

## CHAPTER 16

## SECTION - I

**LOANS, OVERDRAFTS AND GUARANTEES**

**1.** Grant of credit facilities in Taka to non-residents, to companies (other than banking companies) controlled directly or indirectly by persons resident outside Bangladesh and to residents against guarantees or collateral lodged outside Bangladesh, the extension of loans and overdrafts in foreign currencies and the giving of guarantees on behalf of residents of Bangladesh in favour of non-residents or on behalf of non-residents in favour of residents are all regulated under sections 3, 4, 5, 18 and 20 of the FER Act. This Chapter contains the general regulations covering the granting of such loans, overdrafts, credit facilities and guarantees.

Restriction on  
lending

**2.** The ADs may provide short term credit facilities for a period not exceeding 2 weeks to their branches and correspondents abroad only by way of overdrafts arising in the latter's non-resident Taka accounts, if any, on account of negotiation of LCs opened by them for import from Bangladesh.

Loans and  
overdrafts to  
non-resident  
bank branches  
and  
correspondents

**3.** The ADs should not grant Taka loan against overseas guarantees or collateral outside Bangladesh without prior approval of the Bangladesh Bank. Applications should be made on Form L (See Appendix 5/75). The applicant is required to state the purpose for which the credit facilities are required, the period for which the facilities would be needed, the value of his stocks and assets in Bangladesh and reasons why borrowing against an overseas guarantee or collateral outside Bangladesh is necessary. He is also required to state in what manner the proposed loan or overdraft is expected to be paid off.

Trading &  
commercial  
loans and  
overdrafts

**4. (A)** By virtue of Section 18(2) of the FER Act, no person resident in Bangladesh may grant any loan, advance or credit facility to any company (other than banking company) which is controlled whether directly or indirectly, by persons resident outside Bangladesh except with the approval of Bangladesh Bank. For the purpose of Section 18(2) of the FER Act, the word "Company" includes a firm, branch or office of a company or firm. Pursuant to this provision, Bangladesh Bank has accorded general authorisation to banks for extending to foreign owned/controlled industrial and trading firms/companies operating in Bangladesh Taka working capital loans necessary for their operation in due

Working  
capital loans  
for foreign  
owned or  
controlled firms

Term lending in  
Taka to foreign  
owned/  
controlled  
companies

course of business, according to prevailing credit norms and on the basis of normal banker customer relationship.

**(B)** Term loans in Taka for capacity expansion/BMRE of foreign owned/controlled industrial firms may be extended/renewed by banks without prior Bangladesh Bank approval provided that:

(i) the term loan in Taka does not exceed, as percentage of total term borrowing, the percentage of equity of the firm/company held by Bangladesh nationals and firms/companies not owned or controlled by foreigners, and

(ii) total debt of the firm/company does not exceed the 50:50 debt equity ratio.

The prevailing credit norms and regulatory provisions regarding lending including single party exposure limits etc. will have to be duly complied with, and the term loan facilities extended will have to be reported post facto to General Manager, Foreign Exchange Investment Department (FEID), Bangladesh Bank, Head Office, Dhaka in proforma prescribed at Appendix 5/75. Term borrowing proposals not conforming with the stipulations in the above paragraph may as before be forwarded to General Manager, Foreign Exchange Policy Department (FEPD), Bangladesh Bank, Head Office, Dhaka for consideration and specific decision.

Besides, if requested, Bangladesh Bank may give consent to term borrowing proposals not conforming with the stipulations in above.

**(C) A company is deemed to be controlled directly or indirectly by persons resident outside Bangladesh-**

(a) if it is a branch office of a company incorporated outside Bangladesh;

(b) in the case of partnership, if

(i) 50% or more of the capital of the partnership is owned by foreign nationals or,

(ii) the majority of the partners are foreign nationals; and

(c) in case of companies incorporated in Bangladesh, if

(i) 50% of the shares or more are owned by foreign nationals or,

(ii) 50% or more of the directors in the Board of company are foreign nationals. In the case of equal share holding or equal representation on the Board of Directors, a company is deemed to be foreign controlled if its Chairman is a foreign national.

