

IMPORTANT GUIDELINES ON EXPORTS & SERVICES *

GUIDELINES

01. Realization and Repatriation of Export Proceeds

It is obligatory on the part of the exporter to realize and repatriate full value of goods or software to India within a stipulated period as under:-

Category of exporter	Time frame
Units in Special Economic Zones (ZESs)	No specific time frame fixed
Status Holder Exporter	Within 12 months from date of export
Cent percent EOUs set up under Electronic Hardware Technology Parks (EHTPs) and Biotechnology Parks (BTPs) Schemes	Within 12 months from date of export
Goods exported to Warehouse established outside India	As soon as it is realized and in any case within 15 months from the date of shipment of goods
All other cases of export	12 months from the date of export

02. Foreign Currency Account

- Participants in international exhibition/trade fair have been permitted to open temporary foreign currency account abroad for credit of foreign exchange obtained by sale of goods at the fair and operate the account during their stay outside India. The balance in the account is required to be repatriated to India within one month from the date of closure of the exhibition/trade fair.
- An Indian entity can also open, hold and maintain a foreign currency account with a bank outside India for the normal business operations of its overseas office/ branch.
- A unit located in a Special Economic Zone (SEZ) may open, hold and maintain a Foreign Currency Account with bank (AD) in India subject to certain conditions.
- A person resident in India being a project / service exporter may open, hold and maintain foreign currency account with a bank outside or in India, subject to the standard terms and conditions.

03. Diamond Dollar Account

- Firms/companies engaged in purchase and sale of rough or cut and polished diamonds/precious metal jewellery, etc. and having an average annual turnover of Rs. 3 crore or above during the preceding three licensing years (April to March) are permitted to open/transact their business through Diamond Dollar Account. The number of such accounts is restricted to not more than 5 accounts to a single entity.

04. Exchange Earners Foreign Currency (EEFC) Account

- An Indian resident is permitted to open with bank (AD) Exchange Earners Foreign Currency (EEFC) Account for credit of his foreign exchange earnings to the extent of 100%. EEFC is allowed in the form of non-interest bearing current account. No credit facilities (fund or non-fund) are permitted against the security held in the account.
- Eligible credit in EEFC account include inward remittance through normal banking channel other than received pursuant to any undertaking given to RBI or which represent foreign currency loan raised or investment received from outside India or those received for meeting specific obligations by the account holder and payments received in foreign exchange by a unit in Domestic Tariff Area (DTA) for supplying goods to a unit in SEZ out of its foreign currency account.
- Banks may permit their exporter constituents to extend trade related loans/ advances to overseas importers out of their EEFC balances without any ceiling.
- Banks may permit exporters to repay packing credit advances whether availed in Rupee or in foreign currency from balances in their EEFC account and / or Rupee resources to the extent exports have actually taken place.

05. Setting up of offices abroad and acquisition of immovable property for the purpose

- Banks may permit remittance towards initial expenses for setting up of the office to the extent of fifteen per cent of the average annual sales/income or turnover during the last two financial years or up to twenty-five per cent of the net worth, whichever is higher.
- For recurring expenses, remittances up to ten per cent of the average annual sales/income or turnover during the last two financial years is permitted for normal business operations of the office (trading / non-trading) / branch or representative office outside India subject to some terms and conditions.
- Remittances within the above limits for initial and recurring expenses can be permitted to acquire immovable property outside India for its business and for residential purpose of its staff.

- The overseas office / branch of software exporter company/firm may repatriate to India 100% of the contract value of each 'off-site' contract.

06. Advance Payments against Exports

- For advance payment against export received, the exporter is supposed to effect the shipment of goods within one year from the date of receipt of the advance. The rate of interest, if any, payable on the advance should not exceed LIBOR + 100 bps.
- In case of the exporter's inability to make the shipment partly or fully within one year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest shall be made after the expiry of the said period of one year, without the prior approval of the RBI.
- In case the export order provides for shipment of goods extending beyond one year from the date of receipt of the advance payment, prior approval of the RBI is required to be obtained by the exporter.
- Refund may be made by the bank by utilizing the balance available in EEFC account where the advance payment is credited or purchase of foreign exchange from the market.

07. GR Approval for Trade Fair/Exhibitions abroad

- Banks are permitted to approve GR forms of export items for display or display cum sale in trade fairs/exhibitions outside India subject to certain conditions including production of relative Bill of Entry for import of the unsold items or repatriation of the sale proceeds to India in accordance with the FEMA guidelines, etc.

08. GR approval for Export of Goods for re-imports

- Banks can grant GR approval for goods being exported for re-import after repairs / maintenance / testing / calibration, etc., subject to the condition that the exporter shall produce relative Bill of Entry within one month of re-import of the exported item from India.
- Where the goods being exported for testing are destroyed during testing, banks may obtain a certificate issued by the testing agency that the goods have been destroyed during testing, in lieu of Bill of Entry for import.

