



Imports of Goods and Services under Indian FEMA

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Imports of Goods and Services under Indian FEMA

(A) Introduction on Imports of Goods and Services under Indian FEMA

1. Legal status

- (i) Imports of goods and services are **permitted** under section 5 of the FEMA, 1999.
- (ii) These provisions are **notified** through notification no. G.S.R. 381(E) dated May 3, 2000 viz. Foreign Exchange Management (Current Account Transaction) Rules, 2000.
- (iii) These provisions are **amended** from time to time to incorporate the changes in the regulatory framework and published through various amendment notifications.

2. Regulations and directions

- (i) Regulations are being **communicated** by the Reserve bank of India (RBI) through issue of directions to the authorized persons (AD Category-I Banks) under section 11 of the FEMA, 1999.
- (ii) These directions are laying down the **modalities** as how the foreign exchange businesses have to be conducted with their Importers with a view to implementing the regulations as framed.

3. Instructions

- (i) Instructions are being issued by the RBI against import of goods and services through the **master directions** along with various circulars or notifications based on the master directions.
- (ii) **Master direction** no. 18 dated January 01, 2016 was 1st direction on Import of Goods and Services under the FEMA and same is updated on January 06, 2022

4. Directions for changes in regulations

- The RBI is required to issue **directions** to the AD Banks through A.P. (DIR Series) for the **changes in the regulations** and directions for the transactions are to be conducted by the AD Banks with the importers.



5. **Role of Directorate General of Foreign Trade (DGFT)**

- Imports of goods and services under the FEMA are being **regulated by DGFT** as working under Ministry of Commerce and Industry, Department of Commerce in Government of India.

6. **Role of AD banks**

- (i) AD Banks are required to ensure that the imports should be in conformity with the **Foreign Trade Policy (FTP)** in force and also with Foreign Exchange Management (Current Account Transactions) Rules, **2000** as framed by the Government of India and notified through Notification No. **G.S.R.381 (E)** dated **May 3, 2000** and the Directions as issued by the RBI under the **FEMA 1999** from time to time.
- (ii) AD Banks are further required to follow the **normal banking procedures** and the provisions of Uniform Customs and Practices for Documentary Credits (UCPDC) etc. while opening letters of credit (LC) for imports on behalf of importers.
- (iii) AD Banks are further required to ensure the compliances with the provisions of **Research & Development Cess Act, 1986** for the imports of the **drawings and designs**.
- (iv) AD Banks are further required to advise to the importers for ensuring the **compliances with the provisions** of the Income Tax Act, **1961** and the Companies Act, **2013** is any applicable.
- (v) AD Banks are also required to approach the RBI in any matter which are not in the powers of AD Banks through **approaching to the regional office (RO)** of the Foreign Exchange Department as situated in the jurisdiction where Importers are residing, the firms or companies are functioning.



(B) RBI Guidelines for Import of Goods and Services-General

1. RBI's guidelines

- (i) AD Banks are required to follow the rules and regulations of the RBI from the **foreign exchange angle** when undertaking any payments against the imports.
- (ii) AD Banks are also required to follow **normal trade practices** where specific rules and regulations are **not existed** like Know Your Customer (KYC) as issued by the RBI (Department of Banking Regulation).

2. Remittances for Import of goods and services

- AD Banks are required to ensure that all the requisite details are available with the importers and the remittances are for **bona fide trade transactions** in accordance to the applicable laws in India.

3. Licences for Import of goods and services

- (i) AD Banks are required to have a licence as issued under FTP where goods and services as being imported are under in **negative list of FTP**.
- (ii) AD Banks are further required to **open LC** and allow the remittances for the imports of goods and services.
- (iii) AD Banks are also required to **preserve the copies of utilized licence(s)** till they are verified by the internal, Statutory Auditor or inspector of the banks.

4. Obligations of Importers for Foreign Exchange- Section 10(6)

- (i) Importers are permitted to acquire foreign exchange for permitted use as mentioned in the **declaration to be filed by the Importers** to the banks under section **10(5)** of the FEMA, 1999
- (ii) Importers are required to furnish an evidence for the imports of goods and services as following:
 - (a) **Postal Appraisal Form**
 - (b) **Customs Assessment Certificate (CAC)** etc.
 - (c) Importers are required to ensure himself as goods and services are at least for an **equivalent to the value of remittances** as already made for the imports.
 - (d) Importers are also required to ensure that **all outstanding remittances** are to be uploaded in IDPMS as on notified date.
- (iii) **Remittances through international credit card**

- (a) Importers are permitted to make payments for the imports of goods and services in foreign exchange through an international **card as issued in rupee** from the international credit card or debit card.
- (b) Importers are also to ensure that all payments through credit card or debit card should be in **conformity with the FTP**.

(iv) *Other payments by the importers*

- (a) Importers are permitted to make payments for certain expenses into INR like boarding, lodging and other services **with in India** for a **non resident** who is on visit to India for the **work of importers**.
- (b) Importers are further permitted to make the **payments through crossed cheque** or crossed bank draft for the **purchases of gold** or silver in accordance to the Foreign Trade (Development and Regulations) Act, **1992** or under any other law, rules or regulations for the time being in force
- (c) Importers are also permitted to make payments in INR to its **non-whole time director as non-resident of India** who is on a visit to India for importer's work and also he is entitled to have payments **for sitting fees, commission, remuneration and travel expenses** in accordance to company's Memorandum of Association and Articles of Association, resolution passed by the company in AGM, EGM or by Board of Directors.

5. **Time Limit for the Settlements of Payments against imports**

(i) *Time limit for the normal payments*

- (a) **100% remittances** are to be completed within a maximum period **6 months** commencing from date of shipments.
 - (aa) However importers are permitted to **withheld an amount** towards **guarantee of performance** etc. and disruptions due to outbreak like **COVID-19**
 - (ab) Now **100% remittances** are to be completed within a maximum period **12 months** commencing from July **31, 2020**.
- (b) AD Banks are permitted for **100% remittances** are to be completed within a **maximum period 3 years** where delay is due to any **dispute or financial difficulties** etc.
 - (ba) However **interest for the delay payments** are to be made for a maximum period of **3 years**.



