

5 Foreign Exchange Adjudication

SBP BSC adjudicates cases regarding violations of various provisions of Foreign Exchange Regulation Act (FERA), 1947 as per powers vested in Adjudicating Officers under Section 23B of the Act. The Governor, State Bank of Pakistan appoints these Adjudicating Officers through Gazette Notifications under Section 19 of SBP BSC Ordinance, 2001.

5.1 Overview

SBP BSC houses Foreign Exchange Adjudication Courts established under Foreign Exchange Regulation Act, 1947. The judicial proceedings at 13 nation-wide courts are conducted under Adjudication Proceedings and Appeal Rules, 1988. These Courts, which are empowered to impose penalties if it is proved that the contravention was willful, subsequently approach relevant authorities for recovery of penalties as per Section 23J of the FER Act.

Box 5.1: Major Initiatives/Achievements

1. Realization of export proceeds up by 34% during FY19 compared to previous year.
2. Disposal of cases up by 31% during FY 19 compared to previous year.
3. Recovery of penalty up by 124% during FY19 compared to previous year.
4. A four-day comprehensive training of Adjudicating Officers and allied staff arranged at NIBAF, Islamabad during the year under review.
5. Centralized Cause List fully implemented and made available to both internal and external stakeholders through web.

In order to ensure prompt judicial process, the adjudication function is divided into three wings at Head Office viz. (i) Courts, (ii) Registrar and Database, (iii) Administration and Recovery.

While being heard in FEA courts, exporters are provided an opportunity of bringing back their overdue export proceeds in order to mitigate their violations. Since the establishment of Foreign Exchange Adjudication mechanism in 1990, these courts have managed repatriation of USD 857 million from the exporters who failed to bring export proceeds back within the stipulated time in violation of the provisions contained in section 12(1) of FERA. The realization position for the last 5 years is here under:

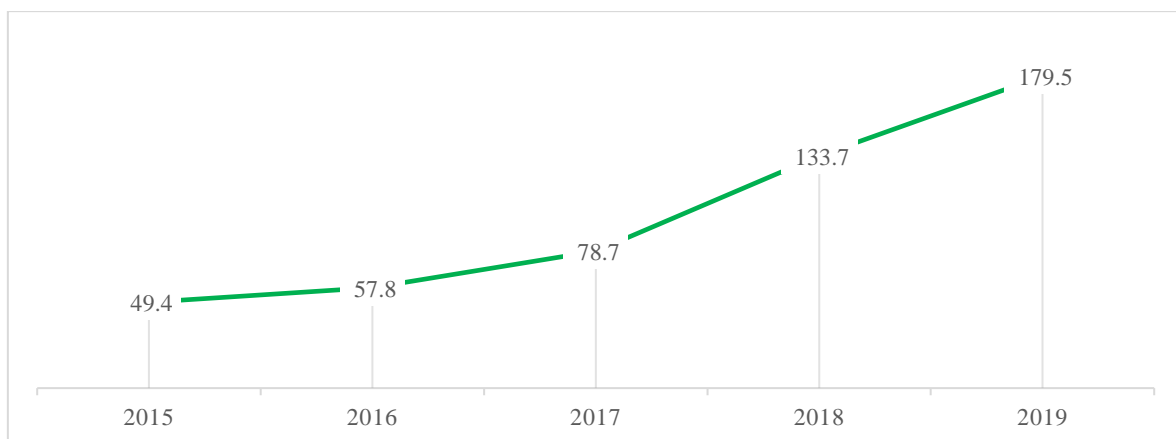


Figure 5.1: Realization of Export Overdue Proceeds (in million US Dollars)

The lodgment and disposal position of FEAD for the last 5 years is as under:

