

# Laws & Regulations

## Regulation:

### REGULATIONS PERTAINING TO ISSUANCE OF LETTERS OF GUARANTEE BY IRANIAN BANKS

While reiterating that banks shall not be authorized to issue letters of guarantee (L/G) against loans collected by their customers in foreign currencies from foreign banks and fiscal institutes except in cases where issuance of such letters of guarantee has been accepted and approved by the Central Bank of Islamic Republic of Iran (CBIRI), we hereby inform you of the criteria in respect of issuing letters of guarantee.

It shall be permissible to issue forex L/G as bid bond, good performance bond, advance payment L/G and L/G in lieu of making deductions from payments to contractors required by Iranian natural persons and legal entities with due regard to these provisions.

These provisions concern all the above types of foreign exchange letters of guarantee (L/G).

1. It shall be possible to issue L/G required by foreign natural persons and legal entities only in case 100% of the value of L/G shall be deposited in forex with the L/G issuing bank. In such case, no permission will be required by CBIRI for issuing such L/G.

2. The banks shall not be authorized to issue UG in forex against loans and credit facilities obtained in foreign currencies

from foreign banks and fiscal institutes except those cases approved or to be approved by CBIRI.

#### GENERAL CONDITIONS

1. It shall be permitted to issue forex L/G in the form of bid bond prior to holding tender after collecting from the applicant, the tender documents as well as the other documents required by your bank.

Should the tender opening date be extended, the applicant shall be under the obligation to provide to the bank the proof regarding such extension.

Issuance of bid bond shall not require CBIRI permission.

**Note 1-** In the case of manufacture of production goods (industrial, farming, mining, etc.) the applicant shall be under the obligation to provide to the bank a certificate issued by the Ministry concerned on the ability of the L/G applicant in respect of performing the contract being the subject of the tender.

**Note 2-** As regards technical and engineering services, the applicant must likewise obtain a certificate from the Management and Planning Organization certifying applicant's ability to perform the contract being the subject of the tender and confirming the value ceiling of the L/G.

2. Should it prove that submission of the required documents within the prescribed respite shall not be possible, the bank may proceed with issuing all types of L/G mentioned in this Circular against collecting 100% of the counter-value of the L/G in forex or its equivalent value in rials and to notify same to the Export Department in order to replace and substitute the above security at a later date.

3. As regards good performance bond, advance payment guarantee and L/G in lieu of deductions, the bank shall verify the qualifications of the applicant, the beneficiary, the agent bank, the amount and currency of the L/G and the ratio between the L/G amount and the total contract value as well as the conditions for maturity.

A bank's export department, in order to give permit for issuance of the L/G must collect the above required certificates and a copy of the contract.

4. Entry into force of the good performance bond shall be subject to opening the letter of credit acceptable to the contractor or a letter of guarantee to be given to the contractor in respect of payments to the contractor as well as the cancellation of the bid bond unless the tender has not been arranged within the

of regulations of this Circular or if the contract has been signed without holding a tender.

**Note 1-** In case of deletion of the above requirements, the bank must obtain sufficient valid and good securities from the applicant in order that in case the beneficiary shall call the L/G, the applicant shall be able to pay same in foreign currency.

5. Entry into force of advance payment L/G shall be subject to collection of the amount of advance payment under the contract and the pertinent L/C opened in favour of the contractor by the issuing bank.

6. The rate of exchange for conversion of the value of the letter of guarantee (L/G) for the purpose of depositing the securities and payment of commission, shall be the rate of exchange of the foreign currency on the date of issue of the L/G.

**Note-** It shall be possible to take the commission of the issuing bank and that of the foreign agent bank, in Iranian rial, from the party applying for the issuance of L/G.

7. Should the value of the L/G be called and paid to the beneficiary, the applicant for issuance of the L/G must pay its price in forex or its equivalent rial value to be converted on the date of encashment of the L/G.

It shall be mandatory to take a letter of undertaking from the applicant of the L/G in this regard.