**(D)** The ADs will maintain and carefully preserve separate company wise records of loans/ overdrafts granted to the foreign or foreign controlled companies.

(E) Head Offices/Principal offices of the ADs are also required to submit a consolidated statement (See Appendix 5/76) as of 31st December each year showing local borrowing facilities allowed to foreign or foreign controlled companies in Bangladesh to the General Manager, Foreign Exchange Investment Department, Bangladesh Bank, Head Office, Dhaka.

5. (a) ADs may grant credit facilities against goods intended for export from Bangladesh to companies and business houses controlled by persons resident outside Bangladesh without prior approval of the Bangladesh Bank. Business houses controlled by persons resident outside Bangladesh may be given credit facilities, without Bangladesh Bank's approval against pledgement of merchandise like jute, hides and skin which are mainly exported from Bangladesh.

Loans against commodities intended for export from Bangladesh

(b) Purchases by the ADs of usance bills covering imports into Bangladesh result in the payment by them in foreign currency or a payment in Taka to a non-resident account, whereas, they do not receive payment for the bills from the importer pending maturity and thus the transactions result in the extension of credit facilities to the importer in Bangladesh. ADs may extend such facilities to foreign owned or controlled firms on banker customer relationship and normal banking practices.

Purchase of usance bills

6. (a) Applications for credit facilities in Taka to any person, whether resident in Bangladesh or otherwise, for purposes other than trading or commercial against overseas guarantee or collateral outside Bangladesh should be referred to Bangladesh Bank for prior approval. The application should be made in Form L (Appendix 5/75)

Private loans/overdrafts against guarantees or collaterals lodged outside Bangladesh

Prior Bangladesh Bank approval will however not be required for Taka advances by way of purchase of cheques in freely convertible currencies drawn by foreign embassies/international organisations/foreign nationals employed therein on their bank accounts abroad, provided that (i) the Authorised Dealer is fully satisfied about collectibility of cheque proceeds in foreign currency within four weeks of purchase, (ii) the expected collection period is fully factored in while deciding the purchase price in Taka, and (iii) the purchases are with recourse to drawers of the cheques for any difficulty in collection.

Taka advance against cheque purchase

Loan for investment	(b) No credit facility should be given to foreign nationals for dealings in shares and securities, purchase of cars etc. without prior approval of Bangladesh Bank. Applications in form L may in such cases be forwarded to Bangladesh Bank for consideration.
Loans and advances by the ADs in foreign currency	7. ADs should not grant any loan or overdraft in foreign currencies whether secured or unsecured except with the prior approval of Bangladesh Bank. Applications for this purpose should be made by letter giving full details of the purpose for which such loans or overdrafts in foreign currency are required, particulars of the guarantee or collateral, if any, and the proposed mode of repayment of the loan or overdraft.
Guarantees on behalf of residents in favour of non-residents	8. ADs may furnish guarantees to non-residents on behalf of residents only within the authority set out in the following paragraphs:  i) ADs may issue bid bonds/performance bonds on behalf of suppliers in Bangladesh in favour of international agencies inviting tenders for supply of goods/services. In such cases ADs should ensure genuineness of the tender/supply contract/work order etc. before issuing of bond/guarantee.
Minor Guarantees	ii) ADs may freely give guarantees on behalf of their customers in their ordinary course of business in respect of missing documents, authentication of signature, release of goods on Trust Receipts and defects in documents negotiated under LC or otherwise.
Export guarantee	iii) ADs may furnish performance bonds or guarantees in favour of overseas buyers on account of Bangladeshi exporters without prior approval of the Bangladesh Bank subject to usual banking norms and the following conditions:  (a) the tender floated by the foreign buyer calls for bank guarantee/performance bond;  (b) the tenderer is a bonafide importer/user/trader of the commodity/product concerned;

- (c) there is no export ban in Bangladesh on the commodity/product to be supplied;
- (d) the past performance of the exporter is considered satisfactory by the AD.

