

FED Master Direction No. 17
DT-1.1.16 Amended upto 1.4.19

Master Direction – Import of Goods and Services

- Banks should follow normal banking procedures and
- adhere to the provisions of UCP, while opening LC for import into India.
- Banks may also advise importers to ensure compliance with the provisions of Income Tax Act.

Banks must adhere
to "Know Your
Customer" (KYC)
guidelines issued by
RBI.

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.

Except for goods included in the negative list which require licence under the FTP, banks may freely open LC and allow remittances for import.

While opening LC, the 'For Exchange Control purposes' copy of the licence should be called for and adherence to special conditions.

After effecting remittances under the licence, banks may preserve the copies of utilised licence /s till they are verified by the internal auditors .

Any person acquiring foreign exchange is permitted to use it either for the purpose mentioned in the declaration made by him to bank or for **any other purpose** for which acquisition of foreign exchange is permissible.

Where foreign exchange acquired has been utilised for import of goods into India, the bank should ensure that the importer furnishes **evidence** of import as in IDPMS and satisfy himself that goods equivalent to the value of remittance have been imported.

Bank should ensure that all import remittances outstanding on the notified date of IDPMS are uploaded in IDPMS.

Remittances against imports should be completed not later than 6 months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc.

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.

(ii) While granting extension of time, banks must ensure that:

- a. The import transactions are not under investigation.
- b. the total outstanding of the importer does not exceed USD 1 million or 10 per cent of the average import remittances during the preceding two financial years, whichever is lower.
 - 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.

(iii) Cases not covered by the above, may be referred RBI.

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 .

Deferred payment arrangements (including suppliers' and buyers' credit) up to 5 years, are treated as trade credits for which the procedural guidelines as laid down in the Master Circular for ECB and Trade Credits may be followed.

Any person can send into India, without limit, foreign exchange in any form other than currency notes, bank notes and travellers cheques.

Any person can bring into India from any place outside India, without limit, foreign exchange.

Upon arrival, a declaration to the Custom Authorities at the Airport in the Currency Declaration Form (CDF) at any one time exceed USD 10,000 aggregate or cash exceed USD 5,000.

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 India, amount not exceeding Rs.25,000/-.

A person may bring into India from Nepal or Bhutan, currency notes of India for any amount in denominations up to Rs.100/-.

Banks are allowed to make payments to a **third party** for import of goods, subject to :

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. 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.

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 LC or a guarantee from an international bank of repute situated outside India or a guarantee of an bank in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, is obtained.

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

Advance Remittance for the Import of Services

Bank may allow advance remittance for import of services **without any ceiling** subject to:

Where the amount of advance exceeds USD 500,000, a guarantee from a bank of international repute situated outside India, or a guarantee from an 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.

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 or its equivalent would be required.

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.

Banks should ensure generation of ORMS and marking off in the IDPMS etc.

Interest on Import Bills:

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.

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.

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.

In case of change in value due to above, the bank should ensure proper remark is entered for ORM mark off in IDPMS .

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 LC 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 bank and fresh remittance for replacement imports may be permitted without reference to RBI, 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.

Bank should ensure that proper remark is entered for ORM mark off/closure of Bills in IDPMS etc.

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, banks may issue guarantees at the request of importer client for dispatch/return of the defective goods, according to their commercial judgment.

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.

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:

- Where the value of import bill does not exceed USD 300,000.
- Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.

- Import bills received by Status Holder Exporters, EOU/ Units in SEZ, PSU and Limited Companies.
- Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.
- Receipt of import documents by the importer directly from overseas suppliers in case of **specified sectors**.

Evidence of Import: Physical Import

(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 bank through which the relative remittance was made, to ensure that the importer submits :-

(a) The importer shall submit BoE number, date and port code for marking evidence of import under IDPMS.

Evidence of Import: Physical Import

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

(c) For goods imported and stored in FTWZ or SEZ Unit warehouses or Customs bonded warehouses, etc., the Exchange Control Copy of the **Ex-Bond Bill of Entry** the importer shall submit BoE number, date and port code for marking evidence of import under IDPMS.

In respect of imports on DA basis, 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., bank may, if satisfied with the genuineness of request, allow reasonable time, not exceeding 3 months from the date of remittance, to the importer to submit the evidence of import.

