



## **Extension of Realisation Period of Export Proceeds**

To ease the impact of disruption caused by the Coronavirus/COVID-19 pandemic, the Reserve Bank of India ("RBI") has provided extension of the period for realisation of the export proceeds as prescribed under the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 ("**FEM Export Regulations**") read with the RBI Master Direction on Export of Goods and Services ("**RBI Master Directions on Exports**").

### **Regulatory Framework:**

The export of goods and services in India and the payments to be received for such export of goods and services are regulated by the FEM Regulations, framed under the Foreign Exchange Management Act, 1999, read with the RBI Master Directions on Exports. We discuss hereinbelow certain key provisions of the FEM Export Regulations and the RBI Master Directions on Exports:

1. **Realization for Exports:** In terms of regulation 9 of the FEM Export Regulations, every exporter is required to ensure that the amount representing the full value of export of goods, software or services exported from India shall be realised and repatriated to India, within 9 (nine) months from the date of export, provided that:

- where the goods are exported to a warehouse established outside India with the permission of the RBI, then the amount representing the full export value of goods exported shall be paid to the any authorised dealer bank ("**AD Bank**") as soon as it is realised and in any case within 15 (fifteen) months from the date of shipment of goods; and

- subject to the directions issued by the RBI in this behalf, the AD Bank may, for a sufficient and reasonable cause shown, extend the period of 9 months or 15 months, as the case may be.



2. **Extension of Timelines by the AD Bank for Realization of Export Proceeds:** In terms of the RBI Master Directions on Exports, the RBI has permitted the AD Banks to extend the period for realization of the export proceeds, for a maximum period of 6 (six) months beyond the stipulated period, irrespective of the invoice value and subject to the following conditions:

- the export transactions covered by the invoices are not under investigation by Directorate of Enforcement, Central Bureau of Investigation or other investigating agencies;
- the AD Bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control;
- the exporter submits a declaration that the export proceeds will be realized during the extended period;
- while considering extension beyond 1 (one) year from the date of export, the total outstanding of the exporter does not exceed USD One Million or 10% of the average export realizations during the preceding three financial years, whichever is higher; and
- in cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved/outstanding.

Cases pertaining to extension of timelines which are not covered under the aforesaid instances would require prior written approval from the concerned regional office of the RBI.

3. **Write-off of Unrealized Export Bills:** In terms of the RBI Master Directions on Exports, an exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Bank, who had handled the relevant shipping documents, with appropriate supporting documentary evidence. The limits prescribed for write-offs of unrealized export bills are as under:



Sl. No.	Type of Write Off	Limits
1.	Self write-off by an exporter	5% of total export proceeds realized during the previous calendar year.
2.	Write off by the AD Bank	10% of total export proceeds realized during the previous calendar year.
3.	Write off by a status holder exporter	10% of total export proceeds realized during the previous calendar year.

The RBI Master Directions on Exports further provide that the above write-off will be subject to certain conditions that the relevant amount has remained outstanding for more than one-year, satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realize the dues.

4. **RBI Caution List:** The RBI Master Directions on Exports provide that an exporter entity can be caution listed if any shipping bill against them remains open for more than 2 (two) years in the Export Data Processing and Monitoring System, provided no extension is granted by the AD Bank or the RBI. Further, the date of shipment will be considered for reckoning the realisation period.

It is also pertinent to note that the exporter entities can also be caution listed before the expiry of the 2 (two) years period, based on the recommendation of the concerned AD Banks. The recommendation may be based on cases where exporter has come to adverse notice of the Enforcement Directorate, Central Bureau of Investigation, Directorate of Revenue Intelligence or any such other law enforcement agency or the case where exporter is not traceable or not making any serious efforts for realisation of export proceeds. In such cases, the AD Bank may forward its findings to the concerned regional office of RBI recommending inclusion of the name of the exporter in the caution list. RBI will caution or de-caution the exporters in such cases based on the recommendation of AD Banks.



**Relaxation provided by RBI:**

In a press release dated April 1, 2020, RBI has extended the time period for realization and repatriation of export proceeds for exports made up to or on July 31, 2020, from the stipulated period of 9 (nine) months to 15 (fifteen) months from the date of such export. According to the RBI, this extension has been provided to enable the exporters to realise their receipts, especially from the COVID-19 affected countries within the aforementioned extended period and also to provide greater flexibility to the exporters to negotiate future export contracts with buyers abroad.

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