

# Professional Development Courses on Customs & FTP by TaxguruEdu April'2022 Batch



**SN Raghavirahi**



## **Session – 8**

### **RBI – FEMA Regulations – Banking Formalities**

- ❖ **RBI – FEMA**
- ❖ **Export Payment Methods – Documentary Collection & Letter of Credit**
- ❖ **Export Payment Methods - Risks : L/C Check List**
- ❖ **Export Finance: Pre & Post Export**
- ❖ **Banking Formalities- Realization of Export Proceeds**



# Foreign Exchange Management Act (FEMA)

FEMA was introduced because the FERA didn't fit in with post-liberalisation policies. A significant change that the FEMA brought with it, was that it made all offenses regarding foreign exchange civil offenses, as opposed to criminal offenses as dictated by FERA.

The main objective is to **consolidate the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India.**

It was also formulated to promote the orderly development and maintenance of foreign exchange market in India.

It extends to whole of India. It shall also apply to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention thereunder committed outside India by any person to whom this Act applies.

- Exchange control was introduced as a temporary measure in 1939.
- Placed on statutory basis in 1947 (FERA 1947)
- FERA 1947 replaced by FERA 1973.
- FERA 1973 replaced by FEMA 1999.
- FEMA, 1999 came into effect from 01.06.2000.

# Important Sections..

- There are 49 sections in FEMA.
- Main sections are :
  - Sec.2 : Definitions.
  - Sec.3 : Dealing in FE.
  - Sec.4 : Holding of FE.
  - Sec.5 : Current Account.
  - Sec.6 : Capital Account
  - **Sec.7 : Export of Goods and Services.**
  - Sec.8 : Realisation / repatriation of FE.
  - Sec.9 : Exemption from Sec.8
  - Sec.10(5): Declaration
  - Sec.10(6): Freedom to utilize forex
  - Sec.13 to 15 : Penal provisions

# FEMA : Trade – Imports & Exports

FEMA is applicable to:

- ❖ Foreign exchange
  - ❖ Foreign security
  - ❖ Exportation of any commodity and/or service from India to a country outside India
  - ❖ Importation of any commodity and/or services from outside India
- Import & Export are regulated by DGFT as per FTP. ADs should ensure that Exim is in conformity with FTP and RBI Guidelines & Rules
- [Master Direction No.16 dated January 1, 2016](#) on Export of Goods and Services.
  - Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2020
  - Foreign Exchange Management (Manner of Receipt and Payment) (Second Amendment) Regulations, 2020
  - Current A/c. Transactions Rules, 2000. (sch.II and III)
  - Foreign Exchange Management (Export and import of Currency) (Amendment) Regulations, 2019
- ADs should also follow normal banking procedures and adhere to the provisions of UCPDC, Income Tax Act and KYC guidelines issued by RBI.
- FEMA Notification
- Exemption from declarations
- Online Payment Gateway Service Provider. [ OPGSP ].
- [https://www.rbi.org.in/Scripts/BS\\_FemaNotifications.aspx](https://www.rbi.org.in/Scripts/BS_FemaNotifications.aspx)



# What is the Period of Realization of Export Proceeds?

## A.2 Realization and repatriation of proceeds of export of goods / software / services

It is obligatory on the part of the exporter to realize and repatriate the full value of goods / software / services to India within a stipulated period from the date of export, as under:

- (i) It has been decided in consultation with the Government of India that the period of realization and repatriation of export proceeds shall be **Nine Months from the Date of Export** for all exporters including Units in Special Economic Zones (SEZs), Status Holder Exporters, Export Oriented Units (EOUs), Units in Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) & Bio-Technology Parks (BTPs) until further notice.

**4(ii) In view of the outbreak of pandemic COVID-19, it has been decided, in consultation with the Government of India, to increase the period of realization and repatriation to India of the amount representing the full export value of goods or software or services exported, from Nine Months to Fifteen Months from the date of export, for the exports made up to or on July 31, 2020.**

- (iii) For goods exported to a warehouse established outside India, the proceeds shall be realized within fifteen months from the date of shipment of goods.

RBI/2019-20/206

A. P. (DIR Series) Circular No. 27; April 01, 2020

# Extension of Time

(i) The Reserve Bank of India has permitted the AD Category – I **banks to extend the period of realization of export proceeds beyond stipulated period of realization from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export 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 Category – I 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 one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.
- In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.**

(ii) Cases which are not covered by the above instructions would require prior approval from the concerned Regional Office of the Reserve Bank.

(iii) **Reporting should be done in** Export Data Processing and Monitoring System (**EDPMS**).



# Manner of Receipt and Payment

## **Para 2.52 of FTP : Denomination of Export Contracts**

**(a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.**

**(b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.**

Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non- resident bank account.

Free foreign exchange remitted by buyer to his non-resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

**(c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. However, participants in the ACU may settle their transactions in ACU Dollar or in ACU Euro as per RBI Notifications.**

Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.



# Manner of Receipt and Payment

## A.3 Manner of receipt and payment

- (i) The amount representing the **full export value of the goods exported shall be received through an AD Bank** in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations, 2016 notified vide [Notification No. FEMA.14 \(R\)/2016-RB dated May 02, 2016](#).
  
- (ii) When payment for goods sold to overseas buyers during their visits is received in this manner, **“Export Declaration Form”** (EDF) (duplicate) should be released by the AD Category – I banks only on receipt of funds in their Nostro account or if the AD Category – I bank concerned is not the Credit Card servicing bank, on production of a certificate by the exporter from the Credit Card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange, AD Category – I banks may also receive payment for exports made out of India by debit to the credit card of an importer where the reimbursement from the card issuing bank/ organization will be received in foreign exchange.

# Manner of Receipt and Payment

## Processing of export related receipts through Online Payment Gateway Service Providers (OPGSPs)

Authorised Dealer Category – I (AD Category – I) banks have been allowed to offer the facility of repatriation of export related remittances by entering into standing arrangements with Online Payment Gateway Service Providers (OPGSPs) subject to the following conditions –

- a) The AD Category-I banks offering this facility shall carry out the due diligence of the OPGSP.
- b) This facility shall only be available for export of goods and services of **value not exceeding USD 10,000 (US Dollar ten thousand)**.
- c) AD Category-I banks providing such facilities shall open a **NOSTRO** collection account for receipt of the export related payments facilitated through such arrangements. **Where the exporters availing of this facility are required to open notional accounts with the OPGSP, it shall be ensured that no funds are allowed to be retained in such accounts and all receipts should be automatically swept and pooled into the NOSTRO collection account opened by the AD Category-I bank.**
- d) A separate NOSTRO collection account may be maintained for each OPGSP or the bank should be able to delineate the transactions in the NOSTRO account of each OPGSP.

