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FED Master Direction No. 17/2016-17

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(Updated as on October 20, 2016)
(Updated as on March 31, 2016)
(Updated as on February 4, 2016)

To

All Authorised Dealer Category – I banks and Authorised Banks

Madam / Dear Sir,

Master Direction – Import of Goods and Services

Import of Goods and Services into India is being allowed in terms of Section 5 of the Foreign Exchange Management Act 1999 (42 of 1999), read with Notification No. G.S.R. 381(E) dated May 3, 2000 viz. Foreign Exchange Management (Current Account Transaction) Rules, 2000. These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/constituents with a view to implementing the regulations framed.

3. Instructions issued on import of goods and services into India have been compiled in this Master Direction. The list of underlying circulars/ notifications which form the basis of this Master Direction is furnished in the Appendix. Reporting instructions can be found in Master Direction on reporting ([Master Direction No. 18 dated January 01, 2016](#)).

4. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents. The Master Direction issued herewith shall be amended suitably simultaneously.

Yours faithfully,

(R S Amar)
Chief General Manager

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¹ Modified vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#) prior to modification it read as “Issue of acknowledgement”

² Inserted vide [AP \(DIR\) Series Circular 42 dated February 4, 2016](#)

Master Direction 17 – Import of Goods and Services

Section I - Introduction

(i) Import trade is regulated by the Directorate General of Foreign Trade (DGFT) under the Ministry of Commerce & Industry, Department of Commerce, Government of India. Authorised Dealer Category – I (AD Category – I) banks should ensure that the imports into India are in conformity with the Foreign Trade Policy in force and Foreign Exchange Management (Current Account Transactions) Rules, 2000 framed by the Government of India vide Notification No. G.S.R.381 (E) dated May 3, 2000 and the Directions issued by Reserve Bank under Foreign Exchange Management Act, 1999 from time to time.

(ii) AD Category – I banks should follow normal banking procedures and adhere to the provisions of Uniform Customs and Practices for Documentary Credits (UCPDC), etc. while opening letters of credit for import into India on behalf of their constituents.

(iii) Compliance with the provisions of Research & Development Cess Act, 1986 may be ensured for import of drawings and designs.

(iv) AD Category – I banks may also advise importers to ensure compliance with the provisions of Income Tax Act, wherever applicable.

(v) Any reference to the Reserve Bank should first be made to the Regional Office of the Foreign Exchange Department situated in the jurisdiction where the applicant person resides, or the firm / company functions, unless otherwise indicated. If, for any particular reason, they desire to deal with a different office of the Foreign Exchange Department, they may approach the Regional Office of its jurisdiction for necessary approval.

Section II - General Guidelines for Imports

B.1. General Guidelines

Rules and regulations to be followed by the AD Category – I banks from the foreign exchange angle while undertaking import payment transactions on behalf of their clients are set out in the following paragraphs. Where specific regulations do not

exist, AD Category – I banks may be governed by normal trade practices. AD Category – I banks may particularly note to adhere to "Know Your Customer" (KYC) guidelines issued by Reserve Bank (Department of Banking Regulation) in all their dealings.

B.2. Remittances for Import Payments

AD Category I Banks may allow remittance for making payments for imports into India, after ensuring that all the requisite details are made available by the importer and the remittance is for bona fide trade transactions as per applicable laws in force.

B.3. Import Licences

Except for goods included in the negative list which require licence under the Foreign Trade Policy in force, AD Category - I banks may freely open letters of credit and allow remittances for import. While opening letters of credit, the 'For Exchange Control purposes' copy of the licence should be called for and adherence to special conditions, if any, attached to such licences should be ensured. After effecting remittances under the licence, AD Category - I banks may preserve the copies of utilised licence /s till they are verified by the internal auditors or inspectors.

B.4. Obligation of Purchaser of Foreign Exchange

(i) In terms of Section 10(6) of the Foreign Exchange Management Act, 1999 (FEMA), any person acquiring foreign exchange is permitted to use it either for the purpose mentioned in the declaration made by him to an Authorised Dealer Category – I bank under Section 10(5) of the Act or for any other purpose for which acquisition of foreign exchange is permissible under the said Act or Rules or Regulations framed there under.

(ii) Where foreign exchange acquired has been utilised for import of goods into India, the AD Category – I bank should ensure that the importer furnishes evidence of import viz., ³as in IDPMS as explained in para C.7, Postal Appraisal Form or Customs Assessment Certificate, etc., and satisfy himself that goods equivalent to

³ Modified vide [AP DIR Series Circular No. 27 dated January 12, 2017](#) prior to modification it read as "Exchange Control Copy of the Bill of Entry"

the value of remittance have been imported. ⁴AD bank should ensure that all import remittances outstanding on the notified date of IDPMS are uploaded in IDPMS.

⁵(iii) Notwithstanding anything contained in the Manner of Payment in foreign Exchange ([FEMA 14R/2016-RB dated May 02, 2016](#)), a person resident in India may make payment for import of goods in foreign exchange through an international card held by him/in rupees from international credit card/ debit card through the credit/debit card servicing bank in India against the charge slip signed by the importer or as prescribed by Reserve Bank from time to time ,provided that the transaction is in conformity with the extant provisions and the import is in conformity with the Foreign Trade Policy in force.

(iv) Any person resident in India may also make payment as under:

(a) In rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India;

(b) By means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;

(c) A company or resident in India may make payment in rupees to its non-whole time director who is resident outside India and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirement

⁴ Inserted vide [AP DIR Series circular No.5 dated October 06, 2016](#)

⁵ Modified vide [AP DIR Series circular No.11 \[\(1\)/14\(R\)\] dated October 20, 2016](#) prior to modification it read as "In addition to the permitted methods of payment for imports laid down in [Notification No.FEMA14/2000-RB dated 3rd May 2000](#), payment for import can also be made by way of credit to non-resident account of the overseas exporter maintained with a bank in India. In such cases also AD Category – I banks should ensure compliance with the instructions contained in sub-paragraphs (i) and (ii) above."

of any law, rules, regulations, directions applicable for making such payments are duly complied with.

B.5. Time Limit for Settlement of Import Payments

B.5.1. Time limit for Normal Imports

(i) In terms of the extant regulations, remittances against imports should be completed not later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc.^{5A}Further, in view of the disruptions due to outbreak of COVID- 19 pandemic, with effect from May 22, 2020, the time period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) has been extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020.

(ii) AD Category – I banks may permit settlement of import dues delayed due to disputes, financial difficulties, etc. However, interest if any, on such delayed payments, usance bills or overdue interest is payable only for a period of up to three years from the date of shipment and may be permitted in terms of the directions in para C.2 of Section III below.

B.5.2. Time Limit for Deferred Payment Arrangements

Deferred payment arrangements (including suppliers' and buyers' credit) upto five years, are treated as trade credits for which the procedural guidelines as laid down in the Master Circular for External Commercial Borrowings and Trade Credits may be followed.

B.5.3. Time Limit for Import of Books

Remittances against import of books may be allowed without restriction as to the time limit, provided, interest payment, if any, is as per the instructions in para C.2 of Section III of this Circular.

