**Diploma in Urban Cooperative Banking**

RBI Notifications during the period 1st Jan 2019 to 30th June 2019

RBI/2018-2019/208 DPSS (CO) RPPD No.2557/04.03.01/2018-19 June 11, 2019

The Chairman / Managing Director / Chief Executive Officer of member banks participating in RTGS and / or NEFT

**National Electronic Funds Transfer (NEFT) and Real Time Gross Settlement (RTGS) systems – Waiver of charges**

Please refer to paragraph No. 8 of the Second Bi-monthly Monetary Policy Statement on Developmental and Regulatory Policies for 2019-20 dated June 06, 2019 on the above subject. A reference is also invited to the following circulars:

1. DPSS (CO) EPPD No. 2649/04.03.01/2010-11 dated June 02, 2011 on ‘Retail Electronic Payment Systems – Levy of Processing Charges’; and
2. DPSS (CO) RTGS No.1926/04.04.002/2015-16 dated February 4, 2016 on ‘RTGS service charges for members and customers - Rationalisation’.

2. The Reserve Bank has since reviewed the various charges levied by it on the member banks for transactions processed in the RTGS and NEFT systems. In order to provide an impetus to digital funds movement, it has been decided that with effect from July 1, 2019, processing charges and time varying charges levied on banks by Reserve Bank of India (RBI) for outward transactions undertaken using the RTGS system, as also the processing charges levied by RBI for transactions processed in NEFT system will be waived by the Reserve Bank.

3. The banks are advised to pass on the benefits to their customers for undertaking transactions using the RTGS and NEFT systems with effect from July 1, 2019.

4. This directive is issued under Section 10 (2) read with Section 18 of Payment and Settlement Systems Act 2007 (Act 51 of 2007).

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RBI/2018-19/189  
DPSS (CO) RTGS No. 2488/04.04.016/2018-19 May 28, 2019

The Chairman/Managing Director/Chief Executive Officer of member banks participating in RTGS

**Real Time Gross Settlement (RTGS) System – Extension of Timings for Customer Transactions**

A reference is invited to [circular DPSS (CO) RTGS No.492/04.04.002/2015-16 dated September 1, 2015](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10012&Mode=0) on ‘Changes in RTGS time window’ and [circular DPSS (CO) RTGS No.1926/04.04.002/2015-16 dated February 4, 2016](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10260&Mode=0) on ‘RTGS service charges for members and customers - Rationalisation’.

2. It has been decided to extend the timings for customer transactions (initial cut-off) in RTGS from 4:30 pm to 6:00 pm. Accordingly, the RTGS time window with effect from **June 01, 2019** will be as under:

|  |  |  |
| --- | --- | --- |
| **Sr. No.** | **Event** | **Time** |
| 1. | Open for Business | 08:00 hours |
| 2. | Customer transactions (Initial Cut-off) | 18:00 hours |
| 3. | Inter-bank transactions (Final Cut-off) | 19:45 hours |
| 4. | IDL Reversal | 19:45 hours - 20:00 hours |
| 5. | End of Day | 20:00 hours |

3. The time-varying charges for transactions in RTGS from 13:00 hours to 18:00 hours shall be ₹ 5 per outward transaction. The time varying charges structure is as under:

|  |  |  |  |
| --- | --- | --- | --- |
| **Sr. No.** | **Time of Settlement at the Reserve Bank of India** | | **Time varying charge per outward transaction (in addition to flat processing charge) (exclusive of tax, if any)** |
| **From** | **To** |
| 1 | 08:00 hours | 11:00 hours | Nil |
| 2 | After 11:00 hours | 13:00 hours | ₹ 2.00 |
| 3 | After 13:00 hours | 18:00 hours | ₹ 5.00 |
| 4 | After 18:00 hours |  | ₹ 10.00 |

4. This directive is issued under Section 10 (2) read with Section 18 of Payment and Settlement Systems Act 2007 (Act 51 of 2007).

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RBI/2018-19/138 DPSS.CO.OD.No.1916/06.07.011/2018-19 March 7, 2019

**White Label ATMs (WLAs) in India – Review of Guidelines**

Please refer to our circulars DPSS.CO.PD.No.2298/02.10.002/2011-2012 dated June 20, 2012, DPSS.CO.PD.No.1088/02.10.003/2013-14 dated November 14, 2013, DPSS.CO.PD.No.1025/02.10.003/2014-2015 dated December 5, 2014 and DPSS.CO.PD.No.1621/02.10.002/2016-17 dated December 30, 2016 prescribing the guidelines / instructions for setting up, owning and operating White Label ATMs (WLAs) in the country.

2. On a review of operations of WLAs and representations received from stakeholders, as also to enhance the viability of WLAs, it has been decided to allow the WLA Operators to : -

1. buy wholesale cash, above a threshold of 1 lakh pieces (and in multiples thereof) of any denomination, directly from the Reserve Bank (Issue Offices) and Currency Chests against full payment.
2. source cash from any scheduled bank, including Cooperative Banks and Regional Rural Banks.
3. offer bill payment and Interoperable Cash Deposit services, subject to technical feasibility and certification by National Payments Corporation of India (NPCI).
4. display advertisements pertaining to non-financial products / services anywhere within the WLA premises, including the WLA screen, except the main signboard. It shall be ensured that the advertisements running on the screen disappear once the customer commences a transaction.

3. The permission to WLA Operators to source cash from retail outlets, accorded vide circular DPSS.CO.PD.No.1621/02.10.002/2016-17 dated December 30, 2016, stands repealed.

4. Further, banks may issue co-branded ATM cards in partnership with the authorised WLA Operators and may extend the benefit of ‘on-us’ transactions to their WLAs as well.

5. All guidelines, safeguards, standards and control measures applicable to banks relating to (a) currency handling, and (b) cyber-security framework for ATMs, shall also be applicable to the WLA Operators.

6. This directive is issued under Section 10(2) read with Section 18 of Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

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RBI/FED/2018-19/67 FED Master Direction No.5/2018-19 March 26, 2019

All Authorised Dealer Category – I banks and Authorised Banks

**Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations**

Transactions on account of External Commercial Borrowings (ECB) and Trade Credits (TC) are governed by clause (d) of sub-section 3 of section 6 of the Foreign Exchange Management Act, 1999 (FEMA). Various provisions in respect of these two types of borrowings are included in the following Regulations framed under FEMA:

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018, notified vide Notification No. FEMA 3R/2018-RB dated December 17, 2018, as amended from time to time; and

Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide Notification No. FEMA 8/2000-RB dated May 03, 2000, as amended from time to time.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/constituents with a view to implementing the regulations framed.

3. Instructions issued in respect of External Commercial Borrowings and Trade Credits have been compiled in this Master Direction in supersession of earlier directions contained in Master Direction - External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers dated January 1, 2016, as amended from time to time. The said Master Direction can, however, be accessed using the link provided. The list of underlying notifications/circulars which form the basis of this Master Direction is furnished in the Appendix. Reporting instructions can be found in Master Direction on reporting (Master Direction No. 18 dated January 01, 2016, as amended from time to time).

4. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents and/ or amend the Master Direction issued herewith. This Master Direction has 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.

Master Direction:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11510&Mode=0#MD>

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RBI/2018-2019/140 A.P. (DIR Series) Circular No. 23 March 13, 2019

All Category-I Authorised Dealer Banks

**Trade Credit Policy – Revised framework**

Attention of Authorised Dealers is invited to the rationalised principal regulation governing the External Commercial Borrowings (ECB) and Trade Credits already notified on December 17, 2018 through the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 gazetted vide Notification No. FEMA.3R/2018-RB dated December 17, 2018. The new ECB framework based on the above regulation was issued on January 16, 2019 vide A. P. (DIR Series) Circular No. 17. The Trade Credit framework based on the aforementioned notified regulation is being issued now. Detailed instructions are set out in the Annex to this circular.

2. Trade Credits can be raised under the automatic route up to the amount specified in the Annex to this circular and in compliance with the other applicable norms. The designated AD Category I bank while considering the Trade Credit proposal is expected to ensure compliance with applicable Trade Credit guidelines by their constituents. Any contravention of the applicable provisions will invite penal action or adjudication under the Foreign Exchange Management Act, 1999.

