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RBI POLICY REVISIONS: IMPORTER FRIENDLY POLICIES FOR TRADE CREDITS INTRODUCED

26 March 2019

KEY HIGHLIGHTS OF THE REVISED FRAMEWORK

Close on the heels of overhauling the external commercial borrowing regime in India, the Reserve Bank of India (RBI) released a revised framework on the extant policy on trade credits (Trade Credits) *vide* its circular titled *"Trade Credit Policy – Revised Framework"* dated 13 March 2019 (Revised Framework) in what appears to be an attempt to give impetus to the import of goods into India. The Revised Framework came into force with immediate effect from the date of issuance of the circular i.e., 13 March 2019.

"Trade Credits" provide a way of raising external commercial borrowing specifically for the purpose of import trade. Trade Credits refer to the credits extended by an overseas supplier, bank and/or financial institution for maturity up to a designated time period for the purpose of importing capital / non-capital goods as permissible under the extant Foreign Trade Policy of the Government of India.

Trade Credits are classified into 2 (two) main categories:

- Suppliers' credit: relates to the credit for imports into India extended by the overseas supplier; and

- Buyers' credit: refers to loans for payment of imports into India arranged by the importer from overseas bank or financial institution.

Prior to the Revised Framework, the legal regime governing Trade Credits were governed by *Master Direction - External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers dated* 1 January 2016 (ECB Framework). However, this regime was amended *vide* the Revised Framework. Some of the prominent differences between the laws as set out in the ECB Framework and in the Revised Framework are set out hereunder:

S/No	ECB Framework	Revised Framework
1.	ADs are permitted to approve Trade Credits for import of non-capital and capital goods up to USD 20 million per import transaction under the	Trade Credits can be raised under the automatic route upto an amount of upto USD 150 million per import transaction

	approval route. The proposals involving Trade Credits for import of non-capital and capital goods beyond USD 20 million per import transaction shall be subject to the approval of the RBI.	for (a) oil / gas refining and marketing; (b) airline; and (c) shipping companies. Trade Credits can be raised under the automatic route upto an amount of upto USD 50 million per import transaction for all other sectors. Trade Credits exceeding the monetary threshold set out above shall be subject to the approval route.
2.	The maximum maturity period for Trade Credits was a period of 5 (five) years.	There is no upward cap / ceiling on the maturity period.

Additionally, the Revised Framework sets out the manner in which the Trade Credits can be secured. According to the Revised Framework, Trade Credits can be secured in the manner set out hereunder:

Bank Guarantees

Bank guarantees (BG) may be given by the Authorised Dealer Banks Authorised Dealer-Banks, on behalf of the importer, in favour of overseas lender. However, the amount of the BG cannot exceed the amount of Trade Credits availed by the importer.

Foreign Banks / Overseas Branches of Indian Banks

Trade Credits may be secured by overseas guarantees issued by foreign banks / overseas branches of Indian banks. However, such guarantees shall be subject to the extant laws under the Foreign Exchange Management Act, 1999 (FEMA) and relevant laws issued by the RBI.

Enforcement of Guarantee

In case of invocation, the total payments towards the guarantee should not exceed the dues towards the Trade Credits. Additionally, enforcement of such security shall be subject to relevant regulations framed under the FEMA and the relevant guidelines.

COMMENTS

Trade Credits exempt an importer from the requirement to make upfront payments for the goods being imported. Accordingly, Trade Credits play a crucial role in import trade. Prior to the enforcement of the Revised Framework, there were substantial restrictions on utilising Trade Credits towards import trade in India, such as restrictions on the quantum, upward ceiling on the maturity period of the Trade Credits availed etc. These restrictions proved to be an impediment to the importers' easy access to Trade Credits.

By way of the Revised Framework, the RBI has definitely taken a positive step towards incentivising import trade in India. However, in a country which is burdened with the issue of bludgeoning trade deficits and unfavourable balance of payments, it is yet to be examined if this move would prove favourable to India.

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