(bb) Hence AD banks are **not permitted** for payment of interest exceeding a maximum period of **3 years**

(ii) *Time Limit for the Deferred Payments Arrangements*

(a) AD Banks are permitted **100%** remittances are to be completed within a maximum period of **5 years** under the deferred payments arrangements, **suppliers credits or buyers credits**

(b) Deferred payment arrangements suppliers credits or buyers credits are known as **external commercial borrowings (ECBs)** and trade credits. Hence these are regulated through ECBs guidelines as issued by the RBI.

(iii) *Time Limit for the Import of Books*

- AD Banks are permitted **100%** remittances are to be completed **without any restriction on number of years** along with interest payments for entire period of outstanding.

(iv) *Extension for the time line*

(a) AD Banks are permitted to grant extension for the time line against settlement of imports dues up to **6 months** at a time and maximum up to **3 years**. Hence **5 additional extensions** equivalent to **30 months** are permitted.

- The RBI has issued **sector wise specific guidelines** for extension of time. Generally sector wise specific the RBI guidelines are applicable for **imports of rough, cut and polished diamonds**.

(b) *AD Banks are required to ensure the following criteria's before granting any extension of time*

(ba) The imports transactions should **not be covered** by the invoices which are **not under investigation** by the Enforcement Directorate (**ED**), Central Bureau of Investigation (**CBI**) or any other investigating agencies.

(bb) AD Banks are **not permitted** for extension exceeding **1 year** where total outstanding of the importers are exceeding USD **1 million** or **10 %** of the average imports remittances as made during the preceding **2 financial years** whichever are lower.

(bc) AD Banks are required to **mark the date of extension** in the remarks column

(c) AD Banks are **not permitted** to extend the time limit **beyond** the above mentioned instructions or exceeding **3 years**.



- Hence AD Banks are required to **approach to the RO** for the extension of time limit **beyond** above mentioned instructions or exceeding **3 years**.
- (d) AD Banks are also required to **report in IDPMS** about **Bill of Entry Extension and the extended date**.

6. Imports of the Foreign Exchanges and Indian Rupees (INR)


- The RBI is **not permitting** anyone for importing of any foreign currency including foreign currency cheques **without a general or special permission** of the RBI.
 - (i) *Import of the foreign exchanges*
 - (a) **Non-resident of India** is permitted to bring foreign exchange from outside India on his arrival in India through submitting a declaration to the custom authorities at the airport in **currency declaration form (CDF)**
 - (b) However CDF is **not required** where currency notes, bank notes or travel cheques are **not exceeding USD 10,000** or is equivalent
 - (c) However CDF is **not required** where currency notes (cash portion) are **not exceeding USD 5,000** or is equivalent
 - (ii) *Imports of the Indian Currency and Currency Notes*
 - (a) A resident of India is **not permitted** to bring INR exceeding **25,000** where he is returning back in India from a **temporary foreign visit**.
 - (b) A Resident of India is permitted to bring INR exceeding **25,000** where he is returning from a temporary foreign visit like **Nepal and Bhutan** only.
 - (c) A Resident of India is returning from temporary foreign visit like Nepal and Bhutan is **not permitted** to bring INR in denominations exceeding Rs. **100**.
- Hence INR in denominations of Rs. **500** and **1000** both are **not permitted**



7. **Third Party Payment for the Imports Transactions**

- AD Banks are permitted to make third party payments for the imports of goods and services **after** satisfaction of the following terms and conditions:
 - (i) (a) AD Banks are required to ensure that there should be **Firm irrevocable purchase order or tripartite agreement** in place.
 - (b) AD Banks are **not required** to ensure that there should be Firm irrevocable purchase order or tripartite agreement in place where **documentary evidence for the circumstances** which are **already** leading for third party payments or name of the third party has already been mentioned in the irrevocable order or invoice as produced by the importers.
 - (ii) AD Banks are required to be satisfied about the **bona fide of the transactions** and also to be satisfied about the **Financial Action Task Force (FATF) Statement before handling of the third party transactions**.
 - (iii) AD Banks are further required to ensure that the **Invoice** should **contain a narration** about the related payments to be made to the **named third party** only.
 - (iv) AD Banks are further required to ensure that the **BoE** should mention the **name of the shipper** and also **contain a narration** about the related payment to be made to the **named third party** only
 - (v) AD Banks are also required to ensure that the importers should have **complied with the related extant instructions** relating to the imports including those **on advance payment** as being made for the imports of goods and services.

8. **Issue of Guarantees by the AD Banks**

- (i) AD Banks are permitted to give a **guarantee against any debt**, obligation or other liability as incurred by the importers towards **imports on deferred payment terms** and also in accordance with the **prior approval by the RBI** for imports of the goods and services.
- (ii) AD Banks are further permitted to give **guarantee**, Letter of Undertaking (LoU) Letter of Comfort (LoC) against **any debt, obligation or other liability** as incurred by the importers for imports of goods and services as permitted under the **FTP** from time to time and also **after** satisfaction of the terms and conditions as may be **stipulated by the RBI** from time to time.
- (iii) AD Banks are further permitted to give a guarantee in favour of a non-resident service provider for imports of services **after** satisfaction of the following terms and conditions as stipulated by the RBI from time to time 

- (a) AD Banks are **not permitted** to give any guarantee where amounts are exceeding USD **500,000** or **its equivalent** on behalf of service importers.
- (b) However AD banks are further permitted to give guarantee to a Public sector undertaking (PSUs) any other undertaking of govt. of India or state govt where amounts are exceeding USD **100,000** or **without prior approval** of Ministry of Finance, Govt. of India.
- (iv) AD Banks are also permitted to issue the corporate guarantees **for taking operating lease** through **imports financing from foreign lessor** in accordance to FTP and Foreign exchange Management (Current Account Transactions) Rules, **2000** framed by the Government of India and notified through Notification No. G. S. R. **381 (E)** dated May **3, 2000** and also along with the directions as issued by the RBI under the FEMA Act, **1999** from time to time




