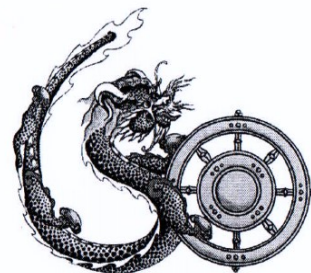


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ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF FINANCE
TASHICHHO DZONG



MoF/DMEA-ICGD/17/2019-20/145

Date: 13 August, 2019


Notification

In order to harmonize with the *FDI Policy (2019)* and the *Foreign Exchange Rules and Regulations (2018)*, the External Commercial Borrowing (ECB) Guidelines 2010 (amended 2012) is reviewed and revised as ECB Guidelines 2019.

The ECB Guidelines 2019 shall come into effect from the date of issue of this Notification and shall supersede the ECB Guidelines 2010 (amended 2012) issued vide MoF Notification No. F. MoF/PED/01/2012/2240 dated December 03, 2012.

This is issued as per the Cabinet approval accorded vide C-3/30/209 dated July 25, 2019 and C-3/33/224 dated August 13, 2019.

The Guidelines can be accessed and downloaded from MoF website: www.mof.gov.bt.


(Nim Dorji)
FINANCE SECRETARY

Copy to:

1. The Hon'ble Minister, Ministry of Economic Affairs, Thimphu.
2. The Cabinet Secretary, Cabinet Secretariat, Thimphu.
3. The Governor, Royal Monetary Authority of Bhutan, Thimphu.
4. The President, Bhutan Chamber of Commerce and Industry, Thimphu.

EXTERNAL COMMERCIAL BORROWING GUIDELINES – 2019

External Commercial Borrowing (ECB) refers to commercial loans in the form of bank loans and suppliers' credit availed from non-resident lenders. Export credit from official credit agencies within the prescribed terms and conditions will be considered as ECB.

ECB shall be bound by the following conditions:

1. Eligible Borrowers

Incorporated companies registered under the Companies Act of Bhutan, but excluding financial institutions, individuals, trusts, NGOs and co-operatives shall be termed eligible borrowers.

2. Foreign Exchange Condition

Borrower should have the capacity to earn the currency of borrowing and meet its repayment obligations.

3. Recognized lenders

ECB can be from the following foreign sources:

- a. Commercial banks;
- b. Export credit agencies;
- c. Suppliers credit;
- d. Export/Import banks; and
- e. Multilateral financial institutions (such as IFC, ADB, World Bank, etc.).

4. Other lenders

ECB can also be raised from:

- a. Foreign shareholder(s) of FDI companies licensed by the MoEA with proper repayment schedule; and
- b. Registered Foundations that have been in existence for at least 5 years (such as Bill & Melinda Gates Foundation, Skoll Foundation, David & Lucile Packard Foundation, etc.).

5. Amount

The maximum amount of ECB which can be raised by eligible borrowers should be within the borrower's debt-equity ratio of 2:1. For calculation of the debt-equity ratio all existing and future debt, whether domestic or ECB, must be considered.



6. Maturity

The loan term should be five (5) years or more.

7. All-in-cost ceilings

The all-in-cost ceiling refers to the maximum interest and other costs that may be incurred by the borrower in relation to the ECBs. All-in-cost includes rate of interest, other fees and expenses in foreign currency except commitment fee, pre-payment fee, and fees payable in Ngultrums. The all-in-cost ceilings for ECB must not be more than 600 bp above 6 months LIBOR. This will be reviewed from time to time as per the response from lenders.

8. End-use

Raising of ECB shall be permitted for capital expenditure and not for the following:

- a. On-lending or investment in capital market or acquiring a company (or a part thereof) in Bhutan by the companies;
- b. Investing in real estate sector;
- c. Acquisition of land;
- d. Working capital, general corporate purpose, and repayment of existing domestic loans;
- e. Expansion, and change in activity/category without prior approval of the Ministry of Economic Affairs.

9. Guarantees

- a. There shall be no Sovereign Guarantee.
- b. Financial institutions in Bhutan may extend guarantees to eligible borrowers for projects that have the capacity to earn the currency in which ECB is raised and meet its debt repayment obligations, but within the prudential norms of the Royal Monetary Authority.

10. Security

The choice of security to be provided to the lender/supplier shall be left to the borrower. Creation of charge on assets will have to be as per the Companies Act of Bhutan. Creation of charge over immovable assets in favour of the overseas lender will be governed by the laws of the Kingdom.



11. Parking of Proceeds

Borrowers will remit all proceeds of ECB to Bhutan in line with Foreign Exchange Rules and Regulations 2018 and amendment thereto.

12. Prepayment

Prepayment of ECB would be permitted upon fulfilling the following conditions:

- a. if met out of the inflow of foreign equity or if the net foreign currency earning of the borrower is sufficient to cover the prepayment; and
- b. maximum of USD 5 million per loan (ECB) or as per approval of RMA.

