Export of Goods and Services under Indian FEMA

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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 destroy 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 allow to sale 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 obtained 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 repute 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.*

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 requiring 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 alternation 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.*

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