

A.P. (DIR Series) Circular No.12 (September 9, 2000)

RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001

A.P. (DIR Series) Circular No.12

September 9, 2000

To

All Authorised Dealers in Foreign Exchange

Dear Sirs,

**Foreign Exchange Management Act 1999 –
Export of Goods and Services**

Attention of authorised dealers is invited to the Notification No. FEMA 23/ 2000-RB dated 3rd May, 2000, issued by Reserve Bank in exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of Section 7 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), under which the “Foreign Exchange Management (Export of Goods and Services) Regulations, 2000” have been made. Synopsis of these Regulations have already been advised vide Annexure III to A.D. (M.A. Series) Circular No 11 dated May 16, 2000. The Annexure attached to this circular contains detailed directions relating to dealings of authorised dealers with their exporter clients. These directions supersede the existing instructions contained in Chapter 6 of Exchange Control Manual, 1993 edition.

2. Export trade is regulated by the Directorate General of Foreign Trade (DGFT) functioning under the Ministry of Commerce and Industries, Department of Commerce, Government of India. Exporters are required to follow the Notifications/Directions issued by DGFT from time to time.

3. The Reserve Bank has made the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 vide its Notification No. FEMA 6/RB-2000 dated 3rd May 2000. Any export of Indian currency except to the extent permitted under any general permission granted under the Regulations, will require prior permission of Reserve Bank.

4. In terms of Regulation 4 of the Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide Reserve Bank Notification No FEMA 8/2000-RB dated 3rd May 2000, authorised dealers have been permitted to issue guarantees on behalf of exporter clients on account of exports out of India.

5. Export of goods and services against repayment of state credits granted by erstwhile Soviet Union will continue to be governed by the extant directions issued by Reserve Bank, as amended from time to time. Further, Reserve Bank will continue to consider as hitherto, counter trade proposals from Indian exporters with Romania involving adjustment of value of exports from India against value of imports made into India in terms of a voluntarily entered arrangement between the concerned parties.

6. It is further clarified that the Directions contained in the Annexure should be read with the Regulations notified by the Reserve Bank vide its Notification No. FEMA 23/2000 – RB dated 3rd May 2000, referred to above.

7. Authorised dealers may bring the contents of this circular to the notice of their constituents, concerned.

8. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999). Any contravention or non-observance of these directions is subject to the penalties prescribed under the Act.

Yours faithfully,

B. MAHESHWARAN
Chief General Manager

EXPORT OF GOODS, SOFTWARE ETC.

Part A - General

A.1 Trade and Exchange Control

(i) In exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of Section 7 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank has made the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 relating to export of goods and services from India, hereinafter referred to as the 'Export Regulations'. These Regulations have been notified vide Notification No. FEMA 23 /2000-RB dated 3rd May, 2000.

(ii) Any reference to Reserve Bank should be made to the office of Exchange Control Department within whose jurisdiction the applicant person, firm or company resides or functions unless otherwise indicated. If for any particular reason, a firm or company desires to deal with a different office of the Exchange Control Department, it may approach the office within whose jurisdiction it functions for necessary approval.

A.2 Exemptions from Declarations

(i) The requirement of declaration of export of goods and software in the prescribed form will not apply to the cases indicated in Regulation No. 4 *ibid*. The requirement of declaration also shall not apply to goods sent for testing abroad, subject to re-import.

(ii) Gift of goods exceeding rupees one lakh in value require approval of the Reserve Bank.

(iii) Export of goods not involving any foreign exchange transaction directly or indirectly, requires the waiver of GR/PP procedure from Reserve Bank.

A.3 Numbering of forms

GR, PP and SOFTEX forms will bear specific identification numbers. In all applications/ correspondence with the Reserve Bank, this identification number should invariably be cited. In the case of declarations made on SDF form, the port code number and shipping bill number should be cited.

A.4 Manner of Payment

(i) The amount representing the full export value of the goods exported shall be received through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations, 2000 notified vide Notification No. FEMA 14/2000-RB dated 3rd May, 2000

(ii) Payment for export may also be received by the exporter in the following manner :

(a) In the form of bank draft, pay order, banker's or personal cheques.

- (b) Foreign currency notes/foreign currency travellers' cheques from the buyer during his visit to India.
- (c) Payment out of funds held in the FCNR / NRE account maintained by the buyer.
- (d) Through International Credit Cards. When payment, in respect of goods sold to overseas buyers during their visits is received in this manner the GR/SDF (duplicate) should be released by the authorised dealers only on receipt of funds in their Nostro account or on production of a certificate by the exporter from the Credit Card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange, if the authorised dealer concerned is not the Credit Card servicing bank.