## Banking Key Terms

**VOSTRO Account** – It is the account which is held by a foreign bank with a local bank.  
A VOSTRO is **our account of your money**

**Bank of America**

Maintaining Account with

**State Bank of India**

**NOSTRO account** : Account held by a particular domestic bank in a foreign bank is called NOSTRO account. A NOSTRO is **our account of our money, held by you**.

**ICICI Bank**

Maintaining Account with

**Barclays Bank of UK**

**What is SWIFT** - It stands for Society for the Worldwide Inter-bank Financial Telecommunications. Founded in Brussels in 1973, is a co-operative organization dedicated to the promotion and development of standardized global interactivity for financial transactions. **More than 10,000 financial institutions and corporations in 212 countries every day** to exchange millions of standardized financial messages. This activity involves the secure exchange of proprietary data while ensuring its confidentiality and integrity.



# What is an Escrow Account?

**Escrow is the use of a third party capable of holding assets on behalf of two parties who are in the process of completing a transaction.** The asset could be money, funds, stocks etc. The third-party holds these, often called the escrow agent, until instructions regarding disbursement are received, or as per predefined timeline. Thus, an escrow account is the third party account which holds the asset until the conclusion of a specific event or time.

**Generally, banks and financial service companies serve as escrow agents and provide escrow services for a fee.**

**An escrow account is an account designed to safely hold funds temporarily.** The escrow **provider** should be a disinterested third party with no preference about who ultimately receives funds from the account

# Non-Realisation of Export Proceeds

## Para 2.54 of FTP: Non-Realisation of Export Proceeds

- (a) If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to return all benefits / incentives availed against such exports and action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.
- (b) In case an Exporter is unable to realize the export proceeds for reasons beyond his control (force-majeure), he may approach RBI for writing off the unrealised amount as laid down in **Para 2.87 of Handbook of Procedures**.
- (c) The payment realized through **insurance cover**, would be eligible for benefits under FTP as per Procedures laid down in **Para 2.85 of Handbook of Procedures**.

# Payment through ECGC Cover

## **Para 2.85 of HB Admissibility of benefits on payment through insurance cover**

**(I) Payment through ECGC cover would count for benefits under FTP.**

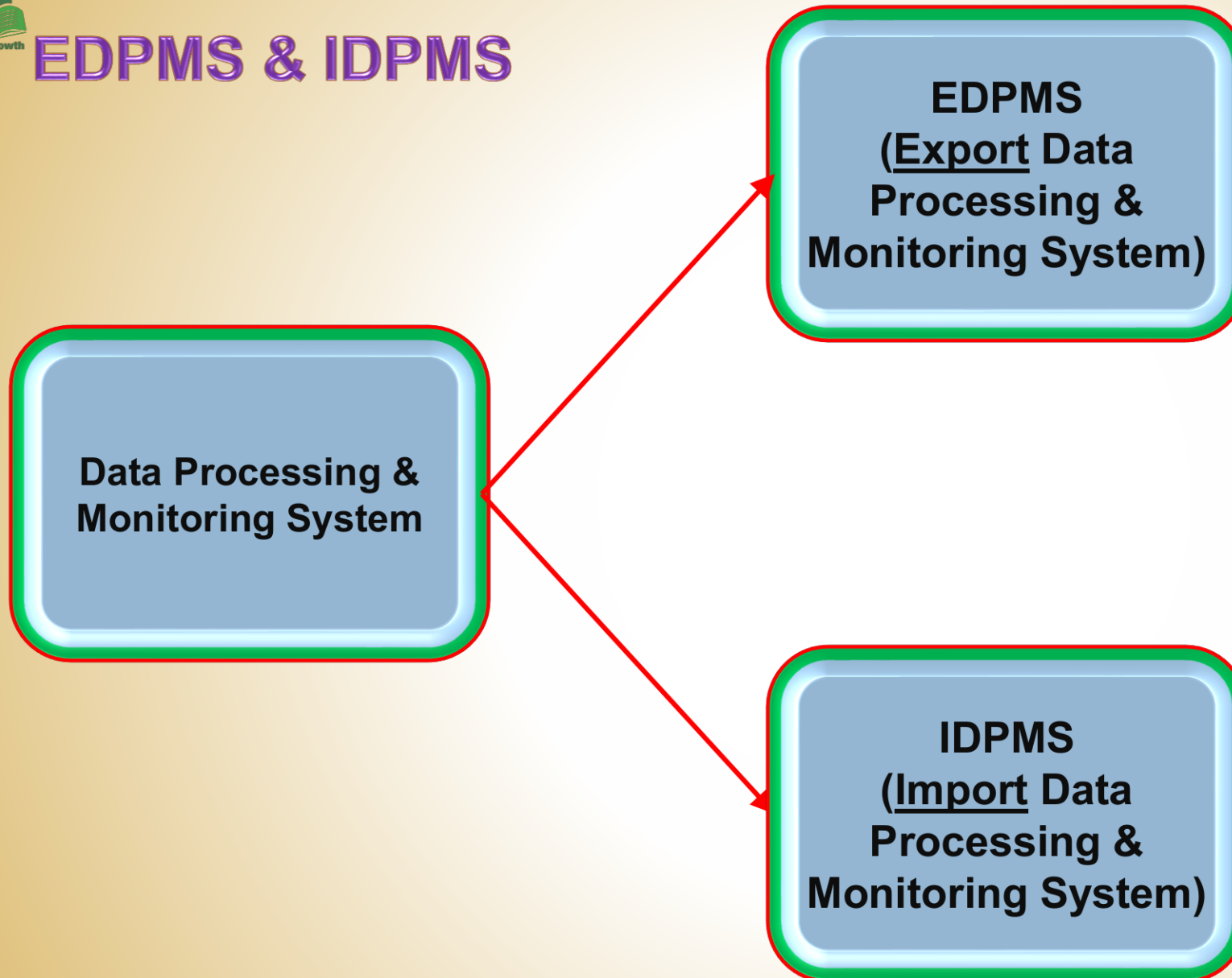
(II) Payment through General / Private Insurance companies: Amount of Insurance Cover for transit loss by General Insurance and Private Approved Insurance Companies in India would be **treated as payment realized for exports under various export promotion schemes.**

(a) An applicant realizing export proceeds through Insurance Agency will approach the concerned RA with the proof of payment issued by the concerned Insurance Agency. RA after satisfying itself of the bona fide of the claim, will obtain approval of Additional DGFT (EDI) and then will upload the value (in lieu of e BRC value) in EDI system of DGFT for processing of the case.

(b) If the proof of payment issued by the Insurance Agency mentions claim value both in foreign exchange and INR, RA will use the foreign exchange value for processing. If the claim value is mentioned only in equivalent INR, RA will convert this INR value in equivalent US\$ using the exchange rate (published by CBEC) applicable on the date of settlement of insurance claim”.