3. The amended Trade Credit policy will come into force with immediate effect. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers. The Master Direction No. 5 dated January 01, 2016 on the subject is being revised to reflect the above changes.

4. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions /approvals, if any, required under any other law.

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All-in-Cost:** It includes rate of interest, other fees, expenses, charges, guarantee fees whether paid in foreign currency or INR. Withholding tax payable in INR shall not be a part of all-in-cost.  **1.2. Approval route:** TC can be raised either under the automatic route or the approval route. Under the approval route, the prospective importers are required to send their requests to the Foreign Exchange Department, Central Office, Reserve Bank of India through their Authorised Dealer (AD) Banks for examination.  **1.3. Automatic route:** For the automatic route, the cases are examined by the Authorised Dealer Category-I banks.  **1.4. Special Economic Zone & Free Trade Warehousing Zone:** They shall have the same meaning as assigned to them in Special Economic Zones Act 2005 as amended from time to time.  **Note:** Other important terms like Authorised Dealer, Benchmark Rate and Foreign Equity Holder used in this circular shall have the same meaning as assigned to them in the New External Commercial Borrowings framework ([A. P. (DIR Series) Circular No. 17 dated January 16, 2019](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11456&Mode=0)).  **2. Trade Credit Framework:** TC can be raised in any freely convertible foreign currency (FCY denominated TC) or Indian Rupee (INR denominated TC), as per the framework given in the table below:   |  |  |  |  | | --- | --- | --- | --- | | **Sr. No.** | **Parameters** | **FCY denominated TC** | **INR denominated TC** | | i | Forms of TC | Buyers’ Credit and Suppliers’ Credit | | | ii | Eligible borrower | Person resident in India acting as an importer | | | iii | Amount under automatic route | Up to USD 150 million or equivalent per import transaction for oil/gas refining & marketing, airline and shipping companies. For others, up to USD 50 million or equivalent per import transaction. | | | iv | Recognised lenders | **1. For suppliers’ credit:** Supplier of goods located outside India.  **2. For buyers’ credit:** Banks, financial institutions, foreign equity holder(s) located outside India and financial institutions in International Financial Services Centres located in India.  **Note:** Participation of Indian banks and non-banking financial companies (operating from IFSCs) as lenders will be subject to the prudential guidelines issued by the concerned regulatory departments of the Reserve Bank. Further, foreign branches/subsidiaries of Indian banks are permitted as recognised lenders only for FCY TC. | | | v | Period of TC | The period of TC, reckoned from the date of shipment, shall be up to three years for import of capital goods. For non-capital goods, this period shall be up to one year or the operating cycle whichever is less. For shipyards / shipbuilders, the period of TC for import of non-capital goods can be up to three years. | | | vi | All-in-cost ceiling per annum | Benchmark rate plus 250 bps spread. | | | vii | Exchange rate | Change of currency of FCY TC into INR TC can be at the exchange rate prevailing on the date of the agreement between the parties concerned for such change or at an exchange rate, which is less than the rate prevailing on the date of agreement, if consented to by the TC lender. | For conversion to Rupee, exchange rate shall be the rate prevailing on the date of settlement. | | viii | Hedging provision | The entities raising TC are required to follow the guidelines for hedging, if any, issued by the concerned sectoral or prudential regulator in respect of foreign currency exposure. Such entities shall have a board approved risk management policy. | The overseas investors are eligible to hedge their exposure in Rupee through permitted derivative products with AD Category I banks in India. The investors can also access the domestic market through branches / subsidiaries of Indian banks abroad or branches of foreign banks with Indian presence on a back to back basis. | | ix | Change of currency of borrowing | Change of currency of TC from one freely convertible foreign currency to any other freely convertible foreign currency as well as to INR is freely permitted. | Change of currency from INR to any freely convertible foreign currency is not permitted. |   **3. Trade Credits in Special Economic Zone (SEZ)/Free Trade Warehousing Zone (FTWZ)/ Domestic Tariff Area (DTA):**  3.1. TC can be raised by a unit or a developer in a SEZ including FTWZ for purchase of non-capital and capital goods within an SEZ including FTWZ or from a different SEZ including FTWZ subject to compliance with parameters given at paragraph 2 above. Further, an entity in DTA is also allowed to raise TC for purchase of capital / non-capital goods from a unit or a developer of a SEZ including FTWZ.  3.2. TC transactions in respect of SEZs and DTAs as permitted above should also be in compliance with applicable provisions of SEZ Act, 2005 as amended from time to time. For TC transactions related to SEZ, date of transfer of ownership of goods will be treated as TC date. As there will be no bill of entry for sale transactions within SEZ, the inter unit receipt generated through NSDL can be treated as an import document.  **4. Security for trade credit:** The provisions regarding security for raising TC are as under:  4.1. Bank guarantees may be given by the ADs, on behalf of the importer, in favour of overseas lender of TC not exceeding the amount of TC. Period of such guarantee cannot be beyond the maximum permissible period for TC. TC may also be secured by overseas guarantee issued by foreign banks / overseas branches of Indian banks. Issuance of such guarantees i.e. guarantees by Indian banks and their branches/subsidiaries located outside India will be subject to compliance with the provisions contained in Department of Banking Regulation [Master Circular No.DBR.No.Dir.BC.11/13.03.00/2015-16 dated July 1, 2015](https://www.rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9879) on “Guarantees and Co-acceptances”, as amended from time to time.  4.2. For the purpose of raising TC, the importer may also offer security of movable assets (including financial assets) / immovable assets (excluding land in SEZs) / corporate or personal guarantee for raising TC. ADs may, therefore, be allowed to permit creation of charge on security offered / accept corporate or personal guarantee, duly ensuring that (i) there exists a security clause in the loan agreement requiring the importer to create charge, in favour of overseas lender / security trustee on immovable assets / movable assets / financial securities / issuance of corporate and / or personal guarantee; (ii) No Objection Certificate, wherever necessary, from the existing lenders in India has been obtained; (iii) such arrangement is co-terminus with underlying TC; (iv) In case of invocation, the total payments towards guarantee should not exceed the dues towards TC; and (v) Creation/ enforcement / invocation of charge shall be as per the provisions contained in Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 or any other relative Regulations framed under the Foreign Exchange Management Act, 1999 and should also comply with FDI/FII/SEZ policy/ rules/ guidelines. The directions on issuance of guarantee mentioned under this provision shall come into force from the date of publication, in the Official Gazette, of the relative Regulations issued under FEMA.  **5. Reporting requirements:** TC transactions are subject to the following reporting requirements:  **5.1. Monthly reporting:** AD Category I banks are required to furnish details of TCs like drawal, utilisation, and repayment of TC approved by all its branches, in a consolidated statement, during a month, in Form TC to the Director, Division of International Trade and Finance, Department of Economic Policy and Research, RBI, Central Office, Fort, Mumbai – 400 001 (and in MS-Excel file through email) so as to reach not later than 10th day of the following month. Each TC may be given a unique identification number by the AD bank. Format of Form TC is available at Annex IV of Part V of [Master Directions – Reporting under Foreign Exchange Management Act dated January 1, 2016](https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10202), as amended from time to time.  **Note:** Suppliers’ credit beyond 180 days and up to one year/three years from the date of shipment for non-capital/capital goods respectively, should also be reported by the AD banks. Further, permissions granted by the AD banks/Regional offices of Reserve Bank for settlement of delayed import dues in terms of paragraphs B.5 and C.2 of the [Master Direction on Import of Goods and Services dated January 1, 2016](https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10201), as amended from time to time, should also be reported by the AD banks as per the aforesaid procedure.  **5.2. Quarterly reporting:** AD Category I banks are also required to furnish data on issuance of bank guarantees for TCs by all its branches, in a consolidated statement, at quarterly intervals on the eXtensible Business Reporting Language (XBRL) platform. For the above purpose AD banks may login to the site <https://secweb.rbi.org.in/orfsxbrl/> using their User name, Password and Bank code. For downloading the relevant form, AD banks may follow the link ‘Download Returns Package’ and download the form. After following the successive steps, AD banks may upload the file. For User name and Password, AD banks may write by [email](mailto:fedcoecbd@rbi.org.in) along with contact details. Clarification required, if any, may also be sent to the aforesaid email of the Reserve Bank and/ or may be communicated at Telephone No. 022-22601000 (extension- 2715). Guide for using XBRL website is also available under the Help option on the same page. Format of this statement is also available at Annex V of Part V of [Master Directions – Reporting under Foreign Exchange Management Act dated January 1, 2016](https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10202), as amended from time to time.  **6. Role of ADs:** While the primarily responsibility of ensuring adherence to the TC policy lies with the importer, the ADs are also expected to ensure compliance with applicable parameters of the TC policy / provisions of Foreign Exchange Management Act, 1999 by their constituents. As the Reserve Bank has not prescribed any format or manner in which TC arrangements / loan agreements are to be documented, ADs may consider any document to satisfy themselves with the underlying TC arrangement. ADs should ensure that there is no double financing on account of these transactions between a unit or a developer in a SEZ including FTWZ for purchase of non-capital and capital goods within an SEZ including FTWZ or from a different SEZ including FTWZ. ADs should also ensure that for import of non-capital goods, the period of TC, as applicable, is lower of operating cycle or one year (three years for shipyards / shipbuilders). | |