⁶B.5.4 Extension of Time

^{5A}Inserted vide [AP DIR Series Circular No.33 dated May 22, 2020](#)

⁶ Inserted vide [AP DIR Series circular No.65 dated April 28, 2016](#)

(i) AD Category – I banks can consider granting extension of time for settlement of import dues up to a period of six months at a time (maximum up to the period of three years) irrespective of the invoice value for delays on account of disputes about quantity or quality or non-fulfilment of terms of contract; financial difficulties and cases where importer has filed suit against the seller. In cases where sector specific guidelines have been issued by Reserve Bank of India for extension of time (i.e. rough, cut and polished diamonds), the same will be applicable.

(ii) While granting extension of time, AD Category –I banks must ensure that:

- a. The import transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies;
- b. While considering extension beyond one year from the date of remittance⁷, the total outstanding of the importer does not exceed USD one million or 10 per cent of the average import remittances during the preceding two financial years, whichever is lower; and
- c. Where extension of time has been granted by the AD Category – I banks, the date up to which extension has been granted may be indicated in the 'Remarks' column.

(iii) Cases not covered by the above instructions / beyond the above limits, may be referred to the concerned Regional Office of Reserve Bank of India.

⁸(iv) The above shall be reported in IDPMS as per message "Bill of Entry Extension" and the date up to which extension is granted will be indicated in "Extension Date" column.

B.6. Import of Foreign Exchange / Indian Rupees

(i) Except as otherwise provided in the Regulations, no person shall, without the general or special permission of the Reserve Bank, import or bring into India, any foreign currency. Import of foreign currency, including cheques, is governed by Foreign Exchange Management (Export and Import of Currency) Regulations 2000,

⁷ Clarification: may be considered as date of shipment

⁸ Inserted vide [AP DIR Series circular No.05 dated October 06, 2016](#)

issued by Reserve Bank vide [⁹Notification No. FEMA 6\(R\)/2015-RB dated December 29, 2015](#), as amended from time to time.

(ii) Reserve Bank may allow a person to bring into India currency notes of Government of India and / or of Reserve Bank subject to such terms and conditions as the Reserve Bank may stipulate.

B.6.1. Import of Foreign Exchange into India

A person may–

(i) Send into India, without limit, foreign exchange in any form other than currency notes, bank notes and travellers cheques;

(ii) Bring into India from any place outside India, without limit, foreign exchange (other than unissued notes), subject to the condition that such person makes, on arrival in India, a declaration to the Custom Authorities at the Airport in the Currency Declaration Form (CDF) annexed to these Regulations; provided further that it shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or travellers cheques brought in by such person at any one time does not exceed USD 10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes (cash portion) alone brought in by such person at any one time does not exceed USD 5,000 (US Dollars five thousand) or its equivalent.

B.6.2. Import of Indian Currency and Currency Notes

(i) Any person resident in India who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000 (Rupees twenty five thousand only).

(ii) A person may bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India for any amount in denominations up to Rs.100/-.

⁹ Modified vide [Notification No.6\(R\)/2015-RB](#) prior to modification it read as “[Notification No. FEMA 6/2000-RB dated May 3, 2000](#)”

B.7. Third Party Payment for Import Transactions

AD category I banks are allowed to make payments to a third party for import of goods, subject to conditions as under:

- a. Firm irrevocable purchase order / tripartite agreement should be in place. However this requirement may not be insisted upon in case where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order / invoice has been produced.
- b. AD bank should be satisfied with the bonafides of the transactions and should consider the Financial Action Task Force (FATF) Statement before handling the transactions;
- c. The Invoice should contain a narration that the related payment has to be made to the (named) third party;
- d. Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party;
- e. Importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods.

B.8. Issue of Guarantees by an Authorised Dealer

B.8.1 An authorised dealer may give a guarantee in respect of any debt, obligation or other liability incurred by a person resident in India and owned to a person resident outside India, as an importer, in respect of import on deferred payment terms in accordance with the approval by the Reserve Bank of India for import on such terms.

B.8.2 An authorised dealer may give guarantee, Letter of Undertaking or Letter of Comfort in respect of any debt, obligation or other liability incurred by a person resident in India and owned to a person resident outside India (being an overseas supplier of goods, bank or a financial institution), for import of goods, as permitted under the Foreign Trade Policy announced by Government of India from time to time and subject to such terms and conditions as may be specified by Reserve

Bank of India from time to time.

B.8.3 An authorised dealer may, in the ordinary course of his business, give a guarantee in favour of a non-resident service provider, on behalf of a resident customer who is a service importer, subject to such terms and conditions as stipulated by Reserve Bank of India from time to time:

Provided that no guarantee for an amount exceeding USD 500,000 or its equivalent shall be issued on behalf of a service importer other than a Public Sector Company or a Department / Undertaking of the Government of India / State Government:

Provided further that where the service importer is a Public Sector Company or a Department / Undertaking of the Government of India / State Government, no guarantee for an amount exceeding USD 100,000 or its equivalent shall be issued without the prior approval of the Ministry of Finance, Government of India.

B.8.4 An authorised dealer may, subject to the directions issued by the Reserve Bank of India in this behalf, permit a person resident in India to issue corporate guarantee in favour of an overseas lessor for financing import through operating lease effected in conformity with the Foreign Trade Policy in force and under the provisions of the Foreign exchange Management (Current Account Transactions) Rules, 2000 framed by the Government of India vide Notification No. G. S. R. 381 (E) dated May 3, 2000 and the Directions issued by Reserve Bank of India under Foreign Exchange Management Act, 1999 from time to time.

Section III - Operational Guidelines for Imports

C.1. Advance Remittance

C.1.1. Advance Remittance for Import of Goods

(i) AD Category – I bank may allow advance remittance for import of goods without any ceiling subject to the following conditions:

(a) If the amount of advance remittance exceeds USD 200,000 or its equivalent, an unconditional, irrevocable standby Letter of Credit or a guarantee from an

international bank of repute situated outside India or a guarantee of an AD Category – I bank in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, is obtained.

(b) In cases where the importer (other than a Public Sector Company or a Department/Undertaking of the Government of India/State Government/s) is unable to obtain bank guarantee from overseas suppliers and the AD Category – I bank is satisfied about the track record and bonafides of the importer, the requirement of the bank guarantee / standby Letter of Credit may not be insisted upon for advance remittances up to USD 5,000,000 (US Dollar five million). AD Category – I banks may frame their own internal guidelines to deal with such cases as per a suitable policy framed by the bank's Board of Directors.

(c) A Public Sector Company or a Department/Undertaking of the Government of India / State Government/s which is not in a position to obtain a guarantee from an international bank of repute against an advance payment, is required to obtain a specific waiver for the bank guarantee from the Ministry of Finance, Government of India before making advance remittance exceeding USD 100,000.

(ii) All payments towards advance remittance for imports shall be subject to the specified conditions ¹⁰and AD banks are required to create Outward Remittance Message (ORM) for all such outward remittances in IDPMS & follow other extant IDPMS guidelines.

C.1.2. Advance Remittance for Import of Rough Diamonds

a) AD category – I banks are permitted to take decision on overseas mining companies to whom an importer (other than Public Sector Company or Department / Undertaking of Government of India / State Government) can make advance payments, without any limit / bank guarantee/ stand-by letter of Credit. Banks must ensure the following:

- i. The overseas mining company should have the recommendation of GJEPC.
- ii. The importer should be a recognised processor of rough diamonds and should have a good track record.