Application for prepayment must be submitted between two to six months in advance to intended prepayment date. However, once prepaid, the borrower can not avail ECB for the same purpose in the next five years from the prepayment date.

13. Refinancing of an existing ECB

An existing ECB may be financed by raising a fresh ECB provided the fresh ECB is raised at a lower all-in-cost and the outstanding maturity of the original ECB is maintained.

14. Debt Servicing

The remittances of installments of principal, interest, and other charges shall be routed through the banking system in line with Foreign Exchange Rules and Regulations (FERR) 2018 and amendment thereto. All the repayments must be based on the net balancing principal (financed out of the net foreign currency earnings of the borrower).

15. Procedure for approval

Borrowers may apply to the Ministry of Finance for their intention to engage in ECB. There shall be ECB Committee comprising representatives from RMA, MoEA, and MoF to review and recommend the proposal to MoF.

16. Conversion into Equity

- a. Conversion of ECB into equity will be permitted subject to the following conditions:
 - i. The activity of the company is covered under the RGoB's FDI Policy;
 - ii. The foreign equity holding after such conversion remains within the specified FDI limit; and
 - iii. Pricing of shares are as per the Stock Exchange Guidelines/Regulations in the case of listed companies.

- b. Conversion must be reported to the RMA.

17. Taxation

Taxes on interest payments on ECB will be as per the tax laws of Bhutan.

18. Reporting

- a. A copy of the loan agreement must be submitted to the RMA.
- b. The borrower can draw-down the loan only after obtaining approval from the RMA.
- c. Borrowers will be required to submit monthly foreign currency inflow and outflow to the RMA in the prescribed format.

19. Monitoring

- a. The RMA shall monitor and maintain information on foreign exchange related issues.
- b. The MoEA shall monitor compliance to FDI Policy and other trade regulations.
- c. MoF to report on the status of ECB to the Government.

The Guidelines shall be revised from time to time in keeping with the developments within the Country and in the international financial market.



**Application Form for
External Commercial Borrowings**

Instructions

The completed application should be submitted by the applicant to the Director General, Department of Macroeconomic Affairs, Ministry of Finance, Thimphu Bhutan.

Documentation

Following documents should be attached with the application:

- (i) A copy of offer letter from the overseas lender furnishing complete details of the terms and conditions of the loan/credit proposed;
- (ii) Details of past earnings for proposed ECB for expansion and projected earnings in case of proposed ECB for new projects;
- (iii) A copy of the import contract, proforma/commercial invoice/bill of lading (if applicable); and
- (iv) Any other relevant documents required by MoF.

PART-A- GENERAL INFORMATION ABOUT THE BORROWER

1. Name of the applicant

(BLOCK LETTERS)

Address

2. Status of the applicant

Incorporated Company registered under Companies Act of Bhutan (excluding FIs, Individuals, Trusts, NGOs and Co-operatives): Yes/No

PART-B-INFORMATION ABOUT THE PROPOSED LOAN/CREDIT

1. Details of the ECB

Amount (Nu.)

USD equivalent



(a) Purpose of the loan:

(b) Source of ECB [Please tick (✓) as appropriate]

- i. Commercial banks;
- ii. Export credit agencies;
- iii. Suppliers credit;
- iv. Export/Import banks;
- v. Multilateral financial institutions (such as IFC, ADB, World Bank, etc.);
- vi. Foreign shareholder(s) of FDI company licensed by the MoEA; and
- vii. Registered Foundations (Please specify)

(c) Terms and conditions of the loan

- (i) Rate of interest
- (ii) Up-front fee
- (iii) Management fee
- (iv) Other charges, if any (Please specify)
- (v) All-in-cost
- (vi) Commitment fee
- (vii) Rate of penal interest
- (viii) Period of loan
- (ix) Grace/moratorium period
- (x) Repayment terms (half yearly/annually)
- (xi) Loan Term

2. Details of the lender

Name and address of the lender

3. Nature of security to be provided, if any.

PART C – INFORMATION ABOUT DRAW DOWN AND REPAYMENTS

Proposed Schedule			
Draw-down		Repayment/Payment	
Month	Year	Principal	Interest

PART D – ADDITIONAL INFORMATION

1. Information about the project

- i) Name & location of the project : Nu. USD
- ii) Total cost of the project : Nu. USD

- iii) Total ECB as a % of project cost :
- iv) Project activity :
- v) Whether Appraised by
financial institution/bank :
- vi) Project Category/Sector :
(Please specify)
- vii) Whether requires clearance from any:
statutory authority? If yes, furnish
the name of authority, clearance no.
and date.

PART E – CERTIFICATIONS

By the applicant

I/We hereby certify that:

- (i) the particulars given above are true and correct to the best of my/our knowledge and belief;
and
- (ii) the ECB to be raised will be utilised for permitted purposes.

LEGAL STAMP

(Signature of Authorised Official of the applicant)

Place _____

Date _____

Name: _____

Designation: _____

Phone No.: _____

Fax: _____

E-mail: _____