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RBI/2018-19/121 A.P. (DIR Series) Circular No. 18 February 07, 2019

All Category-I Authorised Dealer Banks

**External Commercial Borrowings (ECB) Policy – ECB facility for Resolution Applicants under Corporate Insolvency Resolution Process**

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to paragraph 1 of the Statement on Developmental and Regulatory Policies of the Sixth Bi-monthly Monetary Policy Statement for 2018-19 dated February 07, 2019.

2. In terms of paragraph 2.1.(viii) of the Annex to the A.P. (DIR Series) Circular No. 17, dated January 16, 2019 on “External Commercial Borrowings (ECB) Policy – New ECB Framework”, ECB proceeds cannot be utilised for repayment of domestic Rupee loans, except when the ECB is availed from a Foreign Equity Holder as defined in the aforesaid framework.

3. On a review it has been decided, in consultation with the Government of India, to relax the end-use restrictions for resolution applicants under the Corporate Insolvency Resolution Process (CIRP) and allow them to raise ECBs from the recognised lenders, except the branches/ overseas subsidiaries of Indian banks, for repayment of Rupee term loans of the target company under the approval route. Accordingly the resolution applicants, who are otherwise eligible borrowers, can forward such proposals to raise ECBs, through their AD bank, to Foreign Exchange Department, Central Office, Mumbai of the Reserve Bank for approval.

4. All other provisions of the ECB policy remain unchanged. AD Category - I banks should bring the contents of this circular to the notice of their constituents and customers. The amended ECB policy will come into force with immediate effect.

5. The directions contained in this circular have been issued under section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

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RBI/2018-19/109 A.P. (DIR Series) Circular No. 17 January 16, 2019

All Category-I Authorised Dealer Banks

**External Commercial Borrowings (ECB) Policy – New ECB Framework**

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to paragraph 7 of the Statement on Developmental and Regulatory Policies of the Fifth Bi-monthly Monetary Policy Statement for 2018-19 released on December 5, 2018. Reference is also invited to paragraphs 2 and 3 of Master Direction No.5 dated January 1, 2016 on “External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers”, as amended from time to time.

2. As indicated in the aforesaid statement, it has been decided, in consultation with the Government of India, to rationalise the extant framework for ECB and Rupee Denominated Bonds in light of the experience gained to improve the ease of doing business. The new framework is instrument neutral and would further strengthen the AML/CFT framework.

3. The revised ECB guidelines are set out in the Annex to this circular. The salient features of the new framework are as under:

1. Merging of Tracks: Merging of Tracks I and II as “Foreign Currency denominated ECB” and merging of Track III and Rupee Denominated Bonds framework as “Rupee Denominated ECB”.
2. Eligible Borrowers: This has been expanded to include all entities eligible to receive FDI. Additionally, Port Trusts, Units in SEZ, SIDBI, EXIM Bank, registered entities engaged in micro-finance activities, viz., registered not for profit companies, registered societies/trusts/cooperatives and non-government organisations can also borrow under this framework.
3. Recognised Lender: The lender should be resident of FATF or IOSCO compliant country. Multilateral and Regional Financial Institutions, Individuals and Foreign branches / subsidiaries of Indian banks can also be lenders as detailed in Annex.
4. Minimum Average Maturity Period (MAMP): MAMP will be 3 years for all ECBs. However, for ECB raised from foreign equity holder and utilised for specific purposes, as detailed in the Annex, the MAMP would be 5 years. Similarly, for ECB up to USD 50 million per financial year raised by manufacturing sector, which has been given a special dispensation, the MAMP would be 1 year as given in the Annex.
5. Late Submission Fee (LSF) for delay in Reporting: Any borrower, who is otherwise in compliance of ECB guidelines, except for delay in reporting drawdown of ECB proceeds before obtaining LRN or Form ECB 2 returns, can regularize the delay by payment of LSF as per the laid down procedure.

4. ECB up to USD 750 million or equivalent per financial year, which otherwise are in compliance with the parameters and other terms and conditions set out in the new ECB framework, will be permitted under the automatic route not requiring prior approval of the Reserve Bank. The designated AD Category I bank while considering the ECB proposal is expected to ensure compliance with applicable ECB guidelines by their constituents. Any contravention of the applicable provisions will invite penal action or adjudication under the Foreign Exchange Management Act, 1999.

5. Lending and borrowing under the ECB framework by Indian banks and their branches/subsidiaries outside India will be subject to prudential guidelines issued by the Department of Banking Regulation of the Reserve Bank. Further, other entities raising ECB are required to follow the guidelines issued, if any, by the concerned sectoral or prudential regulator.

6. The amended policy will come into force with immediate effect. The Principal Regulations governing the ECB policy has been rationalized through the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 and notified through Notification No. FEMA.3R/2018-RB dated December 17, 2018, vide G.S.R. 1213(E) dated December 17, 2018.

7. The aforesaid Master Direction No. 5 dated January 01, 2016 is being revised to reflect the above changes.

8. The directions contained in this circular have been issued under section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

**ANNEX**

New External Commercial Borrowings (ECB) framework  
{c.f.: A.P. (DIR Series) Circular No. 17 dated January 16, 2019}

1. Important terms used:

1.1. All-in-Cost: It includes rate of interest, other fees, expenses, charges, guarantee fees, Export Credit Agency (ECA) charges, whether paid in foreign currency or Indian Rupees (INR) but will not include commitment fees and withholding tax payable in INR. In the case of fixed rate loans, the swap cost plus spread should not be more than the floating rate plus the applicable spread. Additionally, for Foreign Currency Convertible Bonds (FCCBs) the issue related expenses should not exceed 4 per cent of issue size and in case of private placement, these expenses should not exceed 2 per cent of the issue size, etc. Various components of all-in-cost have to be paid by the borrower without taking recourse to the drawdown of ECB/ TC, i.e., ECB/TC proceeds cannot be used for payment of interest/charges.

1.2. Approval route: Under the ECB/TC framework, ECB/TC can be raised either under the automatic route or under the approval route. Under the approval route, the prospective borrowers are required to send their requests to the Reserve Bank through their Authorised Dealer (AD) Banks for examination.

1.3. Authorised dealer: Means a person authorised as an authorised dealer under subsection (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999).

1.4. Automatic route: For the automatic route, the cases are examined by the Authorised Dealer Category-I (AD Category-I) banks.

1.5. Benchmark rate: Benchmark rate in case of foreign currency denominated ECB/ TC (FCY ECB/TC) refers to 6-month London Interbank Offered Rate (LIBOR) rate of different currencies or any other 6-month interbank interest rate applicable to the currency of borrowing, for eg., Euro Interbank Offered Rate (EURIBOR). Benchmark rate in case of Rupee denominated ECB (INR ECB) will be prevailing yield of the Government of India securities of corresponding maturity.