¹⁰ Inserted vide [AP \(DIR Series\) Circular dated No.5 dated October 06, 2016](#)

iii. AD Category - I banks should, undertake the transaction based on their commercial judgment and after being satisfied about the bonafides of the transaction.

iv. Advance payments should be made strictly as per the terms of the sale contract and should be made directly to the account of the company concerned, that is, to the ultimate beneficiary and not through numbered accounts or otherwise and AD banks should ensure that they have created the Outward Remittance Message (ORM) for all such outward remittances in IDPMS.

v. Further, due caution may be exercised to ensure that remittance is not permitted for import of conflict diamonds (Kimberly Certification).

vi. KYC and due diligence exercise should be done by the AD Category - I banks as per the existing guidelines.

vii. AD Category - I banks should follow-up submission of the Bill of Entry / documents evidencing import of rough diamonds into the country by the importer, in terms of the Act / Rules / Regulations / Directions issued in this regard.

b) In case of an importer entity in the Public Sector or a Department / Undertaking of the Government of India / State Government/s, AD Category - I banks may permit the advance remittance subject to the above conditions and a specific waiver of bank guarantee from the Ministry of Finance, Government of India, where the advance payments is equivalent to or exceeds USD 100,000/- (USD one hundred thousand only).

¹¹viii. Based on the AD code declared by the importer, the banks shall download the Bill of Entry (BOE) issued by EDI ports from “BOE Master” in IDPMS. For non-EDI ports, AD banks of the importer shall upload the BoE data in IDPMS as per message format “Manual BoE reporting” on daily basis on receipt of BoE from the customer/Customs Office.

ix. AD banks will enter BOE details and mark off ORMs as per the message format “BOE Settlement”

¹¹ Point viii to xi. Inserted vide [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

x. In case of payment after receipt of BoE, the AD bank shall generate ORM for import payments made by the importer customer as per the message format “BOE Settlement”

xi. Multiple ORMs can be settled against single BoE and also multiple BoEs can be settled against one ORM.

C.1.3. Advance Remittance for Import of Aircrafts/Helicopters and other Aviation Related Purchases

1. As a sector specific measure, entities which have been permitted under the extant Foreign Trade Policy to import aircrafts and helicopters (including used / second hand aircraft and helicopters) or any other person who has been granted permission by the Directorate General of Civil Aviation (DGCA) to operate Scheduled or Non-Scheduled Air Transport Service (including Air Taxi Services), can make advance remittance without bank guarantee or an unconditional, irrevocable Standby Letter of Credit, up to USD 50 million. Accordingly, AD Category – I banks may allow advance remittance, without obtaining a bank guarantee or an unconditional, irrevocable Standby Letter of Credit, up to USD 50 million, for direct import of each aircraft, helicopter and other aviation related purchases.

2. Importers of Aircrafts/ Helicopters and other Aviation related Purchases, not eligible under clause (1) above can make advance remittance without bank guarantee, in terms of Para C.1.1 above.

3. The remittances for the transactions at 1 and 2 above shall be subject to the following conditions:

i. The AD Category - I banks should undertake the transactions based on their commercial judgment and after being satisfied about the bonafide of the transactions. KYC and due diligence exercise should be done by the AD Category-I banks for the Indian importer entity and the overseas manufacturer company as well.

ii. Advance payments should be made strictly as per the terms of the sale contract and directly to the account of the manufacturer (supplier) concerned.

iii. AD Category - I banks may frame their own internal guidelines to deal with such cases, with the approval of their Board of Directors.

iv. In the case of a Public Sector Company or a Department / Undertaking of Central /State Governments, the AD Category - I bank shall ensure that the requirement of bank guarantee has been specifically waived by the Ministry of Finance, Government of India for advance remittances exceeding USD 100,000.

v. Physical import of goods into India is made within six months (three years in case of capital goods) from the date of remittance and the importer gives an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period. It is clarified that where advance is paid as milestone payments, the date of last remittance made in terms of the contract will be reckoned for the purpose of submission of documentary evidence of import.

vi. Prior to making the remittance, the AD Category – I bank may ensure that the requisite in principle approval of the Ministry of Civil Aviation in case of Scheduled Air Service Operators and in other cases approval of the Director General of Civil Aviation / other agencies in terms of the extant Foreign Trade Policy has been obtained by the company, for import.

vii. In the event of non-import of aircraft and aviation sector related products, AD Category - I bank should ensure that the amount of advance remittance is immediately repatriated to India.

Prior approval of the concerned Regional Office of the Reserve Bank will be required in case of any deviation from the above stipulations.

¹²viii. Concerned AD Category I banks to ensure generation of ORMs, BoE entries and BoE settlement with the respective ORMs etc. as per extant IDPMS guidelines.

C.1.4. Advance Remittance for the Import of Services

AD Category – I bank may allow advance remittance for import of services without any ceiling subject to the following conditions:

¹² Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

(a) Where the amount of advance exceeds USD 500,000 or its equivalent, a guarantee from a bank of international repute situated outside India, or a guarantee from an AD Category – I bank in India, if such a guarantee is issued against the counter-guarantee of a bank of international repute situated outside India, should be obtained from the overseas beneficiary.

(b) In the case of a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments, approval from the Ministry of Finance, Government of India for advance remittance for import of services without bank guarantee for an amount exceeding USD 100,000 (USD One hundred thousand) or its equivalent would be required.

(c) AD Category – I banks should also follow-up to ensure that the beneficiary of the advance remittance fulfils his obligation under the contract or agreement with the remitter in India, failing which, the amount should be repatriated to India.

¹³(d) AD Category – I banks should ensure generation of ORMs and marking off in the IDPMS etc., as per extant IDPMS guidelines.

C.2. Interest on Import Bills

(i) AD Category – I bank may allow payment of interest on usance bills or overdue interest on delayed payments for a period of less than three years from the date of shipment at the rate prescribed for trade credit from time to time.

(ii) In case of pre-payment of usance import bills, remittances may be made only after reducing the proportionate interest for the unexpired portion of usance at the rate at which interest has been claimed or LIBOR of the currency in which the goods have been invoiced, whichever is applicable. Where interest is not separately claimed or expressly indicated, remittances may be allowed after deducting the proportionate interest for the unexpired portion of usance at the prevailing LIBOR of the currency of invoice.

¹³ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

¹⁴(iii) In case of change in value due to (i) or (ii) above, the respective AD bank should ensure proper remark/indicator is entered for ORM mark off in IDPMS etc as per extant IDPMS guidelines.

C.3. Remittances against Replacement Imports

Where goods are short-supplied, damaged, short-landed or lost in transit and the Exchange Control Copy of the import licence has already been utilised to cover the opening of a letter of credit against the original goods which have been lost, the original endorsement to the extent of the value of the lost goods may be cancelled by the AD Category – I bank and fresh remittance for replacement imports may be permitted without reference to Reserve Bank, provided, the insurance claim relating to the lost goods has been settled in favour of the importer. It may be ensured that the consignment being replaced is shipped within the validity period of the license.

¹⁵AD bank should ensure that proper remark/indicator is entered for ORM mark off/closure of Bills in IDPMS etc. as per extant IDPMS guidelines.

C.4. Guarantee for Replacement Import

In case replacement goods for defective import are being sent by the overseas supplier before the defective goods imported earlier are reshipped out of India, AD Category-I banks may issue guarantees at the request of importer client for dispatch/return of the defective goods, according to their commercial judgment.