A.5 Guarantees against Exports

Prior approval of Reserve Bank should be obtained by authorised dealers for issue of guarantees in respect of caution-listed exporters.

A.6 (i) Foreign Currency Accounts

Reserve Bank may consider applications in form EFC from exporters having good track record for opening foreign currency accounts with banks subject to certain terms and conditions. Applications for opening such an account with a branch of an authorised dealer in India may be submitted through the branch at which the foreign currency account is to be maintained. If the foreign currency account is to be maintained abroad the application should be made by the exporter giving details of the bank with which the account will be maintained.

(ii) Diamond Dollar Account

Under the scheme of Government of India, firms and companies dealing in purchase/sale of rough or cut and polished diamonds, with track record of at least three years in import or export of diamonds and having an average annual turnover of Rs. 5 crores or above during preceding three licensing years (licensing year is from April to March) are permitted to transact their business through Diamond Dollar Accounts, with not more than two authorised dealers in India. Accordingly, eligible firms and companies may apply for permission to the Chief General Manager, Exchange Control Department, Exports Division, Reserve Bank of India, Central Office, Mumbai 400 001, through their authorised dealer.

A.7 Counter-trade Arrangement

(i) Counter trade proposals involving adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in U.S. dollar will be considered by the Reserve Bank. All imports and exports under the arrangement should be at international prices in conformity with the Exim Policy and Foreign Exchange Management Act, 1999 and the Rules and Regulations made thereunder. No interest will be payable on balances standing to the credit of the Escrow Account but the funds temporarily rendered surplus may be held in a short-term deposit up to a total period of three months in a year (i.e. in a block of 12 months) and the banks may pay interest at the applicable rate. No fund based / or non-fund based facilities would be permitted against the balances in the Escrow Account.

(ii) Application for permission for opening an Escrow Account may be made by the overseas exporter/organisation through the authorised dealer with whom the account is

proposed to be opened, to the office of Reserve Bank under whose jurisdiction the authorised dealer is functioning.

A.8 Export of goods on lease, hire, etc.

Export of machinery, equipment, etc. on lease, hire, etc. basis under agreement with the overseas lessee against collection of lease rentals / hire charges and ultimate re-import require prior approval of the Reserve Bank. Exporters should apply for necessary permission, through an authorised dealer, to the concerned Regional Office of the Reserve Bank, giving full particulars of the goods to be exported.

A.9 Participation in Trade Fairs Abroad

(i) Participants in international exhibition/ trade fair have been granted general permission vide Regulation 7(7) of the Foreign Exchange Management (Foreign Currency Account by a person resident in India) Regulations, 2000 notified under Notification No. FEMA 10/ 2000-RB dated 3rd May, 2000 for opening temporary foreign currency account abroad. Exporters may deposit the foreign exchange obtained, by sale of goods, at the international exhibition/trade fair and operate the account during their stay outside India provided that the balance in the account is repatriated to India within a period of one month from the date of closure of the exhibition/trade fair and full details are submitted to the concerned authorised dealer.

(ii) Firms/Companies and other organisations participating in Trade Fair/ Exhibition abroad should obtain approval on GR Form from the concerned office of Reserve Bank for export of exhibits and other items for display-cum-sale in the trade fair/exhibition. On closure of the fair/exhibition, they should re-import the exhibits or repatriate the value of goods sold within one month of the closure of the fair/ exhibition and submit necessary documentary evidence to the concerned Regional office of Reserve Bank in support of the re-import or repatriation.

A.10 Project Exports and Service Exports

(i) Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as 'Project Exports'. Indian exporters offering deferred payment terms to overseas buyers and those participating in global tenders for undertaking turnkey/civil construction contracts abroad are required to obtain approval of Authorised dealer/ Exim Bank/ Working Group at post-award stage before undertaking execution of such contracts. Regulations relating to 'Project Exports' and 'Service Exports' are laid down in the Memorandum on Project Exports (PEM).

(ii) Pure supply contracts (contracts for export of goods) where at least 90 per cent of the export value is realised within the prescribed period i.e. six months from the date of export and the balance amount within a maximum period of two years from the date of export are not treated as deferred payment exports, provided the exporter does not require/avail of any funded or non-funded facility/ies for such exports from authorised dealers.

A.11 Export on Elongated Credit Terms

Exporters intending to export goods on elongated credit terms may submit their proposals giving full particulars through their banks to the concerned Regional Office of Reserve Bank for consideration.

