

STATE BANK OF PAKISTAN
BANKING POLICY DEPARTMENT
I.I. CHUNDRIGAR ROAD
KARACHI

BPD Circular No.23

31st August 2002

All Banks

Dear Sirs / Madam,

**EXPORT FINANCE SCHEME- NON PERFORMANCE BY
THE EXPORTERS – PROCEDURE FOR REFUND OF FINE**

Please refer to the captioned Scheme circulated vide BPRD Circular No.44 of 1998 and BSD Circular No.35 dated 28th September, 2001 along with subsequent modifications made therein from time to time.

2. We have to advise that presently fines are imposed on the exporters for non-performance on account of their failure to produce evidences of shipment under Part I and performance reports under Part II within the prescribed dead lines. However, after imposition of fine, a considerable number of representations are made to SBP for refund of fine which are not supported by the requisite and necessary documents / evidences. This result in delay in processing of cases.

3. In order to streamline processing of the cases involving refund of fines recovered under EFS as also to make the system more transparent, this department has prescribed a procedure which has been attached to this Circular. The banks are advised to properly circulate the same amongst their branches dealing with the Export Finance Scheme / cases, besides providing a copy of the same to their clients for information and necessary action at their end. The said procedure will come into effect as from 1st July 2002.

4. Other instructions on the subject shall remain unchanged.

Please acknowledge receipt.

Yours faithfully,

Encls: (5 page)

(Muhammad Kamran Shehzad)
Director

Export Finance Scheme -Procedure for refund of fine

The Export Finance Scheme has been in operations since 1973. The Scheme operates in two parts i.e. Part-I (transaction based) and Part-II (Performance based). Under both the parts the exporters are required to show specific performance; viz shipments to the extent of 100% of the loan amount under Part-I and twice the value of the loan availed under Part-II of the Scheme on July –June basis. The non-performance by the exporters attracts fine @ paisa 37 / day/ Rs 1000 or part thereof. The exporters having subjected to fine keep on requesting SBP for refund of fine charged on them. These requests are presently dealt with by the Banking Policy Department, on the basis of the information subsequently gathered from the exporter, his banker and the concerned office of the State Bank. It has been decided to further streamline, and bring in more transparency in the procedure for settlement of requests for refund of fine. The new system also aims at more expeditious disposal of cases of refund, thus it would enable the exporters to use their time, efforts and resources for generating more exports.

2. The new system is based on i) “Incentive” philosophy so as to ensure that the exporters are induced to make good the shortfall in future, instead of simply requesting for refund of fines ii) provides them a benefit of their previous excess performance and iii) prescribe separate set of instructions for observance by the exporter (s), disbursing branch / concerned main branch of the bank, concerned office of the SBP BSC (Bank). The guidelines / requirements (actions to be taken) to be fulfilled by all the stake-holders are given in the following paragraphs.

“A” Actions required to be taken by exporters.

Non-Shipment[?] / Short Performance

1. The exporter shall lodge his request for refund of fine through the disbursing branch of his bank. Such request in case of Part-I may be submitted within 30 days from the imposition of fine.
2. While submitting request for refund of fine, every exporter shall explicitly mention therein causes for his failure to make shipment of the eligible commodities. The mere statement of facts that the importer has cancelled the contract making it difficult for him to ship the commodities would not be considered as an adequate proof of his non-performance. Thus the exporter would be required to submit documentary evidence as to the cancellation of orders by the importers alongwith the reasons thereof.
3. Cancellation of orders received through e-mails on addresses on free webs like Hotmail, Yahoo, AOL shall not be acceptable. The State Bank would prefer a verification of order cancellations by the banker of the importer, if so desired, in cases involving large amounts of refund.

[?] also includes short / delayed shipment

4. Every request for refund shall be accompanied with the audited financial statements of the exporters for last three years. In case of sole proprietor or a partnership, the financing bank shall verify the financials of the exporters as mentioned at “B” 1. (a) below.
5. The exporters shall continue to be liable for repayment of EFS loan on its due date. The banks are already entitled to charge normal mark up in case of exporter’s failure to settle their export finance loan on expiry of the loan period prescribed under the Scheme.
6. The exporter should ensure that he has not utilized the export finance for purposes other than export.

“B” Actions required to be taken by the disbursing / main branch of the bank.

1. The disbursing branch of the bank should verify the facts cited in the refund request by the exporter, in particular in case of the following: -
 - a) verify the financial of the exporting entity, based on their banking relationship, where the exporter is not required to have its accounts audited by the External Auditors.
 - b) the claim of the exporters regarding usage of the export finance in the work in process / finished goods inventories. Such claims shall invariably be supported by the stock reports duly diarised by the bank on the schedule prescribed by the bank and periodically verified by authorized surveyors / representatives of the bank, as a part of their own requirements.
 - c) previous performance routed by the exporter through the concerned branch of the bank vis-à-vis export finance facilities availed from the same branch alongwith position in respect of export over dues and causes thereof.
 - d) that refinance obtained has not been utilized in generating any remunerative deposits as already instructed vide our BSD Circular Letter No. 7 dated 30th April 2001
2. Once the above requirements are fulfilled / complied by both the exporters and disbursing branch, the request for refund shall be forwarded by the disbursing branch to the main branch of the bank for onward submission to the concerned area Office of the, SBP, BSC (Bank). While forwarding the request within three working days, to the concerned office of the SBP BSC (Bank) the main branch of the bank would check and certify that all the requirements prescribed hereinabove have been complied with by the exporter and disbursing branch.