C. Operational the RBI Guidelines for Imports of Goods and Services

1. Advance Remittances for imports

- (i) AD Banks are permitted to send advance remittances for the Imports of goods and services **without any monetary ceiling after** satisfaction of the following terms and conditions.
- (a) AD Banks are permitted to send advance remittances exceeding USD **200,000 against an unconditional, irrevocable Standby Letter of Credit (SLC)** or a guarantee from a **reputed international bank** as located outside India or a guarantee from **AD banks as located in India.**
- (b) (ba) AD Banks are further permitted to send advance remittances where advance remittances are **not exceeding USD 5,000,000 and also** importers are **unable to obtain bank guarantee** from overseas suppliers but the AD banks are satisfied about the track record and bona fide of the importer.
- (bb) AD banks may also frame their **own internal guidelines** to deal with such cases as per a **suitable policy** as framed by the bank's Board of Directors.
- (c) (ca) AD Banks are further permitted to send advance remittances where advance remittances are exceeding USD **1,00,000** for the importers like **PSUs, the departments, Undertaking of the Government of India** or State Government(s) and also importers are **unable to obtain bank guarantee** from a reputed international bank
- (cb) The above mentioned importers are required to **obtain the specific waivers** from the Ministry of Finance, Government of India for the bank guarantee
- (ii) AD Banks are also permitted to send advance remittances for the imports **after creating and Outward Remittance Message (ORM)** for all such outward remittances and also follow other guidelines as issued by the RBI for the IDPMS.

2. Advance Remittances for Imports of Rough Diamonds

- AD Banks are permitted to send the advance remittances **without any monetary limit** against the bank guarantees or stand-by-LC **after** satisfaction of the following terms and conditions.
- (i) The overseas mining entity (exporter) should be **recommended by GJEPC.** 

- (ii) *The importers should also be **recognised processor** for rough diamonds and also have a **good track records**.*
- (iii) *AD Banks should also undertake the transactions based on their **commercial judgment** and also **after** satisfaction about the **bona fide** of the transactions.*
- (iv) (a) *AD Banks are required to ensure that the advance remittances should be made strictly as per the terms of the sale contracts **and also** be made directly to the accounts of the exporters entities concerned or ultimate beneficiaries*
- (b) *AD Banks are further required to ensure that the advance remittances **should not be through numbered accounts** or otherwise*
- (c) *AD Banks are further required to ensure that they have created the **Outward Remittance Message (ORM)** for all such **outward remittances in IDPMS**.*
- (v) *AD Banks are further required to take **due caution** before sending remittances for the imports of **conflict diamonds** (Kimberly Certification).*
- (vi) *AD Banks are further required to **obey KYC** guidelines and to do the **due diligence exercise** as per the existing guidelines as issued by the RBI.*
- (vii) (a) *AD Banks are further required to **follow-up** for the **submission of the BoE** or documents evidencing the imports of rough diamonds by the importers in accordance to the terms of the Act, Rules, Regulations or **Directions as issued by the RBI**.*
- (b) *AD Banks are further required for advance remittances against **imports by the PSUs, Govt. Department, Govt. Undertaking of Central Government or State Government after obtaining a waiver letter** from the Ministry of Finance, Government of India where the advance remittances are **exceeding USD 100,000/-***
- (viii) (a) *AD Banks are further required to download the BoE as issued by the EDI ports from **BoE Master** in IDPMS.*
- (b) *AD Banks are further required to download the BoE as issued by the **non EDI ports from BoE Master** in IDPMS as per message format **Manual BoE reporting** on daily basis **after receiving the BoE** from the importers or Customs Offices.*
- (ix) *AD Banks are further required to **enter BoE details** and also to **mark off ORMs** as per the message format for **BoE Settlement***



- (x) AD Banks are also required to send advance remittances **after receipt of BoE and also generation of ORM** as per the message format for **BoE Settlement**

3. **Advance Remittances against the Imports for Aircrafts, Helicopters and other Aviation Related items**

- (i) (a) AD Banks are permitted to send advance remittances for **imports of aircrafts, helicopters** and other aviation related items including **used or second hand** aircrafts and helicopters to the operators as permitted by Directorate General of Civil Aviation (DGCA) without bank guarantee or irrevocable Standby LC where amounts are **not exceeding USD 50 million**.

- (b) AD banks are further permitted to send advance remittances for imports of the above mentioned items **without obtaining a bank guarantee**, an unconditional or irrevocable SLOC where advance remittances are **not exceeding USD 50 million**

- (ii) **Role of AD Banks for sending the advance remittances after satisfaction of the following terms and conditions:**

- (a) AD Banks are required to undertake the transactions based on their **commercial judgments and after satisfaction about the bona fide of the transactions**, KYC and due diligence exercise against the **Indian importers and the overseas manufacturers** entities (both).

- (b) AD Banks are further required to send the advance remittances based on the **strict terms of the sale contract** and directly to the **account of the overseas manufacturer** only.

- (c) AD Banks are further required to **frame their own internal guidelines** to deal with such cases with the **approval of their Board of Directors**.

- (d) AD Banks are further required to ensure that the requirements of **bank guarantees have been specifically waived** by the Ministry of Finance, Government of India for advance remittances where the amounts are **exceeding USD 100,000** and also importers are **PSUs, Govt. Department**, Undertaking of Central or State Governments.

- (e) AD Banks are further required to ensure that **physical imports of non capital goods** are made within **6 months** and for the **capital goods** within **3 years** from the date of remittances

- (eb) AD Banks are further required to ensure that the importers are required to give an undertaking to furnish documentary evidences for the imports within **15 days** from the close of the relevant period.



(f) AD Banks are further required to ensure that the **requisite in principle approvals** are obtained from the **Ministry of Civil Aviation** for the Scheduled Air Service Operators

(fb) AD Banks are further required to ensure that the **requisite in principle approvals** are obtained from the **Director General of Civil Aviation** or other agencies in accordance to the FTP have been obtained by the importers.

(g) AD Banks are further required to ensure that the amounts of advance remittances are **immediately repatriated to India** where imports for aircraft and aviation sector related items are **cancelled**.