A.12 Forfeiting

Export-Import Bank of India (Exim Bank) and authorised dealers have been permitted to undertake forfeiting, for financing of export receivables. It would be in order for authorised dealers to allow remittance of commitment fee/ service charges, etc. payable by the exporter as approved by the Exim Bank/ the concerned authorised dealer. Such remittance may be permitted in advance in one lumpsum or at monthly intervals as approved by the concerned agency.

PART B – GR/PP/SOFTEX PROCEDURE

B.1 Disposal of Copies of Export Declaration Forms

(i) Copies of export declaration forms should be disposed of as under:

(a) GR forms should be completed by the exporter in duplicate and both the copies submitted to the Customs at the port of shipment along with the shipping bill. Customs will give their running serial number on both the copies after admitting the corresponding shipping bill. The Customs serial number will have ten numerals denoting the code number of the port of shipment, the calendar year and a six digit running serial number. Customs will certify the value declared by the exporter on both the copies of the GR form at the space earmarked and will also record the assessed value. They will then return the duplicate copy of the form to the exporter and retain the original for transmission to Reserve Bank. Exporters should submit the duplicate copy of the GR form again to Customs along with the cargo to be shipped. After examination of the goods and certifying the quantity passed for shipment on the duplicate copy, Customs will return it to the exporter for submission to the authorised dealer for negotiation or collection of export bills.

(b) Within twenty one days from the date of export, exporter should lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice with the authorised dealer named in the GR form. After the documents have been negotiated/sent for collection, the authorised dealer should report the transaction to Reserve Bank in statement ENC under cover of appropriate R-Supplementary Return. The duplicate copy of the form together with a copy of invoice will be retained by the authorised dealer till full export proceeds have been realised and thereafter submitted to Reserve Bank duly certified under cover of appropriate R-Supplementary Return.

NOTE: (i) *In the case of exports made under deferred credit arrangement or to joint ventures abroad against equity participation or under rupee credit agreement, the number and date of Reserve Bank approval and/or number and date of the relative RBI circular should be recorded at the appropriate place on the GR form.*

(ii) *Where Duplicate copy of GR form is misplaced or lost, authorised dealer may accept another copy of duplicate GR form duly certified by Customs.*

(c) On account of introduction of Electronic Data Interchange (EDI) System at certain Customs offices where shipping bills are processed electronically, the existing declaration in GR form is replaced by a declaration in form SDF (Statutory Declaration Form). The SDF form should be submitted in duplicate (to be annexed to the relative shipping bill) to the concerned Commissioner of Customs. After verifying and authenticating the declaration in form SDF, the Commissioner of Customs will hand over to

the exporter, one copy of the shipping bill marked 'Exchange Control Copy' in which form SDF has been appended for being submitted to the authorised dealer within 21 days from the date of export. The authorised dealer should accept the Exchange Control (EC) copy of the shipping bill and form SDF appended thereto, submitted by the exporter for collection/negotiation of Shipping documents. The manner of disposal of EC copy of shipping Bill (and form SDF appended thereto) is same as that for GR forms.

(d) In cases where ECGC initially settles the claims of exporters in respect of exports insured with them and subsequently receives the export proceeds from the buyer/buyer's country through the efforts made by them, the share of exporters in the amount so received is disbursed through the bank which had handled the shipping documents. In such cases, ECGC will issue a certificate to the bank which had handled the relevant shipping documents after full proceeds have been received. The certificate will indicate the number of declaration form, name of the exporter, name of the authorised dealer, date of negotiation, bill number, invoice value and the amount actually received by ECGC. It will be in order for authorised dealers to certify the duplicate GR form/ EC copy of shipping bill on the basis of the certificate issued by ECGC and submit them to Reserve Bank. The certificate issued by ECGC may also be attached to the duplicate GR/SDF/PP form while forwarding them to Reserve Bank.

(e) Where a part of export proceeds are credited to EEFC account, the export declaration (duplicate) form may be certified as under:

"Proceeds amounting to
representing% of the export realisation
credited to EEFC account maintained by the
exporter with....."

(ii) The manner of disposal of PP forms is same as that for GR forms. Postal authorities will allow export of goods by post only if the original copy of the form has been countersigned by an authorised dealer. Therefore, PP forms should be first presented by the exporter to an authorised dealer for countersignature. Authorised dealer will countersign the forms in accordance with directions in paragraph B.2 and return the original copy to the exporter, who should submit the form to the post office with the parcel. The duplicate copy of the PP form will be retained by the authorised dealer to whom the exporter should submit relevant documents together with an extra copy of invoice for negotiation/collection, within the prescribed period of twenty one days.