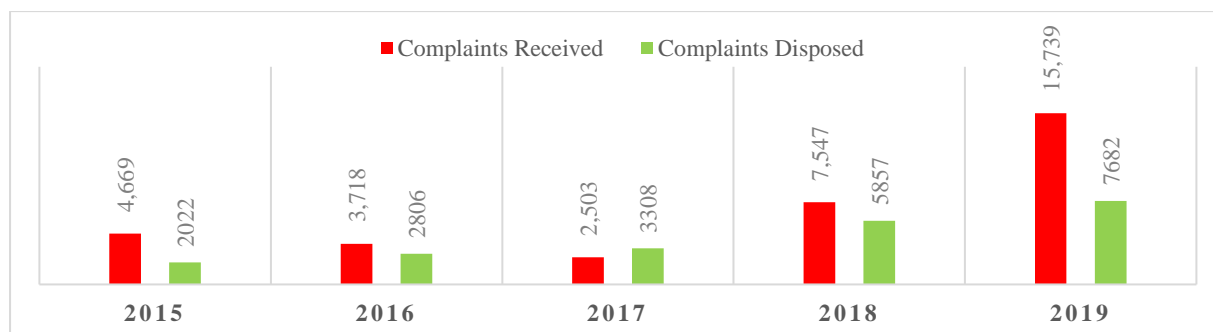


Figure 5.2: Lodgment and Disposal of Complaints

5.2 Performance Highlights

5.2.1 Realization of Export Proceeds

During FY19, export proceeds equivalent to USD 179.5 million (highest ever in a year) were realized compared to USD 133.7 million in FY18 (Table 5.1). Total outstanding export proceeds at the year end stood at USD 998 million.

5.2.2 Cases Disposal

Lodgment of 15,573 new cases during FY19 resulted in total workload of 30,707 cases for FY19. During the year 7,682 cases were disposed (Table 5.2). 23,025 cases were still outstanding at the year end.

5.2.3 Recovery of Penalty

Cases of long outstanding recoveries rigorously pursued and dedicated recovery units were strengthened at North and South Regions. This endeavor has resulted in a recovery of Rs 13.8 million penalty during FY19 compared to Rs 6.1 million during FY18. (Table 5.3).

5.2.4 Coordination with Land Revenue Authorities

Meetings were also conducted with the officials of Land Revenue Authorities to seek their assistance. However, these efforts have not yet been materialized in any recovery through these authorities.

Adjudication Courts	Export Proceeds Realized in Million USD		% Change
	FY18	FY19	
Karachi	53.7	69.4	29.2%
Lahore	48.2	68.2	41.5%
Faisalabad	8.4	16.2	92.9%
Multan	2.6	4.3	65.4%
Sialkot	8.1	8.4	3.7%
Quetta	12.1	12.5	3.3%
Rawalpindi	0.6	0.5	-16.7%
Total	133.7	179.5	34.3%

Adjudication Courts	Number of Cases		% Change
	FY18	FY19	
Karachi	3,391	3,682	8.6%
Lahore	928	2,113	127.7%
Faisalabad	341	543	59.2%
Multan	183	313	71.0%
Sialkot	485	583	20.2%
Quetta	311	149	-52.1%
Rawalpindi	218	299	37.2%
Total	5,857	7,682	31.2%

Adjudication Courts	Amount (in '000 Rs)	
	FY18	FY19
Karachi*	3,820	8,543
Lahore	2,220	4,879
Sialkot	130	388
Total	6,170	13,810

*Including Rs. 2 Million Recovery from Authorized Dealers in FY19.

5.3 Major Initiatives

5.3.1 Database Application for FER Cases

SBP BSC in collaboration with ISD SBP has developed a Database application for FER Cases. This initiative will facilitate in exercising efficient and effective monitoring of complaints and adjudication proceedings.

5.3.2 Working paper for the issuance of SRO for Recovery of Penalty

Clauses (i) and (ii) of section 23J of FERA, 1947 confer on the federal government the power to specify “any other person” in official gazette. State Bank, Banking Companies and Financial Institutions are already included in the definition of “any other person”, in addition thereto, CDC and Pakistan Mercantile Exchange are being proposed to be inserted in the same definition in order to recover the amount of penalty from the defaulter for the economic and financial interest of the country.

5.4 Future Outlook

The implementation of the recently developed Electronic Database application will reduce the lag between complaint lodgment and issuance of show cause notices along with bringing standardization to all adjudication courts across the country in future. Further, after its complete implementation, the department is looking forward to automating the entire complaint lodgment and management system, which will further speed up the adjudication process and improve its effectiveness.

To maximize operational efficiencies, department has also planned to conduct an In-depth analytical review of entire operational working of all FEA courts, encompassing all steps from issuance of show cause notices to pronouncing Judgments and record keeping. This exercise may lead to revamping the operational guidelines if required.

Further, to maximize the utilization of experience and knowledge, a Repository of important FEA Cases is planned to be developed in FY20. It will provide Guidelines to Adjudicating Officers and lead towards standardization of adjudication practices among the members of FEA Adjudication Team.

Moreover, to boost the recovery of penalty through District Collectors, coordination both with top level of Provincial Governments as well as at concerned District levels will be enhanced. For data collection of concerned parties, efforts will be made for efficient liaisoning with all concerned Government bodies.