

EXTERNAL COMMERCIAL BORROWINGS - SIMPLIFICATION OF PROCEDURE

A.P. (DIR SERIES 2011-12) CIRCULAR NO. 75, DATED 7-2-2012

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 May 3, 2000, A.P. (DIR Series) Circular No. 5, dated August 1, 2005 relating to the External Commercial Borrowings (ECB), as amended from time to time and A. P. (DIR Series) Circular No.33, dated February 09, 2010.

2. As per the extant ECB procedures, requests for reduction in the amount of ECB, changes in the drawdown schedule where the original average maturity period is not maintained and reduction in the all-in-cost of the ECB after obtaining the Loan Registration Number (LRN) is required to be referred by the AD Category-I bank to the Foreign Exchange Department, Central Office, Reserve Bank of India for necessary approval.

3. As a measure of simplification of the existing procedures, it has been decided to delegate powers to the designated AD category-I banks to approve the following requests from the ECB borrowers, subject to specified conditions:

(a) Reduction in amount of ECB

The designated AD Category-I bank may approve requests from ECB borrowers for reduction in loan amount in respect of ECBs availed under the automatic route, subject to ensuring the following conditions:-

- (i) the consent of the lender for reduction in loan amount has been obtained;
- (ii) the average maturity period of the ECB is maintained;
- (iii) the monthly ECB-2 returns in respect of the LRN have been submitted to the Department of Statistics and Information Management (DSIM); and
- (iv) there is no change in the other terms and conditions of the ECB.

(b) Changes/modifications in the drawdown schedule when original average maturity period is not maintained

As per the extant procedures, Designated AD Category - I banks have been delegated powers to approve changes/modifications in the drawdown/repayment schedule of the ECBs already availed, both under the approval and the automatic routes, subject to the condition that the average maturity period, as declared while obtaining the LRN, is maintained.

It has now been decided that the designated AD Category-I bank may approve requests from ECB borrowers for changes/modifications in the drawdown schedule resulting in the original average maturity period undergoing change in respect of ECBs availed both under the automatic and approval routes, subject to ensuring the following conditions:-

- (i) there are no changes/modifications in the repayment schedule of the ECB;
- (ii) the average maturity period of the ECB is reduced as against the original average maturity period stated in the Form 83 at the time of obtaining the LRN;
- (iii) such reduced average maturity period complies with the stipulated minimum average maturity period as per the extant ECB guidelines;
- (iv) the change in all-in-cost is only due to the change in the average maturity period and the ECB complies with the extant guidelines; and
- (v) the monthly ECB-2 returns in respect of the LRN have been submitted to DSIM.

Any elongation/rollover in the repayment, on expiry of the original maturity, of the ECB, would however, continue to require the prior approval of the Reserve Bank.

(c) Reduction in the all-in-cost of ECB

The designated AD Category-I bank may approve requests from ECB borrowers for reduction in all-in-cost, in respect of ECBs availed both under the automatic and approval routes, subject to ensuring the following conditions:-

- (i) the consent of the lender has been obtained and there are no other changes in the terms and conditions of the ECB; and
- (ii) the monthly ECB-2 returns in respect of the LRN have been submitted to DSIM.

4. The designated AD Category-I bank should ensure that the ECBs continue to comply with the extant guidelines while exercising their delegated powers and changes are promptly reported to the Department of Statistics and Information Management (DSIM), Reserve Bank of India in Form 83.

5. The above modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as, USD 750 million limit per company per financial year under the automatic route, eligible borrower, recognized lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements shall remain unchanged.

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

7. 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 are without prejudice to permissions / approvals, if any, required under any other law.