B.2 Counter signature on PP forms

PP forms will be presented by the exporter to an authorised dealer for countersignature. Authorised dealers should countersign the PP forms after ensuring that the parcel is being addressed to their branch or correspondent bank in the country of import. The concerned overseas branch or correspondent should be instructed to deliver the parcel to consignee against payment or acceptance of relative bill. Authorised dealers may, however, countersign PP forms covering parcels addressed direct to the consignees, provided

(a) an irrevocable letter of credit for the full value of the export has been opened in favour of exporter and has been advised through authorised dealer concerned;

or

(b) the full value of the shipment has been received in advance by the exporter through an authorised dealer;

or

- (c) the authorised dealer is satisfied, on the basis of the standing and track record of the exporter and the arrangements made for realisation of the export proceeds, that he could do so

In such cases, particulars of advance payment/letter of credit/authorised dealer's certification of standing etc. of the exporter should be furnished on the form under proper authentication. Any alteration in the name and address of consignee on the PP form should also be authenticated by the authorised dealer under his stamp and signature.

B.3.A. Terms of payment - Invoicing - (Software)

(i) In respect of long duration contracts involving series of transmissions, the exporters should bill their overseas clients periodically, i.e. at least once a month or on reaching the "milestone" as provided in the contract entered into with the overseas client and the last invoice/bill should be raised not later than 15 days from the date of completion of the contract. It would be in order for the exporters to submit a combined SOFTEX form for all the invoices raised on a particular overseas client, including advance remittances received in a month.

(ii) In respect of contracts involving only 'one shot operation', the invoice/bill should be raised within 15 days from the date of transmission.

(iii) The exporter should submit SOFTEX form to the concerned official of Government of India at STPI/EPZ for valuation/certification not later than 30 days from the date of invoice/the date of last invoice raised in a month, as indicated above.

(iv) The invoices raised on overseas clients as at (i) to (iii) above will be subject to valuation of export declared on SOFTEX form by the designated official of Government of India and consequent amendment made in the invoice value, if necessary.

B.3.B. Disposal of SOFTEX forms

As for disposal of SOFTEX forms the procedure indicated in Regulation 6 of Export Regulations is to be observed. The authorised dealers on receipt of the duplicate copy of the SOFTEX form from the exporter will after full realisation of value declared on the form or as certified by the designated officials (whichever is higher) submit it to Reserve Bank duly certified, under cover of an appropriate "R" return along with a copy/ies of invoice/s.

B.4 Shut out Shipments and Short Shipments

(i) When part of a shipment covered by a GR form already filed with Customs is short-shipped, exporter must give notice of short shipment to Customs in form and manner prescribed. In case of delay in obtaining certified short shipment notice from Customs, exporter should give an undertaking to the authorised dealer to the effect that he has filed the short-shipment notice with the Customs and that he will furnish it as soon as it is obtained. Authorised dealer should send the short shipment notice along with the GR duplicate to Reserve Bank.

(ii) Where a shipment has been entirely shut out and there is delay in making arrangements to re-ship, exporter will give notice in duplicate to Customs in the manner and in form prescribed for the purpose, attaching thereto the unused duplicate copy of GR form and the shipping bill. Customs will verify that the shipment was actually shut out, certify copy of the notice as correct and forward it to Reserve Bank together with unused

duplicate copy of the GR form. In this case, the original GR form received earlier from Customs will be cancelled. If the shipment is made subsequently, a fresh set of GR form should be completed.

B.5 Consolidation of Air Cargo

Where air cargo is shipped under consolidation, the airline company's Master Airway Bill will be issued to the Consolidating Cargo Agent who will in turn issue his own House Airway Bills (HAWBs) to individual shippers. Authorised dealers may negotiate HAWBs only if the relative letter of credit specifically provides for negotiation of these documents in lieu of Airway Bills issued by the airline company.

B.6 Exports by Barges/Country Craft/Road Transport

Following procedure should be adopted by exporters for filing original copies of GR/SDF forms where exports are made to neighbouring countries by road, rail or river transport :

- (a) In case of exports by barges/country craft/road transport, the form should be presented by exporter or his agent at the Customs station at the border through which the vessel or vehicle has to pass before crossing over to the foreign territory. For this purpose, exporter may arrange either to give the form to the person in charge of the vessel or vehicle or forward it to his agent at the border for submission to Customs.
- (b) As regards exports by rail, Customs staff have been posted at certain designated railway stations for attending to Customs formalities. They will collect the GR/SDF forms in respect of goods loaded at these stations so that the goods may move straight on to the foreign country without further formalities at the border. The list of designated railway stations is obtainable from the Railways. In respect of goods loaded at stations other than the designated stations, exporters must arrange to present GR/SDF forms to the Customs Officer at the Border Land Customs Station where Customs formalities are completed.
- (c) In terms of an agreement on Border Trade between India and Myanmar, exchange of certain specified locally produced commodities, by people living along the India-Myanmar border on both sides under barter trade arrangement as also trade in freely convertible currency, has been permitted as per guidelines issued by Reserve Bank to authorised dealers from time to time. Authorised dealers should follow strictly the guidelines.