8. Should the L/G applicant wish to withdraw his application for issuance of the L/G, he shall inform the agent bank in order to communicate his withdrawal to the export department of the L/G issuing bank.

### **L/G in respect of Manufactured Goods (Industrial, Agricultural, and Mining Products)**

It shall be permissible to issue letters of guarantee (L/G) as good performance bond, advance payment guarantee, and retention bond required by exporters of manufacturing goods in due compliance with the provisions of Clause 3 of the above General Conditions. The securities pertaining to the above letters of guarantee shall be deposited in accordance with the Regulation on Issuance and Endorsement of Letters of Guarantee by Banks, approved by the Money and Credit Council.

### **Technical and Engineering Services**

It shall be permissible to issue all types of forex letters of guarantee required by exporters of technical and engineering services in accordance with the Regulation approved by the Government for protection of exports of technical and engineering services being the subject of Council of Ministers' Decree No.677T/22738H dated 12.04.2000 in compliance with the following provisions:

1. As regards the issuance of good performance guarantee, advance payment guarantee and guarantee for release of retentions, it shall be necessary to ask for a confirmation to be issued by the Committee of Article 19 set up at Iran Trade Development Organization in respect of the ceiling of the L/G and the total contract price.

2. In order to issue the letters

of guarantee mentioned in Sub-clause 1 above, it shall be necessary that the L/G issuing bank shall inform the details regarding the applicant, the beneficiary, the agent bank, the amount and type of the foreign currency, the ratio between the amount of the L/G and the total contract price, the type and maturity date of the L/G as well as the certificate of competence of the contractor to the Committee of Article 19 together with a copy of the contract.

**Note-** As regards the good performance guarantee, the notice of assignment of the work may substitute the copy of the contract.

3. The securities to be collected by bank shall be as follows:

- In respect of letters of guarantee, up to the amount of ten million US dollars: The rial equivalent of 3% to be deposited in cash and 97% of the L/G value to be deposited in promissory notes.

- In respect of amounts exceeding US\$10,000,000 up to fifty million US dollars: The rial equivalent of 5% to be deposited in cash and 95% of the L/G value to be deposited in promissory notes.

- For amounts in excess of US\$50,000,000: The rial equivalent of 3% to be deposited in cash and 97% in promissory notes.

**Note 1-** By cash deposit, it is meant the securities described in Sub-clause a of Article 2 of the By-laws on the Issuance and Endorsement of Letters of Guarantee by Banks.

**Note 2-** The banks may, at their own risk, provide discount in

the amount of cash deposit and acceptance of other securities.

4. Bank charges for letters of guarantee pertaining to technical and engineering services shall be 0.5% up to the amount of US\$50 million and 0.3% for amounts in excess of US\$50 million.

5. Should the L/G be called and cashed by the beneficiary, provisions of Article 6 of the By-laws on Protective Measures of the Government for Export of Technical and Engineering Services shall apply.

### Domestic Contracts

It shall be permissible to issue all types of forex letters of guarantee required by Iranian contractors, consultants and fabricators who carry out consulting engineering, designing, contracting, construction, installation and equipment services in Iran in compliance with the following provisions:

(It must be noted, however, that considering the fact that the projects being the subject of this clause shall not be carried out in Iran, therefore, such projects shall not be subject to the provisions of the By-laws on Protective Measures of the Government for Export of Technical and Engineering Services. The said letters of guarantee shall only be issued in accordance with the By-laws on the Issuance and Endorsement of Letters of Guarantee by Banks.)

1. It shall be permissible for banks to issue letters of guarantee (L/G) in foreign currencies to guarantee good performance, advance payment and release of retentions up to a value of US\$200,000 or its equivalent

in other currencies, in respect of each L/G, by examination of the relevant contract without obtaining approval in this regard from CBIRI.

The contract must at least include such information as the subject of contract, date of signature, particulars of the parties, contract price and the type of the currencies as well as the value and types of the required L/G, the proportion of the L/G to the contract price, terms of payment and the share of each partner in the contractors' consortium (if the project shall be carried out by a consortium of contractors).