C.5. Import of Equipment by Business Process Outsourcing (BPO) Companies for their Overseas Sites

AD Category – I bank may allow BPO companies in India to make remittances towards the cost of equipment to be imported and installed at their overseas sites in connection with the setting up of their International Call Centres (ICCs) subject to the following conditions:

(i) The BPO company should have obtained necessary approval from the Ministry of Communications and Information Technology, Government of India and other

¹⁴ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

¹⁵ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

authorities concerned for setting up of the ICC.

(ii) The remittance should be allowed based on the AD Category - I banks' commercial judgment, the bonafides of the transactions and strictly in terms of the contract.

(iii) The remittance is made directly to the account of the overseas supplier.

(iv) The AD Category – I banks should also obtain a certificate as evidence of import from the Chief Executive Officer (CEO) or auditor of the importer company that the goods for which remittance was made have actually been imported and installed at overseas sites.

¹⁶(v) The AD Category I bank should ensure compliance with IDPMS guidelines as applicable.

C.6. Receipt of Import Bills/Documents

¹⁷Concerned AD Category banks to ensure generation of ORMs, BoE entries and BoE settlement with the respective ORMs in compliance with IDPMS guidelines as applicable.

C.6.1 Receipt of import documents by the importer directly from overseas suppliers

Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. AD Category – I bank should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:

(i) Where the value of import bill does not exceed USD 300,000.

(ii) Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.

(iii) Import bills received by Status Holder Exporters as defined in the Foreign Trade Policy, 100% Export Oriented Units / Units in Special Economic Zones, Public Sector Undertakings and Limited Companies.

¹⁶ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

¹⁷ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

(iv) Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.

C.6.2. Receipt of import documents by the importer directly from overseas suppliers in case of specified sectors

As a sector specific measure, AD Category - I banks are permitted to allow remittance for imports by non-status holder importers up to USD 300,000 where the importer of rough diamonds, rough precious and semi-precious stones has received the import bills / documents directly from the overseas supplier and the documentary evidence for import is submitted by the importer at the time of remittance. Status holder importers as defined in the Foreign Trade Policy dealing in the import of rough diamonds, rough precious and semi- precious stones can receive import bills directly from the suppliers without any ceiling. AD Category - I banks may undertake such transactions subject to the following conditions:

- (i) The import would be subject to the prevailing Foreign Trade Policy.
- (ii) The transactions are based on their commercial judgment and they are satisfied about the bonafides of the transactions.
- (iii) AD Category - I banks should do the KYC and due diligence exercise and should be fully satisfied about the financial standing / status and track record of the importer customer. Before extending the facility, they should also obtain a report on each individual overseas supplier from the overseas banker or reputed overseas credit rating agency.

C.6.3. Receipt of import documents by the AD Category – I bank directly from overseas suppliers

- (i) At the request of importer clients, AD Category – I bank may receive bills directly from the overseas supplier as above, provided the AD Category – I bank is fully satisfied about the financial standing/status and track record of the importer customer.
- (ii) Before extending the facility, the AD Category – I bank should obtain a report on each individual overseas supplier from the overseas banker or a reputed overseas

credit agency. However, such credit report on the overseas supplier need not be obtained in cases where the invoice value does not exceed USD 300,000 provided the AD Category – I bank is satisfied about the bonafides of the transaction and track record of the importer constituent.

C.7. Evidence of Import

C.7.1. Physical Imports

¹⁸(i) In case of all imports, irrespective of the value of foreign exchange remitted / paid for import into India, it is obligatory on the part of the AD Category– I bank through which the relative remittance was made, to ensure that the importer submits:-

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(a) The importer shall submit BoE number, port code and date for marking evidence of import under IDPMS as detailed in para C.8.

(b) Customs Assessment Certificate or Postal Appraisal Form, as declared by the importer to the Customs Authorities, where import has been made by post, or Courier Bill of Entry as declared by the courier companies to the Customs Authorities in cases where goods have been imported through couriers, as evidence that the goods for which the payment was made have actually been imported into India, or

¹⁸ Modified vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) prior to modification it read as “In case of all imports, where value of foreign exchange remitted / paid for import into India exceeds USD 100,000 or its equivalent, it is obligatory on the part of the AD Category– I bank through which the relative remittance was made, to ensure that the importer submits”

¹⁹ Sub points of point no. (i) and point no.(ii) modified vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#) prior to modification they read as “(a) The Exchange Control Copy of the Bill of Entry for Home Consumption, or
(b) The Exchange Control Copy of the Bill of Entry for warehousing, in case of 100% Export Oriented Units, or
(c) Customs Assessment Certificate or Postal Appraisal Form, as declared by the importer to the Customs Authorities, where import has been made by post, or Courier Bill of Entry as declared by the courier companies to the Customs Authorities in cases where goods have been imported through couriers, as evidence that the goods for which the payment was made have actually been imported into India, or
(d) The Exchange Control Copy of the Ex-Bond Bill of Entry or Bill of Entry issued by Customs Authorities by any other similar nomenclature for goods imported and stored in Free Trade Warehousing Zone (FTWZ) or SEZ Unit warehouses or Customs bonded warehouses, etc.
(ii) In respect of imports on Delivery against acceptance basis, AD Category – I bank should insist on production of evidence of import at the time of effecting remittance of import bill. However, if importers fail to produce documentary evidence due to genuine reasons such as non- arrival of consignment, delay in delivery/ customs clearance of consignment, etc., AD bank may, if satisfied with the genuineness of request, allow reasonable time, not exceeding three months from the date of remittance, to the importer to submit the evidence of import.

(c) For goods imported and stored in Free Trade Warehousing Zone (FTWZ) or SEZ Unit warehouses or Customs bonded warehouses, etc., the Exchange Control Copy of the Ex-Bond Bill of Entry or Bill of Entry issued by Customs Authorities by any other similar nomenclature the importer shall submit applicable BoE number, port code and date for marking evidence of import under IDPMS as detailed in para C.8.

(ii) In respect of imports on Delivery against acceptance basis, AD Category – I bank shall verify the evidence of import from IDPMS at the time of effecting remittance of import bill. However, if importers fail to produce documentary evidence due to genuine reasons such as non- arrival of consignment, delay in delivery/ customs clearance of consignment, etc., AD bank may, if satisfied with the genuineness of request, allow reasonable time, not exceeding three months from the date of remittance, to the importer to submit the evidence of import.

²⁰(iii) AD banks are required to create Outward Remittance Message(ORM) for all such outward remittances irrespective of value and shall perform the subsequent activity viz document submission, outward remittance data, matching with ORM, closing of transactions etc. as per IDPMS guidelines.

C.7.2. Evidence of Import in Lieu of Bill of Entry

(i) AD Category – I bank may accept, in lieu of Exchange Control Copy of Bill of Entry for home consumption, a certificate from the Chief Executive Officer (CEO) or auditor of the company that the goods for which remittance was made have actually been imported into India provided :-

(a) The amount of foreign exchange remitted is less than USD 1,000,000 or its equivalent and

(b) The importer is a company listed on a stock exchange in India and whose net worth is not less than Rs.100 crore as on the date of its last audited balance sheet, or, the importer is a public sector company or an undertaking of the Government of India or its departments.

