

A.P. (DIR Series) Circular No.10 (September 5, 2000)

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

A.P. (DIR Series) Circular No.10

September 5, 2000

To

All Authorised Dealers in Foreign Exchange

Dear Sirs

External Commercial Borrowings (ECB)

Attention of authorised dealers is invited to the Reserve Bank Notification No.FEMA 3/2000-RB dated May 3, 2000.

2. With a view to liberalising further ECB approvals, the Government have vide Press Release F.No.4 (32)-2000 ECB dated September 1, 2000, decided to operationalise the automatic route for fresh ECB approvals upto USD 50 million and all refinancing of existing ECBs with immediate effect.

3. Accordingly, under the automatic route arrangement, any legal entity, registered under the Companies Act, Societies Registration Act, Co-operative Societies Act, including proprietorship/partnership concerns, will henceforth be eligible to enter into loan agreements with overseas lender(s) for raising fresh ECB with average maturity of not less than 3 years for an amount upto USD 50 million and for refinancing an existing ECB provided it is in compliance with both the ECB guidelines framed by the Ministry of Finance, Government of India, and the regulations/directions/circulars issued by Reserve Bank in this regard. Corporates would not be required to obtain prior approval for raising ECB upto USD 50 million and for refinancing of an existing ECB from the Ministry of Finance / Reserve Bank.

The corporate shall ensure that they raise ECB from an internationally acceptable and/or recognised lender, such as export credit agencies, suppliers of equipments, foreign collaborators, foreign equity holders, international capital markets, reputed international banks and financial institutions, etc. Further, the loan should be organised through a reputed merchant banker registered with the regulatory authorities of the host country, viz., USA, Japan, EU countries, Singapore and such other countries as may be notified from time to time by the Government of India. The lenders should be recognised and registered in the host countries for the purpose of extending international finance.

The corporate shall submit through an authorised dealer of its choice, three copies of the loan agreement to the concerned Regional Office of the Reserve Bank after signing the same with the lender. The Regional Office of the Reserve Bank

would acknowledge receipt of the copies of the agreement and will allot a loan identification number to such an agreement. The primary responsibility to ensure that ECBs raised are in conformity with the ECB guidelines and the Reserve Bank regulations/directions/circulars will be that of the concerned corporate. If, however, at a later stage, any violation is found, appropriate action will be taken by Reserve Bank under the Foreign Exchange Management Act, 1999.

Corporate will also be permitted to make necessary draw-downs under the automatic route without prior permission from the Reserve Bank. It will, however, be required to file quarterly returns in a prescribed format through the authorised dealer. The withholding tax exemption would continue to be granted by the Ministry of Finance (Department of Revenue/Department of Economic Affairs), Government of India.

4. Authorised dealers, as hitherto, shall be required to forward all applications to the Chief General Manager, ECB Division, Exchange Control Department, Reserve Bank of India, Central Office, Mumbai 400 001, to obtain prior permission for prepayment of outstanding ECBs (viz., 10 per cent of the outstanding amount once during the life of the loan or ECBs with residual maturity upto one year).
5. Opening of foreign currency account for parking ECB proceeds temporarily, pending utilisation, will require prior approval of the concerned Regional Office of Reserve Bank.
6. Amendments to the FEMA Notification referred to above are being issued separately.
7. Authorised dealers may bring the contents of this circular to the notice of their concerned constituents.
8. The directions contained in this circular have been issued under Section 10 (4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and any contravention or non-observance thereof is subject to the penalties prescribed under the Act.

Yours faithfully
B. MAHESHWARAN
Chief General Manager