1.6. Designated Authorized Dealer Category I Bank: It is the bank branch which is designated by the ECB borrower for meeting the reporting requirements including obtaining of the Loan Registration Number (LRN) from the Reserve Bank, exercising the delegated powers under these guidelines and monitoring of ECB transactions.

1.7. ECB liability-Equity ratio: For the purpose of ECB liability-equity ratio, ECB amount will include all outstanding amount of all ECBs (other than INR denominated) and the proposed one (only outstanding ECB amounts in case of refinancing) while equity will include the paid-up capital and free reserves (including the share premium received in foreign currency) as per the latest audited balance sheet. Both ECB and equity amounts will be calculated with respect to the foreign equity holder. Where there are more than one foreign equity holders 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 ratio. The ratio will be calculated as per latest audited balance sheet.

1.8. FATF compliant country: A country that is a member of Financial Action Task Force (FATF) or a member of a FATF-Style Regional Body; and should not be a country identified in the public statement of the FATF as (i) A jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or (ii) A jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

1.9. Foreign Currency Convertible Bonds (FCCBs): It refers to foreign currency denominated instruments which are issued in accordance with the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993 as amended from time to time. Issuance of FCCBs shall also conform to other applicable regulations. Further, FCCBs should be without any warrants attached.

1.10. Foreign Currency Exchangeable Bonds (FCEBs): It refers to foreign currency denominated instruments which are issued in accordance with the Issue of Foreign Currency Exchangeable Bonds Scheme, 2008 as amended from time to time. FCEBs are exchangeable into equity share of another company, to be called the Offered Company, in any manner, either wholly, or partly or on the basis of any equity related warrants attached to debt instruments. Issuance of FCEBs shall also conform to other applicable regulations.

1.11. Foreign Equity Holder: It means (a) direct foreign equity holder with minimum 25% direct equity holding by the lender in the borrowing entity, (b) indirect equity holder with minimum indirect equity holding of 51%, or (c) group company with common overseas parent.

1.12. Infrastructure Sector: It has the same meaning as given in the Harmonised Master List of Infrastructure sub-sectors approved by Government of India vide Notification F. No. 13/06/2009-INF as amended / updated from time to time. For the purpose of ECB, “Exploration, Mining and Refinery” sectors will be deemed as in the infrastructure sector.

1.13. Infrastructure space companies: Companies in infrastructure sector, Non-Banking Finance Companies (NBFCs) undertaking infrastructure financing, Holding Companies/ Core Investment Companies undertaking infrastructure financing, Housing Finance Companies (HFCs) regulated by National Housing Bank (NHB) and Port Trusts (constituted under the Major Port Trusts Act, 1963 or Indian Ports Act, 1908).

1.14. IOSCO compliant country: A country whose securities market regulator is a signatory to the International Organization of Securities Commission's (IOSCO’s) Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to bilateral Memorandum of Understanding with the Securities and Exchange Board of India (SEBI) for information sharing arrangements.

1.15. Person resident in India: It shall have the same meanings as assigned to them in Sections 2(v) and 2(w) of the Foreign Exchange Management Act, 1999 (FEMA).

1.16. Real estate activities: Any real estate activity involving own or leased property for buying, selling and renting of commercial and residential properties or land and also includes activities either on a fee or contract basis assigning real estate agents for intermediating in buying, selling, letting or managing real estate. However, this would not include construction/development of industrial parks/integrated township/SEZ, purchase/long term leasing of industrial land as part of new project/modernisation of expansion of existing units or any activity under ‘infrastructure sector’ definition.

2. External Commercial Borrowings framework: ECBs are commercial loans raised by eligible resident entities from recognised non-resident entities and should conform to parameters such as minimum maturity, permitted and non-permitted end-uses, maximum all-in-cost ceiling, etc. The parameters apply in totality and not on a standalone basis.

2.1. The framework for raising loans through ECB (herein after referred to as the ECB Framework) comprises the following two options:

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Parameters | FCY denominated ECB | INR denominated ECB |
| i | Currency of borrowing | Any freely convertible Foreign Currency | Indian Rupee (INR) |
| ii | Forms of ECB | Loans including bank loans; floating/ fixed rate notes/ bonds/ debentures (other than fully and compulsorily convertible instruments); Trade credits beyond 3 years; FCCBs; FCEBs and Financial Lease. | Loans including bank loans; floating/ fixed rate notes/ bonds/ debentures/ preference shares (other than fully and compulsorily convertible instruments); Trade credits beyond 3 years; and Financial Lease. Also, plain vanilla Rupee denominated bonds issued overseas (RDBs), which can be either placed privately or listed on exchanges as per host country regulations. |
| iii | Eligible borrowers | All entities eligible to receive FDI. Further, the following entities are also eligible to raise ECB:  a) Port Trusts; b) Units in SEZ; c) SIDBI; d) EXIM Bank; and e) Registered entities engaged in micro-finance activities, viz., registered Not for Profit companies, registered societies/trusts/cooperatives and Non-Government Organisations (permitted only to raise INR ECB). | |
| iv | Recognised lenders | The lender should be resident of FATF or IOSCO compliant country, including on transfer of ECBs. However,  a) Multilateral and Regional Financial Institutions where India is a member country will also be considered as recognised lenders;  b) Individuals as lenders can only be permitted if they are foreign equity holders or for subscription to bonds/debentures listed abroad; and  c) Foreign branches / subsidiaries of Indian banks are permitted as recognised lenders only for FCY ECB (except FCCBs and FCEBs). Foreign branches / subsidiaries of Indian banks, subject to applicable prudential norms, can participate as arrangers/underwriters/market-makers/traders for Rupee denominated Bonds issued overseas. However, underwriting by foreign branches/subsidiaries of Indian banks for issuances by Indian banks will not be allowed. | |
| v | Minimum Average Maturity Period | Minimum average maturity period (MAMP) will be 3 years. However, manufacturing sector companies may raise ECBs with MAMP of 1 year for ECB up to USD 50 million or its equivalent per financial year. Further, if the ECB is raised from foreign equity holder and utilised for working capital purposes, general corporate purposes or repayment of Rupee loans, MAMP will be 5 years. The call and put option, if any, shall not be exercisable prior to completion of minimum average maturity. | |
| vi | All-in-cost ceiling per annum | Benchmark rate plus 450 bps spread. | |
| vii | Other costs | Prepayment charge/ Penal interest, if any, for default or breach of covenants should not be more than 2 per cent over and above the contracted rate of interest on the outstanding principal amount and will be outside the all-in-cost ceiling. | |
| viii | End-uses (Negative list) | The negative list, for which the ECB proceeds cannot be utilised, would include the following:  a) Real estate activities. b) Investment in capital market. c) Equity investment. d) Working capital purposes except from foreign equity holder. e) General corporate purposes except from foreign equity holder. f) Repayment of Rupee loans except from foreign equity holder. g) On-lending to entities for the above activities. | |
| ix | Exchange rate | Change of currency of FCY ECB into INR ECB can be at the exchange rate prevailing on the date of the agreement between the parties concerned for such change or at an exchange rate, which is less than the rate prevailing on the date of agreement, if consented to by the ECB lender. | For conversion to Rupee, exchange rate shall be the rate prevailing on the date of settlement. |
| x | Hedging provision | The entities raising ECB are required to follow the guidelines for hedging issued, if any, by the concerned sectoral or prudential regulator in respect of foreign currency exposure. Infrastructure space companies shall have a board approved risk management policy. Further, such companies are required to mandatorily hedge 70 per cent of their ECB exposure in case average maturity of ECB is less than 5 years. The designated AD Category-I bank shall verify that 70 per cent hedging requirement is complied with during the currency of ECB and report the position to RBI through Form ECB 2 returns. The following operational aspects with respect to hedging should be ensured:   1. Coverage: The ECB borrower will be required to cover principal as well as coupon through financial hedges. The financial hedge for all exposures on account of ECB should start from the time of each such exposure (i.e. the day liability is created in the books of the borrower). 2. Tenor and rollover: A minimum tenor of one year of financial hedge would be required with periodic rollover duly ensuring that the exposure on account of ECB is not unhedged at any point during the currency of ECB. 3. Natural Hedge: Natural hedge, in lieu of financial hedge, will be considered only to the extent of offsetting projected cash flows / revenues in matching currency, net of all other projected outflows. For this purpose, an ECB may be considered naturally hedged if the offsetting exposure has the maturity/cash flow within the same accounting year. Any other arrangements/ structures, where revenues are indexed to foreign currency will not be considered as natural hedge. | The overseas investors are eligible to hedge their exposure in Rupee through permitted derivative products with AD Category I banks in India. The investors can also access the domestic market through branches / subsidiaries of Indian banks abroad or branches of foreign banks with Indian presence on a back to back basis. |
| xi | Change of currency of borrowing | Change of currency of ECB from one freely convertible foreign currency to any other freely convertible foreign currency as well as to INR is freely permitted. | Change of currency from INR to any freely convertible foreign currency is not permitted. |

Note: ECB framework is not applicable in respect of the investment in Non-Convertible Debentures in India made by Registered Foreign Portfolio Investors.