²⁰ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

(ii) The above facility may also be extended to autonomous bodies, including scientific bodies/academic institutions, such as Indian Institute of Science / Indian Institute of Technology, etc. whose accounts are audited by the Comptroller and Auditor General of India (CAG). AD Category – I bank may insist on a declaration from the auditor/CEO of such institutions that their accounts are audited by CAG.

²¹(iii) Outward Remittance Message has to be created & BoE has to be downloaded from “BoE Master “in IDPMS (in case of EDI ports). In case of Non-EDI ports duplicate copy/customs certified copy have to be submitted or BoE waiver obtained from RBI.

C.7.3. Non-physical Imports

(i) Where imports are made in non-physical form, i.e., software or data through internet / datacom channels and drawings and designs through e-mail / fax, a certificate from a Chartered Accountant that the software / data / drawing/ design has been received by the importer, may be obtained.

(ii) AD Category – I bank should advise importers to keep Customs Authorities informed of the imports made by them under this clause.

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²³C.8. Detailed Operational Procedures for IDPMS

The operational guidelines are summarised as below:

(i) AD banks are required to create Outward Remittance Message (ORM) for all outward remittance/s for import payments on behalf of their importer customer for which the prescribed documents for evidence of import have not been submitted.

(ii) Creation of ORM for all outstanding outward remittance/s for import payments need to be completed on or before October 31, 2016

²¹ Inserted vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) and [AP \(DIR Series\) Circular No.5 dated October 06, 2016](#)

²² Clarification: ORM not applicable for non physical imports

²³ Modified vide [AP \(DIR series circular\) No.5 dated October 05, 2016](#) prior to modification it read as “Issue of Acknowledgement : AD Category – I bank should acknowledge receipt of evidence of import e.g. Exchange Control Copy of the Bill of Entry, Postal Appraisal Form, or Customs Assessment Certificate, etc., from importers by issuing acknowledgement slips containing all relevant particulars relating to the import transactions.”

Settlement of ORM with BoE

(iii) Based on the AD code declared by the importer, the banks shall download the Bill of Entry (BoE) issued by EDI ports from “BOE Master” in IDPMS. For non-EDI ports, AD bank of the importer shall upload the BoE data in IDPMS as per message format “Manual BOE reporting” on daily basis on receipt of BoE from the customer/Customs office. ²⁴In order to enhance the ease of doing business and reduce transaction costs, submission of hardcopy of evidence of import documents i.e., BoE Exchange Control copy has been discontinued with effect from December 1, 2016 as the same is available in IDPMS. The revised procedure is as under:

(iv) AD banks shall enter BoE details (BoE number, port code and date) for ORM associated with the advance payments for import transactions as per the message format “BOE settlement”.

(v) In case of payment after receipt of BoE, the AD bank shall generate ORM for import payments made by its importer customer as per the message format “BOE settlement”.

(vi) Multiple ORMs can be settled against single BoE and also multiple BoE can be settled against one ORM.

²⁵(vii) On settlement of ORM with evidence of import AD Category – I bank shall in all cases issue an acknowledgement slip to the importer containing the following particulars:

- a. importer's full name and address with code number ;
- b. number and date of BoE and the amount of import ; and
- c. a recap advice on number and amount of BoE and ORM not settled for the importer.

²⁶(viii) The importer needs to preserve the printed ‘Importer copy’ of BoE as evidence of import and acknowledgement slip for future use.

Extension and Write Off

²⁴ Inserted vide [AP \(DIR Series\) Circular No.27 dated January 12, 2017](#)

²⁵ Inserted vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#)

²⁶ Inserted vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#)

(ix) AD Category I banks shall give extension for submission of BoE beyond the prescribed period in terms of the extant guidelines on the matter, and the same will be reported in IDPMS as per the message “Bill of Entry Extension” and the date up to which extension is granted will be indicated in “Extension Date” column.

(x) AD Category I banks can consider closure of BoE/ORM in IDPMS that involves write off to the extent of 5% of invoice value in cases where the amount declared in BoE varies from the actual remittance due to operational reasons and AD bank is satisfied with the reason/s submitted by the importer.

(xi) AD Category I banks may close the BoE for such import transactions where write off is on account of quality issues; short shipment or destruction of goods by the port / Customs / health authorities in terms of extant guidelines on the matter subject to submission of satisfactory documentation by the importer irrespective of the amount involved. AD Bank shall settle and close ORM/BoE with appropriate “Adjustment Indicator” in IDPMS.

(xii) The above operational guidelines for extension and write off are meant to facilitate closure of bills in IDPMS and will be subject to extant guidelines on the matter and not absolve the importer from remitting / receiving the amount in case of change in circumstances.

(xiii) While allowing write off, AD Category - I banks must ensure that:

a. The case is not the subject matter of any pending civil or criminal suit;

b. The importer has not come to the adverse notice of the Enforcement Directorate or the Central Bureau of Investigation or any such other law enforcement agency; and

c. There is a system in place under which internal inspectors or auditors of the AD category – I banks (including external auditors appointed by authorised dealers) should carry out random sample check / percentage check of write-off of import bills;

(xiv) Extension and write off cases not covered by the extant guidelines may be referred to the concerned Regional Office of Reserve Bank of India for necessary approval.

²⁷(xv) The extant instructions and guidelines for Evidence of Import in Lieu of Bill of Entry will apply mutatis mutandis. The evidence of import in lieu of BoE in permitted/approved conditions will be created and uploaded by AD Category – I bank of the importer in the form of BoE data as per message format “Manual BOE reporting” in IDPMS.

Follow-up for Evidence of Import

²⁸(xvi) AD Category – I banks shall continue to follow up for outward remittance made for import (i.e. unsettled ORM) in terms of extant guidelines and instructions on the subject. In cases where relevant evidence of import data is not available in IDPMS on due dates against the ORM, AD Category – I bank shall follow up with the importer for submission of documentary evidence of import. Similarly, if BoE data is not settled against ORM within the prescribed period, AD Category – I banks shall follow up with the importer in terms of extant instructions.

²⁹C.9. Verification and Preservation

(i) Internal inspectors and IS auditors (including external auditors appointed by AD Category – I bank) should carry out verification and IS audit and assurance of the “BOE Settlement” process in IDPMS. Data and process followed by AD Category –I bank for “BOE Settlement” should be preserved in terms of the guidelines under Cyber Security Framework in the bank.

(ii) Internal inspectors or auditors (including external auditors appointed by AD Category – I bank) should carry out verification of the documents evidencing import other than which are available in IDPMS, e.g. Exchange Control copies of Postal Appraisal Forms, or Customs Assessment Certificates, etc.

²⁷ Inserted vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#)

²⁸ Modified vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#) prior to modification it read as “AD Category – I banks are required to follow up for submission of prescribed documents for evidence of import in terms of extant guidelines on the subject”

²⁹ Modified vide [AP \(DIR Series\) Circular No. 27 dated January 12, 2017](#) prior to modification it read as “(i) Internal inspectors or auditors (including external auditors appointed by AD Category – I bank) should carry out verification of the documents evidencing import, e.g. Exchange Control copies of Bills of Entry or Postal Appraisal Forms, or Customs Assessment Certificates, etc.

(ii) Documents evidencing import into India should be preserved by AD Category – I bank for a period of one year from the date of their verification. However, in respect of cases which are under investigation by investigating agencies, the documents may be destroyed only after obtaining clearance from the investigating agency concerned.”

