



RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office
Mumbai - 400 001

RBI/2011-12/204
A.P. (DIR Series) Circular No. 29

September 26, 2011

To

All Authorised Dealer Category I Banks

Madam / Sir,

External Commercial Borrowings (ECB) from the foreign equity holders

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

2. As per the extant ECB policy, a 'foreign equity holder' to be eligible as 'recognised lender' **under the automatic route** would require minimum holding of paid-up equity in the borrower company as set out below:

- (i) for ECB up to USD 5 million – minimum paid-up equity of 25 per cent held directly by the lender,
- (ii) for ECB more than USD 5 million – minimum paid-up equity of 25 per cent held directly by the lender and debt-equity ratio not exceeding 4:1 (i.e. the proposed ECB does not exceeds four times the direct foreign equity holding).

3. To further rationalize the policy in this regard, the following clarifications are being issued:-

- (i) Now onwards the term 'debt' in the debt-equity ratio will be replaced with 'ECB liability' and the ratio will be known as 'ECB liability'-equity ratio to make the

term signify true position as other borrowings/debt are not considered in working out this ratio;

(ii) The paid-up capital contributed by the foreign equity holder is considered under the extant guidelines for the purpose of calculation of equity for ECBs of or beyond USD 5 million from direct foreign equity holders. Henceforth, besides the paid-up capital, free reserves (including the share premium received in foreign currency) as per the latest audited balance sheet shall be reckoned for the purpose of calculating the equity of the foreign equity holder. Where there are more than one foreign equity holder in the borrowing company, the portion of the share premium in foreign currency brought in by the lender(s) concerned shall only be considered for calculating the ECB liability-equity ratio for reckoning quantum of permissible ECB.

(iii) For calculating the ECB liability, not only the proposed borrowing but also the outstanding ECB from the same foreign equity holder lender should be reckoned.

Further guidelines

4. To benefit eligible borrowers, it has been decided, in consultation with the Government of India, to consider the ECB proposals from foreign equity holders (direct/indirect) and group companies **under the approval route** as under:-

(i) Service sector units, in addition to those in hotels, hospitals and software, could also be considered as eligible borrowers if the **loan is obtained from foreign equity holders**. This would facilitate borrowing by training institutions, R &D, miscellaneous service companies, etc;

(ii) ECB from indirect equity holders may be considered provided the indirect equity holding by the lender in the Indian company is at least 51 per cent ; and

(iii) ECB from a group company may also be permitted provided both the borrower and the foreign lender are subsidiaries of the same parent.

5. While submitting these proposals, it may be ensured that total outstanding stock of ECBs (including the proposed ECBs) from a foreign equity lender does not exceed 7 times the equity holding, either directly or indirectly of the lender (in

case of lending by a group company, equity holdings by the common parent would be reckoned).

6. All other aspects of the ECB policy, such as, maximum permissible limit per company per financial year under the automatic route, eligible borrower, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements shall remain unchanged.

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

8. 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,

(Rashmi Fauzdar)
Chief General Manager