(h) AD Banks are further required to ensure to **obtain the prior approvals** from RO of the RBI **for any deviation** from the above mentioned stipulations.

(i) AD Banks are also required to generate the ORMs, BoE entries and BoE settlement with the respective ORMs etc. in accordance to the guidelines as issued by the RBI for the IDPMS.

4. **Advance Remittances for the Imports of Services**

- AD Banks are required to ensure the following terms and conditions for sending advance remittances for the imports of services **without any monetary ceilings**.

(i) AD Banks are required to **obtain a guarantee from reputed international bank as located outside India** or a guarantee from a banks as located in India where advance remittances are **exceeding USD 500,000**

(ii) AD Banks are further required to take **prior approval** from Ministry of Finance, Govt. of India for advance remittances for the **imports of services without bank guarantee** where advance remittances are **exceeding USD 100,000**

(iii) AD Banks are further required to **follow-up** to ensure that the **ultimate beneficiary** of the advance remittances are **fulfilling their obligations** under the contracts or agreements with the importers otherwise exporters are required to **immediate repatriation** to India.

(iv) AD Banks are also required to ensure that for **generating of ORMs and marking off** in the IDPMS etc., are as per guidelines as issued by the RBI for the IDPMS.



5. Interest on outstanding bills for the Imports

- (i) AD Banks are permitted to **allow for the payments of interests on usance import bills** or overdue interest on delayed payments for a period **not exceeding 3 years** from the date of shipments at the interest rates as prescribed for the **trade credits** from time to time.
- (ii) (a) AD Banks are further permitted for pre-payment of **usance import bills** and remittances after reducing the **proportionate interest** for the **unexpired portion** of usance at the interest rates as claimed or LIBOR of the currencies whichever are applicable.
 - (b) AD Banks are further permitted for remittances against the interest payments where interest are **not separately claimed** or expressly indicated **after deducting the proportionate interest** for the **unexpired portion** of usance at the prevailing LIBOR of the currencies of invoices.
- (iii) AD Banks are also required to ensure that **proper remark or indicators** are entered for ORM mark in IDPMS etc. **against any change** in value as per guidelines as issued by the RBI for IDPMS.

6. Remittances back to India against replacement of the Imports

- (i) AD Banks are required to **ensure for remittances back** to India where **goods are short-supplied**, damaged, short-landed or lost in transit.
- (ii) AD Banks are further required to **obtain the copy of Exchange Control** of the imports licence as already been utilised to cover the opening of a LC against the **original goods** which have been lost
- (iii) AD Banks are further required to **obtain original endorsement** to the extent of the **value of the lost goods** and to have fresh remittances for replacement of imports **without reference to the RBI** after ensuring that the **insurance claims** against the lost goods have been settled in favour of the importer.
- (iv) AD Banks are also required to ensure that the consignments as being replaced are being shipped within the **validity period of the license** and also should ensure that **proper remark or indicators** are entered for ORM marks off or closure of Bills in IDPMS etc. as per guidelines issued by the RBI for the IDPMS.



7. **Fresh guarantees against replacements of the imports**

- (i) AD Banks are permitted to issue **fresh guarantee** for the imports of goods in **replacement of defective goods**
- (ii) AD Banks are required to ensure that **original defective goods have been replaced**

8. **Remittances for Imports of Equipments by Business Process Outsourcing (BPO) Companies for their Overseas Sites**

- AD Banks are required to **allow the BPO companies** as working in India to make remittances towards the **cost of equipment to be imported** and to be installed at their **overseas sites** for setting up of their **International Call Centres (ICCs)** **after** satisfaction of the following terms and conditions:
 - (i) AD Banks are further required to ensure that the BPO companies have already **obtained the necessary approval** from the Ministry of Communications and Information Technology, Government of India and other authorities concerned **for setting up of the ICC.**
 - (ii) AD Banks are further required to ensure that **commercial judgment, bona fide** of the transactions and should be strictly in accordance to the terms and conditions of the **contract between importers and exporters.**
 - (iii) AD Banks are further required to send the **direct remittances** to the account of the overseas supplier (exporter).
 - (iv) AD Banks are further required to **obtain a certificate** as evidence of imports from the **Chief Executive Officer (CEO) or Statutory Auditor** of the importers companies that the goods for which remittances were made have **actually been imported and installed** at overseas sites.
 - (v) AD Banks are also required to ensure the **fulfilment of the compliances of IDPMS** as per guidelines issued by the RBI.

9. **Receipt of Import Bills and other documents**

- AD Banks are required to ensure about **generation of ORMs, BoE entries and BoE settlement** with the respective ORMs in **compliance with IDPMS** as per guidelines as issued by the RBI.
 - (i) **Import documents** should be **directly received by the importers** from the overseas suppliers
 - (ii) **Import bills and documents** should be **directly received by AD Banks** from the overseas bankers of the suppliers.

(iii) However AD Banks are permitted to make remittances where imports documents have **not been directly received** by the importers from the overseas supplier in the following situations:

- (a) Where the value of import bills are **not exceeding USD 300,000**.
- (b) Where import bills are **received by wholly-owned Indian subsidiaries** from the holding foreign company.
- (c) Where import bills are **received by the Status Holder Exporters** as defined in FTP, **100% Export Oriented Units** or Units in Special Economic Zones, PSUs and Public Limited Companies.
- (d) Where import bills are **received by the public limited companies**, deemed public limited companies and private limited companies.

10. Receipt of import documents by the importers directly from overseas suppliers in the specified sectors for the imports

- (i) AD Banks are permitted to allow the remittances for imports by the **non-status holder** importers where imports are **not exceeding USD 300,000 and also import of rough diamonds**, rough precious and semi-precious stones.
- (ii) AD Banks are required to ensure that the documents as received are directly from the overseas supplier and the **documentary evidences for imports are submitted** by the importers at the time of remittances.
- (iii) AD Banks are further required to ensure that importers have received **direct documents for imports** of the rough diamonds, rough precious and semi-precious stones from the suppliers **without any monetary ceiling after** satisfaction of the following terms and conditions:
 - (a) That the imports should be in **accordance to the prevailing FTP**.
 - (b) That the transactions should be based on **commercial judgment** and also satisfied the **bona fide of the transactions**.
 - (c) That the AD banks should do the **KYC and due diligence exercise** and also should be fully satisfied about the financial standing, status and track record of the importers **before** extending the facilities.



