



**BOMBAY
CHARTERED
ACCOUNTANTS'
SOCIETY**

Date: 30th April 2025

To,
The Chief General Manager,
Foreign Exchange Department,
Trade Division,
Mumbai.

Dear Sir,

**Re: Feedback on draft regulations and directions on export and import under
FEMA**

We refer to the press release dated April 04th 2025 in relation to Regulation of Foreign Trade under Foreign Exchange Management Act (FEMA), 1999 whereby revised Draft Regulations and Directions issued by RBI were released for comments/feedback.

We welcome RBI's approach in obtaining feedback from stakeholders to emphasis the focus on ease of doing business. These draft regulations reflect government's approach of "Less Government More Governance". This approach was aimed at citizen friendly and accountable administration with simplification of procedures. However, delegating absolute power to AD-Banks without necessary directions and guidelines can result in complete anarchy or unjust enrichment as AD-Banks (being commercial banks) are less enablers and more bureaucratic when it comes to implementing operational parameters. Thus, we strongly suggest that RBI's over arching control in regulation Regulations framed under FEMA should remain while delegation may continue.

We submit our suggestions on some specific issues for your consideration as per Representation attached with the cover email.

While we have tried to put across our suggestions regarding specific regulations, we would appreciate if your good offices could allow us time to meet in person to discuss and explain the representation made.

CA Anand Bathiya
President

Chetan Shah
Chairman

Rutvik Sanghvi
Co-Chairman

International Taxation and Finance
Committee of the BCAS

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

Sr no	Regulation Reference	Provision of Regulation	Suggestions provided/Clarification sought
1	Regulation 3 – Declaration of Exports	<p>Presently, Regulation 4 of FEMA 23(R) grants exemption from exports declaration in EDF for list of specified cases. This provision has been deleted in Draft Foreign Trade Regulations.</p> <p>We notice a footnote to Export Value section in revised Form EDF which states <i>Export value may be indicated as nil in case the goods are sent without any consideration.</i></p>	<p>Presently, regulation 4 grants specific exemption from filing declaration in certain specified cases. In such cases, proposed Regulation requires filing declaration with ‘Nil’ value. While we understand for goods exported from EDI ports, separate EDF is not required and Shipping Bill is accepted as EDF, however, for non-EDI ports as well as other forms of export such as by courier, post, etc. the proposed regulation requiring filing declaration with ‘Nil’ value will increase compliance burden. It may be considered that while export through courier, post etc is made, information should be reported by such courier/post company as all information is being collected by them.</p> <p>Further, as part of delegated powers, AD may ask for additional documents in support of ‘Nil’ value declaration. Considering, there would no receipt of exports value, should an entry be created for export in EDPMS basis EDF? We believe this will increase compliance as compared to present regulations and defeats the ease of doing business agenda.</p> <p><i>Hence, we suggest specific exemption provision in specified cases should be retained while list of specified cases may be reviewed. For cases not falling in the specified list as presently covered by clause k of Regulation 4, powers can be with AD to approve EDF waiver.</i></p>
2	Regulation 4 - Manner of Receipt and Payment	<p>Sub regulation 3 provides that an AD shall make a credit or debit to the account of an exporter or an importer, for receipt of export or payment for import, only after having satisfied itself of the genuineness of the transaction, and shall, simultaneously close or update the respective entry in Export Data</p>	<p>Presently, funds are credited/debited basis declaration of purpose code by exporter/importer and closure/update of entries in EDPMS/IDPMS takes place subsequently.</p> <p>Instructions to close/update entry in EDPMS/IDPMS simultaneous to credit or debit to the account of exporter/importer can lead to delay in funds receipt/payment if the entry closure in EDPMS/IDPMS is delayed for any reason.</p>

