported** by the documentary **evidences** from the **ECGC** or from the private **insurance companies** as regulated by **IRDA** and also **ECGC** or private insurance companies are to **confirm** the amount of **claim** as already **settled by them**.

(b) Hence write off is **permitted** for the **unrealized claimed** from the **ECGC** or private insurance companies

(ii) Write-offs are **not** to be **restricted** with the limit of **10%** as indicated above.

(iii) Proportionate amounts of **surrender** of **incentives** are to be taken in **accordance** to the Foreign Trade Policy (**FTP**).

(iv) Claims as **settled in INR** by the **ECGC** or private insurance companies should **not** be **treated** as exports **realization** in the **foreign exchange**.

22. Relaxation against Write-off

(i) **Realization** of the exports proceeds are **not** to be **insisted** under Exports Promotion Schemes (**EPS**) as **announced** by **FTP 2015-2020** against realization of exports proceeds subject to the following terms and conditions:



- (a) Where write offs are *allowed* by the banks on the *basis* of the *merits* in accordance to the *guidelines* as issued by the *RBI*.
- (b) Where the exporters have *produced* the *certificates* as obtain from the *Foreign Mission* of Govt. of India as located outside India for *non-recovery* from the buyers.
- (c) *Relaxation* of the write offs are *not available* for the exporters where the *exporters* have made *self write offs*.

23. Lost of Shipments in Transit

- (i) Banks are required to ensure that the *insurance claims* as *lodged* and received by the exporters where *actual payments* were *not received* by the *exporters* against the shipments lost in the transit.
- (ii) Banks are required to make *arrangements* through their branches or correspondent office outside India to *collect 100%* against amount of *claim* for the lost shipments.
- (iii) Exporters are required to *submit* the *certificates* to the banks *about* the amount of *claim* as *received* from ECGC or private insurance companies.
- (iv) Banks are required to *ensure* that amounts of *claims* for the *lost shipments* in transit which were *not 100% settled* by the shipping companies or by the *airlines* under the head carrier's liability and also to ensure that the amount of claim are to be *repatriated into India*.

24. Netting off of exports receivables against imports payables for Units in SEZs

- Banks are permitted to allow *netting off* of the *exports receivables* against *imports payables* for the units as located in Special Economic Zones (*SEZ*) subject to satisfaction of certain terms and conditions:
 - (i) Banks are permitted to allow the netting off of exports receivables against imports payables for the *same Indian entity* and netting is to be *effected* as on the *date of balance sheet* of the units in SEZs.
 - (ii) Banks are required to ensure that the details of exports of goods are duly documented in the *EDF (O)* forms or *DTR* and also the details of imports of goods or services are recorded through *A1* or *A2* form. The *EDF* is to be *treated as complete* by the banks after *100%* proceeds are *adjusted*.



- (iii) Banks are required to **report** imports and exports (**both**) transactions in **R>Returns** under the **FET-ERS**.
- (iv) Exports or imports transactions with the **ACU countries** are **not permitted** for the **netting off arrangements**.
- (v) Exporters are required to **submit** the **necessary documents** to the banks.

25. Set-off of exports receivables against imports payables

- Banks are permitted to **set-off** of the exports **receivables** against the imports **payables** subject to satisfaction of certain terms and conditions:
 - (i) **Imports** are to be in **accordance** to **FTP** as applicable in India.
 - (ii) Invoices, Bills of Lading (**BoL**), Airway Bills and Exchange Control **copies** of the BoE for the **home consumption** are to **submitted** by the importers to the banks.
 - (iii) **Payment** for the imports should be **outstanding** as on **date** of **set off** in the books of the **importers**.
 - (iv) Imports and exports (**both**) transactions are to be **reported separately** in the **R>Returns**.
 - (v) Banks are required to **release** the EDF **after** the **100%** exports **proceeds** are **adjusted**.
 - (vi) Set-offs of exports receivables against the imports payables are permitted with the **same buyers** and **same suppliers** and also **consent** for the **set-off** have been **obtained**.
 - (vii) **Set-offs** against exports receivables and imports payables are **not permitted** with the **ACU countries**.
 - (viii) **Exporters** are required to **submit** the **documents** to the banks

26. Payments of Agent's Commissions on exports of goods and services

- (i) Banks are **permitted** to **allow** the **payments** for agent's commission **through remittance** or by **deduction** from the **invoice value** against the **application** as submitted by the exporters subject to satisfactions of certain terms and conditions for remittance of agency commission:
 - (a) (aa) Banks are required to **ensure** the amount of agent's commissions have already been **declared** on the **EDF** or **SOFTEX** form and also **accepted by**



the *Customs authorities* or Ministry of Information Technology, Government of India or *EPZ authorities*

(ab) Banks are permitted to *allow* payments for agent's commissions where the commissions have *not* been *declared* on the *EDF* or *SOFTEX* form after satisfying the *reasons* as *explained* by the exporters for *not declaring* the commissions on the *EDF* or *SOFTEX* form. However a *valid agreement* or written understanding should be *existed* between the *exporters* and *beneficiaries*.