## EDPMS & IDPMS



# Export Data Processing and Monitoring System (EDPMS)

## What is EDPMS?

- The Export Data Processing and Monitoring System (EDPMS) is an online software introduced by the RBI in 2014 for all banks to bring their transactions with the exporters online.
- Under the system, the banks download the shipping bills or softex forms issued by export agencies such as customs, special economic zones (SEZ) and Software Technology Parks of India (STPIs), bill of entry issued by ports.
- This data is then matched with the data on inward remittance of export proceeds from the exporting company.
- The data set allows banks to immediately track the status of each consignment exported with all instruments and also allows exporters to claim benefits faster.
- It has been cited as an example of improved foreign trade operations done by India and has contributed to the country's improved score in the Ease of Doing Business index.

## Reserve Bank of India (RBI) Circulars

**Master Direction No.16/2015-16 dated January 01, 2016** related to guidelines on the implementation and operationalisation of Export Data Processing and Monitoring System (EDPMS).

**Circular No. 74 dated May 26, 2016** advising Authorised Dealer Category-I banks to carry out appropriate changes in their IT system / operating procedure immediately, report subsequent export transactions in EDPMS and also capture the details of advance remittances (including old outstanding inward remittances) received for exports in EDPMS.

The RBI has since then extended the time frame to AD Banks and exporters get all the Shipping Bill pendency cleared in the EDPMC till 30<sup>th</sup> September 2018. A further extension on the Caution Listing Process has been given by RBI till **December 31, 2018**.

**Circular No. 04 dated September 15, 2017** regarding Export Data Processing and Monitoring System (EDPMS) and Issuance of Electronic Bank Realisation Certificate (eBRC).

RBI has now directed AD Category-I Banks to update the EDPMS with data of export proceeds on “**as and when realised basis**” and, **with effect from October 16, 2017** generate Electronic Bank Realisation Certificate (eBRC) only from the data available in EDPMS, to ensure consistency of data in EDPMS and consolidated eBRC.



## Circular No. 55/2016- Customs dated 23rd November, 2016

### Ease of Doing Business

Importers and Exporters will henceforth **not be required to submit paper documents** such as

- GAR 7 forms / TR 6 Challans,
- Trans-shipment Permit (TP),
- Shipping Bill (Exchange Control copy and Export Promotion copy) &
- Bill of Entry (Exchange Control Copy)

to Banks / DGFT / Customs Ports etc.

# Export Data Processing and Monitoring System (EDPMS)

## What actions of RBI caused contentions with the exporters?

- Initially the RBI advised banks to get tough with exporters that do not file details of their export consignments through EDPMS.
- Even after several reminders to the banks and exporters, the export data was not up to date.
- Therefore, the RBI has now warned the banks that exporters **whose data are not captured by the software will figure in a Caution List.**
- **Once on the list, exporters are denied packing credit which hampers their exports and it also leads to non-negotiation of 'non-letter of credit bills'.**
- **So even if the goods reach the buyer on time, the banking documents get delayed which will lead to extra cost and demurrage charges to be paid by the exporters.**
- The EDMPS will not only improve India's business climate, but the data will be crucial for the RBI to discover at any point of time how much of the dollar remittances meant for India are floating abroad.

# Export Data Processing and Monitoring System (EDPMS)

## Caution / De-caution Listing of Exporters

3. (1) To streamline the procedure, cautioning / de-cautioning of exporters has been automated. The AD category – I banks can access the updated list of caution listed exporters through EDPMS on daily basis. The list of all caution listed exporters would also be made available to AD category – I banks through their registered e-mail. Criteria laid down for cautioning / de-cautioning of exporters in EDPMS are as under:

i. The exporters would be caution listed if any shipping bill against them remains **open for more than two years in EDPMS** provided no extension is granted by AD Category – I bank / RBI. Date of shipment will be considered for reckoning the realisation period.

ii. Once related bills are realised and closed or extension for realisation is granted, the exporter will automatically be de-caution listed.

iii. The exporters can also be caution listed even before the expiry of two years period based on the recommendation of AD banks. The recommendation may be based on cases where exporter has come to adverse notice of the Enforcement Directorate(ED) / Central Bureau of Investigation (CBI) / Directorate of Revenue Intelligence (DRI) /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, AD may forward its findings to the concerned regional office of RBI recommending inclusion of the name of the exporter in the caution list.

iv. Reserve Bank will caution / de-caution the exporters in such cases based on the recommendation of AD Category – I banks.

**RBI/2015-16/414; A.P. (DIR Series) Circular No.74; May 26, 2016**

**Withdraw** the existing para 3 (1) (i) and 3 (1) (ii) with a view to make system more exporter friendly and equitable.

**RBI/2020-2021/50; A.P. (DIR Series) Circular No.03; October 09, 2020**



# Receipt of Advance Against Exports

(1) In terms of Regulation 15 of Notification No. FEMA 23 (R)/2015-RB dated January 12, 2016, where an exporter receives advance payment (with or without interest), from a buyer outside India, **the exporter shall be under an obligation to ensure that the shipment of goods is made within one year from the date of receipt of advance payment**; the rate of interest, if any, payable on the advance payment does **not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points**; and the documents covering the shipment are routed through the AD Category – I bank through whom the advance payment is received.

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest, shall be made after the expiry of the said period of one year, without the prior approval of the Reserve Bank.

EDPMS will capture the details of advance remittances received for exports in EDPMS. Henceforth, AD Category – I banks will have to report all the inward remittances including advance as well as old outstanding inward remittances received for export of goods/ software to EDPMS. Further, AD Category – I banks need to report the electronic FIRC to EDPMS wherever such FIRCs are issued against inward remittances.

The quarterly return being submitted for delay in utilization of advances received for export stands discontinued.

# Delay in submission of shipping documents by exporters

In cases where exporters' present documents pertaining to exports after the **prescribed period of 21 days** from date of export, AD Category – I banks may handle them without prior approval of the Reserve Bank, provided they are satisfied with the reasons for the delay.

## **Para 2.87 of HB : RBI write-off on Export Proceeds Realization**

Realization of export proceeds shall not be insisted under Foreign Trade Policy, if the Reserve Bank of India (RBI) or any “Authorised Bank” (authorised by RBI for this purpose) writes off the requirement of realization of export proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of export proceeds from the buyer.

**However, this would not be applicable in self – write off cases.**



## **Para 2.89 of HB: Offsetting of Export Proceeds**

Subject to specific approval of RBI, any payables, or equity investment made by an Authorisation holder under any export promotion scheme, can be used to offset receipts of his export proceeds. In such cases, offsetting would be equal to realisation of export proceeds and exporter would have to submit following additional documents:

- (a) Appendix-2L in lieu of Bank Realisation Certificate.
- (b) Specific permission of RBI.

