



Bangalore Chamber of Industry and Commerce

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Finance & Capital Markets

Circular No.105

26.07.2010

All Members

Dear Sirs,

We enclose herewith the following Circulars issued by the Reserve Bank of India, Mumbai for your reference and record.

1. RBI/2010-11/124, A.P.(DIR Series) Circular No.04, dated July 22, 2010 - External Commercial Borrowings (ECB) Policy – Take-out Finance
2. RBI/2010-11/123, A.P. (DIR Series) Circular No.03, dated July 22, 2010 - Export of Goods and Services - Unrealised export bills – Write-off - Surrender of export incentives

Thanking you,

Yours faithfully

T.S. Sampath Kumar
Secretary General

RBI/2010-11/124, A.P.(DIR Series) Circular No.04, dated July 22, 2010

External Commercial Borrowings (ECB) Policy – Take-out Finance

Attention of Authorized Dealer Category - I (AD Category - I) banks is invited to the A.P. (DIR Series) Circular No. 5 dated August 1, 2005 and A.P (DIR Series) Circular No. 39 dated March 29, 2010 relating to the External Commercial Borrowings (ECB).

2. As per the extant norms, refinancing of domestic Rupee loans with ECB is not permitted. However, keeping in view the special funding needs of the infrastructure sector, it has been decided to review the ECB policy and put in place a scheme of take-out finance. Accordingly, it has been decided to permit

take-out financing arrangement through ECB, **under the approval route**, for refinancing of Rupee loans availed of from the domestic banks by eligible borrowers in the **sea port and airport, roads including bridges and power sectors** for the development of new projects, subject to the following conditions:

The corporate developing the infrastructure project should have a tripartite agreement with domestic banks and overseas recognized lenders for either a **conditional** or **unconditional** take-out of the loan within three years of the scheduled Commercial Operation Date (COD). The scheduled date of occurrence of the take-out should be clearly mentioned in the agreement.

- i. The loan should have a minimum average maturity period of seven years.
- ii. The domestic bank financing the infrastructure project should comply with the extant prudential norms relating to take-out financing.
- iii. The fee payable, if any, to the overseas lender until the take-out shall not exceed 100 bps per annum.
- iv. On take-out, the residual loan agreed to be taken- out by the overseas lender would be considered as ECB and the loan should be designated in a convertible foreign currency and all extant norms relating to ECB should be complied with.
- v. Domestic banks / Financial Institutions will not be permitted to guarantee the take-out finance.
- vi. The domestic bank will not be allowed to carry any obligation on its balance sheet after the occurrence of the take-out event.
- vii. Reporting arrangement as prescribed under the ECB policy should be adhered to.
- viii. Eligible borrowers may, accordingly, apply to the Reserve Bank for necessary approval before entering into take-out finance arrangement.

3. All other aspects of ECB policy, such as, USD 500 million limit per company per financial year under the automatic route, eligible borrower, recognised lender, end-use, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.

4. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

5. The directions contained in this circular have been issued under sections 10(4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

Sd/-
Salim Gangadharan
Chief General Manager-in-Charge

RBI/2010-11/123, A.P. (DIR Series) Circular No.03, dated July 22, 2010

Export of Goods and Services - Unrealised export bills - Write-off - Surrender of export incentives

Attention of Authorised Dealer Category – I (AD Category –I) banks is invited to A.P. (DIR Series) Circular No. 12 dated September 09, 2000, A.P. (DIR Series) Circular No. 30 dated April 04, 2001, A.P. (DIR Series) Circular No. 61 dated December 14, 2002, A.P. (DIR Series) Circular No. 40 dated December 05, 2003 and A.P. (DIR Series) Circular No. 33 dated February 28, 2007, in terms of which the AD Category –I banks have been permitted to accede to the requests for "write-off" made by the exporters, subject to the conditions, inter alia, that the exporter had to surrender proportionate export incentives, if availed of, in respect of the relative shipments.

2. It has since been announced in the Foreign Trade Policy (FTP) 2009-14 and specified in Para. 2.25.4 of Handbook of Procedures – Vol. I (2009-2014) (extracts annexed), issued by the Department of Commerce, Ministry of Commerce and Industry that realisation of export proceeds shall not be insisted upon, under any of the Export Promotion Schemes under the Foreign Trade Policy (FTP), subject to the following conditions:-

- i. the write-off on the basis of merits is allowed by the Reserve Bank or by the AD Category – I banks on behalf of the Reserve Bank, as per the extant guidelines;
- ii. the exporter produces a certificate from the Foreign Mission of India concerned, about the fact of non-recovery of export proceeds from the buyer; and
- iii. this would not be applicable in self-write-off cases.

The above relaxation is applicable for the exports made with effect from August 27, 2009.

3. It is clarified that since the Drawback scheme is governed by the provisions of the Customs Act, 1962 and the Rules made there under, the provisions contained in para. 2.25.4 of the Handbook of Procedure – Vol. I. of the Foreign Trade Policy (FTP) (2009-2014) would not be applicable to the Duty Drawback scheme. Therefore, the drawback amount has to be recovered even if the claim is settled by the *Export Credit Guarantee Corporation* of India Limited (ECGC) or the write –off is allowed by the Reserve Bank.

4. Accordingly, the AD Category –I banks are advised not to insist on the surrender of the proportionate export incentives, other than under the Duty Drawback scheme, if availed of, by the exporter under any of the Export Promotion Schemes under the FTP 2009-14, subject to the fulfilment of conditions as stated in Para 2 above.

5. AD – Category I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. The directions contained in this Circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Sd/-
G. Jaganmohan Rao
Chief General Manager

Annex

[Annex to A.P. (DIR Series) Circular No.03 dated July 22, 2010]

Extract of Para. 2.25.4 of the Handbook of Procedure – Vol. I – 2009 – 2014 of Foreign Trade Policy (FTP)

"Realization of export proceeds shall not be insisted under any of the Export Promotion Schemes under this Foreign Trade Policy (FTP), if the Reserve Bank of India (RBI) 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."

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