PART C – Authorised Dealer's Obligation

C.1 Delay in Submission of Shipping Documents by Exporters

In cases where exporters present documents pertaining to exports after the prescribed period of twenty one days from date of export, authorised dealers may handle them without prior approval of Reserve Bank, provided they are satisfied with the reasons for the delay.

C.2 Check-list for Scrutiny of Forms

Authorised dealer/exporter should verify the following :

- (i) Authorised dealer should ensure that the number on the duplicate copy of a GR form presented to them is the same as that of the original which is usually recorded on the Bill of Lading/Shipping bill and the duplicate has been duly verified and authenticated by appropriate Customs authorities. In the case of SDF form, the Shipping Bill No. should be the same as that appearing on the Bill of Lading.
- (ii) Bill of Lading/Airway Bill issued on 'freight prepaid' basis may be accepted where the sale contract is on f.o.b., f.a.s. etc. basis provided the amount of freight has been included in the invoice and the bill. Conversely, in the case of c.i.f., c.&f. etc. contracts whose freight is sought to be paid at destination, it should be ensured that the deduction made is only to the extent of freight declared on GR/SDF form or the actual amount of freight indicated on the Bill of Lading/Airway Bill, whichever is less. Likewise, where the marine insurance is taken by the exporters on buyer's account, authorised dealer should verify that the actual amount paid is received from the buyer through invoice and the bill.
- (iii) The documents submitted do not reveal any material inter se discrepancies in regard to description of goods exported, export value or country of destination.

NOTE:A. *The export realisable value may be more than what was originally declared to/accepted by Customs on the GR/SDF form in certain circumstances such as where in c.i.f. or c.&f. contracts, part or whole of any freight increase taking place after the contract was concluded is agreed to be borne by buyers or where as a result of subsequent devaluation of the currency of the contract, buyers have agreed to an increase in price.*

B. *In cases where the documents are being negotiated by a person other than the exporter who has signed GR/PP/SDF/SOFTEX Form in respect of the concerned consignment of export, authorised dealers may negotiate the documents after ensuring compliance with Regulation 12 of "Export Regulations".*

C. *In certain lines of export trade, final settlement of price may be dependent on the results of quality analysis of samples drawn at the time of shipment; but the results of such analysis will become available only after the shipment has been made. Sometimes, contracts may provide for payment of penalty for late shipment of goods in conformity with trade practice concerning the commodity. In these cases, while exporters declare to Customs the full export value based on the contract price, invoices submitted along with shipping documents for negotiation / collection may reflect a different value arrived at after taking into account the results of analysis of samples or late shipment penalty, as the case may be.*

As such variations stem from the terms of contract, authorised dealers may accept them on production of documentary evidence after verifying the arithmetical accuracy of the calculations and on conforming the terms of underlying contracts.

C.3 Trade Discount

Bills in respect of exports by sea or air which fall short of the value declared on GR/SDF forms on account of trade discount may be accepted for negotiation or collection only if the discount has been declared by exporter on relative GR/SDF form at the time of shipment and accepted by Customs.

C.4 Advance Payments against Exports

Exporters may receive advance payments (with or without interest) from their overseas buyers. It should however, be ensured that the shipments made against the advance payments are monitored by the authorised dealer through whom the advance payment is received. The appropriations made against every shipment must be endorsed on the original copy of the inward remittance certificate issued for advance remittance.

NOTE : *Purchase of foreign exchange from the market for refunding advance payment credited to EEFC account may be allowed only after utilising the entire balances held in the exporter's EEFC accounts maintained at different branches/banks.*

C.5 Part Drawings

In certain lines of export trade, it is the practice to leave a small part of the invoice value undrawn for payment after adjustment due to differences in weight, quality, etc. to be ascertained after arrival and inspection, weighment or analysis of the goods. In such cases, authorised dealers may negotiate bills, provided

- (a) the amount of undrawn balance is considered normal in the particular line of export trade, subject to a maximum of 10 per cent of the full export value;
- and
- (b) an undertaking is obtained from exporter on the duplicate of GR/SDF/PP that he will surrender/account for the balance proceeds of the shipment within the period prescribed for realisation.