2.2. Limit and leverage: Under the aforesaid framework, all eligible borrowers can raise ECB up to USD 750 million or equivalent per financial year under auto route. Further, in case of FCY denominated ECB raised from direct foreign equity holder ECB liability-equity ratio for ECBs raised under the automatic route cannot exceed 7:1. However, this ratio will not be applicable if outstanding amount of all ECBs, including proposed one, is up to USD 5 million or equivalent. Further, the borrowing entities will also be governed by the guidelines on debt equity ratio issued, if any, by the sectoral or prudential regulator concerned.

3. Issuance of Guarantee, etc. by Indian banks and Financial Institutions: Issuance of any type of guarantee by Indian banks, All India Financial Institutions and NBFCs relating to ECB is not permitted. Further, financial intermediaries (viz., Indian banks, All India Financial Institutions, or NBFCs) shall not invest in FCCBs/ FCEBs in any manner whatsoever.

4. Parking of ECB proceeds: ECB proceeds are permitted to be parked abroad as well as domestically in the manner given below:

4.1. Parking of ECB proceeds abroad: ECB proceeds meant only for foreign currency expenditure can be parked abroad pending utilization. Till utilisation, these funds can be invested in the following liquid assets (a) deposits or Certificate of Deposit or other products offered by banks rated not less than AA (-) by Standard and Poor/ Fitch IBCA or Aa3 by Moody’s; (b) Treasury bills and other monetary instruments of one-year maturity having minimum rating as indicated above and (c) deposits with foreign branches/ subsidiaries of Indian banks abroad.

4.2. Parking of ECB proceeds domestically: ECB proceeds meant for Rupee expenditure should be repatriated immediately for credit to their Rupee accounts with AD Category I banks in India. ECB borrowers are also allowed to park ECB proceeds in term deposits with AD Category I banks in India for a maximum period of 12 months cumulatively. These term deposits should be kept in unencumbered position.

5. Procedure of raising ECB: All ECBs can be raised under the automatic route if they conform to the parameters prescribed under this framework. For approval route cases, the borrowers may approach the RBI with an application in prescribed format ([Form ECB – Annex I](https://rbidocs.rbi.org.in/rdocs/content/pdfs/ANNEX16012019_1.pdf)) for examination through their AD Category I bank. Such cases shall be considered keeping in view the overall guidelines, macroeconomic situation and merits of the specific proposals. ECB proposals received in the Reserve Bank above certain threshold limit (refixed from time to time) would be placed before the Empowered Committee set up by the Reserve Bank. The Empowered Committee will have external as well as internal members and the Reserve Bank will take a final decision in the cases taking into account recommendation of the Empowered Committee. Entities desirous to raise ECB under the automatic route may approach an AD Category I bank with their proposal along with duly filled in Form ECB.

6. Reporting Requirements: Borrowings under ECB Framework are subject to following reporting requirements apart from any other specific reporting required under the framework:

6.1. Loan Registration Number (LRN): Any draw-down in respect of an ECB should happen only after obtaining the LRN from the Reserve Bank. To obtain the LRN, borrowers are required to submit duly certified Form ECB, which also contains terms and conditions of the ECB, in duplicate to the designated AD Category I bank. In turn, the AD Category I bank will forward one copy to the Director, Balance of Payments Statistics Division, Department of Statistics and Information Management (DSIM), Reserve Bank of India, Bandra-Kurla Complex, Mumbai – 400 051 (Contact numbers 022-26572513 and 022-26573612). Copies of loan agreement for raising ECB are not required to be submitted to the Reserve Bank.

6.2. Changes in terms and conditions of ECB: Changes in ECB parameters in consonance with the ECB norms, including reduced repayment by mutual agreement between the lender and borrower, should be reported to the DSIM through revised Form ECB at the earliest, in any case not later than 7 days from the changes effected. While submitting revised Form ECB the changes should be specifically mentioned in the communication.

6.3. Monthly Reporting of actual transactions: The borrowers are required to report actual ECB transactions through [Form ECB 2 Return (Annex II)](https://rbidocs.rbi.org.in/rdocs/content/pdfs/ANNEX16012019_2.pdf) through the AD Category I bank on monthly basis so as to reach DSIM within seven working days from the close of month to which it relates. Changes, if any, in ECB parameters should also be incorporated in Form ECB 2 Return.

6.4. Late Submission Fee (LSF) for delay in reporting:

6.4.1. Any borrower, who is otherwise in compliance of ECB guidelines, can regularize the delay in reporting of drawdown of ECB proceeds before obtaining LRN or delay in submission of Form ECB 2 returns, by payment of late submission fees as detailed in the following matrix:

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Type of Return/Form | Period of delay | Applicable LSF |
| 1 | Form ECB 2 | Up to 30 calendar days from due date of submission | INR 5,000 |
| 2 | Form ECB 2/Form ECB | Up to three years from due date of submission/date of drawdown | INR 50,000 per year |
| 3 | Form ECB 2/Form ECB | Beyond three years from due date of submission/date of drawdown | INR 100,000 per year |

6.4.2. The borrower, through its AD bank, may pay the LSF by way of demand draft in favour of “Reserve Bank of India” or any other mode specified by the Reserve Bank. Such payment should be accompanied with the requisite return(s). Form ECB and Form ECB 2 returns reporting contraventions will be treated separately. Non-payment of LSF will be treated as contravention of reporting provision and shall be subject to compounding or adjudication as provided in FEMA 1999 or regulations/rules framed thereunder.

6.5. Standard Operating Procedure (SOP) for Untraceable Entities: The following SOP has to be followed by designated AD Category-I banks in case of untraceable entities who are found to be in contravention of reporting provisions for ECBs by failing to submit prescribed return(s) under the ECB framework, either physically or electronically, for past eight quarters or more.

i. Definition: Any borrower who has raised ECB will be treated as ‘untraceable entity’, if entity/auditor(s)/director(s)/ promoter(s) of entity are not reachable/responsive/reply in negative over email/letters/phone for a period of not less than two quarters with documented communication/ reminders numbering 6 or more and it fulfills both of the following conditions:

1. Entity not found to be operative at the registered office address as per records available with the AD Bank or not found to be operative during the visit by the officials of the AD Bank or any other agencies authorized by the AD bank for the purpose;
2. Entities have not submitted Statutory Auditor’s Certificate for last two years or more;

ii. Action: The followings actions are to be undertaken in respect of ‘untraceable entities’:

1. File Revised Form ECB, if required, and last Form ECB 2 Return without certification from company with ‘UNTRACEABLE ENTITY’ written in bold on top. The outstanding amount will be treated as written-off from external debt liability of the country but may be retained by the lender in its books for recovery through judicial/ non-judicial means;
2. No fresh ECB application by the entity should be examined/processed by the AD bank;
3. Directorate of Enforcement should be informed whenever any entity is designated ‘UNTRACEABLE ENTITY’; and
4. No inward remittance or debt servicing will be permitted under auto route.

7. Powers delegated to AD Category I banks to deal with ECB cases: The designated AD Category I banks can approve any requests from the borrowers for changes in respect of ECBs, except for FCCBs/FCEBs, duly ensuring that the changed conditions, including change in name of borrower/lender, transfer of ECB and any other parameters, comply with extant ECB norms and are with the consent of lender(s). Further, the following changes can be undertaken under automatic route:

7.1. Change of the AD Category I bank: AD Category I bank can be changed subject to obtaining no objection certificate from the existing AD Category I bank.