2. As regards the L/G in Sub-clause 3.1 above, should the L/G value exceed US\$200,000, the L/G issuing bank must submit an application including the particulars of the L/G together with a copy of the contract to the Export Department of CBIRI for approval.

### Other Forex Letters of Guarantee

It shall be permissible for all banks to issue L/G in foreign currencies in the form of bid bonds for domestic and foreign projects, good performance bond, advance payment guarantee and release of retentions, provided that the bank shall pay the L/G in case it shall be called and confiscated in compliance with the By-laws on the Issuance and Endorsement of Bank Guarantee by Banks, and other applicable regulations in tandem with the following provisions:

1. Securities to be provided by the applicant of the L/G shall be in accordance with the By-laws on the Issuance and Endorsement

of Letters of Guarantee by Banks at the discretion of the L/G issuing bank with due regard to the credit of the applicant.

2. The rate of exchange for conversion of value for collection of securities and bank charges shall be the selling rate of the forex on the date of issuing the L/G.

3. The ability and competence of the L/G applicant to carry out the work shall be ascertained at the discretion of the L/G issuing bank.

**Note 1-** It shall be permissible to issue L/G for exporters of goods and technical and engineering services if such applicants shall not be able to obtain a certificate for their abilities.

**Note 2-** It shall not be permissible for overseas branches of Iranian banks to issue L/G outside Iran on the basis of securities inside Iran (in the form of long term investment bonds, rial L/G issued by Iranian banks, etc.). Further, it shall not be permitted to transfer abroad foreign currency in case of encashment of the L/G and confiscation of the said rial securities.

### Procedures for Calling Forex L/G's of Good Performance, Advance Payment and Bid Bond in Favour of Iranian Employers

1. All foreign currency letters of guarantee furnished by foreign contractors and suppliers in favour of Iranian clients in Iran that shall be called, due to the failure in carrying out the obligations, by beneficiaries, shall be cashed in the following manner:

a. The amount of the forex

L/G shall be collected and paid to a provisional account.

b. The beneficiary of letters of guarantee for the import of goods and services shall be allowed to open L/C or import goods issuing bills of exchange for the import of goods or services, out of the funds available under the L/G up to the value ceiling of the L/G in compliance with export-import regulations and instructions given by CBIRI and completing order registration formalities.

c. The above goods and services must preferably be the same goods or services covered by the original L/C or registered order being the subject of and covered by the letter of guarantee.

Any shift in respect of subsidized foreign currency allocations shall be possible at the discretion of the organization that allocated the foreign currency.

d. Considering that the foreign currency required for purchase of the above said imported goods or services shall be paid out of the foreign currency of the confiscated forex L/G in the manner described in Sub-

clause c above, therefore, the statistical reports regarding the above letters of credit and bills of exchange must be separately reported to the Statistics and Forex Undertakings Department of CBIRI.

e. Should there exist no demand for imports out of the forex under the above L/G, the foreign currency under the L/G must be paid to CBIRI in case the forex under the L/C or documentary bill of the order registration was allocated by CBIRI. The rial equivalent thereof, calculated at the rate of the L/C or the pertinent contract, shall be paid to the beneficiary.

f. Payment of the rial equivalent of a confiscated L/G to the beneficiary concerned shall be made at the exchange rate prevailing on the date of confiscation in case the L/C or documentary bill of exchange of the order registration was paid, out of the forex earned through exports. Purchase of forex shall be made by and on account of the L/G cashing bank.

g. Should the foreign currencies under the L/C or the bill of exchange order registration belong to the customer or in

case the L/G shall be without a contract or a letter of credit, the conversion shall be made at the prevailing exchange rate.

2. It shall be permissible to convert the amount under bid bonds, called by the Iranian beneficiary, at the exchange rate prevailing on the date of call, with due regard to other applicable regulations.

3. Regulations concerning confiscation of good performance letters of guarantee shall also apply to advance payment guarantees, the letters of credit or the bills of exchange (or contract) of which have been established by the use of foreign currencies earned through exports or the forex belonging to the customer at exchange rates prevailing on the date of establishment of the LIC or bill of exchange.