(iii) Documents evidencing import into India should be preserved by AD Category – I bank for a period of one year from the date of their verification. However, in respect of cases which are under investigation by investigating agencies, documents, and/or data, process may be destroyed only after obtaining clearance from the investigating agency concerned.

C.10. Follow-up for Import Evidence

(i) In case an importer does not furnish any documentary evidence of import, as required under paragraph C.7. of Section III, within 3 months from the date of remittance involving foreign exchange³⁰ irrespective of value, the AD Category – I bank should rigorously follow-up for the next 3 months, ³¹by using various modes of communications. It should, however, be ensured that atleast one communication with the importer in this regard is by issuance of registered letter.

³²(ii) In IDPMS, all outstanding import remittances, irrespective of the amount involved, should be reported by the AD Category-I banks. Further, submission of a separate BEF Statement by the AD Category-I bank would be required till the half year ended December 2017 and discontinued thereafter.

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³⁰ Modified vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) prior to modification it read as “exceeding USD 100,000”

³¹ Modified. Prior to modification it read as “including issuing registered letters to the importer”

³² Modified. Prior to modification it read as” On operationalization of IDPMS, all outstanding import remittances, irrespective of the amount involved, will be reported into the system by banks and submission of a separate BEF statement would be discontinued from a date, to be notified separately”. which was modified vide [AP \(DIR Series\) Circular No.65 dated April 28, 2016](#) prior to modification it read as “AD Category - I banks should henceforth submit a statement on half-yearly basis as at the end of June & December of every year, in form BEF furnishing details of import transactions, exceeding USD 100,000 in respect of which importers have defaulted in submission of appropriate document evidencing import within 6 months from the date of remittance using the online eXtensible Business Reporting Language (XBRL) system on a Bank-wide basis instead of the present system of branch-wise submission, to the respective Regional Offices of the RBI. The Statement should be submitted within 15 days from the close of the half-year to which the statement relates.”

³³ Omitted

C.11 Import of Gold

C.11.1 Import of Gold.

- i. The 20:80 scheme of import of gold was withdrawn on November 28, 2014. However, the obligation to export under the 20:80 scheme would apply to the unutilised gold imported before November 28, 2014.
- ii. Nominated banks and nominated agencies, as notified by DGFT, are permitted to import gold on consignment basis. In addition to the above, qualified jewellers as notified by International Financial Services Centres Authority (IFSCA) will be permitted to import gold under specific ITC (HS) Codes through India International Bullion Exchange IFSC Limited (IIBX). All sale of gold domestically will, however, be against upfront payment. Nominated banks are free to grant gold metal loans.
- ³⁴iii. The Status Holder Exporters shall adhere to the guidelines contained in extant Foreign Trade Policy, as amended from time to time.
- iv. The import of gold coins and medallions is permitted. However, prohibition on sale of gold coins and medallions by banks continues pending further review.

Head Offices / International Banking Divisions of AD Category - I banks shall henceforth submit the following statements under XBRL system from October 2014 onwards. (a) Statement on half yearly basis (end March / end September), showing the quantity and value of gold imported by the nominated banks/ agencies/ qualified jewellers/ EOUs/ SEZs in Gem & Jewellery Sector, mode of payment-wise. (b) Statement on monthly basis showing the quantity and value of gold imports by the nominated agencies (other than the nominated banks)/ EOUs/ qualified jewellers/ SEZs in Gem & Jewellery sector during the month under report as well as the cumulative position as at the end of the said month beginning from the 1st month of the Financial Year. Both the statements shall be submitted, even if there is 'Nil' position, by the 10th of the following month / half year, to which it relates.

³⁴ Modified. Prior to modification it read as "Star and Premier Trading Houses (STH/PTH) can import gold on Document against Payment (DP) basis as per entitlement without any end use restrictions".
Clarification: Import by such entities, if permitted under FTP shall be on Document against Payment (DP) basis.

C.11.2. Import of Gold Jewellery Including Jewellery Made of Precious Metals or/and Studded With Diamonds / Precious Stones /Semi-precious.

Suppliers' and Buyers' credit (trade credit) including the usance period of Letters of Credit opened for import of gold in any form, including jewellery made of gold/precious metals or/and studded with diamonds/semi- precious/precious stones, should not exceed 90 days from the date of shipment.

C.12. Import of Other Precious Metals

C.12.1. Import of Platinum/ Palladium/ Rhodium/ Silver/ Rough, Cut & Polished Diamonds/ Precious and Semi-precious Stones.

(a) Suppliers' and Buyers' Credit, including the usance period of Letters of Credit opened for import of Platinum, Palladium, Rhodium and Silver and rough, cut and polished Diamonds, Precious and semi-precious stones; should not exceed 90 days from the date of shipment.

However for Clean Credit i.e. credit given by a foreign supplier to its Indian customer/ buyer, without any Letter of Credit (Suppliers' Credit)/ Letter of Undertaking (Buyers' Credit)/ Fixed Deposits from any Indian financial institution for import of rough, cut and polished diamonds, precious and semi-precious stones, may be permitted for a period not exceeding 180 days from the date of shipment.

³⁵Further, AD banks may allow extension of time in respect of such clean credit for import of rough, cut and polished diamonds, for a period exceeding 180 days from the date of shipment to a maximum period of 180 days beyond the prescribed period/ due date beyond which they may refer the cases to the respective Regional Office of the Reserve Bank. Such extension by AD banks may be subject to the conditions such as: (i) AD banks being satisfied of the genuineness of the reason and bonafides of the transaction and also that no interest payment is involved for the additional period; (ii) reasons for such extension are due to financial difficulties and/ or quality disputes; (iii) importer is not under investigation and is not a frequent offender. AD banks may submit a half yearly report of such extensions allowed customer-wise, to the respective Regional Office of the Reserve Bank.

³⁵ Inserted vide [A.P.\(DIR Series\) Circular No. 57 dated March 31, 2016](#)

(b) AD Category – I banks should ensure that due diligence is undertaken and Know Your Customer (KYC) norms and Anti-Money Laundering (AML) guidelines, issued by the Reserve Bank are adhered to while undertaking import of the precious metals and rough, cut and polished diamonds. Further, any large or abnormal increase in the volume of business should be closely examined to ensure that the transactions are bonafide and are not intended for interest / currency arbitrage.

C.12.2. Import of Platinum / Silver on Unfixed Price Basis

The nominated agency/bank may allow import of platinum and silver, on outright purchase basis subject to the condition that although ownership of the same shall be passed on to the importers at the time of import itself, the price shall be fixed later as and when the importer sells to the user.

C.13. Import Factoring

(i) AD Category – I bank may enter into arrangements with international factoring companies of repute, preferably members of Factors Chain International, without the approval of Reserve Bank.

(ii) They will have to ensure compliance with the extant foreign exchange directions relating to imports, Foreign Trade Policy in force and any other guidelines/directives issued by Reserve Bank in this regard.