11. Receipt of the imports documents by the AD banks directly from overseas suppliers

- (i) AD Banks are permitted to **receive bills directly from the overseas suppliers** where AD banks are fully satisfied about the financial standing, status and track records of the importers.
- (ii) (a) AD Banks are also required to **obtain a report on each individual overseas supplier** from the overseas banker or a reputed overseas credit agency.
- (b) AD Banks are **not required** to obtain a report where the invoices value are **not exceeding USD 300,000** and also AD banks are satisfied about the **bona fide of the transactions** and track record of the importers.

12. Evidences for the Imports of goods

- **Physical Imports**

- (i) AD Banks are required to ensure that following documents are to be submitted by the importers against imports of goods:-
 - (a) **BoE number, port code** and date for marking evidence of the imports under IDPMS
 - (b) **Customs Assessment Certificate** or Postal Appraisal Form as declared by the importers to the Customs Authorities where imports have been made by post or courier as **declared by the courier companies** to the Customs Authorities in case of the goods have been **imported through couriers**.
 - (c) **Exchange Control Copy** of the Ex-Bond BoE or BoE as **issued by the Customs Authorities** for the Goods as imported and stored in the Free Trade Warehousing Zone (FTWZ) or SEZ Unit warehouses or Customs bonded warehouses etc.
- (ii) **Remittances against import of goods on acceptance basis**
 - (a) AD Banks are required to **verify the evidence of the imports** from IDPMS at the time of sending remittances against imports bills.
 - (b) AD Banks are permitted to allow a maximum **3 months** time for **submitting the evidences** for the imports where importers have failed to produce the documentary evidences **due to genuine reasons** such as non- arrival of consignment, delay in delivery or customs clearance of consignment etc.
- (iii) AD Banks are also required to **create Outward Remittance Message (ORM)** against the all outward remittances.

13. Evidences for the Import in Lieu of BoE

- (i) AD Banks are permitted to **accept the certificates from the Chief Executive Officer (CEO) or Statutory Auditor** of company in lieu of Exchange Control Copy of BoE for home consumption that the goods for which remittances were made have **actually been imported after** satisfaction of the following terms and conditions:
 - (a) Where the amount of **foreign exchanges** as already been remitted are **not exceeding USD 1,000,000**
 - (b) Where the importers are the companies as **listed on the stock exchanges** in India and also whose **net worth's are exceeding Rs.100 crore** as on the date of its last audited balance sheet
 - (ba) Where the **importers are the PSUs** or the undertaking of Government of India or its departments.
- (ii) (a) AD Banks are further permitted to **extend this facility to the autonomous bodies** including scientific bodies or academic institutions like Indian Institute of Science or Indian Institute of Technology etc.
- (b) And also the accounts are being **audited by the Comptroller and Auditor General of India (CAG)**.
- (c) AD banks are further required to **obtain a declaration from the Statutory Auditor or CEO** of the institutions that their accounts are being audited by the CAG.
- (iii) (a) AD Banks are also required to **create the Outward Remittance Message (ORM)** and to download the BoE from BoE Master in IDPMS.
- (b) AD Banks are permitted to **accept duplicate copy** or certified customs duty copy **and also to obtain a waiver from the RBI**.

14. Non-physical Imports of the intangibles

- (i) AD Banks are required to **obtain a certificate from a Chartered Accountant** that the software's, data's, drawings or designs have been received by the importers where imports are made in non-physical form like **software's or data's through internet** and drawings and designs through e-mail.
- (ii) AD Banks are also required to ensure that the importers have **to keep inform to the Customs Authorities** against the imports as made in non physical form.

15. Detailed Operational Procedures for the IDPMS

- The operational guidelines as issued by the RBI are following:
 - (i) AD Banks are required to **create ORM for all outward remittance(s)** for the imports payments where the prescribed documents for the evidences of the imports are **not submitted**.
 - (ii) **Settlement of the ORM with BoE**
 - (a) AD Banks are required to download the BoE as issued by EDI ports from the **BOE Master** in IDPMS
 - (b) And also to **submit of the hardcopies** of the evidences of imports documents like BoE and Exchange Control copy
 - (iii) AD Banks are further required to **enter the BoE details** like BoE number, port code and date for ORM associated with the advance payments **for the imports transactions** as per the message format under head BOE settlement.
 - (iv) AD Banks are further required to **generate ORM for the imports payments** as made by the importers as per the message format under head BOE settlement.
 - (vi) AD Banks are permitted to **settle the multiple ORMs** against the multiple BoE with **1 ORM**.
 - (vii) **Settle the ORM with the evidences of imports and to issue acknowledgement slip to the importers containing the following particulars:**
 - (a) Importer's **full name and address** with code number
 - (b) Number and **date of BoE** and the **amount of imports**
 - (c) A **recap advice** on number and amount of BoE and ORM **not settled** for the importers.
 - (viii) The importers are required to **preserve the printed Importers copy** of the BoE as evidence of the imports and **acknowledgement slip** for future use.