4. The use of the foreign currencies under the confiscated letters of guarantee in favour of ministries and government organizations shall be possible with the confirmation by the highest authority in rank or the MPO comptroller of the organization concerned on compliance with all pertinent regulations.

## THE BY-LAWS PERTAINING TO THE ISSUANCE AND ENDORSEMENT OF LETTERS OF GUARANTEE BY BANKS

**Article 1-** It shall be possible for banks to issue or endorse letters of guarantee (L/G). Provided however, that securities shall be collected in accordance with the provisions of these by-laws from the party from whom guarantee

has been made.

**Article 2-** The following securities shall be acceptable by banks to issue and endorse L/G:

a. Payment to be made in cash, gold, treasury documents, government bonds or participation bonds issued

pursuant to authorization given by the Central Bank of Islamic Republic of Iran (CBIRI) or on the basis of time investments, deposit accounts with the bank issuing the L/G or time investment deposits made with other banks or the certificates

of time investments (public or private investments), or certificates of forex deposit accounts with the bank issuing the L/G.

b. Guarantee made by domestic banks or non bank credit institutes.

c. Guarantee made by reputable foreign banks or non bank credit institutes.

d. Promissory note with two signatures acceptable to the L/G issuing bank, immovable property, public warehouses receipts of goods, the stocks of companies acceptable at the Stock Exchange, ship and aeroplane.

**Note 1-** As regards the companies controlled by the government and Islamic revolutionary organizations and the companies affiliated thereto, banks may accept promissory note issued by the company or the organization in favour of the bank.

**Note 2-** CBIRI may, in addition to the securities described in these by-laws, designate other securities to be deposited in accordance with the prevailing conditions, and notify same to banks.

**Article 3-** A minimum of ten per cent of the L/G value shall comprise one or more of the securities mentioned in Sub-clause a of Article 2 above and

the remaining value shall be covered by one or more of the following securities:

1. One or more of the securities mentioned in Sub-clauses a, b, and c of Article 2 above.

2. Promissory notes according to Sub-clause d of Article 2 and Note 1 there of for a minimum of 120% of the amount of the L/G being issued or endorsed.

3. Immovable property or receipt of goods deposited at public warehouses, stocks of companies accepted at the Stock Exchange, ship or aeroplane for at least 150% of the value of the L/G being issued or endorsed.

**Note 1-** Letters of guarantee to be given as bid bond shall be exempt from the provision on cash security mentioned in this Article. The percentages set forth in Sub-clauses 2 and 3 above shall apply to the total amount of the L/G.

**Note 2-** Banks may refrain from accepting cash securities set forth in this Article against issuing letters of guarantee to be issued exclusively in respect of agricultural activities and construction and renovation of residential buildings. Provided, however, that the security shall be entirely immovable and shall worth, at least, 160% of the value of the L/G.

**Note 3-** The letters of guarantee pertaining to production by

factories in respect of purchase of materials from abroad or the costs of execution of plants and factories recommended by the ministries concerned as well as the foreign credits and loans for the above purpose, in case of agreement by CBIRI, shall be subject to the provisions of Note 1 of this present Article.

**Article 4-** By-laws on Large Scale Facilities and Undertakings have been repealed at the 1014th Meeting of the Money and Credit Council dated Feb. 14, 2004.

**Article 5-** Issuance of L/G in Iranian rial against the security of letters of guarantee issued in foreign currencies by reputable foreign banks and non bank credit institutes as well as issuance of L/G in foreign currencies shall be subject to the prior approval of CBIRI.

**Article 6-** In letters of guarantee, the subject of guarantee, the name of the party from whom guarantee has been made, the beneficiary, the period of guarantee and the amount of guarantee must be explicitly mentioned.

**Article 7-** Banks shall maintain a separate account for their letters of guarantee issued or endorsed as well as their pecuniary and non-pecuniary securities.