Entry should be made in IDPMS

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 CA that the software / data / drawing/ design has been received by the importer, may be obtained.

Bank should advise
importers to keep
Customs Authorities
informed of the imports
made by them under this
clause.

Evidence of Import in Lieu of Bill of Entry

- (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.

(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). bank may insist on a declaration from the auditor/CEO of such institutions that their accounts are audited by CAG.

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.

IDPMS:

- (i) 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. (All banks have done this)

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, 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. ²In 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) banks shall enter BoE details (BoE number, date and port code) 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 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.

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

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

(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

(ix) Banks shall give extension for submission of BoE beyond the prescribed period.

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) 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 bank is satisfied with the reason/s submitted by the importer.

(xi) 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 subject to submission of satisfactory documentation by the importer irrespective of the amount involved. 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 not absolve the importer from remitting / receiving the amount in case of change in circumstances.

(xiii) While allowing write off, 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 ED or the CBI or any such other agency; and
- c. There is a system in place under which internal inspectors or auditors of the banks should carry out random sample check / percentage check of write-off of import bills;

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

(xv) The instructions 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 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

(xvi) banks shall continue to follow up for outward remittance made for import (i.e. unsettled ORM)

In cases where relevant evidence of import data is not available in IDPMS on due dates against the ORM, 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, banks shall follow up with the importer.

In case an importer does not furnish any documentary evidence of import, within 3 months from the date of remittance involving foreign exchange irrespective of value, the bank should rigorously follow-up for the next 3 months, by using various modes of communications.

It should, be ensured that atleast one communication with the importer in this regard is by issuance of registered letter.

Merchanting Trade

- Goods acquired should not enter the Domestic Tariff Area.
- The state of the goods should not undergo any transformation.
- Bank may handle bonafide Merchanting Trade Transactions.
- Goods involved in the transactions are permitted for export / import under the prevailing (FTP) as on the date of shipment and all the rules, regulations and directions applicable to export (except Export Declaration Form) and import (except Bill of Entry) are complied with for the export leg and import leg, respectively.

- Both the legs of a Merchanting Trade Transaction are routed through the same bank. The bank should 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 entire Merchanting Trade Transactions should be completed within an overall period of 9 months and there should not be any outlay of foreign exchange beyond 4 months.

- The commencement of Merchanting Trade would be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date would be the date of shipment / export leg receipt or import leg payment, whichever is the last.
- Short-term credit either by way of suppliers' credit or buyers' credit will be available for Merchanting Trade Transactions, to the extent not backed by advance remittance for the export leg, including the discounting of export leg LC by a bank, as in the case of import transactions.

- In case advance against the export leg is received by the Merchanting Trader, bank should ensure that the same is earmarked for making payment for the respective import leg. However, bank may allow short-term deployment of such funds for the intervening period in an interest bearing account.
- Merchanting Traders may be allowed to make advance payment for the import leg on demand made by the overseas seller. In case where inward remittance from the overseas buyer is not received before the outward remittance to the overseas supplier, bank may handle such transactions by providing facility based on commercial judgment. It may, however, be ensured that any such advance payment for the import leg beyond USD 200,000/- per transaction, should be made against Bank Guarantee / LC from an international bank of repute, except in cases and to the extent where payment for export leg has been received in advance.

- LC to the supplier is permitted against confirmed export order keeping in view the outlay and completion of the transaction within 9 months.
- Payment for import leg may also be allowed to be made out of the balances in Exchange Earners Foreign Currency Account (EEFC) of the Merchant Trader.
- Bank should ensure one-to-one matching in case of each Merchanting Trade transaction and report defaults in any leg by the traders to the concerned Regional Office of RBI, on half yearly basis within 15 days from the close of each half year, i.e. June and December.
- Defaulting Merchanting Traders, whose outstanding reach 5% of their annual export earnings, would be caution-listed.

- The KYC and AML guidelines should be observed by the bank while handling such transactions.
- Merchanting Traders have to be genuine traders of goods and not mere financial intermediaries. Confirmed orders have to be received by them from the overseas buyers. Banks should satisfy themselves about the capabilities of the Merchanting Trader to perform the obligations under the order. The overall Merchanting Trade should result in reasonable profits to the Merchanting Trader.

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.

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.

*Thank
you*



Mr. Ajit Shah

Mob: 9004663068

Email: ajitshah@universalconnections.in