7.2. Cancellation of LRN: The designated AD Category I banks may directly approach DSIM for cancellation of LRN for ECBs contracted, subject to ensuring that no draw down against the said LRN has taken place and the monthly ECB-2 returns till date in respect of the allotted LRN have been submitted to DSIM.

7.3. Refinancing of existing ECB: The designated AD Category I bank may allow refinancing of existing ECB by raising fresh ECB provided the outstanding maturity of the original borrowing (weighted outstanding maturity in case of multiple borrowings) is not reduced and all-in-cost of fresh ECB is lower than the all-in-cost (weighted average cost in case of multiple borrowings) of existing ECB. Further, refinancing of ECBs raised under the previous ECB framework may also be permitted, subject to additionally ensuring that the borrower is eligible to raise ECB under the extant framework. Raising of fresh ECB to part refinance the existing ECB is also permitted subject to same conditions. Indian banks are permitted to participate in refinancing of existing ECB, only for highly rated corporates (AAA) and for Maharatna/Navratna public sector undertakings.

7.4. Conversion of ECB into equity: Conversion of ECBs, including those which are matured but unpaid, into equity is permitted subject to the following conditions:

i. The activity of the borrowing company is covered under the automatic route for FDI or Government approval is received, wherever applicable, for foreign equity participation as per extant FDI policy.

ii. The conversion, which should be with the lender’s consent and without any additional cost, should not result in contravention of eligibility and breach of applicable sector cap on the foreign equity holding under FDI policy;

iii. Applicable pricing guidelines for shares are complied with;

iv. In case of partial or full conversion of ECB into equity, the reporting to the Reserve Bank will be as under:

1. For partial conversion, the converted portion is to be reported in Form FC-GPR prescribed for reporting of FDI flows, while monthly reporting to DSIM in Form ECB 2 Return will be with suitable remarks, viz., "ECB partially converted to equity".
2. For full conversion, the entire portion is to be reported in Form FC-GPR, while reporting to DSIM in Form ECB 2 Return should be done with remarks “ECB fully converted to equity”. Subsequent filing of Form ECB 2 Return is not required.
3. For conversion of ECB into equity in phases, reporting through Form FC-GPR and Form ECB 2 Return will also be in phases.

v. If the borrower concerned has availed of other credit facilities from the Indian banking system, including foreign branches/subsidiaries of Indian banks, the applicable prudential guidelines issued by the Department of Banking Regulation of Reserve Bank, including guidelines on restructuring are complied with;

vi. Consent of other lenders, if any, to the same borrower is available or atleast information regarding conversions is exchanged with other lenders of the borrower.

vii. For conversion of ECB dues into equity, the exchange rate prevailing on the date of the agreement between the parties concerned for such conversion or any lesser rate can be applied with a mutual agreement with the ECB lender. It may be noted that the fair value of the equity shares to be issued shall be worked out with reference to the date of conversion only.

7.5. Security for raising ECB: AD Category I banks are permitted to allow creation/ cancellation of charge on immovable assets, movable assets, financial securities and issue of corporate and/ or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised / raised by the borrower, subject to satisfying themselves that:

i. the underlying ECB is in compliance with the extant ECB guidelines,

ii. there exists a security clause in the Loan Agreement requiring the ECB borrower to create/ cancel charge, in favour of overseas lender / security trustee, on immovable assets / movable assets / financial securities / issuance of corporate and / or personal guarantee, and

iii. No objection certificate, as applicable, from the existing lenders in India has been obtained in case of creation of charge.

Once the aforesaid stipulations are met, the AD Category I bank may permit creation of charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees, during the currency of the ECB with security co-terminating with underlying ECB, subject to the following:

i. Creation of Charge on Immovable Assets: The arrangement shall be subject to the following:

1. Such security shall be subject to provisions contained in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000.
2. The permission should not be construed as a permission to acquire immovable asset (property) in India, by the overseas lender/ security trustee.
3. In the event of enforcement / invocation of the charge, the immovable asset/ property will have to be sold only to a person resident in India and the sale proceeds shall be repatriated to liquidate the outstanding ECB.

ii. Creation of Charge on Movable Assets: In the event of enforcement/ invocation of the charge, the claim of the lender, whether the lender takes over the movable asset or otherwise, will be restricted to the outstanding claim against the ECB. Encumbered movable assets may also be taken out of the country subject to getting ‘No Objection Certificate’ from domestic lender/s, if any.

iii. Creation of Charge over Financial Securities: The arrangements may be permitted subject to the following:

a) Pledge of shares of the borrowing company held by the promoters as well as in domestic associate companies of the borrower is permitted. Pledge on other financial securities, viz. bonds and debentures, Government Securities, Government Savings Certificates, deposit receipts of securities and units of the Unit Trust of India or of any mutual funds, standing in the name of ECB borrower/promoter, is also permitted.

b) In addition, security interest over all current and future loan assets and all current assets including cash and cash equivalents, including Rupee accounts of the borrower with ADs in India, standing in the name of the borrower/promoter, can be used as security for ECB. The Rupee accounts of the borrower/promoter can also be in the form of escrow arrangement or debt service reserve account.

c) In case of invocation of pledge, transfer of financial securities shall be in accordance with the extant FDI/FII policy including provisions relating to sectoral cap and pricing as applicable read with the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000.

iv. Issue of Corporate or Personal Guarantee: The arrangement shall be subject to the following:

a) A copy of Board Resolution for the issue of corporate guarantee for the company issuing such guarantee, specifying name of the officials authorised to execute such guarantees on behalf of the company or in individual capacity should be obtained.

b) Specific requests from individuals to issue personal guarantee indicating details of the ECB should be obtained.

c) Such security shall be subject to provisions contained in the Foreign Exchange Management (Guarantees) Regulations, 2000.

d) ECB can be credit enhanced / guaranteed / insured by overseas party/ parties only if it/ they fulfil/s the criteria of recognised lender under extant ECB guidelines.

7.6. Additional Requirements: While permitting changes under the delegated powers, the AD Category I banks should ensure that:

i. The changes permitted are in conformity with the applicable ceilings / guidelines and the ECB continues to be in compliance with applicable guidelines. It should also be ensured that if the ECB borrower has availed of credit facilities from the Indian banking system, including foreign branches/subsidiaries of Indian banks, any extension of tenure of ECB (whether matured or not) shall be subject to applicable prudential guidelines issued by Department of Banking Regulation of Reserve Bank including guidelines on restructuring.

ii. The changes in the terms and conditions of ECB allowed by the ADs under the powers delegated and / or changes approved by the Reserve Bank should be reported to the DSIM through revised Form ECB at the earliest, in any case not later than 7 days from the changes effected. While submitting revised Form ECB to the DSIM, the changes should be specifically mentioned in the communication. Further, these changes should also get reflected in the Form ECB 2 returns appropriately.

8. Special Dispensations under the ECB framework:

8.1. ECB facility for Oil Marketing Companies: Notwithstanding the provisions contained in paragraph 2.1 (viii), 2.1 (x) and 2.2 above, Public Sector Oil Marketing Companies (OMCs) can raise ECB for working capital purposes with minimum average maturity period of 3 years from all recognized lenders under the automatic route without mandatory hedging and individual limit requirements. The overall ceiling for such ECBs shall be USD 10 billion or equivalent. However, OMCs should have a Board approved forex mark to market procedure and prudent risk management policy, for such ECBs. All other provisions under the ECB framework will be applicable to such ECBs.