09. Consignment Exports

- While forwarding shipping documents to overseas branch/correspondent in respect of export of goods on consignment basis, they may be directed to deliver

the documents against trust receipt/undertaking to deliver the sale proceeds by a specified date within the period prescribed for realization of the sale proceeds of the export.

- The agents/consignees may deduct from sale proceeds of the goods expenses normally incurred towards receipt, storage and sale of the goods, such as landing charges, warehouse rent, handling charges, etc. and remit the net proceeds to the exporter.

10. Opening / Hiring of Ware houses abroad

- Banks may grant permission to exporters for opening / hiring warehouses abroad subject to the compliance of certain conditions including the applicant's export outstanding does not exceed 5% of exports made during the previous year, minimum export turnover of USD 0.10 Mn., etc. The permission may be granted initially for a period of one year and the same may be extended subject to compliance of the conditions set there against.

11. Direct dispatch of documents by the exporter

- Banks may dispatch shipping documents direct to the consignees or their agents resident in the country of final destination of goods in cases where advance payment or an irrevocable letter of credit has been received for full value of the export and the exporter being a regular customer having satisfactory business dealing with the bank, etc.
- Banks may also permit 'Status Holder Exporters' and units in SEZ to dispatch the export documents to the consignees outside India subject to the condition that the export proceeds are repatriated through the AD banks named in the GR Form and the duplicate copy of the GR form is submitted to the banks for monitoring purposes by the exporters within 21 days from the date of shipment of export.
- Banks may regularize cases of dispatch of shipping documents by the exporter direct to the consignee or his agent resident in the country of the final destination of goods, up to USD 1 Mn. or its equivalent, per export shipment provided the export proceeds have been realized in full, the exporter is a regular customer of the bank for a period of at least six months, the account is a fully compliant with KYC/AML guidelines, etc.
- In case of doubt, bank may consider filing Suspicious Transaction Report (STR) with FIU_IND (Financial Intelligence Unit in India).

12. Short shipment and shut out shipments

- Short-shipment in respect of shipment covered in GR form already filed with Customs, the exporter is required to give notice to Customs about the same and

in case of any delay in obtaining the certified short-shipment from the Customs, an undertaking is required to be furnished to the bank.

- In case the shipment is entirely shut out and there is delay in re-ship, the exporter is required to give notice in duplicate to Customs and forward the duplicate copy to RBI together with unused duplicate copy of the GR form.

13. Counter-Trade Arrangement

- Counter trade involves adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in USD provided:-
 - a) all imports and exports under the arrangement should be at international prices in conformity with the FTP and FEMA and the Rules and Regulations made there under.
 - b) No interest will be payable on balances standing to the credit of the Escrow Account but the funds temporarily rendered surplus may be held in a short term deposit up to a total period of three months in a year (i.e., in a block of 12 months) and the banks may pay interest at the applicable rate.
 - c) No fund based/or non-fund based facilities would be permitted against the balances in the Escrow Account.
 - d) Application for permission for opening an Escrow Account may be made by the overseas exporter / organization through his / their bank to the Regional Office concerned of the Reserve Bank.

14. Export of Goods on Lease, Hire, etc.

- Prior approval of RBI is required for export of machinery, equipment, etc., on lease, hire basis under agreement with the overseas lessee against collection of lease rentals/ hire charges and ultimate re-import.

15. Export of goods by Special Economic Zones (SEZs)

- Units in SEZs are permitted to undertake job work abroad and export goods from that country itself subject to the conditions that processing / manufacturing charges are suitably loaded in the export price and are borne by the ultimate buyer and the exporter has made satisfactory arrangements for realization of full export proceeds subject to the usual GR procedure.

16. Project Exports and Service Exports

- Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as

'Project Exports'.

- In order to provide greater flexibility to project exporters and exporters of services in conducting their overseas transactions, certain guidelines in the Memorandum of Instructions on Project and Service Exports (PEM) have been modified. Project/Service exporters have also been extended the facility of deployment of temporary cash balance as set out here under;
- a) Inter-Project Transfer of Machinery
- Exporters are permitted to use the machinery / equipment for performing any other contract secured by them in any country subject to the satisfaction of the sponsoring bank(s) / EXIM Bank / Working Group.
- b) Inter-Project Transfer of Funds
- Bank(s)/EXIM Bank/Working Group may permit exporters to open, maintain and operate one or more foreign currency account/s in a currency (ies) of their choice with inter-project transferability of funds in any currency or country.
- c) Deployment of Temporary Cash Surpluses
- Project/Service exporters may deploy their temporary cash surpluses, generated outside India, in the permissible/approved instruments/products, subject to monitoring by the bank(s)/EXIM Bank/Working Group. They should, however, repatriate the profits of on-site contracts after completion of the contracts.

