

# Laws & Regulations

## REGULATIONS ON RIAL CONFIRMED L/C'S OPENED IN FAVOUR OF CONTRACTORS

Official Gazette No.17962  
dated October 29, 2006

Decree No.H36040T/89160  
dated October 18, 2006

To:

- The Ministry of Economy  
and Finance

- Management and Planning  
Organization

The Council of Ministers, in the course of a session held on October 11, 2006 on the basis of a Proposal made through Letter No.56/490 1/25198 dated September 5, 2006 of the Ministry of Economy and Finance and by invoking Article 2 of the Law Concerning Adjustment of Certain Government Financial Regulations ratified 2005, approved the Executive By-Laws

of the said Article 2 as follows:

### Executive By-Laws of Article 2 of Annexation to the Law Concerning Adjust- ment of Certain Government Financial Regulations

**Article 1-** In these by-laws, the expressions mentioned below, shall have the following meanings:

**1. Ministries, Government Entities and Government Companies:** The entities being the subject of Articles 2, 3 and 4 of the Public Accounts Law<sup>1</sup>, ratified 1366 (1987) - with the exception of Government banks.

**2. Projects on Appropriation of Capital Assets:** All projects mentioned in the latter part of Article 77 of the Law Concerning Adjustment of Certain Gov-

ernment Financial Regulations, ratified 1380 (2001)<sup>2</sup>.

**3. Investments Out of Internal Resources of Government Owned Companies:** Those plans and projects financed out of the internal credit resources of government owned companies, the implementation of which have been awarded, in accordance with the applicable regulations and on the basis of contracts concluded with qualified contractors.

**4. Rials Letter(s) of Credit:** A domestic rials letter of credit opened by ministries, government entities and companies with the government or non-governmental banks for the purpose of payment of the amounts under contracts concluded for carrying out plans and projects in favour of contractors, in accordance with the criteria that

will be approved by the Money and Credit Council in compliance with the Monetary and Banking Law payments under which shall be made out of the said letters of credit.

**5. Contractor:** An Iranian (domestic) natural person or legal entity who has been assigned, within the framework of legal provisions and the contents of the concluded contract, to carry out the whole or a part of the plans and projects for appropriation of national or provincial capital assets or in respect of the projects funded by the use of internal resources of government companies.

**6. Financer:** All natural persons or legal entities including contractors, fabricating entities, Iranian legal entities, government or non-government banks and non-government credit institutes who provide the required funds to carry out a project and open the necessary rials letters of credit with one of the government or non-government banks.

**7. Expenses related to rials letters of credit:** All the costs and expenses for opening letters of credit and payment of the required funds such as the principal amount of the credit facilities as well as the interest, charges, delay penalties, etc. that shall be payable out of the credits allocated to the project or shall be payable out of the internal resources of the Company.

**8. Agent bank:** A government or non-government bank that will be designated by the Ministry of Economy and Finance or by the executive organization in charge and shall render the services in respect of payment of project funds in accordance with the applicable regulations.

**9. The applicant organization and the executive organization:** Ministries, government bodies and the companies falling under the provisions of these by-laws.

**Article 2-** The Management and Planning Organization shall be authorized to guarantee repayment of the amounts as well as the charges of rials letters of credit of the said projects, in case of need, in compliance with the provisions of Article 62 of the Public Accounts Law, approved 1366 and these by-laws.

In case of government owned companies, the authorities concerned shall foresee the credit required for the guarantee of repayment of the said funds and charges by the company concerned, in the budget of the relevant company and shall have the same approved and confirmed by the Management and Planning Organization.

**Article 3-** The mode of payment to contractors shall be in accordance with the terms of the concluded contract and the rials letters of credit. The said conditions shall be notified to the agent bank by the head of

the executive organization concerned.

**Article 4-** The principal sum and charges of the rials L/C's being the subject of these regulations shall be secured and paid out of the credits allocated to the projects pertaining to appropriate of capital assets or out of the internal resources of the government companies concerned.

**Article 5-** The ministries, government organizations and government owned companies may proceed with opening rials L/C's of provincial or national capital assets appropriation projects and investment schemes by using the internal resources of government companies in case the credit for the total amount of the said projects and schemes as well as the applicable charges have been foreseen in the relevant budgets.

**Article 6-** It shall be permissible to open letters of credit payable in Iranian rials to be repaid out of the credits of the country's general budget in respect of the projects that are due to be carried out and completed during the forthcoming year(s), under the guaranty of the Management and Planning Organization on the basis of anticipation of the required credit in the budget(s) of the year(s) of execution of the project.

**Article 7-** Opening rials letters of credit for the purpose of implementation of the projects

intended by these by-laws must be confirmed by the topmost authority in the executive organization concerned.

**Article 8-** The applicant organization shall be under the obligation to submit to the MPO, a copy of the contract and other required documents in order to obtain the guarantee hereunder.

**Article 9-** The original debtor for repayment of the amounts due to banks shall be the applicant government organization concerned. The guarantee made by the MFO shall not relieve the debtor organization from the responsibility of payment of the amounts due to the agent bank.

**Article 10-** Applicant organizations shall be under the obligation to include the guaranteed amounts of the rials L/C's hereunder, in the annual budget of the pertinent year by indicating the amount in the credits allocated under a relevant chapter and heading of the budget of the organization concerned.