(b) Banks are also required to *ensure* that the *shipments* have already been *made*.

(ii) Banks are permitted to *allow* the payments for commissions where exports are *covered* under the counter trade arrangement (*CTA*) through *Escrow Accounts* as designated in *USD* subject to satisfaction of certain terms and conditions:

(a) Where the *payments* for commissions are *satisfying* the *conditions* as above mentioned under the para (*ia*) and (*ib*).

(b) Where the commission is *not payable* through *Escrow Account* holders.

(c) Where the commission is *not allowed* through *deduction* from the invoice *value*.

(iii) (a) Banks are *not permitted* (prohibited) the payments for commissions on exports as made by the *Indian Partners* against *equity participation* in joint venture (*JV*) or wholly owned subsidiary (*WOS*) outside India

(b) Banks are also *not permitted* (prohibited) the payments for commissions on the exports where *exports* are *under* Rupee Credit Route (*RCR*)

(c) Banks are *permitted* the payments for commissions on the *exports* of *tea* and *tobacco* *not exceeding 10%* of the invoice *value*.

27. Remittances for Refund against Exports Proceeds already received from Outside India

- Banks are permitted to allow *remittances* outside India where exports *proceeds* were *originally realized* where already *exported goods* are being *re-imported* into India due to *poor quality* of the *goods* subject to satisfaction of certain terms and conditions:

(i) Where banks have already exercised the *due diligence* about the *track record* of the exporters.



- (ii) Where banks have already verified the *bona-fides* of the *transactions*
- (iii) Where banks have already *obtained* a *certificate* from the *exporters* as issued by the *DGFT* or Custom *authorities* that either *no incentives* have already been *received* or the *proportionate incentives* if received have already been *surrendered*.
- (iv) Where banks are required to *obtain* the *undertaking* from the exporters that the goods are to be *re-imported* in maximum *3 months* from the date of the remittance.
- (v) Where banks are required to ensure that *100% procedures* as applicable for the *normal imports* are *obeyed*

28. Names of Exporters in Caution List as issued by the RBI

- (i) (a) Banks are required to ensure that *names* of the *exporters* are *not* in *cautioned list* as issued by the *RBI* in accordance to the Regulation *17* of the Exports Regulations.
- (b) Banks are permitted to *approve* the *EDF* of the exporters those *names* are *already placed* in the *caution list* as issued by the *RBI* where exporters have submitted the evidences against the payments as *received* in *advance* or recoverable *LC* are existed in *favor* of the exporters for *100% value* of the *proposed exports*.
- (ii) Banks are also permitted to *approve* the *EDF* of the exporters where the *usance bills* are *drawn* against *LC* for *100% exports value* and also the usance bills are to be *matured* maximum in *12 months* from the date of shipment.
- (iii) Banks are required to *obtain* the prior *approvals* from the *RBI* through the regional office for issuing the *bank guarantees* where *names* of the exporters *caution list* as issued by the *RBI*.



Published By



CA. Satish Agarwal

B.com (Hons) FCA

Practicing Chartered Accountant Since 1985

+919811081957

9/14 (First Floor) East Patel Nagar, New Delhi- 110008

Email: satishagarwal307@yahoo.com

Website: www.femainindia.com

- ***Disclaimer***

*The contents of this **article are solely for informational purpose**. Neither this article nor the information's as contained herein constitutes a contract or will form the basis of a contract.*

*The material contained in this article does **not constitute** or **substitute professional advice** that may be required before acting on any matter.*

*While every care has been taken in the preparation of this article to **ensure its accuracy at the time of publication**.*

***Satish Agarwal** assumes no responsibility for any error which despite all precautions may be found herein.*

*We **shall not be liable for direct, indirect or consequential damages** if any arising out of or in any way connected with the use of this article or the information's as contained herein.*

July-2022