16. Extension and Write Off against the imports

- (i) (a) AD Banks are permitted to give an **extension for submission of BoE** beyond the prescribed period in accordance to the guidelines as issued by the RBI.
- (b) AD banks are required to report in IDPMS as per the message for Extension of BOE and date of extension in **Extension Date column**
- (ii) AD Banks are further permitted to consider a **closure of BoE** or ORM in IDPMS where **write off is maximum 5%** of invoice value in case the amount as declared in **BoE is different from the actual remittances** due to the operational reasons and also bank is satisfied with the reason(s) submitted by the importers
- (iii) AD Banks are also permitted to consider a **closure the BoE of imports transactions** where write off is on account of **quality issues, short shipment** or destruction of goods by the ports, customs or health authorities in accordance to the guidelines as issued by the RBI as submission of **satisfactory documentation by the importers** beside any amount as involved. Hence AD Banks will **settle and close ORM** or BoE with the appropriate **Adjustment Indicator** in IDPMS.
- (iv) AD Banks are required to allow the write off **after** satisfaction of following terms and conditions:
 - (a) Where the case is **not a subject matter** of any pending civil or criminal suit
 - (b) Where the importers have **not come to the adverse notice** of the ED, CBI or any other law enforcement agency
 - (c) Where the internal **inspector, Statutory Auditors** of the banks including external Statutory Auditors as appointed by the banks have **already carry out the random samples check** or percentage check of write-off of the imports bills
- (v) AD Banks are required to **refer about the extension and write off** cases to the concerned RO of the RBI **for the necessary approval** where cases of extensions and write offs are **not covered** by the guidelines as issued by the RBI.
- (vi) AD Banks are also required to **create and upload in form of BoE data** as per message format Manual of BOE reporting in IDPMS where **evidence of the imports are in lieu of BoE** as per the instructions and guidelines as issued by the RBI

17. Follow-up for the Evidences against the Imports

- (i) AD Banks are required to **continue the follow up against outward remittances** as made for the imports like unsettled ORM in accordance to the guidelines as issued by the RBI.
- (ii) AD Banks are also required to **follow with the importers to submit the necessary evidence** of the imports where necessary evidence of imports data are **not available** in IDPMS as on due date against the ORM.

18. Verifications and Preservations of the data and documents

- (i) (a) AD Banks are required to **carry out verifications, IS audit and assurance of BoE settlement** process in IDPMS through Internal inspectors and IS Statutory Auditors including external Statutory Auditors as appointed by the banks
- (b) AD Banks are further required to **process the data for BoE settlement** and also data be preserved in accordance to the guidelines as issued by the RBI under Cyber Security Framework in the banks.
- (ii) AD Banks are further required to **carry out the verification of the documents as evidencing the imports** other than which are available in IDPMS like Exchange Control copies of Postal Appraisal Forms, or Customs Assessment Certificates, etc. through Internal inspectors or Statutory Auditors including external Statutory Auditors as appointed by the banks
- (iii) (a) AD Bank are further required to **preserve the documents** an evidencing the imports for a **minimum period 1 year** from the date of their verification.
- (b) AD Banks are also required to **preserve the documents an evidencing the imports** after obtaining clearances from the concerned investigating agencies where the respective cases are under the investigations by the investigating agencies

19. Follow-up for the Imports Evidences

- (i) (a) AD Banks are required to **follow up with the importers for obtaining the necessary documentary evidences** against the imports within a **maximum period of 3 months** from the date of remittances
- (b) AD Banks are also required to **follow up with the importers for obtaining documentary evidence** against the imports within **next maximum period of 3 months** from the date of expiry of **first 3 months** and also **minimum 1 communication** with the importers should be **through registered letter**.



- (ii) (a) AD Banks are further required to report to the concerned RO of the RBI **against 100% outstanding cases** where remittances against imports are pending. Hence imports are not completed.
- (b) AD Banks are also required to **submit a separate BEF statement** to the concerned RO of the RBI for the half yearly year ending as on June **30th** and December **31st**.

20. Imports of the Gold

- (i) (a) The govt. of India has **withdrawn the 20:80 scheme** of the imports of gold on November **28, 2014**
- (b) However **obligations for the exports under the 20:80 scheme** against unutilized gold imported was to fulfil before November **28, 2014**
- (ii) (a) **Nominated AD banks and nominated agencies** as notified by the DGFT are **permitted to imports of gold** on the consignment basis along with the qualified jewellers as notified by the International Financial Services Centres Authority (IFSCA) under specific ITC (HS) Codes through India International Bullion Exchange IFSC Limited (IIBX).
- (b) All sales of the gold are to be made against the **upfront payment systems**
- (c) Nominated AD banks are permitted to **grant gold metal loans** to the authorized importers
- (iii) The **Status Holder Exporters** are permitted to imports of the gold in accordance guidelines as issued by the RBI under FTP as amended from time to time.
- (iv) (a) **Imports of the gold** coins medallions are permitted.
- (b) However the **sale of the gold** coins and medallions by the AD banks are **not permitted without approval from the RBI**.


21. Import of Gold Jewellery Including Jewellery made of Precious Metals or/and Studded with Diamonds, Precious Stones or Semi-precious.

- (i) Importers are permitted to **avail suppliers' and buyers' credit** (trade credit) including the **usance period of LC** as opened for imports of the gold in any form including jewellery made of gold or precious metals or /and studded with diamonds, semi-precious or precious stones.
- (ii) However period of suppliers and buyers credit including usance period of LC should not **exceeded 90 days** from the date of shipments.

22. Imports of the Other Precious Metals

- **Imports of Platinum, Palladium, Rhodium, Silver, Rough, Cut and Polished Diamonds, Precious and Semi-precious Stones are part of imports of the other precious matters.**
 - (i) (a) Importers are permitted to **avail suppliers' and buyers' credit** (trade credit) including the **usance period of LC** as opened for the imports of Platinum, Palladium, Rhodium and Silver and rough, cut and polished Diamonds, Precious and semi-precious
 - (b) However period of **suppliers and buyers credit** including usance period of LC should **not exceeded 90 days** from the date of shipments.
 - (ii) (a) Importers are **not permitted** for availing the **clean credits** like credits given by the foreign suppliers **without any supplier credit** (LC) and buyers credit (LoU), fixed deposits from any Indian financial institution for the imports of rough, cut and polished diamonds, precious and semi-precious stones for the period **not exceeding 180 days** from the date of shipments
 - (b) AD Banks are permitted to **allow an extension of time** against **clean credit for the imports** of rough, cut and polished diamonds for a maximum period **not exceeding 180 days** from the date of shipment. Hence total periods are permitted against clean credit is **360 days (180 days original + 180 days extended)**.
 - (c) AD Banks are required to **refer the concerned RO** of the RBI for the extensions **beyond 360 days** as computed above under para **ii (b)**
 - (iii) (a) AD Banks are further required to **ensure about due diligence, KYC norms and Anti-Money Laundering (AML)** guidelines as issued by the RBI for the imports of precious metals and rough, cut and polished diamonds.
 - (b) AD Banks are also required to **closely monitoring the large and abnormal increase in the volume** of the business and also transactions should be bona fide and also **not intended** for the interest or currency arbitrage

23. Imports of the Platinum or Silver on Unfixed Price Basis

- The **nominated agencies or AD banks** are permitted to imports of platinum and silver **on outright purchase basis after** satisfaction that **ownership of the imports** shall be passed to the importers at the time of imports itself but the **price shall be fixed later stage** as and when the importers sells to the actual user or the ultimate consumers. 