# Third Party Payments for Export / Import Transactions

## A.3 (v) Third party payments for export / import transactions

Taking into account the evolving international trade practices, it has been decided to **permit third party payments for export / import transactions** can be made subject to conditions as under:

a) **Firm irrevocable order backed by a tripartite agreement should be in place.** However, it may not be insisted upon in cases where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order / invoice has been produced subject to:

- (i) AD bank should be satisfied with the bona-fides of the transaction and export documents, such as, invoice / FIRC.
- (ii) AD bank should consider the FATF statements while handling such transaction.

b) Third party payment should be routed through the banking channel only;

c) **The exporter should declare the third party remittance in the Export Declaration Form and it would be responsibility of the Exporter to realize and repatriate the export proceeds from such third party named in the EDF;**

d) It would be responsibility of the Exporter to realize and repatriate the export proceeds from such third party named in the EDF;

e) Reporting of outstanding, if any, in the XOS would continue to be shown against the name of the exporter. However, instead of the name of the overseas buyer from where the proceeds have to be realized, the name of the declared third party should appear in the XOS;

f) In case of shipments being made to a country in Group II of Restricted Cover Countries, (e.g. Sudan, Somalia, etc.), payments for the same may be received from an Open Cover Country; and

g) In case of imports, the Invoice should contain a narration that the related payment has to be made to the (named) third party, the Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party and the importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods.



# Foreign Currency Account

## A.4 Foreign Currency Account

- (i) **Participants in international exhibition/trade fair have been granted general permission** vide <sup>8</sup>Regulation 5(E)(5) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016 for opening a temporary foreign currency account abroad. Exporters may deposit the foreign exchange obtained by sale of goods at the international exhibition/ trade fair and operate the account during their stay outside India provided that the balance in the account is repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair and full details are submitted to the AD Category – I banks concerned.
- (ii) Reserve Bank may consider applications in Form EFC from **exporters having good track record for opening a foreign currency account with AD banks in India and outside India** subject to certain terms and conditions. Applications for opening the account with a branch of an AD Category – I bank in India may be submitted through the branch at which the account is to be maintained. If the account is to be maintained abroad the application should be made by the exporter giving details of the bank with which the account will be maintained.
- (iii) **An Indian entity can also open, hold and maintain a foreign currency account with a bank outside India, in the name of its overseas office / branch**, by making remittance for the purpose of normal business operations of the said office/branch or representative subject to conditions stipulated in <sup>9</sup>Regulation 5 (B) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016.
- (iv) **A unit located in a Special Economic Zone (SEZ) may open, hold and maintain a Foreign Currency Account with an AD** Category – I bank in India subject to conditions stipulated in <sup>10</sup>Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016.
- (v) A person resident in India being a project / service exporter may open, hold and maintain foreign currency account with a bank outside or in India, subject to the standard terms and conditions in the Memorandum PEM.



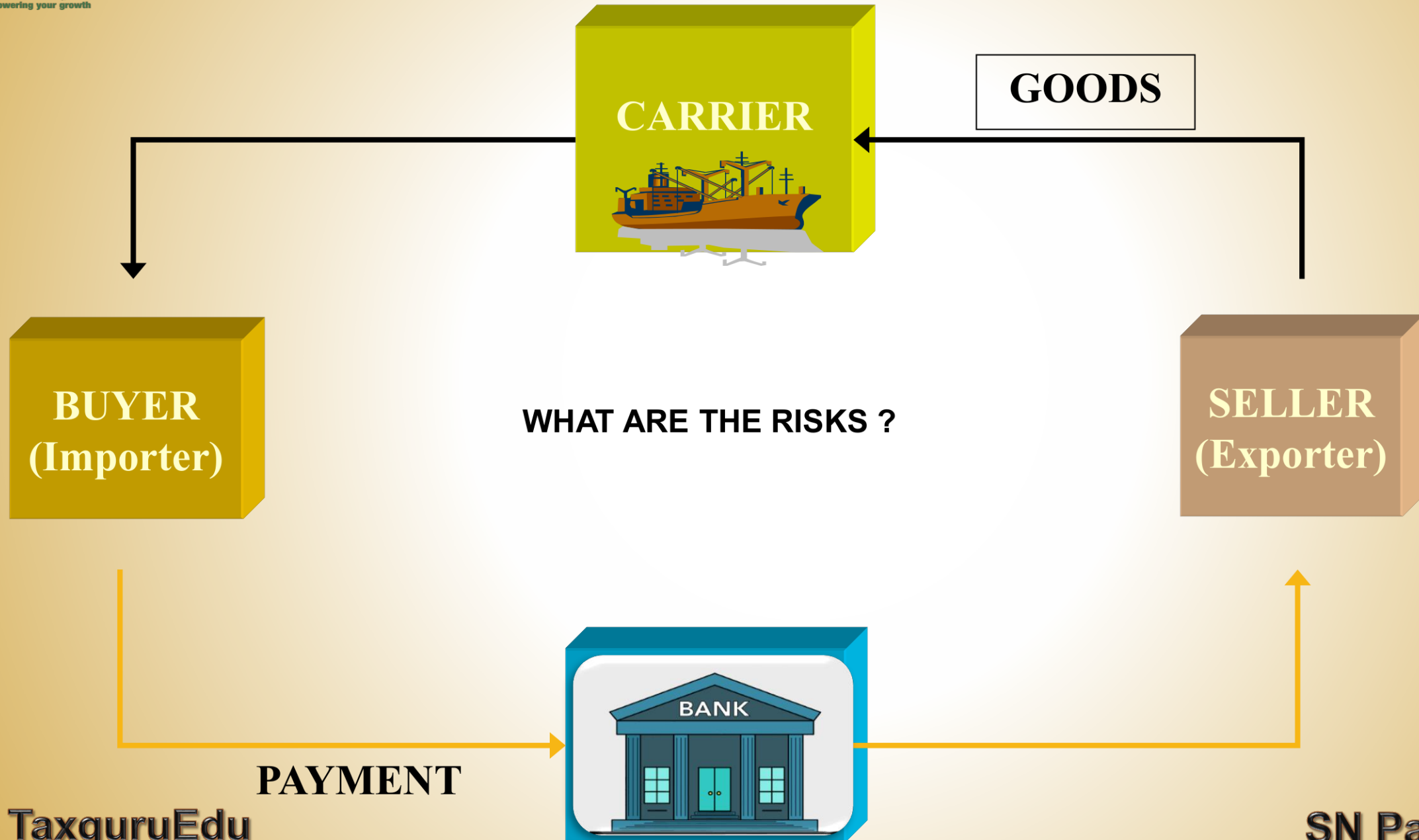
# Exchange Earners' Foreign Currency Account (EEFC Account)

