

Regulatory Alert



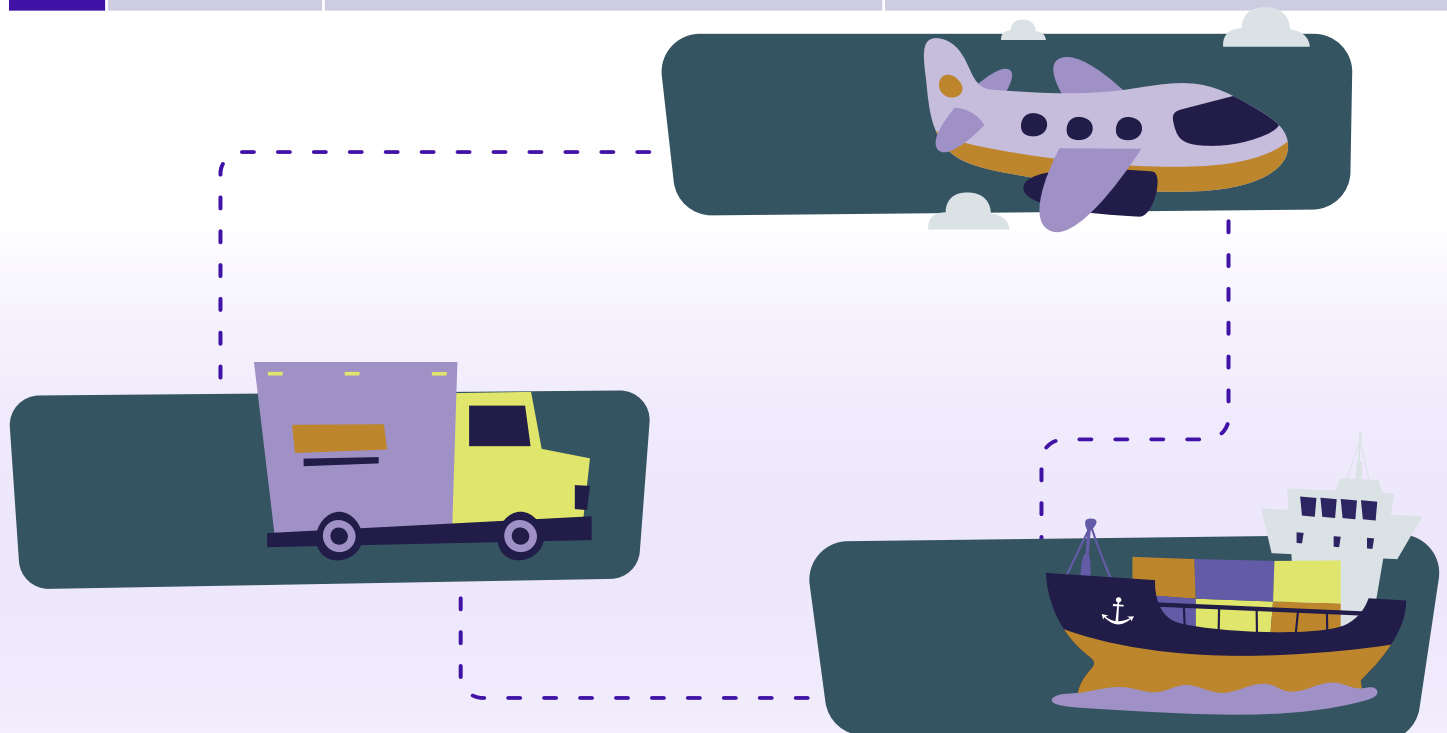
RBI proposes amendments in Import Export Regulations

The Reserve Bank of India (RBI) has recently proposed a few amendments to the Import Export Regulations and Direction and accordingly has sought feedback/comments on these regulations and directions so proposed on or before 1 September 2024. The proposed regulation will be known as “Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2024”.



The gist of proposed amendments is summarized in the below table:

Sr. No	Particulars	Proposed Amendment	Comments
1	Intimation of export transactions	<p>The exporter shall submit to the Authorised Dealer the documents pertaining to export, within twenty-one calendar days from the date of shipment in case of goods or from the date of invoice in case of services.</p> <p>Provided that the Authorized Dealer may accept the documents after the expiry of the above period subject to directions issued by the Reserve Bank.</p>	<p>The proposed regulations categorically specify the period within which the export of goods and services shall be reported to the AD Bank, unlike current regulation, which just specify as “21 days from the date of export” which creates ambiguity.</p> <p>The proposed regulation identifies the date on which export of goods and services are to be considered, i.e., the date of shipment in case of goods and the date of invoice in case of service.</p> <p>Below mentioned are directions for AD Bank while handling the case:</p> <ul style="list-style-type: none"> • AD Bank verifies the bonified transaction before entering crediting export proceeds to the exporter’s account. • AD Bank shall report export details in EDPMS on the same day as the receipt of documents. • AD has been empowered to accept the documents submitted after the due date as per internal policy after satisfying themselves with the reasons and causes shown by the exporter.



