

RBI//2012-13/552 A.P. (DIR Series) Circular No.119

June 26, 2013

External Commercial Borrowings (ECB) Policy – Import of Services, Technical know-how and License Fees

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 and the A.P. (DIR Series) Circular No. 5 dated August 1, 2005 relating to the External Commercial Borrowings (ECB), as amended from time to time.

2. As per the extant guidelines, eligible borrowers can raise ECB for investment such as import of capital goods (as classified by DGFT in the Foreign Trade Policy), new projects, modernization / expansion of existing production units in the real sector - industrial sector including small and medium enterprises (SME), infrastructure sector as defined under the ECB policy and entities in service sector viz. hotels, hospitals and software companies.

3. On a review, it has been decided to include import of services, technical know-how and payment of license fees as part of import of capital goods by the companies for the use in the manufacturing and infrastructure sectors as permissible end uses of ECB under the automatic / approval route as the case may be subject to:

(i) there should be a duly signed agreement between the service provider and the borrower company;

(ii) the original invoice raised by the service provider as per the payment schedule in the agreement should be duly certified by the borrower company;

(iii) declaration by the importer that the entire expenditure on import of services will be capitalised;

(iv) declaration by the importer that entire expenditure on import of services forms part of project cost; and

(v) AD category - I bank has to ensure the bonafides of the transaction.

4. The above modifications to the ECB guidelines will come into force with immediate effect. All other aspects of the ECB policy, such as eligible borrower, recognized lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements etc. shall remain unchanged.

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

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

Yours faithfully

(Rudra Narayan Kar)
Chief General Manager in-Charge