## A.6 Exchange Earners' Foreign Currency Account (EEFC Account)

- (i) **A person resident in India may open with, an AD Category – I bank in India, an account in foreign currency called the Exchange Earners' Foreign Currency (EEFC) Account**, in terms of <sup>12</sup>Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations, 2015 dated January 21, 2016.
- (ii) Resident individuals are permitted to include resident close relative(s) as defined in the Companies Act 2013 as a joint holder(s) in their EEFC bank accounts on former or survivor basis.
- (iii) **This account shall be maintained only in the form of non-interest bearing current account.** No credit facilities, either fund-based or non-fund based, shall be permitted against the security of balances held in EEFC accounts by the AD Category – I banks.
- (iv) **All categories of foreign exchange earners are allowed to credit 100% of their foreign exchange earnings to their EEFC Accounts** subject to the condition that
  - a) **The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month** after adjusting for utilization of the balances for approved purposes or forward commitments.
  - b) **The facility of EEFC scheme is intended to enable exchange earners to save on conversion/transaction costs** while undertaking forex transactions. This facility is not intended to enable exchange earners to maintain assets in foreign currency, as India is still not fully convertible on Capital Account.
- (v) The eligible credits represent –
  - a) inward remittance received through normal banking channel, other than the remittance received pursuant to any undertaking given to the Reserve Bank or which represents foreign currency loan raised or investment received from outside India or those received for meeting specific obligations by the account holder.
  - b) payments received in foreign exchange by a 100 per cent Export Oriented Unit or a unit in Export Processing Zone, Software Technology Park or Electronic Hardware Technology Park for supply of goods to similar such unit or to a unit in Domestic Tariff Area and also payments received in foreign exchange by a unit in Domestic Tariff Area for supply of goods to a unit in Special Economic Zone (SEZ);
- (vi) AD Category – I banks may permit their exporter constituents to extend trade related loans/ advances to overseas importers out of their EEFC balances without any ceiling subject to compliance of provisions of [Notification No. FEMA 3/2000-RB dated May 3, 2000](#) as amended from time to time.
- (vii) AD Category – I banks may permit exporters to repay packing credit advances whether availed in Rupee or in foreign currency from balances in their EEFC account and / or Rupee resources to the extent exports have actually taken place.
- (viii) Where a part of the export proceeds are credited to an EEFC account, the export declaration (duplicate) form may be certified as: "Proceeds amounting to ..... representing ..... percent of the export realization credited to the EEFC account maintained by the exporter with....."

# International Payment Methods

# International Trade Transactions





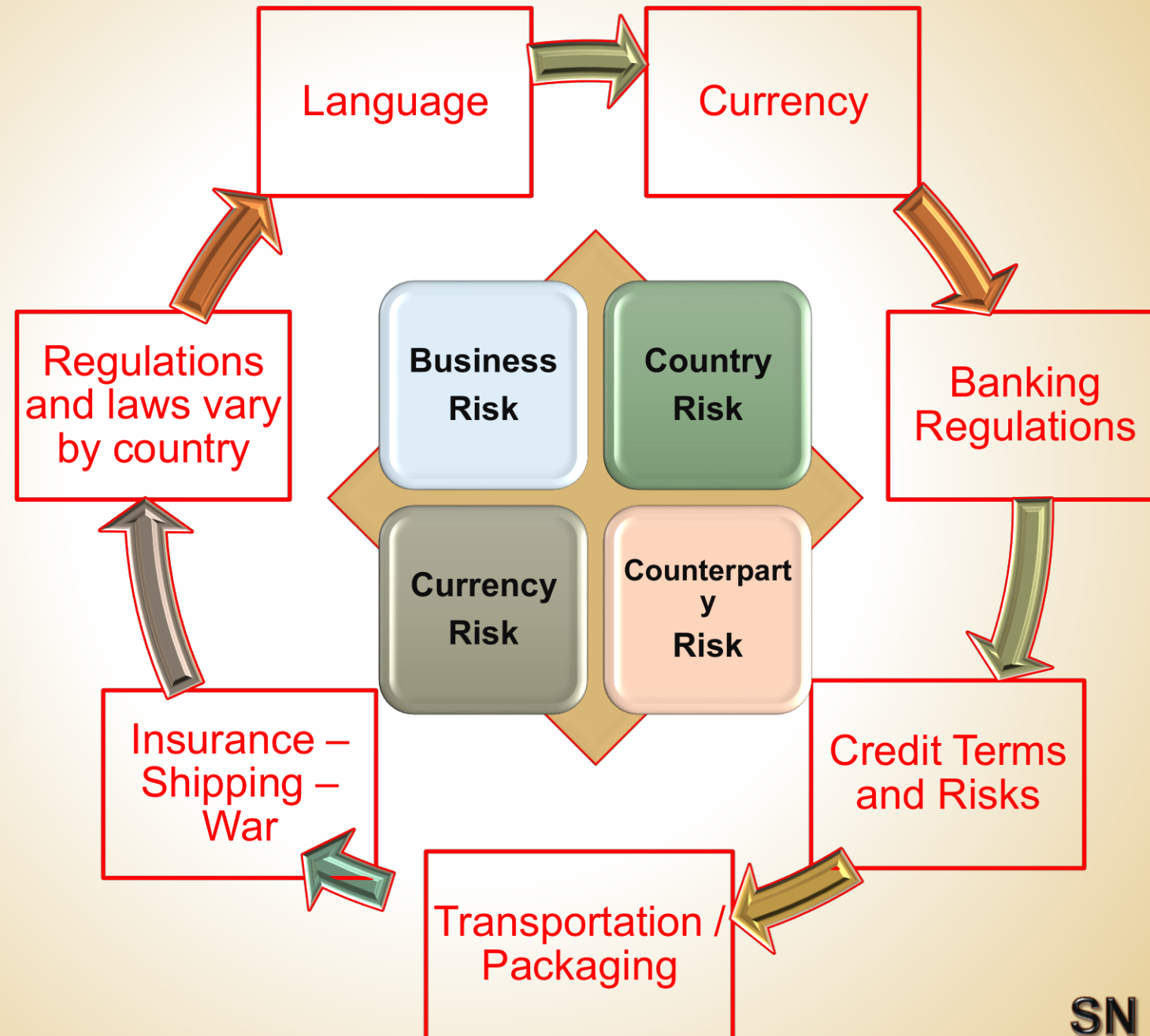
# Concerns of the Parties in International Transactions

## Seller's (Exporter's) Concern

- **Receiving the Payment in Full & on Time**
  - Buyer going Bankrupt and Unable to Pay
  - Deliberately Refusing to Pay for Goods
  - Refusing to Accept Goods After Shipment
  - Raising Disputes and Demanding a Discount
  - Exporter want to Receive Payment as soon as possible, Preferably along with the Placing of Order or Before Shipment of Goods

## Buyer's (Importer's) Concern

- **Receiving the Goods as Required**
  - Receiving Goods in Time
  - Agreed Quantity,
  - Agreed Quality,
  - Packed Properly
  - Insured against the Normal Risks





# Four Basic Payment Methods

## Open Account

An open account transaction is a sale where the **goods are shipped and delivered before payment is due.**

Obviously, this option is the **most advantageous for the importer** in terms of cash flow and cost, but it is consequently the **highest risk option for an exporter.**

