

RBI revises Merchanting Trade Transactions (MTT) Guidelines

In reference to the Circular No.115 dated March 28, 2014 containing directions relating to merchanting trade transaction. With a view to further facilitate merchanting trade transactions, RBI has revised the existing guidelines as under:

- For a trade to be classified as merchanting trade, goods acquired shall not enter the Domestic Tariff Area.
- Considering that in some cases, the goods acquired may require certain specific processing/ value-addition, the state of goods so acquired may be allowed transformation subject to the Authorised Dealer Category (AD) bank being satisfied with the documentary evidence and bonafides of the transaction.
- The MTT shall be undertaken for the goods that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India as on the date of shipment. All rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry) shall be complied with for the export leg and import leg respectively.
- AD bank shall satisfy itself with the bonafides of the transactions. Further, "Know Your Customer" (KYC) and Anti-Money Laundering (AML) guidelines shall be scrupulously adhered to by the AD bank while handling such transactions.

- The entire merchanting trade is to be routed through the same AD bank. The AD bank shall 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 AD bank may, if satisfied, rely on online verification of Bill of Lading/ Airway Bill on the website of International Maritime Bureau or Airline web check facilities. However, the AD bank shall ensure that the requisite details are made available /retrievable at the time of Inspection/Audit/investigation of the transactions.
- The entire MTT shall be completed within an overall period of nine months and there shall not be any outlay of foreign exchange beyond four months. The commencement date of merchanting trade shall be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date shall 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 may be extended for MTT to the extent not backed by advance remittance for the export leg, including the discounting of export leg LC by the AD bank, as in the case of import transactions. However, Letter of Undertaking (LoU)/ Letter of Comfort (LoC) shall not be issued for supplier's/ buyer's credit.
- Any receipts for the export leg, prior to the payment for import leg, may be parked either in Exchange Earners Foreign Currency (EEFC) account or in an interest-bearing INR account till the import leg liability arises. It shall be strictly earmarked/ lien-marked for the payment of import leg and the liability of the import leg, as soon as it arises, shall be extinguished out of these funds without any delay. If such receipts are kept in interest-bearing INR account, hedging thereof may be allowed by the AD bank at the request of its customer, as per extant regulations. No fund/non-fund-based facilities shall be extended against these balances.
- Payment for import leg may also be allowed to be made out of the balances in Exchange Earners' Foreign Currency Account (EEFC) account of the merchant trader.

- Merchanting traders may be allowed to make advance payment for the import leg on demand made by the overseas supplier. 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 based on its commercial judgement. It may, however, be ensured that any such advance payment for an import leg beyond USD 500,000/- per transaction, shall be made against Bank Guarantee / an unconditional, irrevocable standby Letter of Credit from an international bank of repute. Overall prudential limits on allowing such advance payments by a customer may be fixed by the AD bank.
- Letter of Credit to the supplier for the import leg is permitted against confirmed export order, keeping in view the foreign exchange outlay of four months and completion of the MTT within nine months and subject to compliance with the instructions issued by Department of Banking Regulation on "Guarantees and Co-acceptances", as amended from time to time.
- AD bank shall ensure one-to-one matching in case of each MTT and report defaults in any leg by the traders to the concerned Regional Office of the Reserve Bank, within 15 days from the close of each half year, i.e. June and December.
- Merchant traders with outstanding of 5% or more of their annual export earnings shall be liable for caution listing

The merchanting traders shall be genuine traders of goods and not mere financial intermediaries. Confirmed orders must be received by them from the overseas buyers. AD banks shall satisfy themselves about the capabilities of the merchanting trader to perform the obligations under the order. The merchanting trade shall result in profit which shall be determined by subtracting import payments and related expenses from export proceeds for the specific MTT.

Agency commission is not allowed in MTTs. However, AD banks may allow payment of agency commission up to a reasonable extent by way of outward remittance under exceptional circumstances, subject to the following conditions:

- MTT has been completed in all respects.
- The payment of agency commission shall not result in the MTT ending into a loss.
- The Merchanting trader shall make a specific request to the AD bank in this regard.

AD bank may approach Regional Office (RO) concerned of the Reserve Bank for regularization of the MTT for deviation, if any, from the prescribed guidelines and the MTT shall be closed only after receiving approval from the RO concerned of the Reserve Bank.

Reporting for merchanting trade transactions under Foreign Exchange Transactions Electronic Reporting System (FETERS) shall be done on gross basis, against the undermentioned codes:

Trade	Purpose Code under FETERS	Description
Export	P0108	Goods sold under merchanting /receipt against export leg of merchanting trade
Import	S0108	Goods acquired under merchanting /payment against import leg of merchanting trade

AD banks shall bring the contents of this circular to the notice of their constituents concerned for strict compliance. 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.

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Warm Regards,
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