

RBI/2013-14/545 March 28, 2014 A.P. (DIR Series) Circular No.115

To

All Category – I Authorised Dealer Banks

Madam / Sir,

Merchanting Trade Transactions - Revised guidelines

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular Nos.106 & 4 dated June 19, 2003 and July 19, 2003 respectively, containing directions relating to merchanting trade transactions. Further, in terms of A.P. (DIR Series) Circular No. 95 dated January 17, 2014 the existing guidelines were reviewed in the light of the recommendations of the Technical Committee on Services / Facilities to Exporters (Chairman: Shri G. Padmanabhan) to further liberalise and simplify the procedure.

2. In view of suggestions received from merchanting traders and trade bodies, the guidelines on merchanting trade transactions have been further reviewed. Accordingly, it has been decided to issue revised guidelines as under:

For a trade to be classified as merchanting trade following conditions should be satisfied ;

Goods acquired should not enter the Domestic Tariff Area and

The state of the goods should not undergo any transformation ;

Goods involved in the merchanting trade transactions would be the ones that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India, as on the date of shipment and all the rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry), are complied with for the export leg and import leg respectively ;

AD bank should be satisfied with the bonafides of the transactions. Further, KYC and AML guidelines should be observed by the AD bank while handling such transactions ;

Both the legs of a merchanting trade transaction are routed through the same AD 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 nine months and there should not be any outlay of foreign exchange beyond four 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 an AD bank, as in the case of import transactions ;

In case advance against the export leg is received by the merchanting trader, AD bank should ensure that the same is earmarked for making payment for the respective import leg. However, AD 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, AD bank may handle such transactions by providing facility based on commercial judgement. It may, however, be ensured that any such advance payment for the import leg beyond USD 200,000/- per transaction, the same should be paid 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 ;

Letter of credit to the supplier is permitted against confirmed export order keeping in view the outlay and completion of the transaction within nine 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 ;

AD 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 in the format as annexed, within 15 days from the close of each half year, i.e. June and December ;

The names of defaulting merchanting traders, where outstandings reach 5% of their annual export earnings, would be caution-listed.

3. The 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. AD 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.

4. It is clarified that the contents of this circular would come into effect in respect of merchanting trade transactions initiated after January 17, 2014.

5. Reporting for merchanting trade transactions for compilation of R-return should be done on gross basis, against the undernoted codes:

Trade	Purpose Code under FETERS	Description
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Export	P0108	Goods sold under merchanting /receipt against export leg of merchanting trade
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Import	S0108	Goods acquired under merchanting /payment against import leg of merchanting trade
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6. AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned and note the guidelines for strict compliance.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(C. D. Srinivasan)

Chief General Manager