C.14. Merchanting Trade³⁶

C.14.1. AD banks may handle the Merchanting Trade Transactions (MTT) subject to the following guidelines:

- i. For a trade to be classified as merchanting trade, goods acquired shall not enter the Domestic Tariff Area.
- ii. Considering that in some cases, the goods acquired may require certain specific processing/ value-addition, the state of goods so acquired may be allowed transformation subject to the AD bank being satisfied with the documentary evidence and bonafides of the transaction.
- iii. The MTT shall be undertaken for the goods that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India as on the date of shipment. All rules, regulations and directions applicable to exports

³⁶ Revised guidelines on merchanting trade transactions issued vide [A.P. \(DIR Series\) Circular No.20 dated January 23, 2020](#) in supersession of guidelines contained in [A.P. \(DIR Series\) Circular No.115 dated March 28, 2014](#).

- (except Export Declaration Form) and imports (except Bill of Entry) shall be complied with for the export leg and import leg respectively.
- iv. AD bank shall satisfy itself with the bonafides of the transactions. Further, KYC and AML guidelines shall be scrupulously adhered to by the AD bank while handling such transactions.
 - v. The entire merchanting trade is to be routed through the same AD bank. The AD bank shall verify the documents like invoice, packing list, transport documents and insurance documents (if originals are not available, Non-negotiable copies duly authenticated by the bank handling documents may be taken) and satisfy itself about the genuineness of the trade. The AD bank may, if satisfied, rely on online verification of Bill of Lading/ Airway Bill on the website of International Maritime Bureau or Airline web check facilities. However, the AD bank shall ensure that the requisite details are made available /retrievable at the time of Inspection/Audit/investigation of the transactions.
 - vi. The entire MTT shall be completed within an overall period of nine months and there shall not be any outlay of foreign exchange beyond four months. The commencement date of merchanting trade shall be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date shall be the date of shipment / export leg receipt or import leg payment, whichever is the last.
 - vii. Short-term credit either by way of suppliers' credit or buyers' credit may be extended for MTT to the extent not backed by advance remittance for the export leg, including the discounting of export leg LC by the AD bank, as in the case of import transactions. However, Letter of Undertaking (LoU)/ Letter of Comfort (LoC) shall not be issued for supplier's/ buyer's credit.
 - viii. Any receipts for the export leg, prior to the payment for import leg, may be parked either in Exchange Earners Foreign Currency (EEFC) account or in an interest-bearing INR account till the import leg liability arises. It shall be strictly earmarked/ lien-marked for the payment of import leg and the liability of the import leg, as soon as it arises, shall be extinguished out of these funds without any delay. If such receipts are kept in interest-bearing INR account, hedging thereof may be allowed by the AD bank at the request of its customer, as per extant regulations. No fund/non-fund-based facilities shall be extended against these balances.
 - ix. In case of discounting of export leg LC where payment for import leg is still to be made (even if partially), the proceeds shall be utilized in the manner prescribed at point no. 2 (viii) above.
 - x. Payment for import leg may also be allowed to be made out of the balances in EEFC account of the merchant trader.
 - xi. Merchanting traders may be allowed to make advance payment for the import leg on demand made by the overseas supplier. In case where inward

remittance from the overseas buyer is not received before the outward remittance to the overseas supplier, AD bank may handle such transactions based on its commercial judgement. It may, however, be ensured that any such advance payment for an import leg beyond USD 500,000/- per transaction, shall be made against Bank Guarantee / an unconditional, irrevocable standby Letter of Credit from an international bank of repute. Overall prudential limits on allowing such advance payments by a customer may be fixed by the AD bank.

- xii. Letter of Credit to the supplier for the import leg is permitted against confirmed export order, keeping in view the foreign exchange outlay of four months and completion of the MTT within nine months and subject to compliance with the instructions issued by Department of Banking Regulation on "Guarantees and Co-acceptances", as amended from time to time.
- xiii. AD bank shall ensure one-to-one matching in case of each MTT and report defaults in any leg by the traders to the concerned Regional Office of the Reserve Bank, on half yearly basis in the format as annexed, within 15 days from the close of each half year, i.e. June and December;
- xiv. Merchant traders with outstanding of 5% or more of their annual export earnings shall be liable for caution listing.

C. 14. 2 The merchanting traders shall be genuine traders of goods and not mere financial intermediaries. Confirmed orders must be received by them from the overseas buyers. AD banks shall satisfy themselves about the capabilities of the merchanting trader to perform the obligations under the order. The merchanting trade shall result in profit which shall be determined by subtracting import payments and related expenses from export proceeds for the specific MTT.

C.14.3 Write-off of unrealized amount of export leg:

- i. AD bank may write-off the unrealized amount of export leg, without any ceiling, on the request made by the Merchanting trader, in the following circumstances:
 - a. The MTT buyer has been declared insolvent and a certificate from the official liquidator specifying that there is no possibility of recovery of export proceeds has been produced.
 - b. The goods exported have been auctioned or destroyed by the Port / Customs / Health authorities in the importing country and a certificate to that effect has been produced.

- c. The unrealized amount of the export leg represents the balance due in a case settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organization;
provided, the MTT is in adherence to all other provisions except the delays in timelines (either for outlay or completion period of MTT or both) attributed to reasons mentioned at a, b and c above.
- ii. In addition to above, write-off as at (i) shall be subject to following conditions:
 - a. AD bank shall satisfy itself with the bonafides of the transactions and ensure that there are no KYC/AML concerns.
 - b. The transaction shall not be under investigation under FEMA by any of the investigating agency/ies.
 - c. The counterparty to the merchant trader is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non-Co-operative Jurisdictions on which FATF has called for counter measures.

C.14. 4 Third Party payments

Third party payments for export and import legs of the MTT are not allowed.

C.14.5 Payment of Agency Commission

Agency commission is not allowed in MTTs. However, AD banks may allow payment of agency commission up to a reasonable extent by way of outward remittance under exceptional circumstances, subject to the following conditions:

- a. MTT has been completed in all respects.
- b. The payment of agency commission shall not result in the MTT ending into a loss.
- c. The Merchanting trader shall make a specific request to the AD bank in this regard.

C.14.6 AD bank may approach Regional Office (RO) concerned of the Reserve Bank for regularization of the MTT for deviation, if any, from the prescribed guidelines and the MTT shall be closed only after receiving approval from the RO concerned of the Reserve Bank.

C.14.7 Reporting for merchanting trade transactions under FETERS shall be done on **gross basis**, against the undermentioned codes:

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

C.14.8. Merchanting trade to Nepal and Bhutan

As Nepal and Bhutan are landlocked countries, there is a facility of transit trade whereby goods are imported from third countries by Nepal and Bhutan through India under the cover of Customs Transit Declarations in terms of the Government of India Treaty of Transit with these two countries. In consultation with Government of India, it is clarified herein that goods consigned to the importers of Nepal and Bhutan from third countries under merchanting trade from India would qualify as traffic-in-transit, if the goods are otherwise compliant with the provisions of the India-Nepal Treaty of Transit and Indo-Bhutan Treaty of Transit respectively.

C.15. Processing of import related payments through Online Payment Gateway Service Providers (OPGSPs)

AD Category-I banks have been permitted to offer facility of payment for imports of goods and software of value not exceeding USD 2,000 by entering into standing arrangements with the OPGSPs subject to the following:-

- (a) The balances held in the Import Collection account shall be remitted to the respective overseas exporter's account immediately on receipt of funds from the importer and, in no case, later than two days from the date of credit to the collection account.
- (b) The AD Category –I bank will obtain a copy of invoice and airway bill from the OPGSP containing the name and address of the beneficiary as evidence of import and report the transaction in R-Return under the foreign currency payment head.

