

**Foreign Exchange Management Act - 1999 Import of Goods into India
A.P.(DIR Series) Circular No.106 (June 19, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001**

A.P.(DIR Series) Circular No.106

June 19, 2003

To

All Authorised Dealers in Foreign Exchange.

Madam/Sir,

Foreign Exchange Management Act - 1999 Import of Goods into India

Attention of authorised dealers is invited to the Annexure to A.P.(DIR Series) Circular No. 9 dated August 24, 2000 containing directions to be followed by authorised dealers while dealing with applications relating to import of goods into India. With a view to liberalising and simplifying the procedure for import, existing guidelines have been reviewed and the revised directions are laid down in the Annexure to this circular.

2. As import trade is regulated by the Directorate General of Foreign Trade(DGFT) under Ministry of Commerce & Industry, Department of Commerce, Government of India, authorised dealers, while undertaking import transactions, should ensure that the imports into India are in conformity with the Export Import Policy in force and Foreign Exchange Management (Current Account Transactions) Rules, 2000 framed by 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 from time to time.

3. Authorised dealers have to 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. In respect of import of drawings and designs, compliance with the provisions of Research & Development Cess Act, 1986 may be ensured. Authorised dealers may also advise importers to ensure compliance with the provisions of Income Tax Act, wherever applicable.

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

5. 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).

Yours faithfully,

**Grace Koshie
Chief General Manager**

IMPORT OF GOODS

Section A

A.1 General

Rules and Regulations from the Exchange Control angle to be followed by the authorised dealers while undertaking import payment transactions on behalf of their clients are set out in the following paragraphs. Where specific regulations do not exist, authorised dealers may be governed by normal trade practices. Authorised dealers may particularly note to adhere to “Know Your Customer” (KYC) guidelines issued by Reserve Bank (Department of Banking Operations & Development) in all their dealings.

A.2 Form A 1

Applications by persons, firms and companies for making payments, exceeding USD 500 or its equivalent, towards imports into India must be made on appropriate form A 1.

A.3 Import Licences

Authorised dealers may freely open letters of credit and allow remittances for import of goods unless they are included in the negative list requiring licence under the EXIM Policy in force. In such cases, licences marked ‘For Exchange Control purposes’ should be called for and special conditions, if any, attached to such licences adhered to. Exchange Control copy of the import licence submitted by importer for opening of Letter of Credit or making remittance, when fully utilised, should be retained by authorised dealers and may be preserved till its scrutiny by the internal auditors or inspectors is completed.

A.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 under Section 10(5) of the Act or to use it for any other purpose for which acquisition of exchange is permissible under the said Act, or Rules or Regulations framed thereunder.
- (ii) Where foreign exchange acquired has been utilised for import of goods into India the authorised dealer should ensure that importer furnishes an evidence of import to his satisfaction, as laid down in paragraph A.10.
- iii) 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 authorised dealer should ensure compliance with the instructions contained in sub-paragraphs (i) and (ii) above.

A.5 Time Limit for Settlement of Import Payments

- (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. Deferred payment arrangements including payments beyond a period of six months from date of shipment are treated as External Commercial Borrowings (ECBs). For deferred or delayed payment imports, authorised dealers may adhere to the instructions issued vide A.P.(DIR Series) Circular No.25 dated September 27, 2002 read with regulations 5(3) of Notification No. FEMA 3/2000-RB dated 3rd May 2000.
- (ii) Authorised dealers may permit settlement of import dues delayed due to disputes, financial difficulties etc. Interest in respect of such delayed payments may be permitted in terms of the directions in para A.7 below.

NOTE: Remittances against import of books may be allowed without restriction as to time limit, provided, interest payment, if any, is as per the instructions in para A.7

A.6 Advance Remittance

Authorised dealers 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 100,000 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 authorised dealer in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, is obtained.
- b) 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.
- c) In the event of non-import of goods, authorised dealer should ensure that the amount of advance remittance is repatriated to India or is utilised for any other purposes for which release of exchange is permissible under the Act, Rules or Regulations made thereunder.