“C” Actions required to be taken by concerned office of the SBP BSC (Bank)

- a) to verify the particulars of loans for which refund request has been submitted.
- b) to compile and report performance of the exporter concerned for the last three years, (from the disbursing banks as also other banks) separately for Part-I and Part-II of the Scheme as per formats mentioned on page 3. -

Performance Under Part-I

Year*	Total Loans availed	Shipment made Yes/ No	Amount of non/short shipment, if any	Fine recovered, if any

Performance Under Part-II

Year *	Entitlement of limit	Name of bank	Borrowing product	Performance Product	Excess / (Shortfall)	Fine recovered, if any.

* For three previous years. Information for both parts shall be submitted regardless of the fact that request for refund of fine pertains to only one part.

- c) To ensure that all the prescribed requirements have been complied with by the exporters / disbursing branch /main branch of the bank and relevant documents are attached therewith.

The said request alongwith information of the above format shall be passed on (within seven working days) to the Refinance Division, Banking Policy Department, State Bank of Pakistan, Karachi for consideration of the request of the exporters.

3. The Banking Policy Department of the State Bank of Pakistan shall evaluate the request of the exporter based on the parameters spelt out herein first and efforts would be made to decide the matter within a reasonable time not exceeding one month. The request for refund of fine shall be primarily considered and decided on the basis of the following parameters: -

- I The export performance of the sector / commodity during the fiscal year i.e. on July-June basis, shall be taken into account. While doing so, due weightage shall also be given to the growth trends observed in the yearly export statistics, pertaining to exports from Pakistan to the country where the main export business of the exporter was done during the period under review to evaluate the efficacy of the request.
- II The past performance of the exporter under Export Finance Scheme in achieving its obligations under EFS alongwith position in respect of export over dues and reasons thereof, would be considered as a positive point in deciding the case.
- III The use of EFS Funds for the purpose of exports shall also be given due weightage in deciding the request of the exporters. For the purpose, the SBP would rely on the audited financial statements, in case of limited companies, and duly verified financials, by the banks, in case of the partnership and sole proprietors.

Misstatement of facts in this regard shall make the bank as also the exporter liable to punitive actions as may be determined by the State Bank.

IV The exporter shall be required to provide, to State Bank, verifiable evidences of the reasons making it difficult for him to perform the specific export contract. In case of the failure on account of contractual obligations, the SBP would consider the efficacy of the request.

V The refund request on account of force majeure shall also be considered by SBP, on the basis of the documentary evidence submitted by the exporters and / or his bank.

VI In case an exporter has surplus performance under Part-I or Part-II in last three years, the request for refund shall be considered on the basis of the following: -

- i. 20% weightage shall be allowed for the excess performance in the preceding year.
- ii. 15% weightage shall be allowed to the excess performance made in the 2nd last year
- iii. 10% weightage shall be allowed to the excess performance made in the 3rd last year.
- iv. In case the consolidated resultant amount of excess performance, equals the short performance in the year under consideration, the exporter would be entitled for refund of fine, provided the reasons attributed for his failure to achieve the requisite performance have been agreed to by SBP, besides, fulfillment of the other conditions spelt out in connection with the criteria of the refund of fine.

(Note: The above weightages have been assigned on account of the reason that the exporter has already obtained benefit of higher performance, in the shape of enhanced limits under Part-II of the Export Finance Scheme).

The above weightages shall work as under: -

Rs				
Year	Required performance under both parts (on July June basis)	Actual Performance	Excess Performance	Amount taken for the settlement of refund request
Last year	100	120	20	4
2 nd last year	100	140	40	6
3 rd Last year	100	110	10	1
Total				11

The exporter will be entitled to get benefit of export performance equivalent to Rs 11, and in case his current shortfall is equivalent to or less than Rs 11 the exporter shall get immediate relief and fine charged for non performance shall be refunded forthwith. In case his shortfall is in excess of Rs 11 please see VII.

VII). In case the relaxation at VI above, does not provide full relief to the exporter concerned, State Bank would consider to allow him to make up the shortfall during the next year (in case of Part-II) and as an extension in the shipment period (in case of Part-I) without continuation of the export finance at EFS rates, beyond the permissible period and entitlement of the exporter.

4. **Others**

Following additional guidelines shall also be observed, in dealing with the cases for refund.

- a. No request for refund of fine shall be entertained after expiry of 6 years, from the date of recovery of fine, which has been prescribed as a maximum time period for keeping record of cases involving recovery of fine.
- b. While the request for refund of fine in respect of Part-I cases may be considered at any time, the request for refund of fine in respect of Part-II shall be considered once the actual shortfall has been arrived at on the basis of the EF-I statement to be submitted by the Exporter as per time schedule prescribed in the Scheme.
- c. The existing system of recovery of fine under Part I i.e., after 30 days from expiry of loan or its adjustment by the exporters, which ever is earlier and time period prescribed for submission of EF-1 statement, i.e., performance under Part II i.e. by the 31st August each year shall continue as at present.
