

Export Finance Scheme - Amended Procedure for Refund of fine by SBP

PREAMBLE

The Export Finance Scheme operates in two parts i.e. Part-I (transaction based) and Part-II (Performance based). Under both parts exporters are required to show specific performance; viz shipments to the extent of 100% of the loan amount availed under Part-I and matching export performance on daily borrowing basis under Part-II of the Scheme. The non-performance by exporters attracts fine @ paisa 37 / day/ Rs 1000 or part thereof. The exporters, having subjected to fine for reasons beyond their control, are required to submit their request to SBP for consideration of refund of fine charged on them. For the purpose a procedure was formulated earlier and circulated vide BPD Circular No. 23 dated 31st August 2002. The said circular contained stipulation / procedure to be observed by the exporter, his banker and the concerned office of the State Bank for the purpose of submitting requests for refund of fine. It has been observed that at times these requirements resulted into duplication of various information besides making it difficult to process the case promptly at each stage. In some cases the ignorance of SBP's requirements prescribed under Export Finance Scheme as also procedure for refund of fine also delayed finalization of request for refund of fine submitted by exporters.

In order to expedite the process for refund of fine and make it more transparent modifications have been made in the existing procedure for refund of fine, which are given in the following paragraphs for compliance by all concerned. The exporter seeking refund of fine alongwith their bankers shall however be required to substantiate their request(s) for refund of fine for non shipment, delay in shipment under Part I or short performance under Part II or for extension in the period for meeting the requirement under both Parts of the Scheme by explaining the reasons of their failure to meet the requirements prescribed under the Scheme.

In line with previous procedure, requirements to be met by the exporters, disbursing/ main branch of the bank and this department have been prescribed separately. However the earlier requirement of routing the application for refund of fine through the field offices of SBP BSC (Bank) has been done away with. SME & MF Department, however, will obtain necessary information from the concerned office directly. Accordingly the modified procedure which comprises of three stages is elaborated hereunder:-

Stage I

Actions required by the exporter:

1. The exporter shall lodge his request for refund of fine through the dealing branch of his bank. The same shall however be addressed to the Director SME &MFD.
2. In the request for refund of fine, the exporter shall explicitly mention causes for his failure for non/short shipment or shortfall in export performance duly supported by the documentary evidence. Mere statement that importer has cancelled the order making it difficult for him to ship the required goods would not be considered as an adequate proof of his non-performance.
3. The documentary evidence would include but not limited to submission of verified copies of cancellation of orders or L/Cs by the importers duly supported with cogent reasons (and evidences thereto), as to why the goods could not be exported to an alternate buyer.
4. Cancellation of orders received through e-mails on addresses of free webs like Hotmail, Yahoo, AOL etc. shall not be acceptable. It may be noted that State Bank would prefer a verification of order cancellations by the banker of the importer through the banker of the exporter, if so desired, in cases involving large amounts of refund. The said verification should reach SBP within a maximum period of two months from the date called for, failing which case will be closed on account of non receipt of response from buyer's e-mail addresses.
5. Where the exporter was unable to make shipment for reasons other than cancellation of the order(s) by the importer(s); the exporter will also be required to submit the requisite evidence to the satisfaction of the State Bank.
6. In addition to documents mentioned at 3 to 5 above, the exporter shall also submit the following documents with the request:-
 - a) Audited financial statements of the exporter for the concerned year.
 - b) In case of sole proprietor or a partnership, the exporter shall arrange verification of its financials from the financing bank, who will verify the same on the basis of the facts which generally come to its knowledge during the day to day operations of the facilities offered to the exporters.
 - c) Monthly stock reports duly certified by the concerned bank for the last twelve months (on July-June bases) under Part-II and for last six months under Part-I showing the stock position.
 - d) Due date of shipment / loan under Part-I

- e) The exporter shall submit assurance that he has not utilized the export finance for purposes other than export.
7. 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.

Stage II

Actions required by disbursing / main branch of the bank:

1. The disbursing branch of the bank within a maximum period of 10 days shall verify the facts cited in the refund request by the exporter and forward the request for refund of fine to SBP alongwith the following documents/information:-
 - a) Financial of the exporter, based on their banking relationship, where the exporter is not required to have its accounts audited by the External Auditors.
 - b) The value of the work in process and finished goods inventory to ascertain the usage of funds availed under EFS. The financing bank shall verify the same on the basis of the stock reports duly verified by authorized surveyors / representatives of the bank.
 - c) A certificate to the affect that the refinance obtained by the exporter has not been utilized in generating any remunerative deposits.

2. The above information shall be submitted by the bank on the prescribed format attached to this procedure as "Annexure R" duly audited by their Internal Audit Department/ Compliance Officer of the bank or his authorized representative(s). Once the above requirements are fulfilled / complied by both the exporters and disbursing branch, the request for refund of fine shall be forwarded by the disbursing branch to the main branch of the bank which availed refinance under EFS from the concerned office of the SBP BSC (Bank) for onward submission to the Director, SME & Microfinance Department, State Bank of Pakistan, I. I. Chundrigar Road, Karachi within 5 working days. While forwarding the request to SBP, the main branch of the bank would check and ensure that all the requirements prescribed hereinabove have been complied with by the exporter and disbursing branch and the information contained in the Annexure R are true and as per record of the bank.

Stage III

Actions required by SME & MFD:

1. Within 3 working days of receipt of request for refund of fine from bank concerned Refinance Division of SME & MF Department of State Bank of Pakistan, will call for report on the particulars of loans from the concerned office of SBP BSC (Bank) who will furnish the same within 7 working days of receipt of letter from us. This will include performance report of the exporter concerned for the last three years, (pertaining to the disbursing banks as also other banks) separately for Part-I and Part-II of the Scheme as per following formats :-

a) **Performance under Part-I***

(In PKRs.)

