

A.P. (DIR Series)

CIRCULAR NO

71/RBI., Dated: June 30, 2009

External Commercial Borrowings (ECB) Policy

Attention of Authorized Dealer Category - I (AD Category - I) banks is invited to the A.P. (DIR Series) Circular No. 46 dated January 2, 2009 relating to External Commercial Borrowings (ECB).

2. On a review, it has been decided to modify some aspects of the ECB policy as indicated below:

(i) ECB for Integrated Township

As per the extant policy, corporates, engaged in the development of integrated township, as defined in Press Note 3 (2002 Series) dated January 04, 2002, issued by DIPP, Ministry of Commerce & Industry, Government of India are permitted to avail of ECB, under the Approval route, until June 2009. On a review of the prevailing conditions, it has been decided to extend the permission up to December 31, 2009, under the Approval route. All other terms and conditions, stipulated in the A.P. (DIR Series) circular referred to above, remain unchanged.

(ii) ECB for NBFC sector

As per the current ECB norms, Non-Banking Finance Companies (NBFCs), which are exclusively involved in financing of the infrastructure sector, are permitted to avail of ECBs from multilateral / regional financial institutions and Government owned development financial institutions for on-lending to the borrowers in the infrastructure sector under the Approval route, subject, inter-alia, to the condition that the direct lending portfolio of these lenders vis-à-vis their total ECB lending to NBFCs, at any point of time, should not be less than 3:1. It has now been decided to dispense with this condition with effect from July 1, 2009. The proposals will, however, continue to be examined by the Reserve Bank under the Approval route, as hitherto.

(iii) ECB for Development of Special Economic Zone

As per the extant guidelines, ECB is permissible for the Infrastructure sector, which is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport, (vi) industrial parks, (vii) urban infrastructure (water supply, sanitation and sewage projects) and (viii) mining, refining and exploration. Further, units in the Special Economic Zone (SEZ) are also permitted to access ECBs for their own requirements. However, ECB is not permissible for the development of SEZ. It has now been decided to allow SEZ developers also to avail of ECB under the Approval route for providing infrastructure facilities, as defined in the ECB policy, within the SEZ. However,

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ECB shall not be permissible for development of integrated township and commercial real estate within the SEZ.

(iv) Corporates under Investigation

Currently, the ECB policy is not explicit about accessing of ECB by the corporates, which have violated the extant ECB policy and are under investigation by the Reserve Bank and / or Directorate of Enforcement. It is clarified that corporates, which have violated the extant ECB policy and are under investigation by Reserve Bank and / or by Directorate of Enforcement, will not be allowed to access the Automatic route for ECB. Any request by such corporates for ECB will be examined under the Approval route.

3. The modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as USD 500 million limit per company per financial year under the Automatic route, eligible borrower, recognised lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.

4. Necessary amendments to the Notification No.FEMA.3/2000-RB dated May 3, 2000, viz. Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 are being issued separately.

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 (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

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