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

		<p>Processing and Monitoring System or Import Data Processing and Monitoring System (EDPMS or IDPMS).</p>	<p>In this regard, it is stated that AD-Banks have tendency to hold bank foreign exchange remittances for undue reasons and in the proposed framework, AD Banks may delay credit of funds to the beneficiary accounts for several days for want of certain document/clarifications which may even not be relevant. This will increase float with the banks at the cost of exporters’ loss. We firmly believe that foreign trade should not obstructed due to delay in a reporting compliance unless there is lack of primary document itself.</p> <p><i>Thus, we suggest a reasonable time limit from the date of completion of export/import transaction should be provided for closure of entries in EDPMS/IDPMS subject to satisfaction of document requirements of AD Banks. It should also be considered that while issuing Directions to AD-Banks, certain standard set of document requirements/formats of declaration are provided (in prior consultation with AD Banks) so that there is uniformity in compliance requirements.</i></p>
3	Regulation 5 - Period within which full export value to be realised	<p>Proviso to sub regulation 1 provides that <i>“Provided that the Authorised Dealer may, on request by an exporter citing reasons for the delay, allow extension of time for realisation of export proceeds beyond the specified period, if the Authorised Dealer is satisfied of the reasons cited.”</i></p>	<p>Presently as per sub regulation 1(b) of Regulation 9 of FEM 23(R), powers to extend the time period for realisation of export is with the RBI and with AD within the limits of delegated power by the RBI.</p> <p>As per proposed Draft Regulations, the power has been delegated only to AD Bank.</p> <p>Considering the RBI proposes to delegate absolute powers to the AD without putting a limit on the nature of cases they can deal with, it is recommended that <i>enabling provision should be made for exporter to make an application to RBI, in case AD-Bank denies extension after recording cogent reasons for doing so. It may also be considered that directions may be given to AD-Bank outlining broader criteria for evaluating extension of time period in realisation of export proceeds.</i></p>

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

4	Regulation 6 - Reduction in export realisation	<p>It provides that <i>An Authorised Dealer who has handled the relevant export documents may, on request from the exporter citing reasons for under-realisation or non-realisation of full export value, allow reduction in realisation of export value, provided the Authorised Dealer is satisfied of the reasons cited.</i></p>	<p>Presently, the RBI vide Master Direction has listed cases which are not eligible for write off, cases where reduction/write off can take place up to specified limits, cases where 100% write off can be permitted by AD and cases which shall be dealt by the RBI.</p> <p>As per Revised draft Regulation, AD has absolute powers to decide the manner of dealing with exports reduction/write off request. This reflects a possibility of different AD having different internal policy, for instance, an AD may require proof of filing a legal suit overseas for write off while other AD may not. This can lead to chaos in the industry.</p> <p>In this regard, we suggest the RBI should ensure that AD banks have more uniform policy on principle aspects while internal policy on documentation/power to regulate transaction based on value may be different. Our recommendation is based on current experience with AD Banks in respect of Overseas Investment Rules/Regulations wherein different AD-Banks have different policy on valuation requirements even when regulatory framework on valuation requirements has undergone change. For instance, valuation report from Merchant Banker (Category -I) was required for overseas investments more than USD 5 million. Some AD Banks still have this requirement in their internal board approved policy. Further, SEBI had specifically prevented Merchant Bankers to issue valuation report unless registration was sought with SEBI.</p> <p>It may also be considered to mandate AD Banks to publish their respective internal Policy on documentation requirement (including formats) to be made publically available and duly updated on website. This will bring clarity on position adopted by AD Bank and understanding of documentation requirements.</p>
---	--	--	--

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

5	Regulation 7 - Set off of export receivables against import payables	<p>It provides that <i>An Authorised Dealer may allow set-off of export receivables against import payables from/to the same overseas buyer or supplier or with their overseas group or associate companies</i></p>	<p>As per present Regulations, set-off of export receivables against goods is not allowed against import payables for services and vice versa.</p> <p>The above restriction was retained in draft regulations released in July 2024, however, this has been dropped from the present draft regulations.</p> <p>We understand, this will now be permitted.</p> <p>Considering, this is an important change from present law, we suggest this is made amply clear in the Regulation/Direction itself.</p> <p>It may also be considered to mandate AD Banks to publish their respective internal Policy on documentation requirement (including formats) to be made publically available and duly updated on website. This will bring clarity on position adopted by AD Bank and understanding of documentation requirements.</p>
6	Regulation 8 - Third Party Receipts and payments	<p>As per sub regulation 1, an Authorised Dealer may allow realisation of export proceeds, from a third party as duly declared by the exporter in the EDF:</p> <p>As per sub regulation 2, an Authorised Dealer may make payment to a third party for imports, wherein the name of the third party has been mentioned in the Invoice or in the Bill of Entry</p>	<p>As per present Regulations, third party payment is permitted in case of export, for export of goods/software and in case of import, only for goods.</p> <p>We understand, third party payments will now be permitted in case of Services also.</p> <p>Considering, this is an important change from present law, we suggest this is made amply clear in the Regulation itself.</p> <p>It may also be considered to mandate AD Banks to publish their respective internal Policy on documentation requirement (including formats) to be made publically</p>

