



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

RBI/2004-05/434

A.P.(DIR Series) Circular No. 40

April 25, 2005

To

All banks authorised to deal in foreign exchange

Madam/Sirs,

External Commercial Borrowings (ECB) for
Non-Government Organisations (NGOs) engaged in
micro finance activities under Automatic Route

Attention of Authorised Dealers is invited to the announcement in the Union Budget for 2005-06 regarding access to ECB by qualified NGOs engaged in micro finance activities.

2. Accordingly, it has been decided that NGOs engaged in micro finance activities may be permitted to raise ECB up to USD 5 million during a financial year for permitted end-use, under Automatic Route. Detailed guidelines on ECB for micro finance activities with necessary safeguards are set out below.

3. The concerns emanating from ECB for NGOs engaged in micro finance activities can be categorized in to four types: (i) whether the borrower is genuine. (ii) whether ECB funds are utilised for genuine purpose, (iii) credentials of the overseas lender of ECB and (iv) systemic implications of such ECB flows including the risks of foreign currency borrowing by such entities. The following framework addresses these issues.

4. *Eligible Borrower* : NGOs engaged in micro finance activities would be eligible to avail ECB. Such NGO (i) should have a satisfactory borrowing relationship for at least 3 years with a scheduled commercial bank authorised to deal in foreign exchange and (ii) would require a certificate of due diligence on 'fit and proper' status of the

board/committee of management of the borrowing entity from the designated Authorised Dealer (AD).

5. *Permitted End-use* : The designated AD must ensure that the ECB proceeds are utilised for lending to self-help groups or for micro-credit or for bonafide micro finance activity including capacity building.

6. *Recognised Lender* : ECB funds should be routed through normal banking channel. ECB from following internationally recognised sources i.e. (i) international banks, (ii) multilateral financial institutions, (iii) export credit agencies may be availed. Furthermore, overseas organisations and individuals complying with following safeguards may lend ECB.

- (i) **Overseas organisations** planning to extend ECB would have to furnish a certificate of due diligence from an overseas bank which in turn is subject to regulation of host-country regulator and adheres to Financial Action Task Force (FATF) guidelines to the designated AD. The certificate of due diligence should comprise the following (i) that the lender maintains an account with the bank for at least a period of two years, (ii) that the lending entity is organised as per the local law and held in good esteem by the business/local community and (iii) that there is no criminal action pending against it.
- (ii) **Individual Lender** has to obtain a certificate of due diligence from an overseas bank indicating that the lender maintains an account with the bank for at least a period of two years. Other evidence /documents such as audited statement of account and income tax return which the overseas lender may furnish need to be certified and forwarded by the overseas bank. Individual lenders from countries wherein banks are not required to adhere to Know Your Customer (KYC) guidelines are not permitted to extend ECB.

7. *Amount of ECB* : With a view to ensure minimization of systemic risk, the maximum amount of foreign currency borrowings of a borrower is capped at USD 5 million during a financial year.

8. *Other ECB Parameters* : All other ECB parameters such as minimum average maturity, all-in-cost ceilings, restrictions on issuance of guarantee, choice of security,

parking of ECB proceeds, prepayment and refinancing of ECB under the Automatic Route should be complied with. The designated AD has to ensure at the time of draw down that the forex exposure of the borrower is hedged.

9. Reporting Arrangements: Borrowers are required to comply with the reporting arrangements of ECB such as submission of Form 83 through the designated AD to the Reserve Bank for allotment of loan registration number prior to draw down of the loan and filing of monthly ECB-2 Return.

10. These amendments to ECB policy will come into force with immediate effect and will be subject to review from time to time.

11. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately.

12. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

13. 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.

Yours faithfully,

(F. R. Joseph)
Chief General Manager