Year	Total loans availed		Total shipment made		Total amount of Excess shipment, if any		Total amount of non/short shipment, if any		Fine recovered		Fine refunded		Reason for refund of fine
	Bank	Amount	Date	Amount	Bank	Amount	Bank	Amount	Bank	Amount	Bank	Amount	

b) **Performance under Part-II***

Year	Entitlement of Limit	Name of bank	Borrowing Product	Performance Product	Excess/ (Shortfall)	Fine recovered, if any	Fine Refunded, if any	Reason for refund of fine

[* For three previous years regardless of the fact that request for refund of fine pertains to only one part.]

c) Refinance Division shall promptly check all documents received from the main branch of the exporter for refund of fine and put up the case for consideration whether any additional information, documents are required. If no documents are needed, the Refinance Division of SME & MFD will prepare the case on a prescribed format with related information on Annexure-R for submission of the same to the Refund Committee.

2. The Refinance Division, SMEs & Microfinance Department of the State Bank of Pakistan, Karachi shall evaluate the request of the exporter based on the parameters spelt out hereunder 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. Besides, some other secondary parameters specifically relevant factors/force majeure events that reflects the exporter's failure on some other grounds or happening of events indirectly affecting him but indirectly, shall also be kept in view while deciding such requests.
- ii. The good track record of past performance of the exporter under Export Finance Scheme in achieving its obligations under EFS would be considered as a positive point in deciding the case.
- iii. The use of EFS Funds for the purpose of exports, work in process and/or finished goods inventories shall also be given due weightage in deciding the request of the exporters. For the purpose, SBP would rely on the information contained in this regard in the audited financial statements, in case of limited companies, and duly verified financials, by the banks, in case of the partnership and sole proprietors.
- 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.
- 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: -
 - a. 25% weightage shall be allowed for the excess performance in the preceding year.
 - b. 20% weightage shall be allowed to the excess performance made in the 2nd last year.
 - c. 15% weightage shall be allowed to the excess performance made in the 3rd last year.

The above weightages shall be worked out as under: -

Year	Required Performance under both parts(On July June basis)	Actual Performance	Excess Performance	Amount taken for the settlement of refund request
1	2	3	4	5
Last Year	100	140	40	10
2 nd Last Year	100	130	30	6
3 rd Last Year	100	160	60	9
Total				25

The exporter will be entitled to get benefit of export performance equivalent to 25, and in case his current shortfall is equivalent to or less than 25 the exporter shall get immediate relief and fine charged for non performance shall be refunded forthwith. In case the relief so provided is less than the amount of fine, additional relief shall be considered as per Para ix below. Where the exporter has not availed Part-II facilities, the excess performance shall be worked out on the basis of actual exports made by the exporter against facilities availed under Part-I of EFS. For the purpose the monetary value of excess export shall be converted into “performance” using the criteria applied for calculation of required and actual performance under Part-II.

vii. The track record of the exporter in realising export proceeds shall also be taken into account for finalization of the request for refund of fine. Accordingly where the exporter cases are pending in the FEAD courts for value equivalent to one million US\$ his entitlement worked out as per the criteria spelt out in Para vi above shall be discounted by 5%. Likewise an additional discounting of 5% shall also be made where the total value of export over dues cases of the exporter concerned as computed by the FEOD of SBP BSC (Bank) exceeds US\$ 5 million.

viii. In case the consolidated resultant amount of excess performance, as computed as per vi above equals the short performance in the year under consideration, the exporter would be entitled for refund of fine, provided i) the reasons attributed for his failure to achieve the requisite performance have been agreed to by SBP; and ii) fulfillment of the other conditions spelt out in connection with the criteria of the refund of fine.

ix. In case the relaxation at (vii) 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 is the maximum period prescribed for keeping record of EFS 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 37 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 or any amendment in the period for submission of such required performance.
- d) In case any necessary information/documents are called for by this department from the exporter/banker, the required information/ documents must be submitted to the department within a maximum period of two months failing which the case will be withdrawn.

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Financial Report in respect of

M/s _____

Total Assets	Total Loans	Equity of the exporter	Total sales reported to the bank	Total export sales routed through the referring bank	Export overdues, if any	EFS facility availed during the year July-June basis			EFS Facilities o/s as on the refering date			Overdue bank loan			Value of Stock held by the exporter as on the date of EFS (Attachment to Annexure-R)	
						Part-I	Part-II	Total	Part-I	Part-II	Total	Principal	Mark up	Overdue		
1	2	3	4	5	6	7			8			9			10	
																Attached

- i. Certified that the information at 1-4 as per the position reported to us by the exporter on the basis of which the bank had considered and approved the limit for the exporter concerned. The position in respect of Column 5 onward is based on the record of the bank
- ii. It is further certified that the said exporter has not utilized funds borrowed under EFS in any remunerative accounts with our bank.

Prepared By:-----

Checked By-----:-----

Counter signed by-----

(Name & Designation of the authorized officer of the bank)

(Name & Designation of the authorized officer of the bank)

Value of Stock held by the exporter as on the date of EFS

[for last 12 months under Part-II & last 6 Months under Part-I]

Month	Raw materials (Rs)	Work In process (Rs)	Finished Goods (Rs.)
July			
August			
September			
October			
November			
December			
January			
February			
March			
April			
May			
June			

Prepared by _____ Checked by _____

(Name & Designation of the authorized officer of the bank)

Counter Signed by _____

(Name & Designation of the authorized officer of the bank)