

EXPORT CREDIT GUARANTEE FACILITY

1.0. INTRODUCTION

One of the major problems of exporters is the non-availability of funds. Banks are usually reluctant to finance export transactions particularly at the pre-shipment stage because of the high risk of default involved. In this regard, NEXIM's Export Credit Guarantee Facility (ECGF) is designed to protect banks in Nigeria against the risks of non-payment for loans or advances granted to exporters to meet short-term export contracts.

2.0. OBJECTIVES OF THE FACILITY

The objectives of the facility are:

- To protect banks in Nigeria and foreign suppliers of credits and goods against the risks of non-payment for loans or advances granted to exporters to meet short-term export contracts.
- To encourage banks and other financial institutions to finance export business without fear of default from the exporters.

3.0. ELIGIBILITY CRITERIA

3.1. ELIGIBLE LENDERS/EXPORTERS

The eligible credits/advances shall be pre-shipment export credit and/or advances given by banks or buyers for the purpose of manufacturing, purchasing, processing, packing of goods and discounting of bills for exports. Under this facility, an exporter shall be covered if he has been properly registered to carry on the business of exports.

3.2. ELIGIBLE EXPORTS

The following exports are eligible for cover under the facility

- Export of goods wholly or partly manufactured in Nigeria
- Export of commodities, which are exportable under the laws of Nigeria
- Such export must be supported by written contracts of supply concluded on credit terms of not more than 180 days.
- Export of services

3.3. INELIGIBLE EXPORTS

The following items are not eligible for financing:

- Armaments, ammunitions and other military equipment
- Psychotropic drugs and narcotic
- All items prohibited by international conventions or environmental constraints
- Phonographic and obscene materials; and
- Items prohibited for importation/exportation by prevailing government policies/guidelines

3.4. ELIGIBLE LENDERS

For the purpose of this facility, eligible lenders shall be financial institution and overseas buyers of Nigerian goods. The financial institutions operating in Nigeria must be registered under the Banking Act.

4.0. RISKS COVERED

The risk covered is that of protracted default by the exporter. This may be due to his failure to perform the contract owing to cancellation or repudiation of the export contract or local purchase contract, as the case may be, or the insolvency (bankruptcy) of the exporter.

5.0. PARTIES TO THE ECGF

- i. Insured: Financial Institutions or Foreign Buyer
- ii. Insurer: NEXIM
- iii. Beneficiary: Exporter/Supplier

6.0. TYPES OF GUARANTEES

- i. **Standard Guarantee** - Available for established exporters to protect banks from payment risks when they lend to exporters. Credits and advances that qualify for this Guarantee are Pre-shipment credits given by banks for the purpose of manufacture and/or purchase and/or processing and/or manufacture and/or packing of goods to be exported out of Nigeria under an export contract.
- ii. **Advance payment Guarantee** - Available for those wishing to access international finance, to protect the foreign buyer in the event that the exporter fails to perform. Credit and advanced that qualify for this guarantee are short term pre-payment for the purpose of manufacture and/or purchase and/or processing of goods to be exported out of Nigeria under an export contract. [Where the advance payment is from a bank/importer abroad and is domiciled with NEXIM Bank the maximum liability of NEXIM in respect of credit is 100% of the prepayment].
- iii. **Infant Exporters guarantee** - Available for new entrants into the export business who may otherwise find it difficult to secure loan to finance their export contracts. Credits, which qualify for this guarantee, are advances for pre-shipment export credit as in the standard guarantee

7.0. FEATURES OF THE EXPORT CREDIT GUARANTEE FACILITY

7.1. EXTENT OF INDEMNITY

The Policy does not provide 100% indemnity based on the concept of risk sharing or co-insurance. The percentage of indemnity is as follows:

- i. 75% of a loss for pre-shipment loans/advances under the standard guarantee
- ii. 90% of a loss for pre-shipment loans/advances under the infant exporters guarantee
- iii. 100% of a loss for pre-shipment loans/advances under the advance payment guarantee.

In respect of short-term guarantee, the participating banks shall bear the remaining percentage of loss on its own account and must not insure it elsewhere. This is to ensure that the bank exercises a measure of prudence and vigilance in its credit evaluation and that it retains sufficient interest in the collection of unpaid bills.

However, where the guarantee is issued in favour of a buyer outside Nigeria the percentage of indemnity shall be 100% of a loss under the pre-payment Guarantee

7.2. GUARANTEE ARRANGEMENT

The eligible lenders shall be at liberty to request for guarantee in respect of loans/advances made to certain exporters and will not be compelled to offer their portfolio of export loans for guarantee. However, if a credit/advance is granted to an exporter, and this is offered for NEXIM guarantee, all other credits/advances made to that exporter within the policy period (12 months) from the first advance must be offered to NEXIM for guarantee, although NEXIM shall not be under any obligation to provide guarantees for all loans so offered.