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

			available and duly updated on website. This will bring clarity on position adopted by AD Bank and understanding of documentation requirements.
7	Regulation 9 - Time period for making import payment.	It provides that an Authorised Dealer shall monitor and follow up with an importer for completion of payment for imports within the period specified in the contract between the importer and overseas seller:	<p>Present regulation permits time period of six months from the date of import.</p> <p>As per revised regulation, even slight delay from standard contract terms like 30/45 days, will require importer to justify AD for the delay. Also, many cases importer may not have a formal contract, to ensure compliance with revised regulations, each importer will have to formalise contract terms. RBI may consider publishing standard terms of contract which small businesses can adopt.</p> <p><i>The above will lead to increase in compliance time and reduce ease of doing business. Hence, we propose RBI provides a time period similar to exports such as 9 months from date of import.</i></p>
		As per proviso to Regulation 9, the Authorised Dealer may, on request from the importer citing reasons for the delay, allow extension of time for making payment, beyond the period specified in the contract, if the Authorised Dealer is satisfied of the reasons cited	<p>As per present Master Direction on Import of Goods and Services, AD can grant an extension of six months at a time and maximum up to 3 years.</p> <p>The revised regulation does not specify the time period up to which extension may be granted.</p> <p>We understand that as per Draft Revised Foreign Trade Directions, AD needs to be guided by FEMA 3(R)/2018 - Borrowing and Lending Regulations wherein period for Trade Credit for Import of Goods have been specified as under:</p> <ul style="list-style-type: none"> • For import of capital goods can be maximum up to 3 years • For import of non-capital goods can be maximum of 1 year or the operating cycle, whichever is less except in case of shipyards / shipbuilders, where the period of TC for import of non-capital goods can be up to 3 years

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

			<p>Deletion of direction to extend time period up to 3 years will lead to reduction in time extension for non-capital goods by other than shipyards/shipbuilders to maximum 1 year as per provision of FEMA 3(R). This would lead to curbing existing liberal provision wherein maximum extension of 3 years is applicable for all category of importers. Further, Trade Credit provisions deal only with Import of Goods and therefore, clarity on provision as applicable for import of services should be provided.</p> <p><i>We suggest amending the Draft regulation to ensure extension up to 3 years for all category of importers to bring parity.</i></p>
8	Regulation 10 - Advance payment for exports and imports and delayed payment for imports	Sub regulation 3 provides that an Authorised Dealer may permit advance remittance for import after having been satisfied of the genuineness of the requirement for advance remittance. The Authorised Dealer may consider specifying thresholds beyond which advance payment may require a standby Letter of Credit or a guarantee.	<p>Presently, RBI has specified the maximum amount of advance that can be remitted by different category of importer based on their industry category.</p> <p>By delegating this important aspect to AD, there can be a situation where different ADs are permitting different amount of advance and can lead to importers selecting ADs with most liberal policy.</p> <p><i>We suggest RBI ensures a common policy across all AD Banks. A common policy framework will avoid AD-Bank shopping by errant entities/persons.</i></p>
9	Regulation 11 – Import not materialized	Sub Regulation 1 provides that where an importer is unable to import within the contract period , advance payment made by the importer, if any, shall be repatriated	<p><i>Since Regulation 9 permits extension of time period by AD, we suggest this provision be amended to include time extended by the AD banks as well.</i></p>
10	Regulation 13 – Reporting	Reporting for Export and Import of Services shall also be done in EDPMS/IDPMS	<p><i>We suggest that suitable exemption for reporting of exports/imports of services by MSME entities (within prescribed threshold) be given.</i></p> <p><i>Alternatively, bulk reporting provision be introduced in case of Import of Services similar to Export of Services for such categories of MSMEs. RBI should also consider enabling</i></p>