NOTE : *In cases where exporter has not been able to arrange for repatriation of the undrawn balance in spite of best efforts authorised dealers, on being satisfied with the bona fides of the case, may submit duplicate copies of GR/PP/SDF forms to Reserve Bank duly certified for the amount actually realised. Authorised dealers should however, ensure that the exporter has realised at least the value for which the bill was initially drawn (excluding undrawn balances) or 90% of the value declared on GR/PP/SDF form, whichever is more and a period of one year has elapsed from the date of shipment.*

C.6 Consignment Exports

- (i) When goods have been exported on consignment basis, authorised dealer, while forwarding shipping documents to his overseas branch/ correspondent, should instruct the latter to deliver them only against trust receipt/undertaking to deliver sale proceeds by a specified date within the period prescribed for realisation of proceeds of the export. This procedure should be followed even if, according to the practice in certain trades, a bill for part of the estimated value is drawn in advance against the exports.
- (ii) The agents/consignees may deduct from sale proceeds of the goods expenses normally incurred towards receipt, storage and sale of the goods, such as

landing charges, warehouse rent, handling charges, etc. and remit the net proceeds to the exporter.

- (iii) The Account Sales received from the Agent/Consignee should be verified by the authorised dealer before it is sent to Reserve Bank along with the relative duplicate GR/SDF/PP forms. Deductions in Account Sales should be supported by bills/receipts in original except in case of petty items like postage/cable charges, stamp duty etc.

NOTES: A. *In case of goods exported on consignment basis, freight and marine insurance must be arranged in India.*

B. *Reserve Bank, on an application made to it may, permit individual exporters to hire warehouses abroad subject to such terms and conditions as it may stipulate.*

C. *Reserve Bank will permit, on application, exporters with satisfactory track record a longer period up to twelve months for realisation of export proceeds for exports on consignment basis made to CIS countries and East European countries financed in any permitted currency.*

C.7 Despatch of Shipping Documents

- (i) While Authorised dealers should normally despatch shipping documents to their overseas branches/ correspondents expeditiously, they may despatch shipping documents direct to the consignees or their agents resident in the country of final destination of goods in cases where advance payment or an irrevocable letter of credit has been received for the full value of the export shipment and the underlying sale contract/letter of credit provides for despatch of documents direct to the consignee or his agent resident in the country of final destination of goods.
- (ii) In cases not covered by (i) above also, authorised dealers may accede to the request of the exporter, for despatch of documents for whatever reason, direct to the consignee/agent provided the exporter is a regular customer and the authorised dealer is satisfied, on the basis of standing and track record of the exporter and the arrangements made for realisation of export proceeds, that the request can be acceded to.
- (iii) Documents in respect of goods or software which are accompanied with a declaration by the exporter that they are not more than rupees twenty five thousand in value and not declared on GR/SDF/PP/ SOFTEX form, in terms of paragraph A.2 may be directly sent by the exporter to the consignee.
- (iv) Documents in respect of goods exported against 100% advance remittance, in terms of paragraph C.4 may be directly sent by the exporter to the consignee.

C.8 Handing Over Negotiable Copy of Bill of Lading to Master of Vessel/Trade Representative

Authorised dealers may deliver one negotiable copy of the Bill of Lading to the Master of the carrying vessel or trade representative, in respect of exports to certain landlocked countries if the shipment is covered by an irrevocable letter of credit and the documents conform strictly to the terms of the Letter of Credit which, inter alia, provides for such delivery.

C.9 Export Bills Register

- (i) Authorised dealers should maintain Export Bills Register, in physical or electronic form. Details of GR/SDF/PP form number, due date of payment, the fortnightly period of R Supplementary Return with which ENC statement covering the transaction was sent to Reserve Bank and the period of R Supplementary Return with which the duplicate copy of GR/SDF/PP form is submitted to Reserve Bank should be available.
- (ii) Authorised dealers should ensure that all types of export transactions are entered in the Export Bills Register and are given bill numbers on calendar year basis (i.e. January to December). The bill numbers should be recorded in ENC statement and other relevant returns submitted to Reserve Bank.

C.10 Follow-up of Overdue Bills

- (i) Authorised dealers should closely watch realisation of bills and in cases where bills remain outstanding, beyond the due date for payment or 6 months from the date of export, the matter should be promptly taken up with concerned exporter. If the exporter fails to arrange for delivery of the proceeds, within six months or seek extension of time beyond six months the matter should be reported to Reserve Bank stating, where possible, the reason for the delay in realisation of proceeds. The duplicate copies of GR/SDF/PP forms should, however, continue to be held by authorised dealer until full proceeds are realised except in case of undrawn balances covered by Note under paragraph C.5. Authorised dealers should follow up export outstandings with exporters systematically and vigorously so that action against defaulting exporters does not get delayed. Any laxity in the follow up of realisation of export proceeds by authorised dealers will be viewed seriously by Reserve Bank leading to the invocation of the penal provision under FEMA 1999.
- (ii) Authorised dealers should furnish to Reserve Bank, on half-yearly basis, a consolidated statement in Form XOS giving details of all export bills outstanding beyond six months from the date of export as at the end of June and December every year. The statement should be submitted in triplicate within fifteen days from the close of the relative half-year.