24. Imports Factoring Services

- (i) (a) AD Banks are permitted to **enter into the arrangements with the reputed international factoring services** companies, preferably such companies should be members of the International Factors Chain
- (b) AD Banks are also permitted to enter into above mentioned arrangements **without approval** of the RBI.
- (ii) AD Banks are required to **ensure the compliances** with the guidelines as issued by the RBI and under FTP for the imports.

25. Merchanting Trade Transactions

- AD Banks are permitted to **handle the Merchanting Trade Transactions (MTT) after** satisfaction of the following terms and conditions of the guidelines as issued by the RBI:
 - (i) The trades are to be classified as MTTs and also goods are to be acquired **outside Domestic Tariff Area (DTA)**.
 - (ii) AD Banks are required to **satisfy with the documentary evidences and bona fides** of the transactions where goods are **imported for specific processing's, value additions and transformations**.
 - (iii) (a) AD Banks are permitted for **allowing the exports or imports** under the prevailing FTP guidelines as on the date of shipments.
 - (b) AD banks are further required to **ensure that all rules, regulations and directions** as applicable for the exports **except** Export Declaration Form and for the imports **except** BoE are complied for the **exports leg and imports leg** respectively.
 - (iv) AD Banks are further required to **ensure with the bona fides of the transactions and KYC and AML guidelines** as to be scrupulously obeyed while handling such transactions.
 - (v) (a) Importers are required to **route 100% MTT through same AD banks**.
 - (b) AD Banks are further required to **verify the documents like invoices, packing lists, transport documents and insurance documents**
 - (c) However **non-negotiable copies as duly authenticated** by the bank handling documents should be obtained where original documents are **not available**
 - (d) AD Banks are further required to **satisfy about the genuineness of the trade** and to rely on online verification of Bill of Lading



(BoL) or Airway Bill on the website of International Maritime Bureau (IMB) or Airline web check facilities.

- (e) AD Bank are further required to **ensure that the requisite details are made available or retrievable at the time of Inspection, Audit or investigation of the transactions.**
- (vi) (a) AD Banks are further required to **ensure that 100% MTTs are completed within 9 months** and also outlay of foreign exchanges are **not permitted** after 4 months from the date of 100% completion of the MTTs
 - (b) The **commencement date of the MTTs** are to be computed from the date of shipments, exports leg receipts or imports leg payments **whichever are earlier**
 - (c) The **completion date of the MTTs** are to be computed from the date of shipments, exports leg receipts or imports leg payments **whichever are later**
- (vii) (a) AD Banks are permitted for the MTTs through **short term credit by way of supplier's credit or buyer's credit** along with backing through **100% advance payments** for the exports leg including the discounting of exports leg by the AD banks for the imports transactions
 - (b) AD Banks are **not permitted** to issue LoU or LC for the supplier's or buyer's credits
- (viii) (a) AD Banks are further required to **ensure that the receipt against exports leg should be parked** either in Exchange Earners Foreign Currency (EEFC) or in an interest-bearing INR account till the imports leg liability as arised **before making any payment for imports leg.**
 - (b) AD banks are further required to **ensure about earmarking or lien-marking for the payments** of imports leg and for the liabilities of the imports leg as soon as these are arised and also be extinguished out of these funds **without any further delay.**
 - (c) AD Banks are further required to **ensure that the receipts are kept in interest-bearing INR account.**
 - (d) AD Banks are further required to **release the credit into the Importers accounts** as per the guidelines as issued by the RBI.
 - (e) AD Banks are **not permitted** for fund or non-fund-based facilities against the balances
- (ix) AD Banks are **permitted for payment against imports leg** as to make out of the balances in EEFC accounts of the merchant traders.



- (x) (a) AD Banks are further **permitted to allow the advance payments for the imports leg** on the demands as made by the overseas suppliers where **inward remittances** from the overseas buyer are **not received** before the **outward remittances** to the overseas supplier.
- (b) AD Banks are required to **handle the transactions based on commercial judgement** and also to ensure that any such advance payments for the **imports leg**.
- (c) AD Banks are **not permitted** to make advance payments **without bank Guarantees** or an unconditional, irrevocable standby LC from the reputed international banks where amounts are **exceeding USD 500,000** per transaction
- (d) AD Banks are further required to **ensure the prudential limits for the advance payments** before allowing the advance payments to the Importers.
- (xi) (a) AD Banks are permitted to issue **LC to the suppliers for the imports leg against the confirmed exports orders** and keeping in view the foreign exchange outlay for the **4 months** and completion of the MTTs within **9 months after** satisfaction of the terms and conditions as per guidelines as issued by the RBI for **Guarantees and Co-acceptances** as amended from time to time
- (b) AD Bank are required to **do one-to-one matching against each MTT** and also to **report the defaults in any leg by the Merchanting Traders to the concerned RO** of the RBI on half yearly basis within **15 days** from the close of each half year like June **30th** and December **31st**
- (xiii) The RBI is required to put **the names of the Merchant traders in the caution lists** of the annual exports earnings reports where outstanding of the merchant traders are **exceeding 5%**
- (xiv) (a) AD Banks are required to **ensure that the Merchanting traders are genuinely trading** of the goods and are not mere financial intermediaries and also **having confirmed orders for the imports** from the overseas buyers against the exports leg.
- (b) AD Banks are further required to **satisfy about the capabilities of the Merchanting traders** to perform the obligations under the exports orders and also the Merchanting trades shall **result in profits only after deducting against imports payments** and other related expenses.
- (xv) **Write-off of unrealized amount of exports leg:**
- AD Banks are permitted to **write-off the unrealized amount** against the exports leg **without any ceiling** on the request by the