- (c) The permitted credits in the OPGSP Import Collection account will be:
- (i) collection from Indian importers for online purchases from overseas exporters electronically through credit card, debit card and net banking and
 - (ii) charge back from the overseas exporters.
- (d) The permitted debits in the OPGSP Import Collection account will be:
- (i) payment to overseas exporters in permitted foreign currency;
 - (ii) payment to Indian importers for returns and refunds;
 - (iii) payment of commission at rates/frequencies as defined under the contract to the current account of the OPGSP; and
 - (iv) bank charges

³⁷C.16. Settlement of Import transactions in currencies not having a direct exchange rate

To further liberalize the procedure and facilitate settlement of import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such import transactions (excluding those put through the ACU mechanism), subject to conditions as under:

- (a) Importer shall be a customer of the AD Bank,
- (b) Signed contract / invoice is in a freely convertible currency,
- (c) The beneficiary is willing to receive the payment in the currency of beneficiary instead of the original (freely convertible) currency of the invoice/ contract, Letter of Credit as full and final settlement,
- (d) AD bank is satisfied with the bonafides of the transactions, and
- (e) The counterparty to the importer of the AD bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures.

³⁷ Inserted vide [AP \(DIR\) Series Circular 42 dated February 4, 2016](#)

Appendix

Consolidated List of Circulars on Import of Goods and Services

Sr. No	AP (DIR Series) Circular No	Subject	Date of Circular
1	106	Import of goods and services into India.	June 19, 2003
2	4	Merchanting Trade Transactions – Clarifications - Short term credit	July 19, 2003
3	9	Evidence of Import – Liberalisation	August 18, 2003
4	15	Advance Remittance for Imports	September 17, 2003
5	49	Advance Remittance for Imports	December 15, 2003
6	66	Imports into India – Direct Receipt of Import Bills/Documents	February 6, 2004
7	72	Foreign Exchange Management Act, 1999 - Import of Goods into India – Evidence of Import	February 20, 2004
8	2	Import of Gold by (i) Export Oriented Units (EOUs), (ii) Units in SEZ/EPZ, and (iii) Nominated Agencies	July 9, 2004
9	34	Import of Gold on Loan Basis – Tenor of Loan and Opening of Stand-By Letter of Credit	February 18, 2005
10	1	Import of Goods of Value USD 100,000 and Less -Clarification on Follow up for Evidence of Import	July 12, 2005
11	33	Liberalisation of Export and Import procedures	February 28, 2007
12	34	Import of Goods of Value USD 100,000 and Less -Clarification on Follow up for Evidence of Import	March 2, 2007
13	63	Import of Equipments by BPO Companies in India for International Call Centre	May 25, 2007
14	77	Advance Remittance for Import of aircrafts / helicopters / other aviation related purchases	June 29, 2007
15	18	Direct Receipt of Import Bills / Documents - Liberalisation	November 7, 2007
16	37	Direct Receipt of Import Bills / Documents for Import of Rough Precious & Semi-Precious Stones	April 16, 2008
17	03	Advance Remittance for Import of Rough Diamonds	August 4, 2008

18	08	Advance Remittance for Import of Rough Diamonds	August 21, 2008
19	09	Foreign Exchange Management Act, 1999- Advance Remittance for Import of Goods - Liberalisation	August 21, 2008
20	12	Foreign Exchange Management Act, 1999 – Import of Platinum / Palladium / Rhodium / Silver	August 28, 2008
21	13	Direct Receipt of Import Bills / Documents - Liberalisation	September 1, 2008
22	15	Foreign Exchange Management Act, 1999 – Advance Remittances for Import of Services	September 8, 2008
23	21	Advance Remittance for Import of Rough Diamonds	December 29, 2009
24	56	Advance Remittance for Import of Goods – Liberalisation	April 29, 2011
25	59	Import of rough, cut and polished diamonds	May 06, 2011
26	82	Release of Foreign Exchange for Imports – Further Liberalisation	February 21, 2012
27	83	Import of Gold on Loan Basis - Tenor of Loan and Opening of Stand - By Letter of Credit	February 27, 2012
28	103	Data on import of Gold – Statements – Modification	April 03, 2012
29	83	Import of precious and semi precious stones- Clarification	February 20, 2013
30	103	Import of Gold by Nominated Banks/Agencies	May 13, 2013
31	107	Import of Gold by Nominated Banks/Agencies	June 4, 2013
32	122	Import of Gold by Nominated Banks/Agencies	June 27, 2013
33	15	Import of Gold by Nominated Banks /Agencies/Entities	July 22, 2013
34	39	Export import of Currency	September 6, 2013
35	70	Third party payments for export / import transactions	November 8 , 2013
36	71	Advance Remittance for Import of Rough Diamonds	November 8, 2013
37	73	Import of Gold by Nominated Banks /Agencies/Entities	November 11, 2013
38	75	Trade Credit for imports into India- Online submission of data on issuance of Guarantee/Letter of Undertaking (LoU)/Letter of Comfort (LoC) by ADs	November 19, 2013

39	82	Import of Gold by Nominated Banks/Agencies/Entities	December 31, 2013
40	95	Merchanting Trade Transactions	January 17, 2014
41	100	Third party payments for export / import transactions	February 04, 2014
42	103	Import of Gold / Gold Dore by Nominated Banks /Agencies /Entities - Clarifications	February 14, 2014
43	115	Merchanting Trade Transactions - Revised guidelines	March 28, 2014
44	116	Advance Remittance for Import of Rough Diamonds	April 01, 2014
45	122	Trade Credits for Imports into India – Review of all-in-cost ceiling	April 10, 2014
46	133	Import of Gold by Nominated Banks / Agencies / Entities	May 21, 2014
47	146	Export & Import of Currency- Enhanced Facilities	June 19, 2014
48	2	Import of Rough, Cut and Polished Diamonds - credit relaxation	July 07, 2014
49	42	Import of Gold by Nominated Banks/Agencies	November 28, 2014
50	76	Form A1- Payments for Imports - Discontinuance thereof	February 12, 2015
51	79	Guidelines on Import of Gold by Nominated Banks / Agencies	February 18, 2015
52	96	Merchanting Trade to Nepal and Bhutan	April 30, 2015
53	16	Processing and settlement of import and export related payments facilitated by Online Payment Gateway Service Providers	September 24 , 2015
54	29	Import of Goods into India – Evidence of Import	November 26, 2015
55	30	Advance Remittance for Import of aircrafts / helicopters /other aviation related purchases	November 26, 2015
56	42	Settlement of Export/ Import transactions in currencies not having a direct exchange rate	February 4, 2016
57	57	Import of Rough, Cut and Polished Diamonds	March 31, 2016
58	65	Import of goods- Import Data Processing and Monitoring System (IDPMS)	April 28, 2016
59	05	Import Data Processing and Monitoring System (IDPMS)	October 06, 2016
60	11[(1)/14(R)]	Foreign Exchange Management (Manner of Receipt and Payment) Regulations 2016	October 20, 2016

61	<u>27</u>	Evidence of Import under Import Data Processing and Monitoring System (IDPMS)	January 12, 2017
62	<u>33</u>	Import of goods and services- Extension of time limits for Settlement of import payment	May 22, 2020