7.3. DURATION OF GUARANTEE

A guarantee certificate is issued on a one-off basis to cover each credit/advance made to exporters. The cover is issued against short-term transactions with a duration based on the contract terms but may not exceed 180 days (6 months.)

7.4. EXTENSION OF A GUARANTEE PERIOD

Where applicable an exporter may apply for extension of the period of guarantee beyond 180 days. This will be considered by NEXIM. If extension is granted an additional premium will be required from the exporter and an endorsement to this effect shall be raised on the certificate.

7.5. GUARANTEE CERTIFICATE

The terms and conditions of the guarantee will govern the relationship between the bank and NEXIM. The bank must carefully study the guarantee agreement and seek clarifications in respect of any doubts they may have. This would avoid any misunderstanding in future.

7.6. DURATION OF POLICY

The policy, which is the guarantee agreement, is issued for a period of up to one year and is renewable for successive periods of 12 months thereafter.

7.7. PROCEDURE IN APPLYING FOR THE GUARANTEE

- a. An exporter/supplier who wishes to apply for banking facility from his bank under the ECGF must complete Form A (ECGF-01) and submit to his bank for onward delivery to NEXIM. Form A authorizes the bank to disclose to NEXIM from time to time any information relating to the Exporter/Supplier.
- b. The applicant Exporter/Supplier should at the same time complete Form B (ECGF-02) and submit directly to NEXIM. Form B states that the Exporter/Supplier has applied to the bank for a credit facility(ies) under the NEXIM Export Credit Guarantee Cover.
- c. The bank should then process and evaluate the Exporter/Supplier's application for a credit facility in good time.
- d. In the event that the bank rejects the Exporter/Supplier's application for banking facility under ECGF it shall immediately notify NEXIM.
- e. When the bank approves the credit application, it should then apply for the Guarantee by submitting the prescribed Proposal Form C (ECGF-03) to NEXIM. The bank has to complete the proposal form, which forms part of the Export Credit Guarantee. The proposal contains a statement that subject to the issue of the guarantee, the bank is willing to provide the banking facility(ies) requested by the exporter/supplier up to the limit(s) specified.
- f. The proposal should be submitted to NEXIM not later than two weeks from the date of approval of the credit facility by the bank.
- g. After evaluating the credit application, NEXIM shall issue a letter of offer to the bank indicating the amount of premium and other terms and conditions upon which NEXIM is prepared to issue the guarantee.
- h. For the purpose of fixing the facility limit on the exporter/supplier, NEXIM shall normally be guided by the credit assessment of the bank.
- i. If the bank accepts NEXIM's offer of the Guarantee, it shall return the Acceptance Form together with the prescribed premium.
- j. Upon receipt of the Acceptance Form and premium, NEXIM shall issue the bank the Certificate of Guarantee and cover shall commence from the date specified.

7.8. REPORT OF DEFAULT

If the advances are not liquidated within 15 days after due date or the extended due date(s), they will need to be classified as being in default and reported as such. This 'Report of Default' has to be submitted to NEXIM on the required form (Form E, ECGF-05) within two months from the due date(s) or the extended date(s). There may be cases where the bank may feel that the account is basically sound and that it does not cause anxiety. If, in such circumstances the bank proposes to continue giving further advances, the reasons for the same should be clearly explained in the Report of Default and NEXIM's prior approval for such advances should be taken.

7.9. CANCELLATION/REDUCTION OF COVERS

NEXIM may, at its sole discretion, give notice to the bank reducing the percentage of cover on a particular exporter or cancelling cover given in respect of a particular exporter and such

reduction or cancellation shall apply to advances granted after the receipt of the notice by the bank.

7.10. CLAIMS

a. Filing Claims

Banks must file claims in the prescribed form (Form D, NECG-01). The claim forms will be made available by NEXIM to the bank on receipt of a specific request.

b. Time Limit

The bank should file a claim in respect of an account within one month from the date of submission of the 'Report of Default' as per paragraph 19 unless before the expiry of the said time limit, the time limit for filing of the claim is extended in writing by NEXIM at the written request of the bank.

c. Required Documentation

Under the Standard and infant exporters guarantee, the following documents should be attached to the claim form:

1. Copies of confirmed orders/LCs relating to bills against which overdue advances had been granted.
2. NEXIM's communication approving the extension of due dates of the bills, if any.
3. Copy of the communication in which the default was first notified to NEXIM.
4. Copy of the letter recalling the overdue advances and copies of further correspondence with the exporter in the bank's attempt to recover the advance
5. Copies of legal notice if a suit has been filed and the exporter's reply thereto.
6. In the case of insolvency, the following are required:
 - i. Proof of insolvency,
 - ii. Copy of claim filed by the bank with the receiver/liquidator
 - iii. Copy of letter issued to the bank by the receiver/liquidator to the effect that the claim has been admitted to rank against the insolvent's estate.

d. Waiting Period

The waiting period for infant exporters shall be shorter than the waiting period for exporters under standard guarantee. While the waiting period is 4 months after the due date of payment under standard guarantee, the waiting period shall be two months from the due date for infant exporters.