The remittance, if any, to the beneficiary as a result of invocation of the bond or guarantee can be made subject to report to the Bangladesh Bank.

**9.** ADs have to take prior permission from Foreign Exchange Policy Department, Bangladesh Bank before issuing any guarantee on behalf of industrial concerns under public/private sector favouring foreign suppliers towards repayment of suppliers' credits.

**10.** (a) Subject to such conditions as may be imposed by Banking Regulations and Policy Department from time to time, ADs may issue Taka guarantees on behalf of foreign or foreign controlled companies/firms operating in Bangladesh in favour of residents in Bangladesh: (i) against 100% cash deposit and/or where the guarantee is required to be submitted with tender documents in lieu of earnest money deposit, subject to the condition that validity of the guarantee issued in lieu of earnest money will be limited to the period within which the decision regarding acceptance or rejection of the tender is taken, (ii) against adjustment of the amount from the overdraft limit, if any, allowed to the company/firm concerned.

(b) An AD may without prior approval of Bangladesh Bank, issue guarantee, bid bond or performance bond in foreign currency on behalf of a non-resident firm/company favouring residents in Bangladesh provided a back to back guarantee covering the guaranteed amount from an overseas correspondent or other bank abroad is held by the AD. The AD should satisfy itself about the bonafides of the overseas guarantee before issuing its own guarantee/bid bond/performance bond there against.

(c) In all other cases not specified above prior approval of the Bangladesh Bank is required for issuing guarantees on behalf of non-residents in favour of the residents in Bangladesh. Applications for these cases should be made by letter in duplicate giving full particulars of the guarantee/bond, the period, purpose and the method by which the AD will be reimbursed in the event of the guarantee/bond being invoked.

Repayment  
guarantees  
against  
suppliers'  
credits

Guarantee on  
behalf of  
non-residents  
in favour of  
residents in  
Bangladesh

Guarantee  
favouring local  
project  
authorities on  
behalf of  
residents.

**11.** ADs may issue, on behalf of residents, bid bonds/performance bonds/guarantees in foreign currency in favour of local project authorities against goods/services procurement tenders financed by international/foreign donor agencies, on the condition that in case the guarantee is invoked the claim there against would be paid only in Taka equivalent and not in any other currency.

Guarantee  
favouring a  
non-resident on  
behalf of  
another non-  
resident

**12.** Non-resident international agencies may demand bank guarantees from non-resident contractors against supply of materials/downpayment for the ongoing projects in Bangladesh financed by them. Such guarantee on behalf of a non-resident contractor in favour of the non-resident beneficiary may be issued by an AD against 100% counter guarantee from a reputed international bank abroad, or against 100% cash collateral in foreign exchange received from abroad through banking channel.

Guarantees and  
pledging of  
collateral in  
favour of  
overseas bank  
branches and  
correspondents

**13.** ADs may not, without prior approval of Bangladesh Bank, furnish guarantees to or hold collaterals on behalf of overseas bank branches or correspondents in respect of credit facilities or guarantees to be extended by them or for any other purpose. All applications to Bangladesh Bank should be made by letters giving details of the purpose for which guarantee is to be furnished or collateral deposited. Prior approval is not however, necessary in cases where the ADs are satisfied that the amount of the fixed deposit or other collateral held by them represents funds remitted to Bangladesh through normal banking channel from the country of residence of the borrower.

Renewals of  
loans,  
overdrafts and  
guarantees

**14.** In cases where the extension of loans or overdrafts or guarantees require prior approval of the Bangladesh Bank, the renewal of such loans, overdrafts or guarantees shall also require prior approval of the Bangladesh Bank.

LCs to finance  
imports or  
exports not  
barred

**15.** Nothing in this chapter shall affect the establishment of LCs in accordance with the provisions of Chapter 7 and the advice, confirmation and negotiation of credits established by non-resident banks to finance exports from Bangladesh.