A.7 Interest on Import Bills

Authorised dealers may allow payment of interest on usance bills or overdue interest **for a period of less than three years** from the date of shipment at the rate prescribed in A.P. (DIR Series) Circular No.25 dated September 27, 2002 without prior approval of Reserve Bank.

A.8 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 authorised dealers and fresh remittance

for replacement imports 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 licence.

A.9 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, authorised dealers may issue guarantees at the request of importer client for despatch/return of the defective goods, according to their commercial judgement.

A.10.1 Evidence of Import

- (i) In case of all imports, where value of foreign exchange remitted/paid for import into India exceeds USD 25,000 or its equivalent, it is obligatory on the part of the authorised dealers through whom the relative remittance was made, to ensure that the importer submits :-
 - a) the Exchange Control copy of the Bill of Entry for home consumption, or
 - b) in case of 100% Export Oriented Units the Exchange Control copy of the Bill of Entry for warehousing, 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, as an evidence that the goods for which the payment was made have actually been imported into India.
- ii) 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.

Note: Authorised dealers should advise importers to keep Customs Authorities informed of the imports made by them under this clause.

- iii) In respect of imports on D/A basis, authorised dealers 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., authorised dealers 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.
- iv) Authorised dealers 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.
- v) Internal inspectors or auditors (including external auditors appointed by authorised dealers) should carry out 100 per cent verification of the documents evidencing import,

e.g. Exchange Control copies of Bills of Entry or Postal Appraisal Forms or Customs Assessment Certificates, etc.,

- vi) Documents evidencing import into India should be preserved by authorised dealers for a period of one year from the date of its 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.

A.10.2 Authorised dealers may accept either Exchange Control copy of Bill of Entry for home consumption or 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 :-

- i) the amount of foreign exchange remitted is less than USD 1,00,000 or its equivalent,
 ii) the importer is a company listed on a stock exchange in India and whose net worth is not less than Rs.100 crores 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.

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

A.11 Follow up for Import Evidence

- i) In case an importer does not furnish any documentary evidence of import, as required under paragraphs A.10.1 & 2 above, within 3 months from the date of remittance involving foreign exchange exceeding USD 25,000, the authorised dealer should rigorously follow-up for the next 3 months, including issue of registered letters to the importer.
- ii) Authorised dealers should forward to Reserve Bank a statement on half- yearly basis as at the end of June & December of every year, in form BEF (format enclosed) furnishing details of import transactions, exceeding USD 25,000 in respect of which importers have defaulted in submission of appropriate document evidencing import within 6 months from the date of remittance. The said half-yearly statement should be submitted to the Regional Office of Reserve Bank under whose jurisdiction the authorised dealer is functioning, within 15 days from the close of the half-year to which the statement relates.

A.12 Receipt of import Bills/Documents

- (i) Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. Authorised dealers should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:
- a. Where the value of import bill does not exceed USD 10,000.

- b. Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.
 - c. Import bills received by Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses, 100% Export Oriented Units/ Units in Free Trade Zones, Public Sector Undertakings and Limited Companies.
 - d. Where the value of import bill does not exceed USD 25,000 in respect of import of -
 - i. books and magazines
 - ii. life saving drugs/equipments by Hospitals, etc. and
 - iii. imports by reputed research and other development institutions like Tata Institute of Fundamental Research, C-DOT, Indian Institute of Technology, Indian Institute of Science and Universities.
 - e. Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.
- (ii) In all other cases, at the request of importer clients, authorised dealers may receive bills direct from the overseas supplier up to USD 25,000 (U.S. Dollars Twenty five thousand only), provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer customer. Before extending the facility, authorised dealer should obtain report on each individual overseas supplier from the overseas banker or reputed credit agency.

A.13 Import of Gold/Platinum/Silver by Nominated Banks/Agencies

- i) Import of gold on consignment basis

Gold may be imported by the nominated agencies/banks on consignment basis where the ownership will remain with the supplier and the importer (consignee) will be acting as an agent of the supplier (consignor). Remittances towards the cost of import shall be made as and when sales take place and in terms of the provisions of agreement entered into between the overseas supplier and nominated agency/bank.

- ii) Import of gold on unfixed price basis

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

NOTE : Instructions contained in this paragraph would also apply to import of platinum and silver.