## Advance Payment

**Buyer Makes Payment Before the Good Delivered.**

**No / Low Risk to Exporter.  
High Risk to Importer**

## Documentary Collection

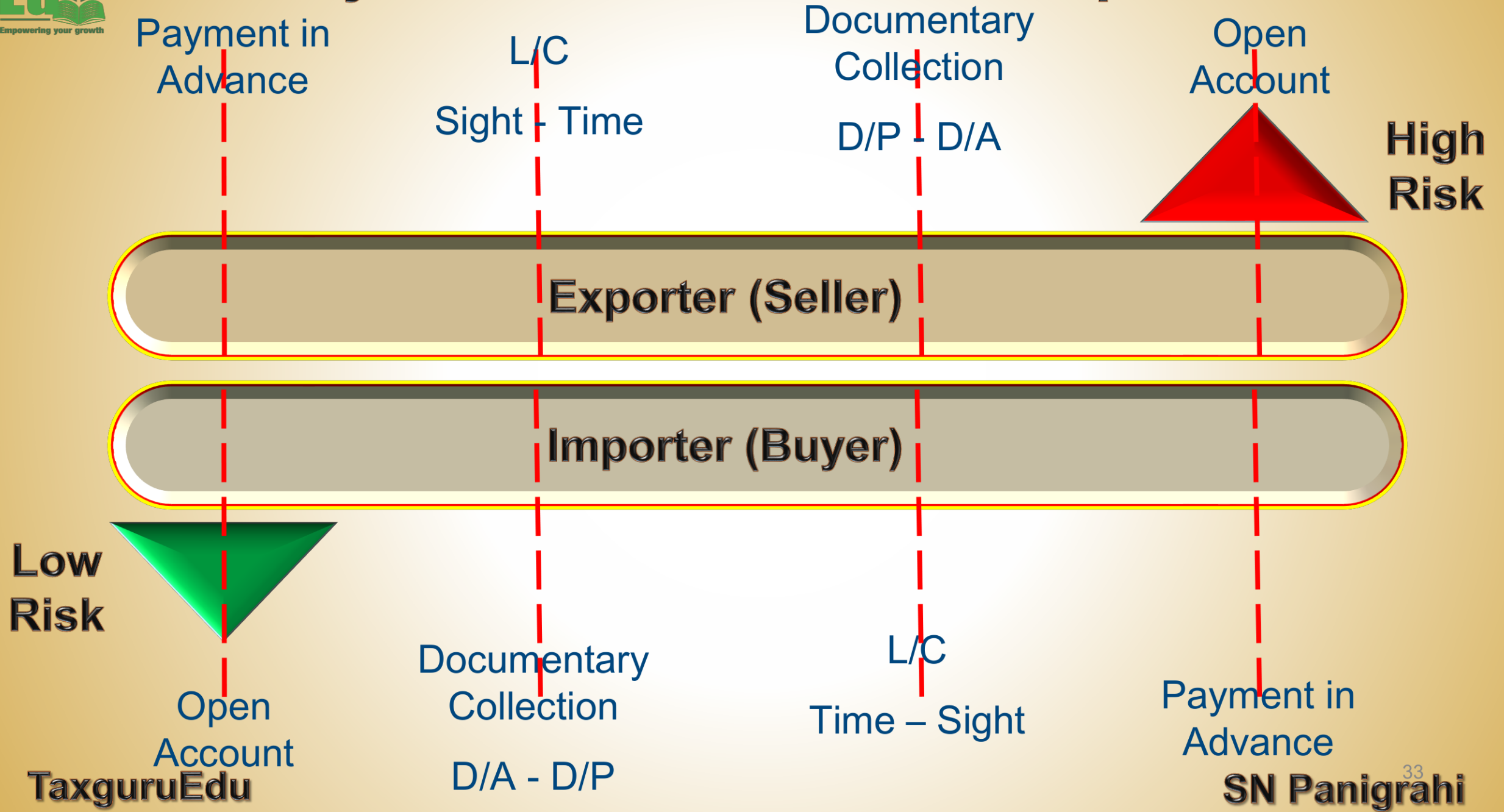
**A Documentary Collection (DC) is a transaction whereby an exporter entrusts collection of a payment to the remitting bank (i.e., exporter's bank), which sends documents to a collecting bank (i.e., importer's bank), along with instructions for payment.**

## Letter of Credit

An LC is a **commitment by a bank on behalf of the buyer** that payment will be made to the exporter, provided that the terms and conditions stated in the LC have been met



# Payment Methods : Risk Comparison



# Payment Methods : Comparison

	<b>Payment in Advance</b>	<b>Letter of Credit</b>	<b>Documentary Collection</b>	<b>Open Account</b>
Time of Payment (Trigger Point)	Before Shipment	When Shipment is Made	On Presentation of Draft / on Maturity	As Agreed Upon
Goods Available to Buyer (Importer)	After Payment	After Payment / Acceptance	After Payment / Acceptance	Before Payment
Risk to Exporters	None	Very Little to None	Disposal of Un-paid Goods	High Risk Relies on Buyer (Importer) to Pay as Agreed upon
Risk to Importers	High Risk Relies on Exporter for Shipment of Goods as Required	Assured Shipment but Relies on Exporter to Ship Goods as Described in the Documents	Relies on Exporter to Ship Goods as Described in the Documents	None

# Payment Method : Documentary Collection

## Documentary Collection

### Two Methods

#### Documents against Payment (D/P)

The export documents and the bill of exchange provided to a collecting bank are only made available to an importer when **payment is made**.

The collecting bank then transfers the funds to the seller through the remitting bank.

#### Documents against Acceptance(D/A)

The export documents and a time / usance bill of exchange are sent to a remitting bank.

The documents are then sent to a collecting bank with instructions to release the documents against a **buyer's acceptance** of the bill of exchange.

### Uniform Rules for Collections (URC) URC 522



# Payment Method : Documentary Collection

The documentary collection procedure involves the step-by-step exchange of documents giving title to goods for either cash or a contracted promise to pay at a later time. The diagram below illustrates each numbered step.



# Payment Method : Letter of Credit

A **letter of credit provides an irrevocable guarantee to the exporter** that, provided the goods and / or services are delivered to the importer according to contractual terms and with the compliant documents, it will be paid by the bank that issued that letter of credit (the bank of the importer).

**It also provides assurances to the importer that the goods and / or services ordered will be received, in line with the compliant documentation** and under any contractual terms set out in the purchase agreement.

The **obligation of the issuing bank to pay the beneficiary of the letter of credit**, most generally the exporter, therefore depends on the exporter delivering the merchandise as detailed in the letter of credit, but also in accordance with all the other requirements specified in the documented credit.

The **documentation required in a letter of credit depends on the level of complexity of the transaction and the degree of security that the two parties wish to have** on the transaction: security of payment, security and transparency regarding the description of the goods, security regarding the clearance of Customs, transportation process and delivery on time, and other kinds of risks related to the transaction.