17. Export of Currency

- Export of Indian currency of value exceeding Rs.7,500/-, except to the extent permitted under any general permission granted under the Regulations, will require prior permission of RBI.

18. Forfaiting

- EXIM Bank and banks have been permitted to undertake forfaiting for financing of export receivables.

19. Exports to neighbouring countries by Road, Rail or River

- The procedure for export to neighbouring countries by Road, Rail or River involves production of the form of export presented by the exporter to the Customs at the border through which the vessel or vehicle has to pass before crossing over to the foreign territory.

- For exports by rail, Custom staff is posted/available at certain railway station to collect the GR/SDF forms for goods loaded at these stations so that the goods may move straight on to the foreign country without further formalities at the border.

20.Border Trade with Myanmar

- Trade with Myanmar can be carried out either on barter trade arrangement or in freely convertible currency as per the Agreement on Border Trade between India and Myanmar.

20. OPERATIONAL GUIDELINES FOR BANKS

Detailed procedure for disposal of export declaration forms viz. GR Forms, SDF, PP Forms, & SOFTEX forms along with check list for scrutiny of the forms are given in the RBI Master Circular. Presentation of export documents by the exporters after the prescribed period of 21 days from the date of export, banks can handle them without prior approval of RBI provided they are satisfied with the reasons for the delay.

Other guidelines

- Banks need not return the duplicate copies of GR/SDF/PP forms and shipping documents once submitted for negotiation, collection, etc. by exporters, except for rectification of errors and resubmission.
- Banks may deliver one negotiable copy of the Bill of Lading to the Master of the carrying vessel or trade representative for exports to certain landlocked countries if the shipment is covered by an irrevocable letter of credit and the documents conform strictly to the terms of the Letter of Credit which, inter alia, provides for such delivery.
- Banks are required to maintain Export Bills Register, in physical or electronic form with details of GR /SDF /PP /SOFTEX form number, due date of payment, the fortnightly period of 'R' Supplementary Return with which the ENC statement covering the transaction sent to RBI, etc.
- Banks are supposed to closely monitor the realization of bills and in cases where bills remain outstanding, beyond the due date for payment or 12 months from the date of export, the matter should be promptly taken up with the concerned exporter. In case of failure to deliver the proceeds with 12 months or seek extension of time beyond 12 months, the matter needs to be reported to the RBI.

- Banks are required to follow up export outstanding with exporters systematically and vigorously so that action against defaulting exporters does not get delayed. Any laxity in the follow up of realization of export proceeds by banks will be viewed seriously by the Reserve Bank, leading to the invocation of the penal provision under FEMA, 1999.
- RBI prior approval is not required if, after goods have been shipped, they are to be transferred to a buyer other than the original buyer in the event of default by the latter provided the reduction in value, if any, involved does not exceed 25% of the invoice value and the realization of export proceeds is not delayed beyond the period of 12 months from the date of export.
- All exporters (other than Status Holder exporters) have been allowed to write off (including reduction in invoice value) outstanding export dues and extend the prescribed period of realization beyond 12 months or further period as applicable, provided the aggregate value of such export bills written-off and bills extended for realization does not exceed 10% of the export proceeds due during the financial year and such export bills are not a subject to investigation by any Investigating Agencies.
- RBI has permitted the banks to extend the period of realization of export proceeds beyond 12 months from the date of export up to six months, at a time irrespective of the invoice value of the export subject to compliance of certain conditions.
- When shipments from India for which payment has not been received either by negotiation of bills under letters of credit or otherwise are lost in transit, banks must ensure that insurance claim is made as soon as the loss is known. In cases where the claim is payable abroad, the banks are required to arrange to collect the full amount of claim due on the lost shipment, through the medium of their overseas branch/correspondent and release the duplicate copy of GR/SDF/PP form only after the amount has been collected.
- Banks may allow payment of commission, either by remittance or by deduction from invoice value, on application submitted by the exporter subject to compliance of certain conditions.
- Banks, through whom the export proceeds were originally realized may consider requests for refund of export proceeds of goods exported from India and being re-imported into India on account of poor quality upon exercising due diligence regarding the track record of the exporter and upon satisfying the bona fide of the transaction, etc.
- Banks may approve GR/SDF/PP forms of exporters who have been placed on caution list if they produce evidence of having received an advance payment or

an irrevocable letter of credit in their favour covering the full value of the proposed exports.

- Banks are required to obtain prior approval of RBI for issuing guarantees for caution-listed exporters.
- Transactions which are prohibited for remittance is listed out in the RBI Circular by way of annexure.

(*SOURCE: RBI MASTER CIRCULAR)