A.14 Import factoring

Authorised dealers may enter into arrangements with international factoring companies of repute, preferably members of Factors Chain International, without approval of Reserve Bank. However, authorised dealers will have to ensure compliance

with the extant exchange control directions relating to imports, EXIM policy in force and any other guidelines/directives issued by Reserve Bank in this regard.

Section-B

Merchanting Trade

Authorised dealers may take necessary precautions in handling merchanting trade transactions or intermediary trade transactions to ensure that (a) goods involved in the transactions are permitted to be imported into India, (b) such transactions do not involve foreign exchange outlay for a period exceeding three months, and (c) all rules, regulations and directions applicable to export out of India (except Export Declaration Form) are complied with in respect of the export leg and all rules, regulations and directions applicable to import (except Bill of Entry) are complied with in respect of the import leg of merchanting trade transactions. Authorised dealers are also required to ensure timely receipt of payment for the export leg of such transactions.

Section – C

Import of Currency

Import of currency, including cheques, is governed by clause (g) of sub-section (3) of Section 6 of the Foreign Exchange Management Act, 1999, and the Foreign Exchange Management (Export and Import of Currency) Regulations 2000, made by Reserve Bank vide Notification No.FEMA 6/RB- 2000 dated May 3, 2000 and No.FEMA 38/RB-2001 dated February 27, 2001.

BEF

(See paragraph A.11)

Statement showing the details of remittances effected towards import in respect of which documentary evidence has not been received despite reminders

Name and address of AD branch.....

Name of Controlling Office of AD branch

Statement for the half-year ended

NOTES:

- i) The statement should be submitted in duplicate, to the Regional Office of Reserve Bank under whose jurisdiction the A.D. branch is functioning.
- ii) Details of transactions where the amount of remittance exceeds USD 25000 or its equivalent should only be included in the statement.
- iii) In cases where, at the time of advance remittance, purpose of remittance was as import and subsequently the exchange has been used for other purpose for which sale of exchange is permissible, and a document to the satisfaction of authorised dealer has been produced, such cases should not be treated as default and hence be excluded from the BEF statement.
- iv) Authorised dealers may accept 'Into Bond Bill of Entry' as a provisional evidence of import into India. However, they may ensure submission of Exchange Control copy of the Bill of Entry for Home consumption within a reasonable period of time. Wherever 'Into Bond Bill of Entry' has been submitted, such cases need not be reported in BEF statement.
- v) The statement should include details of all remittances, exceeding USD 25,000 from India or payments from abroad in connection with imports, including advance payments, delayed payments, etc. irrespective of the source of funding (i.e. EEFC accounts/foreign currency accounts maintained in India and abroad, payments out of external commercial borrowings, foreign investments in the shares of importers etc.)
- vi) The cases reported in Part I of statement for the previous half-year should not be reported again in Part I of the statement for the current half-year.
- vii) In case no transaction is required to be reported, 'NIL' statement should be submitted.
- viii) Statement should be submitted within 15 days from the close of the half-year to which it relates.

Part I**Information regarding importers who have defaulted in submission of the documentary evidence of import**

Part II**Information regarding subsequent receipt of documentary evidence of Import from importers whose names were reported in Part I of earlier BEF statement/s**

Sr.No.	Name and address of the importer	Period of the BEF statement and serial No. of the transaction reported earlier in Part I of BEF statement	Date of receipt	Amount of remittance		Remarks
				Currency & Amount	Rupee equivalent	
1	2	3	4	5		6
A. Import by parties other than Public Sector Undertakings/Government Departments						
1						
2						
3						
4						
Etc						
B. Import by Public Sector Undertakings/Government Departments						

Note : The transactions reported in Part II of BEF statement of earlier half-year should not be repeated in Part II of the current half-year.

CERTIFICATE

- i) We certify that the particulars furnished above are true and correct as per our records.
- ii) We further certify that the statement includes all cases which are required to be reported under the prescribed procedure.
- iii) We undertake to continue to pursue the cases with the importers reported in Part I of the statement.

Stamp

(Signature of the Authorised Official)

Place:

Date:

Name :

Designation :