

EXTERNAL COMMERCIAL BORROWINGS (ECB) FOR MICRO FINANCE INSTITUTIONS (MFIs) AND NON-GOVERNMENT ORGANISATIONS (NGOs) ENGAGED IN MICRO FINANCE ACTIVITIES UNDER AUTOMATIC ROUTE

A.P. (DIR SERIES 2011-12) CIRCULAR NO. 59, DATED 19-12-2011

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, notified *vide* Notification No. FEMA 3/2000-RB, dated 3-5-2000, amended from time to time, A.P. (DIR Series) Circular No. 5, dated 1-8-2005, amended from time to time and A.P. (DIR Series) Circular No. 40, dated 25-4-2005 relating to the External Commercial Borrowings (ECB).

2. Considering the specific needs of the micro finance sector, the existing ECB policy has been reviewed in consultation with the Government of India and it has been decided that hence forth MFIs may be permitted to raise ECB up to USD 10 million or equivalent during a financial year for permitted end-uses, under the Automatic Route. Detailed guidelines on ECB for MFIs with necessary safeguards are set out below.

(i) Eligible Borrower:

The following MFIs engaged in micro finance activities shall be considered as eligible borrowers to avail of ECBs:-

- ◆ MFIs registered under the Societies Registration Act, 1860;
- ◆ MFIs registered under Indian Trust Act, 1882;
- ◆ MFIs registered either under the conventional State-level cooperative acts, the national level multi-State cooperative legislation or under the new State-level mutually aided cooperative acts (MACS Act) and not being a co-operative bank;
- ◆ Non-Banking Financial Companies (NBFCs) categorized as 'Non Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) and complying with the norms prescribed as per circular DNBS.CC.PD.No. 250/03.10.01/2011-12, dated 2-12-2011; and
- ◆ Companies registered under section 25 of the Companies Act, 1956 and involved in micro finance activity.

(ii) Borrowing relationship and fit and proper status:

Further, the MFIs registered as societies, trusts and co-operatives and engaged in micro finance

- ◆ should have a satisfactory borrowing relationship for at least 3 years with a scheduled commercial bank authorized to deal in foreign exchange; and
- ◆ would require a certificate of due diligence on 'fit and proper' status of the Board/Committee of Management of the borrowing entity from the designated Authorized Dealer (AD) bank.

(iii) Recognized lenders

ECB funds should be routed through normal banking channels. NBFC-MFIs will be permitted to avail of ECBs from multilateral institutions, such as IFC, ADB etc./regional financial institutions/international banks/foreign equity holders and overseas organizations.

Companies registered under section 25 of the Companies Act and engaged in micro finance will be permitted to avail of ECBs from international banks, multilateral financial institutions, export credit agencies, foreign equity holders, overseas organizations and individuals.

Other MFIs will be permitted to avail of ECBs from international banks, multilateral financial institutions, export credit agencies, overseas organizations and individuals.

Overseas organizations and individuals complying with following safeguards may lend ECB

- (a) Overseas organisations planning to extend ECB would have to furnish a certificate of due diligence from an overseas bank which in turn is subject to regulation of host-country regulator and adheres to Financial Action Task Force (FATF) guidelines to the designated AD. The certificate of due diligence should comprise the following (i) that the lender maintains an account with the bank for at least a period of two years, (ii) that the lending entity is organized as per the local law and held in good esteem by the business/local community and (iii) that there is no criminal action pending against it.
- (b) Individual Lender has to obtain a certificate of due diligence from an overseas bank indicating that the lender maintains an account with the bank for at least a period of two years. Other evidence/documents, such as audited statement of account and income tax return which the overseas lender may furnish need to be certified and forwarded by the overseas bank. Individual lenders from countries wherein banks are not required to adhere to Know Your Customer (KYC) guidelines are not permitted to extend ECB.
- (iv) Permitted End-use: The designated AD must ensure that the ECB proceeds are utilised for lending to self-help groups or for micro-credit or for *bona fide* micro finance activity including capacity building.

(v) Amount of ECB : With a view to ensure minimization of systemic risk, the maximum amount of foreign currency borrowings of a borrower is capped at USD 10 million during a financial year.

3. It has also been decided that Non-Government Organisations (NGOs) engaged in micro finance activities can avail of ECB up to USD 10 million or equivalent per financial year under the automatic route as against the present limit of USD 5 million or equivalent per financial year. All other conditions as detailed in our A.P. (DIR Series) Circular No. 40, dated April 25, 2005 remain unchanged.

4. Other ECB Parameters :

All other ECB parameters such as minimum average maturity, all-in-cost ceilings, restrictions on issuance of guarantee, choice of security, parking of ECB proceeds, prepayment, refinancing of ECB, reporting arrangements under the Automatic Route should be complied with by MFIs/NGOs availing ECBs. The designated AD has to certify the status of the borrower as eligible and involved in micro finance and ensure at the time of draw down that the forex exposure of the borrower is fully hedged.

5. These amendments to ECB policy will come into force with immediate effect and the framework with respect to MFIs will be subject to review after one year.

6. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, dated May 3, 2000 are being issued separately, wherever necessary.

7. Authorized Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

8. The direction 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 are without prejudice to permissions/approvals, if any, required under any other law.