8.2. ECB facility for Startups: AD Category-I banks are permitted to allow Startups to raise ECB under the automatic route as per the following framework:

i. Eligibility: An entity recognised as a Startup by the Central Government as on date of raising ECB.

ii. Maturity: Minimum average maturity period will be 3 years.

iii. Recognised lender: Lender / investor shall be a resident of a FATF compliant country. However, foreign branches/subsidiaries of Indian banks and overseas entity in which Indian entity has made overseas direct investment as per the extant Overseas Direct Investment Policy will not be considered as recognized lenders under this framework.

iv. Forms: The borrowing can be in form of loans or non-convertible, optionally convertible or partially convertible preference shares.

v. Currency: The borrowing should be denominated in any freely convertible currency or in Indian Rupees (INR) or a combination thereof. In case of borrowing in INR, the non-resident lender, should mobilise INR through swaps/outright sale undertaken through an AD Category-I bank in India.

vi. Amount: The borrowing per Startup will be limited to USD 3 million or equivalent per financial year either in INR or any convertible foreign currency or a combination of both.

vii. All-in-cost: Shall be mutually agreed between the borrower and the lender.

viii. End uses: For any expenditure in connection with the business of the borrower.

ix. Conversion into equity: Conversion into equity is freely permitted subject to Regulations applicable for foreign investment in Startups.

x. Security: The choice of security to be provided to the lender is left to the borrowing entity. Security can be in the nature of movable, immovable, intangible assets (including patents, intellectual property rights), financial securities, etc. and shall comply with foreign direct investment / foreign portfolio investment / or any other norms applicable for foreign lenders / entities holding such securities. Further, issuance of corporate or personal guarantee is allowed. Guarantee issued by a non-resident(s) is allowed only if such parties qualify as lender under ECB for Startups. However, issuance of guarantee, standby letter of credit, letter of undertaking or letter of comfort by Indian banks, all India Financial Institutions and NBFCs is not permitted.

xi. Hedging: The overseas lender, in case of INR denominated ECB, will be eligible to hedge its INR exposure through permitted derivative products with AD Category – I banks in India. The lender can also access the domestic market through branches/ subsidiaries of Indian banks abroad or branches of foreign bank with Indian presence on a back to back basis.

Note: Startups raising ECB in foreign currency, whether having natural hedge or not, are exposed to currency risk due to exchange rate movements and hence are advised to ensure that they have an appropriate risk management policy to manage potential risk arising out of ECBs.

xii. Conversion rate: In case of borrowing in INR, the foreign currency - INR conversion will be at the market rate as on the date of agreement.

xiii. Other Provisions: Other provisions like parking of ECB proceeds, reporting arrangements, powers delegated to AD banks, borrowing by entities under investigation, conversion of ECB into equity will be as included in the ECB framework. However, provisions on leverage ratio and ECB liability: Equity ratio will not be applicable. Further, the Start-ups as defined above [8.2. (i)] as well as other start-ups which do not comply with the aforesaid definition but are eligible to receive FDI, can also raise ECBs under the general ECB route/framework.

9. Borrowing by Entities under Investigation: All entities against which investigation / adjudication / appeal by the law enforcing agencies for violation of any of the provisions of the Regulations under FEMA pending, may raise ECBs as per the applicable norms, if they are otherwise eligible, notwithstanding the pending investigations / adjudications / appeals, without prejudice to the outcome of such investigations / adjudications / appeals. The borrowing entity shall inform about pendency of such investigation / adjudication / appeal to the AD Category-I bank / RBI as the case may be. Accordingly, in case of all applications where the borrowing entity has indicated about the pending investigations / adjudications / appeals, the AD Category I Banks / Reserve Bank while approving the proposal shall intimate the agencies concerned by endorsing a copy of the approval letter.

10. ECB by entities under restructuring: An entity which is under restructuring scheme/ corporate insolvency resolution process can raise ECB only if specifically permitted under the resolution plan.

11. Dissemination of information: For providing greater transparency, information with regard to the name of the borrower, amount, purpose and maturity of ECB under both Automatic and Approval routes are put on the RBI’s website, on a monthly basis, with a lag of one month to which it relates.

12. Compliance with the guidelines: The primary responsibility for ensuring that the borrowing is in compliance with the applicable guidelines is that of the borrower concerned. Any contravention of the applicable provisions of ECB guidelines will invite penal action under the FEMA. The designated AD Category I bank is also expected to ensure compliance with applicable ECB guidelines by their constituents.

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RBI/2018-19/127 DBR.No.BP.BC.26/21.04.048/2018-19 February 22, 2019

All banks and NBFCs regulated by the Reserve Bank of India

**Micro, Small and Medium Enterprises (MSME) sector- Restructuring of Advances**

Please refer to circular DBR.No.BP.BC.18/21.04.048/2018-19 dated January 1, 2019 on the above subject. One of the conditions for restructuring of existing loan of MSMEs without a downgrade in the asset classification is as under:

“the borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to MSMEs that are exempt from GST-registration” (c.f. para 1 (iii) of the above referred circular).

2. It is clarified that the eligibility for restructuring without GST-registration, as per the circular under reference, should be determined on the basis of exemption limit obtaining as on the date of the aforesaid circular, i.e., January 1, 2019.

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RBI/2018-19/100 DBR.No.BP.BC.18/21.04.048/2018-19 January 1, 2019

All banks and NBFCs regulated by the Reserve Bank of India

**Micro, Small and Medium Enterprises (MSME) sector – Restructuring of Advances**

1. Please refer to the circulars DBR.No.BP.BC.100/21.04.048/2017-18 dated February 07, 2018 and DBR.No.BP.BC.108/21.04.048/2017-18 dated June 6, 2018. In this regard, with a view to facilitate meaningful restructuring of MSME accounts {MSME as defined in the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006} that have become stressed, it has been decided to permit a one-time restructuring of existing loans to MSMEs classified as ‘standard’ without a downgrade in the asset classification, subject to the following conditions:

i. The aggregate exposure, including non-fund based facilities, of banks and NBFCs to the borrower does not exceed ₹250 million as on January 1, 2019.

ii. The borrower’s account is in default but is a ‘standard asset’ as on January 1, 2019 and continues to be classified as a ‘standard asset’ till the date of implementation of the restructuring.

iii. The borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to MSMEs that are exempt from GST-registration.

iv. The restructuring of the borrower account is implemented on or before March 31, 2020. A restructuring would be treated as implemented if the following conditions are met:

1. all related documentation, including execution of necessary agreements between lenders and borrower / creation of security charge / perfection of securities are completed by all lenders; and
2. the new capital structure and / or changes in the terms and conditions of the existing loans get duly reflected in the books of all the lenders and the borrower.

v. A provision of 5% in addition to the provisions already held, shall be made in respect of accounts restructured under these instructions. Banks will, however, have the option of reversing such provisions at the end of the specified period, subject to the account demonstrating satisfactory performance during the specified period as defined at paragraph 5 below.

vi. Post-restructuring, NPA classification of these accounts shall be as per the extant IRAC norms.

vii. Banks and NBFCs shall make appropriate disclosures in their financial statements, under ‘Notes on Accounts’, relating to the MSME accounts restructured under these instructions as per the following format:

|  |  |
| --- | --- |
| **No. of accounts restructured** | **Amount (₹ in million)** |
|  |  |

viii. All other instructions applicable to restructuring of loans to MSME borrowers shall continue to be applicable.

2. Banks and NBFCs desirous of adopting this scheme shall put in place a Board approved policy on restructuring of MSME advances under these instructions within a month from the date of this circular. The policy shall, inter alia, include framework for viability assessment of the stressed accounts and regular monitoring of the restructured accounts.

3. It is clarified that accounts classified as NPA can be restructured; however, the extant asset classification norms governing restructuring of NPAs will continue to apply.

4. As a general rule, barring the above one-time exception, any MSME account which is restructured must be downgraded to NPA upon restructuring and will slip into progressively lower asset classification and higher provisioning requirements as per extant IRAC norms. Such an account may be considered for upgradation to ‘standard’ only if it demonstrates satisfactory performance during the specified period.

5. ‘Specified Period’ means a period of one year from the commencement of the first payment of interest or principal, whichever is later, on the credit facility with longest period of moratorium under the terms of restructuring package. ‘Satisfactory Performance’ means no payment (interest and/or principal) shall remain overdue for a period of more than 30 days. In case of cash credit / overdraft account, satisfactory performance means that the outstanding in the account shall not be more than the sanctioned limit or drawing power, whichever is lower, for a period of more than 30 days.