Merchanting traders **after** satisfaction of the following circumstances and conditions:

- (a) Where the MTTs buyers have been **declared insolvent** and a certificate from the official liquidator as specifying that there is **no possibility of recovery** of exports proceeds have been submitted.
- (b) Where the goods as exported have been **auctioned or destroyed** by the Ports, Customs or Health authorities in the importing country and the **certificates to that effect have been submitted** to AD banks.
- (c) Where the **unrealized amounts of the exports** leg are representing the balance amounts outstanding as the cases are **settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organization**.
- (d) Where the MTTs should have been **obeyed all other provisions except the delays in timelines** either for outlay or completion period of the MTTs or both.
- (e) AD Banks are further required to **satisfy the bona fides of the transactions** and ensure that there are no KYC or AML concerns.
- (f) AD Banks are further required to **ensure that the transactions are not under the investigations** under the FEMA by the investigating agencies.
- (g) AD Banks are also required to **ensure that the counterparty to the Merchant traders are not from a country or jurisdiction as updated in FATF Public Statement as High Risk and Non-Co-operative Jurisdictions** where FATF has already asked for the counter measures.

(xvi) Third Party payments

- AD Banks are **not permitted** for the third party payments for the exports and imports leg of the MTTs.

(xvii) Payment of the Agency Commissions

- AD Banks are **not permitted** for making payments of the agency commissions against the MTTs.

However AD banks are permitted for making payments against the agency commissions at **maximum in reasonable amount** through outward remittances under the **exceptional circumstances after** satisfaction of the following terms and conditions:

- (a) Where the MTTs are **100 % completed**



- (b) Where the payments of the agency commission **should not be resulted an ultimate loss** at the end of MTTs.
- (c) Where the Merchanting traders are making specific **requests for making payments of the agencies commission**.

(xviii) Approaching by AD Banks to the RO

- AD banks are required to **approach to RO for regularization of the MTTs against the deviations from the prescribed guidelines** as issued by the RBI where MTTs are to be closed only after receiving approval from the concerned RO of the RBI.

(xix) Reporting to RO by the AD bank for the MTTs under FETERS

- AD Banks are required to report to the concerned RO under FETERS on **gross basis** against the following codes:

Trades	Purpose Code under FETERS	Description
Exports	P0108	Goods sold under merchanting or receipt against exports leg of the merchanting trades
Imports	S0108	Goods purchased under merchanting or payments made against imports leg of the merchanting trades

(xx) Merchanting trade with the Nepal and Bhutan

- AD Banks are permitted the MTTs with the Nepal and Bhutan with the following features:
 - (a) As Nepal and Bhutan are **landlocked countries**. Hence **facilities for transit trades** are permitted where goods are **imported from the 3rd countries** by Nepal and Bhutan **through India** under the cover of Customs Transit Declarations in accordance to the terms of the Government of India.
 - (b) **Treaties of the Transits** with Nepal and Bhutan are existing in consultation with the Government of India. Hence it's clarified that the **goods as consigned to the importers belonging to Nepal and Bhutan from 3rd countries are treated as MTTs** from the India and also qualified as traffic-in-transit **subject to that** the goods are otherwise compliant with the provisions of the India-Nepal Treaty of the Transit and Indo-Bhutan Treaty of the Transit respectively.

26. Processing of the imports related payments through Online Payments Gateway Service Providers (OPGSPs)

- AD Banks are permitted to offer a facility of the payments for the imports of goods and services, software's where values are **not exceeding USD 2,000** through entering into standing arrangements with the OPGSPs **after** satisfaction of the following terms and conditions:-
 - (a) AD Banks are permitted to **remit to the respective overseas exporter's accounts** against the balances are lying in the Imports Collection accounts on receipts of the funds from the importers and also should be **within maximum 2 days** from the date of the credits to the collection accounts.
 - (b) AD Banks are required to **obtain the copies of the invoices and airway bills from the OPGSP** containing the name and address of the beneficiaries as **evidence of the imports** and to **report the transactions in R-Return** under the foreign currency payments head.
 - (c) AD Banks are also permitted to **allow the credits in the OPGSP Import Collection accounts** out of the collection from the Indian importers for the online purchases from the overseas exporters **electronically through credit card, debit card, net banking and charge back** from the overseas exporters.
 - (d) **Permitted debits in the OPGSP Imports Collection accounts:**
 - (da) Debit against the **payments to the overseas exporters** in the permitted foreign currencies
 - (db) Debit against the **payments to the Indian importers** for the returns and refunds
 - (dc) Debit against the **payments of commission** at rates or frequencies as defined under the contract to the current accounts of the OPGSP
 - (dd) Debit against **bank charges**



27. Settlement of the Imports transactions in the currencies not having the direct exchange rates

- *AD Banks are permitted to **facilitate the settlement of the imports transactions** where the invoices are made in the **freely foreign currencies**.*
- *The settlements are to takes place in the **currency of the beneficiaries** where direct exchange rates are not available.*
- *Hence it has been decided that AD banks are **permitted to settle** the imports transactions **excluding those are put through the ACU mechanism after** satisfaction of the following terms and conditions:*
 - (i) *Where the importers are **customers of the AD Banks***
 - (ii) *Where signed contracts or invoices are **in the freely convertible currencies***
 - (iii) *Where the **beneficiaries are willing to receive the payments in the currencies of the beneficiaries** instead of the original as freely convertible currencies of the invoices, contracts or LC as **full and final settlement**.*
 - (iv) *Where the AD banks are **satisfied with the bona fides of the transactions***
 - (v) *Where the **counterparties** to the importers are **not from the countries or jurisdictions as updated in FATF Public Statement** on High Risk and Non Co-operative Jurisdictions on which FATF has already issued the instructions for the counter measures.*



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