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2	Extension of time	<p>In case of export:</p> <p>AD Bank, as per their internal policy, may grant an extension of time to the exporter beyond the period as specified in the Regulation in the following cases for receiving export proceeds in the following cases.</p> <ol style="list-style-type: none"> If the exporter has not been able to realize and repatriate export proceeds for reasons beyond its control. If the exporter has not been able to fulfill the export obligations in case of export advance. <p>In case of import:</p> <p>AD banks, in terms of their policy, may grant an extension of time to importers beyond the period as specified in the contract in the following cases:</p> <ol style="list-style-type: none"> Delayed settlement of import payments. If the overseas supplier delays in fulfilling its obligation in case of import advance. 	<p>In case of export:</p> <p>Currently, AD Bank is authorized to extend for a period of up to six months at a time. However, the proposed amendment gives AD Bank a free hand to allow the extension as per their internal policy after considering the Bonafide of the case.</p> <p>In case of import:</p> <p>In case of deferred payment import transactions, AD Bank has been authorized to grant an extension beyond the period specified in their contract.</p>
3	Reduction in the full value of export	<ol style="list-style-type: none"> AD banks, on request of the exporter, may permit a reduction in the full export value after satisfying themselves with the bonafide of such requests. AD banks shall put up all cases of more than 25% reductions in the full export value of exports to its Board for post facto ratification. 	<p>The AD banks are authorized to approve the write-off of export receivables, which is only up to 10% of total export proceeds released during the previous year. Beyond this, cases are referred to the Regional Office of the RBI.</p> <p>However, this amendment empowers the AD banks to approve the write-off/reduction in the full value of export (100%) after satisfying the bonified of such request.</p> <p>Furthermore, the AD Bank shall put forth cases having a reduction of more than 25% of export value before its Board of Directors for post facto ratification.</p>



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4	Advance receipt/payment for export/import of goods and services	<ul style="list-style-type: none"> i. Receipt of Advance is permitted as per the export contract ii. Interest, if any, payable shall not exceed the all-in cost ceiling of trade credit terms of Foreign Exchange Management (Borrowing and Lending) Regulations, 2018, as amended from time to time. iii. Where an exporter is unable to fulfill the export obligation within the contracted period, the advance received shall be refunded unless an extension of time to fulfill the export obligation has been granted by the Authorised Dealer. iv. AD banks may, as per their internal assessment and subject to their satisfaction with the track record of the importer, permit advance remittance for an import transaction, subject to conditions, if any, they may specify. v. Advance payment for import of goods and services shall be repatriated by the importer and surrendered to the Authorised Dealer in case of non-import within the contract period or within the extended period granted by the Authorised Dealer. vi. Advance payment made or received for import or export of goods and services which do not result in any import or export even within the extended time granted by the Authorised Dealer and when the advance is not refunded thereafter would be subject to the Regulations 3 of the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 as amended from time to time. 	<ul style="list-style-type: none"> i. Exporter and importers are allowed to receive and pay the advance towards the export/import of goods or services. ii. The proposed amendment extends the all-in cost limit for payment interest on advance, if any. The revised all-in cost shall be the six months benchmark rate of the respective currency + 250 basis points, whilst the current rate is ARR + 100 basis points. iii. After analyzing bonafide import transactions and the importer's track record, AD Bank permits advance payment towards the import of goods and services. iv. The transactions, wherein the exporter/importer is receiving/paying the advance payment for the transactions against the demy purchase order and returning the funds after utilizing the funds for the specific period, will be now subject to the Regulations 3 of the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 as amended from time to time. This will restrict the bogus export-import transactions, and such transactions will be in violation of FEMA regulations.



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5	International Trade Settlement in Indian Rupees (INR)	AD banks may be guided by the extant guidelines on the broad framework for cross-border trade transactions in INR under the Foreign Exchange Management Act, 1999 (FEMA) issued vide A.P. (DIR Series) Circular No.10 dated 11 July 2022, on International Trade Settlement in Indian Rupees (INR).	In order to promote the growth of global trade with emphasis on exports from India and to support the increasing interest of the global trading community in INR, it has been decided to put in place an additional arrangement for invoicing, payment, and settlement of exports/imports in INR.
6	Introduction of Board-approved Policy	<ul style="list-style-type: none"> i. AD banks shall put in place a comprehensive, well-documented policy as approved by their Board of Directors within six months of issuance of this circular for handling payment transactions related to export/import of goods and services and merchanting trade. ii. The policy shall ensure that the procedures applied are in a manner conducive to international trade and are not discriminatory. The policy should be comprehensive enough to include all aspects relevant to foreign trade at that time. iii. While laying down their internal policy and processes, AD banks shall ensure that the responsibility for approving transactions is clearly demarcated and the different internal levels at which several types of transactions can be approved are delineated. 	<p>Since the proposed amendment aims to enlarge the AD Bank's powers/duties as discussed herein above, it casts a duty on the AD Bank to put in place a comprehensive policy duly approved by their Board of Directors within six months of issuance of these regulations.</p> <p>The policy shall ensure that all international trades are conducted fairly and include all the relevant aspects of foreign trade.</p>

Our Comments

The proposed regulations are progressive in nature and liberalize several practical issues faced by the industry and AD Banks. It seeks to enlarge the AD Bank's powers, such as the authority to reduce full value of export value, grant an extension of time for receipt of export proceeds, etc. Equally, it cast an obligation on AD Bank to verify the bonafide transaction before granting any relaxation. If notified in the present form, the regulations would allow ease of doing import-export transactions.

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