Under the Advance payment guarantee, there shall be no waiting period as claims will be settled immediately there is default and a demand is made on NEXIM.

e. Payment of claims

After examining the claim and obtaining necessary clarifications from the bank, NEXIM shall decide whether or not to pay the claim. If the claim is payable the remittance is made in the ratio of the extent of liability.

f. Action after payment of claim

The payment of claim by NEXIM under the guarantee does not in any way remove the responsibility of the exporter to repay the entire amount outstanding to the bank. The bank should maintain its recourse to the exporter for the full amount owed by him and effective action for recovering the amount, including such action as may be suggested by NEXIM including legal proceedings should be initiated against the exporter or such other persons against whom such action can be taken.

g. Recovery Expenses

The bank is expected to incur all expenses necessary for recovering the debt. The recovery expenses, as approved by NEXIM shall be the first charge on any amount recovered.

h. Sharing of recovery

All amounts recovered after payment of claim by NEXIM net of recovery expenses, are to be shared between NEXIM and the bank in the ratio in which the loss admitted by NEXIM was borne by them. The bank should give NEXIM details of every amount recovered promptly after its recovery and remit NEXIM's share immediately. The bank shall be liable to pay interest to NEXIM at the prime lending rate if the amount(s) are not appropriated within 7 days from the date(s) of recovery.

8.0. OTHER ISSUES

8.1. DISPUTED LIABILITY

NEXIM's cover to the bank is in the nature of an indemnity and therefore the bank has to exhaust all possibilities of recovering the loan from the borrower. The amount of loss to the bank should be admitted and not be in dispute by the exporter. While examining the bank's claim, NEXIM will consider the genuineness or otherwise, of the dispute. If, on the basis of facts presented, it is satisfied that the dispute is frivolous, the claim will be paid to the bank. Otherwise, the bank would be expected to establish its loss by recourse to legal proceedings.

8.2. BANK'S RESPONSIBILITIES

The bank must comply with all the terms and conditions contained in the guarantee agreement, particularly, due payment of premium is a condition precedent to any liability of NEXIM. The bank, while giving credit/advances and until these are paid, must exercise such care, diligence and prudence as a banker is expected to in the normal course of business. The bank must also observe utmost good faith at all times. The bank is expected to inform NEXIM as soon as it comes to know that:

- i. The exporter is in difficulties
- ii. There have been certain adverse changes in the circumstances, which have a bearing on the transaction guaranteed.

The bank must take all such steps that are required to prevent or minimize losses, including, if necessary, the institution of legal proceedings against the exporter. If a claim is paid by NEXIM under the guarantee the bank must take all the necessary steps to recover the advances against the security pledged by the exporter or from any other source from where such recoveries may be realized. Whenever a recovery is made, it shall be shared between the bank and NEXIM in the same proportion in which they shared the loss. Any recovery expenses incurred by NEXIM or by the bank with the consent of NEXIM will be a first charge on the amount recovered.

The bank shall, at the request of NEXIM supply to NEXIM any information in its possession and take at its own cost reasonable steps to obtain for NEXIM any information or any document in the possession of any third party relating to or connected with the accounts under the guarantee. The bank shall also extend all cooperation to NEXIM when it decides to examine, verify or take copies of any letters, accounts or other documents in the possession or control of the bank relating to or connected with the accounts.

8.3. DECLINE OF LIABILITY OR DISCLAIMER

- i. If a claim arises in any fraudulent circumstances or if the guaranteed or anyone acting on his behalf to obtain any benefit under the guarantee uses any fraudulent means or devices, NEXIM shall repudiate liability. Fraud shall in this instance include but not be limited to funds diversion.
- ii. NEXIM shall not accept liability in respect of a bank or its employee who agreed with an exporter not to enforce payment or who agreed to share the claims obtained from NEXIM. Also

9.0. AMENDMENTS

These Guidelines shall be subject to review from time to time as may be deemed necessary by NEXIM. The Amendment does not have retroactive effect and therefore is applicable only to new approvals.

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