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RBI/2018-19/190 DBR.AML.BC.No.39/14.01.001/2018-19 May 29, 2019

The Chairpersons/ CEOs of all the Regulated Entities

**Amendment to Master Direction (MD) on KYC**

Government of India, vide Gazette Notification G.S.R. 108(E) dated February 13, 2019, has notified amendments to the Prevention of Money-laundering (Maintenance of Records) Rules, 2005. Further, an Ordinance, “Aadhaar and other Laws (amendment) Ordinance, 2019”, has been notified by the Government amending, inter alia, the Prevention of Money Laundering Act, 2002.

2. Important changes carried out in the Master Direction in accordance with the aforementioned amendments are listed hereunder:

a) Banks have been allowed to carry out Aadhaar authentication/ offline-verification of an individual who voluntarily uses his Aadhaar number for identification purpose. (Section 16 of the amended MD on KYC)

b) ‘Proof of possession of Aadhaar number’ has been added to the list of Officially Valid Documents (OVD) with a proviso that where the customer submits ‘Proof of possession of Aadhaar number’ as OVD, he may submit it in such form as are issued by the Unique Identification Authority of India (UIDAI). (Section 3 of the amended MD)

c) For customer identification of “individuals”:

1. For individual desirous of receiving any benefit or subsidy under any scheme notified under section 7 of the Aadhaar (Targeted Delivery of Financial and Other subsidies, Benefits and Services) Act, 2016, the bank shall obtain the customers Aadhaar and may carry out its e-KYC authentication based on his declaration that he is desirous of receiving benefit/subsidy under the Aadhaar Act, 2016. (Section 16 of the amended MD)
2. For non-DBT beneficiary customers, the Regulated Entities (REs) shall obtain a certified copy of any OVD containing details of his identity and address along with one recent photograph. (Section 16 of the amended MD)

d) REs shall ensure that the customers (non-DBT beneficiaries) while submitting Aadhaar for Customer Due Diligence, redact or blackout their Aadhaar number in terms of sub-rule 16 of Rule 9 of the amended PML Rules.(Section 16 of the amended MD)

e) REs other than banks may identify a customer through offline verification under the Aadhaar Act with his/her consent. (Section 16 of the amended MD)

f) In case OVD furnished by the client does not contain updated address, certain deemed OVDs for the limited purpose of proof of address can be submitted provided that the OVD updated with current address is submitted within 3 months. (Section 3(a) ix of the amended MD)

g) For non-individual customers, PAN/Form No. 60 of the entity (for companies and Partnership firms – only PAN) shall be obtained apart from other entity related documents. The PAN/Form No. 60 of the authorised signatories shall also be obtained.(Section 30-33)

h) For existing bank account holders, PAN or Form No. 60 is to be submitted within such timelines as may be notified by the Government, failing which account shall be subject to temporary ceasing till PAN or Form No. 60 is submitted. However, before temporarily ceasing operations for an account RE shall give the customer an accessible notice and a reasonable opportunity to be heard.(Section 39 of the amended MD)

4. Further, additional certifying authorities for certifying the OVDs of Non-Resident Indian (NRI) and Person of Indian Origin (PIO) customers have been specified in section 3(a)(v) of the Master Direction.

5. The Master Direction on KYC dated February 25, 2016, is hereby updated to reflect the changes effected by the above amendments and shall come into force with immediate effect.

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RBI/2018-19/112 FIDD.CO.FSD.BC.12/05.05.010/2018-19 February 04, 2019

The Chairman/Managing Director/Chief Executive Officer All Scheduled Commercial Banks (including Small Finance Banks and excluding RRBs)

**Kisan Credit Card (KCC) Scheme: Working Capital for Animal Husbandry and Fisheries**

Please refer to our Master Circular - Kisan Credit Card (KCC) Scheme issued vide FIDD.CO.FSD.BC.No.6/05.05.010/2018-19 dated July 4, 2018. It has been decided to extend KCC facility to Animal Husbandry farmers and Fisheries for their working capital requirements. The guidelines are given in the Annex.

2. Banks are advised to implement the Scheme as per the guidelines.

**Annex**

**1. Introduction**

In the Budget 2018-19 the Union Government had announced their decision to extend the facilities of Kisan Credit Card (KCC) to Animal Husbandry farmers and Fisheries (AH & F) to help them meet their working capital requirements. In pursuance of the said budget announcement the matter has been examined, and in consultation with all stakeholders, it has been decided to extend the KCC facility for working capital requirement for activities related to Animal Husbandry and Fisheries.

**2. Purpose:**

The KCC facility will meet the short term credit requirements of rearing of animals, birds, fish, shrimp, other aquatic organisms, capture of fish.

**3. Eligibility:**

The criteria for eligible beneficiaries under KCC for Animal Husbandry and Fisheries will be as under:

3.1 Fishery

3.1.1 Inland Fisheries and Aquaculture

3.1.1.1 Fishers, Fish Farmers (individual & groups/ partners/ share croppers/ tenant farmers), Self Help Groups, Joint Liability Groups and women groups.

3.1.1.2 The beneficiaries must own or lease any of the fisheries related activities such as pond, tank, open water bodies, raceway, hatchery, rearing unit, possess necessary license for fish farming and fishing related activities, and any other State specific fisheries and allied activities.

3.1.2 Marine Fisheries

3.1.2.1 Beneficiaries listed at 3.1.1.1 above, who own or lease registered fishing vessel/boat, possess necessary fishing license/permission for fishing in estuary and sea, fish farming/mariculture activities in estuaries and open sea and any other State specific fisheries and allied activities.

3.2 Poultry and small ruminant

3.2.1 Farmers, poultry farmers either individual or joint borrower, Joint Liability Groups or Self Help Groups including tenant farmer of sheep/goats/pigs/poultry/birds/rabbit and having owned/rented/leased sheds.

3.3 Dairy

3.3.1 Farmers and Dairy farmers either individual or joint borrower, Joint Liability Groups or Self Help Groups including tenant farmers having owned /rented/leased sheds.

**4. Scale of Finance**

4.1 The scale of finance will be fixed by the District Level Technical Committee (DLTC) based on local cost worked out on the basis of per acre/per unit/per animal/per bird etc.

4.2 The working capital components in fisheries, under the scale of finance, may includerecurring cost towards seed, feed, organic and inorganic fertilisers, lime/other soil conditioners, harvesting and marketing charges, fuel/electricity charges, labour, lease rent (if leased water area) etc. For capture fisheries, working capital may include the cost of fuel, ice, labouring charges, mooring/landing charges etc. may form part of the scale of finance.

4.3 The working capital components in Animal Husbandry, under the scale of finance, may include recurring cost towards feeding, veterinary aid, labour, water and electricity supply.

4.4 The maximum period for assessment of working capital requirement may be based on the cash flow statement or completion of one production cycle.

4.5 Fisheries and Animal Husbandry experts of the Govt. may be made members of the DLTC for giving technical inputs for assessing the cash credit requirement.

4.6 Progressive entrepreneurs of livestock/fisheries sector may also be included in the DLTC for providing field level inputs while assessing the working capital requirements.

**5. General Guidelines**

5.1 *Drawing power:* The drawing power will be worked on the basis of the latest valuation of stocks, receivables and/or cash flows as per terms of sanction.

5.2 *Repayment:* The loan will be in the nature of a revolving cash credit limit. Repayment will be fixed as per the cash flow/income generation pattern of the activity undertaken by the borrower.

5.3 *Monitoring of end use:* The account/smart card for the loan issued under the scheme is to be maintained/issued separately from the existing KCC loan to monitor the utilization limit. The monitoring of end use of funds will be in line with other loans (KCC on crop loans included) viz., field visits to the site of unit/project to be carried out by the branch officials for checking the progress of the unit. Banks will periodically review the facility and continue/withdraw/scale down the facility based on the performance of the borrower.

5.4 *Prudential norms:* The extant prudential norms on income recognition, asset classification and provisioning[1](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11462&Mode=0#F1) on allied activities will apply.

5.5 *Rate of Interest*: The rate of interest will be as stipulated in DBR’s [Master Direction – Reserve Bank of India (Interest Rate on Advances) Directions 2016](https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10295).

5.6 All other guidelines laid down in Kisan Credit Card Scheme for short term crop loans will be applicable mutatis mutandis.

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