C.11 Reduction in Invoice Value on account of Prepayment of Usance Bills

Occasionally, exporters may approach authorised dealers for reduction in invoice value on account of cash discount to overseas buyers for prepayment of the usance bills. In such cases authorised dealers may allow cash discount to the extent of amount of proportionate interest on the unexpired period of usance, calculated at the rate of interest stipulated in the export contract or at the prime rate/LIBOR of the currency of invoice where rate of interest is not stipulated in the contract.

C.12 Reduction in Value

If, after a bill has been negotiated or sent for collection, the amount thereof is desired to be reduced for any reason, authorised dealer may approve such reduction, if satisfied about genuineness of the request, provided;

- (a) the reduction does not exceed 10% of invoice value
- (b) it does not relate to an export of
 - i. gold or silver jewellery or articles made out of cut and polished diamonds,

- ii. commodities subject to floor price stipulations,
- (c) the exporter is not on the exporters' caution list of Reserve Bank, and
- (d) the exporter is advised to surrender proportionate export incentives availed of, if any.

In the case of exporters who have been in the export business for more than three years, reduction in invoice value may be allowed, without any percentage ceiling, subject to the above conditions as also subject to their track record being satisfactory i.e. the export outstandings do not exceed 5% of the average annual export realisation during preceding three calendar years. For the purpose of reckoning the percentage of outstanding export bills to average export realisations during the preceding three calendar years, outstandings in respect of exports made to countries facing externalisation problems may be ignored provided the payments have been made by the buyers in the local currency.

C.13 Export Claims

Authorised dealers may remit export claims on application, provided the relative export proceeds have already been realised and repatriated to India and the exporter is not on the caution list of Reserve Bank. In all such cases of remittances, the exporter should be advised to surrender proportionate export incentive, if any, received by him.

C.14 Change of Buyer/Consignee

Prior approval of Reserve Bank is not required if, after goods have been shipped, they are to be transferred to a buyer other than the original buyer in the event of default by the latter, provided the reduction in value, if any, involved does not exceed 10% and the realisation of export proceeds is not delayed beyond the period of six months from the date of export. Where the reduction in value exceeds 10%, all other relevant conditions stipulated in paragraph C.12 should also be satisfied.

C.15 Extension of Time Limit

In cases where an exporter has not been able to realise proceeds of a shipment made within the period prescribed (i.e. within six months from the date of export), for reasons beyond his control, but expects to be able to realise proceeds if extension of the period is allowed to him, necessary application (in duplicate) should be made to the concerned Regional Office of Reserve Bank in form ETX through his authorised dealer with appropriate documentary evidence. Extension will not ordinarily be granted unless Reserve Bank is satisfied that the exporter is in no way directly or indirectly responsible for the delay in realisation of proceeds and that by grant of a short extension the exporter will be able to realise proceeds.

C.16 Shipments Lost in Transit

When shipments from India for which payment has not already been received either by negotiation of bills under letters of credit or otherwise are lost in transit, authorised dealer must ensure that insurance claim is made as soon as the loss is known. The duplicate copy of GR/SDF/PP form should be forwarded to Reserve Bank with following particulars:

- (a) Amount for which shipment was insured.
- (b) Name and address of insurance company
- (c) Place where claim is payable.

In cases where claim is payable abroad, authorised dealer must arrange to collect the full amount of claim due on the lost shipment, through the medium of his overseas branch/correspondent and forward the duplicate copy of GR/SDF/PP form to Reserve Bank only after the amount has been collected. A certificate for the amount of claim received should be furnished on the reverse of the duplicate copy.

NOTE : *Sometimes claims on shipments lost in transit are also partially settled directly by shipping companies/airlines under carriers' liability. Authorised dealers should ensure that amounts of such claims if settled abroad are also repatriated to India by exporters.*

C.17 Payment of Claims by ECGC

Where export has been covered by a policy issued by ECGC, settlement of a claim by the Corporation does not absolve the exporter of the statutory obligation undertaken on the GR/SDF/PP form to realise proceeds of the export within prescribed period. In such cases, exporter should, in consultation with ECGC, take all necessary steps for realising the proceeds. Authorised dealers should also continue to hold the duplicate copies of GR/SDF/PP forms in their custody and initiate follow-up measures in the normal manner.