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

			<i>reporting tools for widely used accounting softwares to enable small businesses to efficiently report transactions without incurring additional costs. Even the disclosure requirements should be aligned with the e-invoicing formats required under GST compliance to have uniformity of formats.</i>
11	Regulation 17 – Merchanting Trade Transactions		<p>Presently, Master Direction permits making advance payment towards import of leg of MTT as per ADs commercial judgement. Further, write off is also permissible in specified cases.</p> <p>The Revised Regulation does not provide for advance payment provision or write off provision, we seek clarity on whether both these requests will be covered within AD Internal Policy or can be considered under Regulation 6 dealing with Reduction in the export realization and Regulation 10 dealing with Advance payment for exports and imports and delayed payment for imports.</p> <p><i>Since, Regulation 17 is a specific regulation dealing with Merchanting Trade Transactions, we suggest specific provision be introduced in regulation 17 itself to avoid confusion whether a general provision of 6 and 10 can be used for nature of transaction specifically dealt by Regulation 17.</i></p>
12	Regulation 20- Internal Policy for handling transactions	It is provided that the policy shall also have an escalation process for handling customer grievances and an appeal mechanism wherein the appeal is handled at a higher internal level. The higher internal level should take a final decision based on the genuineness of the submissions made by the customer	<p><i>We suggest adding a provision for escalation to the RBI for cases where the exporter/importer is not satisfied with the final decision taken by the higher internal level at AD Bank.</i></p> <p>It should be considered to mandate AD Banks to publish their respective internal Policy on documentation requirement (including formats) to be made publically available and duly updated on website. This will bring clarity on position adopted by AD Bank and understanding of documentation requirements</p>

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

13	Existing Master Direction on Export of Goods and Services	<p>Para A.15 – Export of machinery, equipment, etc. on lease, hire basis requires prior RBI approval</p> <p>Para A.16 – Export on elongated credit terms requires prior RBI approval</p> <p>Para C.13 - Opening/hiring of warehouse abroad requires AD approval subject to specified conditions</p>	<p>The Draft Regulation/Direction do not discuss these cases.</p> <p><i>We seek clarity whether these can be considered to be permitted without any approval or will now require prior approval of the AD?</i></p>
14	Existing Master Direction on Import of Goods and Services	<p>As per existing MD, para C.8 (x) AD Category I 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 AD bank is satisfied with the reason/s submitted by the importer.</p> <p>Further, para (xi) states that AD Category I 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 in terms of extant guidelines on the matter subject to submission of satisfactory documentation by the importer irrespective of the amount involved. AD Bank shall settle and close ORM/BoE with appropriate “Adjustment Indicator” in IDPMS.</p>	<p>As per Regulation 13 of Revised Draft Regulations, Cases where no import has taken place and where repatriation of such advance is not possible, AD may on importers request close the entry relating to import advance in IDPMS subject to its satisfaction.</p> <p>The above provision takes care of closure of IDPMS entry for advance, however, provision similar to existing Master Direction for closure of BoE/ORM in IDPMS involving write off due to other reasons is missing.</p> <p>We suggest the provision be amended to include write off scenarios as presently covered by the Master Direction.</p>
15	List of AP DIR Circulars repealed	The Revised Directions has list of AP DIR Circulars repealed from the existing Master Direction	Circular no 16 dated September 24, 2025 dealing with Processing and settlement of import and export related payments facilitated

Feedback on draft regulations and directions on export and import under FEMA – from Bombay Chartered Accountant’s Society

			<p>by Online Payment Gateway Service Providers has not been included in the repealed list.</p> <p>Considering all export-imports having receipts/payments in online mode will be dealt with by Regulation of Payment Aggregator – Cross Border (PA - Cross Border), issued by the Reserve Bank, as amended from time to time, the aforementioned circular should also be added to the repealed list.</p>
--	--	--	--