**Document compliance must be verified - this is one important feature of the acceptance/endorsement process for letters of credit, in particular for the exporter's bank.**

# What is UCP 600? What is UCP DC 600?

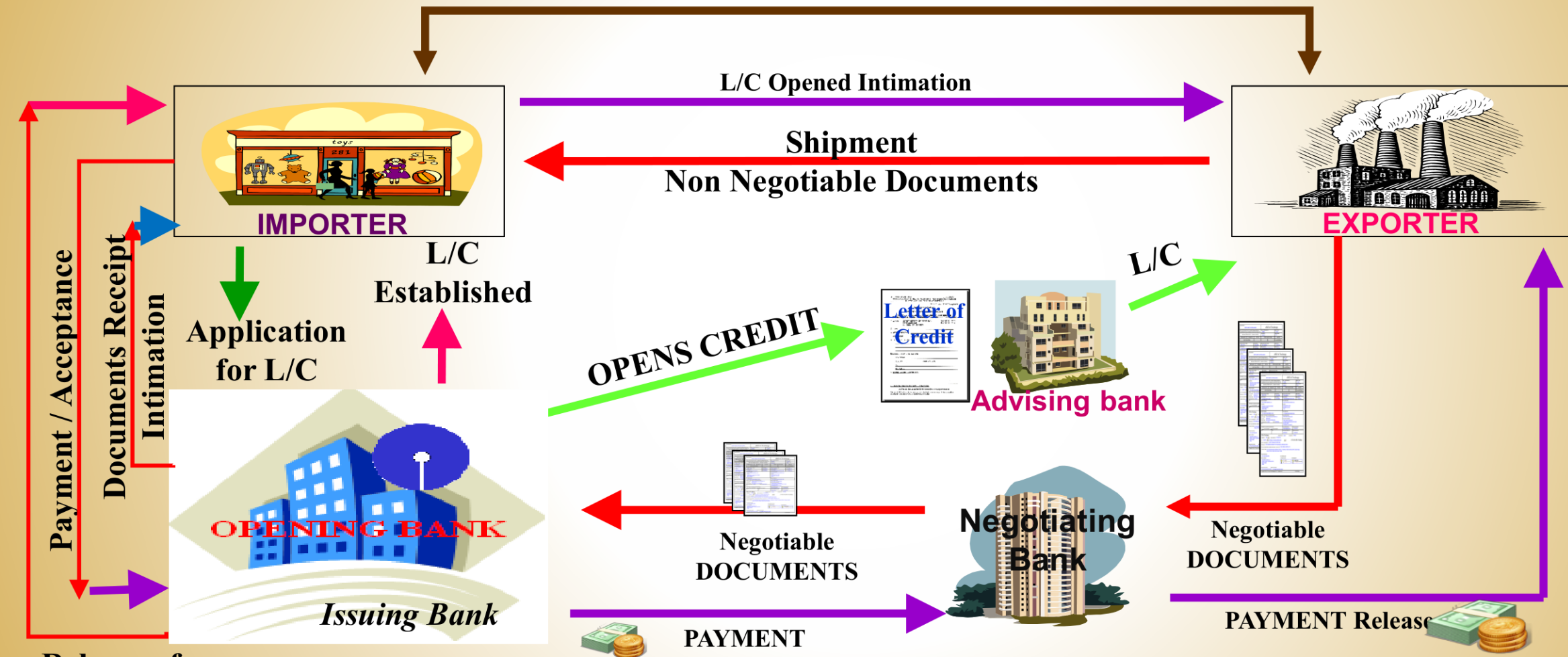
UCP 600 is prepared by International Chamber of Commerce's (ICC) Commission on Banking Technique and Practice. Its full name is 2007 Revision of Uniform Customs and Practice for Documentary Credits, UCP 600, and (ICC Publication No. 600). The ICC Commission on Banking Technique and Practice approved UCP 600 on 25 October 2006. The rules have been effective since 1 July 2007.

UCP is the short form of **Uniform Customs and Practice for Documentary Credits**. UCP is the set of international rules that govern the letter of credit transactions throughout the world. It would be necessary to state that some practitioners mistakenly use UCPDC abbreviation instead of UCP. Correct usage should be UCP for the **Uniform Customs and Practice for Documentary Credits** not UCPDC.



# Flow of Events in Letter of Credit

## CONTRACT



Release of  
Negotiable  
Documents

Confirming Bank  
& Reimbursing Bank may also be involved

# Letter of Credit : Types

## Irrevocable LC

This **LC cannot be cancelled or modified without consent of the beneficiary (Seller)**. This LC reflects absolute liability of the Bank (issuer) to the other party.

## Revocable LC

This **LC type can be cancelled or modified by the Bank (issuer)** at the customer's instructions without prior agreement of the beneficiary (Seller). The Bank will not have any liabilities to the beneficiary after revocation of the LC.

## Stand-by LC

This LC is **closer to the bank guarantee** and gives more flexible collaboration opportunity to Seller and Buyer. **The Bank will honour the LC when the Buyer fails to fulfill payment liabilities to Seller.**

## Confirmed LC

In addition to the Bank guarantee of the LC issuer, this LC type is confirmed by the Seller's bank or any other bank. **Irrespective to the payment by the Bank issuing the LC (issuer), the Bank confirming the LC is liable for performance of obligations.**

## Unconfirmed LC

Only the Bank issuing the LC will be liable for payment of this LC.

# Letter of Credit : Types

## Transferable LC

This **LC enables the Seller to assign part of the letter of credit to other party(ies)**. This LC is especially beneficial in those cases when the Seller is not a sole manufacturer of the goods and purchases some parts from other parties, as it eliminates the necessity of opening several LC's for other parties.

## Un-Transferable LC

A **letter of credit that doesn't allow transfer** of money to any third parties. **The beneficiary is the only recipient of the money and cannot further use the letter of credit to pay anyone..**

## Back-to-Back LC

This LC type considers issuing the second LC on the basis of the first letter of credit. LC is opened in favor of intermediary as per the Buyer's instructions and on the basis of this LC and instructions of the intermediary a new LC is opened in favor of Seller of the goods.

## Payment at Sight LC

According to this LC, payment is made to the seller immediately (maximum within 7 days) after the required documents have been submitted.

## Deferred Payment (ussance) LC

According to this LC the payment to the seller is not made when the documents are submitted, but instead at a later period defined in the letter of credit. In most cases the payment in favor of Seller under this LC is made upon receipt of goods by the Buyer.



# Standard Forms of Documentation

When making payment for product on behalf of its customer, the issuing bank must verify that all documents and drafts conform precisely to the terms and conditions of the letter of credit. Although the credit can require an array of documents, the most common documents that must accompany the draft include:

## Standard Documents to Present

Bill of Exchange

Commercial Invoice

Packing List

Bill of Lading / Airway Bill / LR / RR

Certificate Inspection

Certificate of Origin

Insurance Certificate

Other Documents as per L/C

# Common Mistakes in Presenting Documents

## Common Mistakes

Letter of Credit has Expired Prior to Presentation of Draft.