C.18 Write off of unrealised Export Bills

(i) An exporter who has not been able to realise the outstanding export dues despite best efforts, may approach the authorised dealer, who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write off of the unrealised portion. Authorised dealers may accede to such requests subject to the under noted conditions:

- (a) The relevant amount has remained outstanding for one year or more;
- (b) The aggregate amount of write off allowed by the authorised dealer during a calendar year does not exceed 10% of the total export proceeds realised by the concerned exporter through the concerned authorised dealer during the previous calendar year;
- (c) Satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realise the dues;
- (d) The case falls under any of the undernoted categories:
 - (i) The overseas buyer has been declared insolvent and a certificate from the official liquidator indicating that there is no possibility of recovery of export proceeds produced.
 - (ii) The overseas buyer is not traceable over a reasonably long period of time.
 - (iii) The goods exported have been auctioned or destroyed by the Port/Customs/Health authorities in the importing country.
 - (iv) The unrealised amount represents the balance due in a case settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organisation;
 - (v) The unrealised amount represents the undrawn balance of an export bill (not exceeding 10% of the invoice value) remained outstanding and turned out to be unrealisable despite all efforts made by the exporter;
 - (vi) The cost of resorting to legal action would be disproportionate to the unrealised amount of the export bill or where the exporter even after winning the Court case against the overseas buyer could not execute the Court decree due to reasons beyond his control.;

- (vii) Bills were drawn for the difference between the letter of credit value and actual export value or between the provisional and the actual freight charges but the amount has remained unrealised consequent on dishonour of the bills by the overseas buyer and there are no prospects of realisation.
 - (e) The case is not the subject matter of any pending civil or criminal suit.
 - (f) The exporter has not come to the adverse notice of the Enforcement Directorate or the Central Bureau of Investigation or any such other law enforcement agency.
 - (g) The exporter has surrendered proportionate export incentives, if any, availed of in respect of the relative shipments.
- (ii) Where there is no further amount to be realised against the GR/SDF/PP form covered by the write off, authorised dealer should submit the duplicate thereof to Reserve Bank along with 'R' return, duly certified, as under:
 “ Write off of
 (Amount in words and figures)
 permitted in terms of paragraph C.18 of Directions to Authorised Dealers.

Date Stamp & Signature of
Authorised Dealer “

C.19 Return of Documents to Exporters

The duplicate copies of GR/SDF/PP forms and shipping documents, once submitted to authorised dealers for negotiation, collection, etc, should not ordinarily be returned to exporters, except for rectification of errors and resubmission.

C.20 Exporters' Caution List

Authorised dealers will also be advised whenever exporters are cautioned in terms of provisions contained in Regulation 17 of “Export Regulations”. Authorised dealers should not accept for negotiation/collection shipping documents covering exports declared on GR/SDF/PP forms completed by such exporters nor countersign PP forms completed by them unless the GR/SDF/PP forms bear approval of Reserve Bank.

PART D - Remittances connected with Export

D.1 Agency Commission on Exports

(i) Authorised dealers may allow payment of commission, either by remittance or by deduction from invoice value, on application submitted by the exporter. The remittance on agency commission may be allowed subject to the following conditions:

- (a) Amount of commission has been declared on GR/SDF/PP/SOFTEX form and accepted by Customs authorities or Department of Electronics, Government of India /EPZ authorities as the case may be. In cases where the commission has not been declared on GR/SDF/PP/SOFTEX form,

remittance thereof may be allowed after satisfying about the reasons adduced by the exporter for not declaring commission on Export Declaration Form, provided a valid agreement/written understanding between the exporter and /or beneficiary for payment of commission subsists.

(b) The relative shipment has already been made.

(ii) Authorised dealers may allow payment of commission by Indian exporters, in respect of their exports covered under counter trade arrangement through Escrow Accounts designated in U.S. dollar, subject to the following conditions;-

- (a) The payment of commission satisfies the conditions as at (a) and (b) stipulated in paragraph above.
- (b) The commission is not payable to Escrow Account holders themselves.
- (c) The commission should not be allowed by deduction from the invoice value.

NOTE : *Payment of commission is prohibited on exports made by Indian partners towards equity participation in an overseas joint venture/wholly owned subsidiary as also exports under Rupee Credit Route.*

D.2 Refund of Export Proceeds

Refund of export proceeds may be allowed by authorised dealers through whom the proceeds were originally received, provided such goods are re-imported into India on account of poor quality etc. and evidence of re-import has been submitted. In all such cases, exporters should be advised to surrender the proportionate incentives availed of, if any, against the relevant export.