The Management and Planning Organization (MPO) shall likewise include the said amounts in the country's annual budget bill. After approval of the said bill, the MPO shall spend the amounts so allocated, only for payment of the obligations on the maturity dates and until the end of the year during which the said amounts fall due, at the latest and shall pay the agent banks in accordance with the terms of the concluded con-

tracts.

**Article 11-** The guarantee by the MPO in respect of the debts of government companies shall be for the credits under the projects for the ownership of capital assets to be paid out of the general resources of the government. As regards investments out of the internal resources of government owned companies the payment of which shall be included in the budget of the company concerned, guarantee may be made by the MPO in case a request in this regard shall be given after approval of the general meeting of shareholders of the company concerned and upon concluding agreement in this regard with the MPO.

General meetings of government companies and the MPO shall, in the above cases, make arrangements that repayment of the installments of the credits that have been so advanced shall enjoy priority over other debts of the debtor company during the period of repayment of the debts.

**Article 12-** Guarantees by the MPO shall be made for a maximum of the credits to be allocated to the relevant projects in the forthcoming years in accordance with the last detailed annexes of the projects of appropriation of capital assets that are parts of the National Annual Budget Bill. It shall not be mandatory to also include the credits allocated for the year of comple-

tion of a project.

As regards provincial projects, the guarantee by MPO may be made for a maximum of 20% of the annual credits of the chapter concerned in respect of the same province. The guarantee shall be made only within the frameworks of the schedule of repayment of the facilities included in the pertinent contract.

**Article 13-** Selecting contractors and joint ventures with financors shall be made by the ministries and government organizations and companies in accordance with the applicable regulations. The executive organization concerned shall submit a copy of the concluded contract to the agent bank before the letter of credit shall be opened.

**Article 14-** The agent bank shall draw up the terms of the L/C in such way that repayment of the amounts paid under the L/C shall be made according to the progress statements to be submitted by the L/C beneficiary that will be confirmed by the executive organization concerned.

**Note 1-** Release of the advance payment by the agent bank shall be made in accordance with the terms of the concluded contract in compliance with the criteria governing advance payments of the approved development projects.

The beneficiary of the rial L/

C, in order to cash the amount of the advance payment, shall be under the obligation to submit to the agent bank a certificate of the comptroller or the director of fiscal affairs of the organization concerned whereby the above terms shall be confirmed.

**Note 2-** Retentions to be made out of each payment shall be calculated by the comptroller or the director of fiscal affairs of the executive body concerned, as the case may be, and shall be notified to the agent bank.

Agent banks shall draw up the text of the L/C in such way that statutory retentions above shall be deducted and paid to an account designated by the comptroller or the director of fiscal affairs of the executive organization concerned, as the case may be.

**Note 3-** Legal relations between an agent bank and the rial L/C beneficiary shall be in accordance with banking regulations and the terms of the rial L/C.

**Article 15-** Advance payments and progress statements shall be certified by the topmost executive authority of the executive organization concerned as well as the comptroller or the director of fiscal affairs in that organization, as the case may be, before being submitted to the bank for collection of the whole amount of the L/C or any partial payment there under.

**Article 16-** Payment of all costs of the rial L/C's shall be made under the standard text of agreement acceptable to the Ministry of Economy and Finance. The said standard text shall be drawn up in line with the provisions of Usury-Free Banking Operations Law, approved 1983 and its executive by-laws that will be signed and concluded by and between the executive organization concerned and the agent bank.

**Article 17-** The interest rate applying to the L/C's being the subject of these by-laws shall not, in any case, exceed the interest payable for the bonds published for implementation of capital projects during the year in which the relevant contract will be concluded.

### **First Vice-President - Parviz Davoodi**

#### **Footnote:**

**1** Article 2 of the Public Accounts Law- Ministry shall mean a special organization formed and recognized to be a ministry by law.

**Article 3 of the Public Accounts Law-** A government organization shall mean a special organization formed by law and controlled by anyone of the Three Powers which is not considered to be a Ministry.

Note- The Presidency Organization that functions under the supervision of the President is considered to be a government organization, for the purposes of this law.

**Article 4 of the Public Accounts Law-** A government company shall

mean a specific organization that functions under the style of a company and is formed by law or is nationalized by law or by judgment of a competent court of justice or it has been confiscated and is considered to be a government company and more than 50% of her capital shall belong to the Government. Any trading company formed pursuant to investment by government companies shall be considered to be governmental as long as more than 50% of her capital shall belong to government companies.

**Note-** The companies formed through bailment (Muzarebeh), agricultural joint ventures, etc. for the purpose of operating the deposits of individuals with banks, credit institutes and insurance companies shall not be considered as government companies, for the purpose of this law.

**2** Capital Assets Appropriation Credit: means the credits allocated to specified operations and activities which shall be carried out and performed, on the basis of feasibility, technical, economic and social studies conducted by an executive organization, in the course of a specified period of time and utilizing a specified credit allocation, in order to materialize and attain the objectives described in 5-year development plans, in the form of either fixed investments or study for generation of capital assets, and the financial requirements for implementation of which shall be met utilizing the credit allocations relevant to the possession of capital assets, and which shall consist of two types; i.e., profit-yielding and non-profit-yielding credits.