Letter of Credit has Expired Prior to Shipment

Bill of Lading evidences delivery prior to or after the date range stated in the credit.

Stale Dated Documents

Changes included in the invoice not authorized in the credit.

Inconsistent Description of Goods

Insurance Document Errors.

Invoice Amount Not Equal to Draft Amount.

## Common Mistakes

Ports of Loading and Destination Not as Specified in the Credit.

Description of Merchandise is Not as Stated in Credit.

Set of Documents Required by the Credit are Not Presented.

Documents are Inconsistent as to General Information such as volume, quality, etc

Names of Documents Not Exact as Described in the Credit.  
Beneficiary information must be exact.

Invoice or Statement is **Not Signed** as Stipulated in the Letter of Credit.

Drawn on wrong party

Partial Shipment Not Authorized

## Sample Bill of Exchange- 1st

Draft No.:

Dated:

For Amount of: USD 50,000.00

On Demand / At 90 days sight (Specific date as per LC term) of this first Bill of Exchange (Seconded date and tenor remain same being unpaid).

Pay to the order of ICICI Bank Ltd. / Name of Importer (As per the LC status) the sum of US Dollar 50,00.00.

Drawn under: Invoice No. \_\_\_\_\_

LC No.: \_\_\_\_\_

LC Issued By \_\_\_\_\_

To.

Name of Importer

Address of Importer

Exporter name

Signature



# Export Finance

# Export Finance

## Export Credit Scheme

- The RBI first introduced the scheme of Export Financing in 1967.
- The scheme is intended to make short-term working capital finance available to exporters at internationally comparable interest rates.
- Under the earlier scheme in force upto June 30, 2010, RBI fixed only the ceiling rate of interest for export credit while banks were free to decide the rates of interest within the ceiling rates keeping in view the BPLR and spread guidelines and taking into account track record of the borrowers and the risk perception.
- In order to enhance transparency in banks' pricing of their loan products, banks were advised to fix their Benchmark Prime Lending Rate (BPLR) after taking into account
  - (i) **actual cost of funds,**
  - (ii) **operating expenses and**
  - (iii) **a minimum margin to cover regulatory requirement of provisioning / capital charge and profit margin.**

# Export Finance

## Pre-Shipment Export Finance

- 'Pre-shipment / Packing Credit' means any loan or advance granted to an exporter for financing the purchase, processing, manufacturing or packing of goods prior to shipment.
- Working capital expenses towards rendering of services on the basis of letter of credit or irrevocable order for the export of goods / services.
- **Pre-Shipment :**
  - Pre Shipment Export Credit in Rupees.
  - Pre Shipment Credit in Foreign Currency.
  - Against Proceeds of Cheques / Drafts Received as Advance Payment.

## Post-Shipment Export Finance

'Post-shipment Credit' means any loan or advance granted or any other credit provided by a bank to an exporter of goods / services from India from the date of extending credit after shipment of goods / rendering of services to the date of realisation of export proceeds.

### Types :

Export bills purchased/discounted/negotiated.  
Advances against undrawn Balances on Export Bills.  
Advances against bills for collection.  
Advances against retention money.  
Advances against duty drawback receivable from Government.

### Post-Shipment :

- ❖ Post Shipment Rupee Export Credit.
- ❖ Post Shipment Export Credit in Foreign Currency.



# LIQUIDATION OF PACKING CREDIT

- Converting Pre-shipment Credit into Post-shipment credit by purchase/ discount/ negotiate documents.
- Can be repaid through balances in EEFC accounts.
- Can be repaid through rupee resources of the exporter to the extent exports have not taken place.

# Realization of Export Proceeds

**Shipping documents should be submitted within 21 days from date of shipment.**  
 Payment should be received within stipulated time period.

UNITS IN SEZ	9 MONTHS FROM DATE OF EXPORT
STATUS HOLDER EXPORTER	9 MONTHS FROM DATE OF EXPORT
100% EOU, EHTPS, STPS, BTPS.	9 MONTHS FROM DATE OF EXPORT
GOODS EXPORTED TO WAREHOUSES OUTSIDE INDIA	15 MONTHS
ALL OTHER CASES	9 MONTHS FROM DATE OF EXPORT.

# NORMAL TRANSIT PERIOD

- Normal Transit Period / Notional Due Date are linked to concessional rate of interest on export bills.
- NTP is average period normally involved from the date of negotiation / purchase / discount till the receipt of bills proceeds.
- Fixed Due date in case of export usance bills – No NTP
- Bills in Foreign Currencies – 25 days.
- Bills in Rupees not under LC – 20 days.
- Exports to Iraq under UN guidelines – 120 days.
- Bills drawn in Rupees under LC – 3 days where reimbursement provided at the centre of negotiation, 7 days for other centers in India and 20 days if reimbursement provided outside India.



# EXPORT CREDIT IN FOREIGN CURRENCY

- The PCFC will be available for a maximum period of 360 days.
- PCFC can be liquidated out of proceeds of export documents on their submission for discounting/rediscounting under the EBR Scheme
- Banks are also permitted to allow an exporter to book forward contract on the basis of confirmed export order prior to availing of PCFC and cancel the contract (for portion of drawal used for imported inputs) at prevailing market rates on availing of PCFC.
- PCFC may be made available to both, the supplier EOU/EPZ/ SEZ unit and the receiver EOU/EPZ/ SEZ unit
- The PCFC will be available for a maximum period of 360 days.
- PCFC can be liquidated out of proceeds of export documents on their submission for discounting/rediscounting under the EBR Scheme

# Interest Equalization Scheme (IES)

The **Interest Equalisation Scheme (IES)** was implemented on 1st April 2015 to provide pre- and post-shipment export credit to exporters in rupees. By introducing this scheme, the government expected that the exporters would be able to correct their pricing and improve the competitiveness of their products.

Government of India has approved the extension of Interest Equalization Scheme for pre and post shipment Rupee export credit, with same scope and coverage, for one more year i.e. upto March 31, 2021.

The extension shall take effect from April 01, 2020 and end on March 31, 2021 covering a period of one year. Consequently, the extant operational instructions issued by the RBI under the scheme shall continue to remain in force upto March 31, 2021.

IES is available to all MSME exporters. It is also available to manufacturer exporters for exports in the 416 four-digit tariff line since January 2019.

**With effect from 2nd November 2018, this was increased to 5%, although the rate remained at 3% for large manufacturers and merchant exporters.**

## **Interest equalisation**

**: @5% pa on all Pre shipment and Post Shipment Export Credit for MSME**

**: @3% pa on all Pre shipment and Post Shipment Export Credit for Merchant Exporters**



*Thank  
you*



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