

FLASH ALERT

RBI announces liberalised ECB framework for improving ease of doing business in India

January 2019

RESERVE BANK OF INDIA VIDE ITS NOTIFICATION DATED JANUARY 16, 2019

Rationalization of the External Commercial Borrowing ('ECB') framework and Rupee Denominated Bonds.

The Reserve Bank of India, in consultation with the Government of India has rationalized the extant framework for ECB and Rupee Denominated Bonds, vide its notification dated

January 16, 2019 to the A.P. (DIR Series) Circular No. 17 with emphasis on improving the ease of doing business in India.

Paragraphs 2 and 3 of Master Direction No.5 dated January 1, 2016 on "External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers" have been amended with immediate effect for implementation of the above mentioned notification.



A table showing the comparison of the erstwhile ECB framework and the revised ECB framework is as follows:

| PARTICULARS | PREVIOUS ECB FRAMEWORK | REVISED ECB FRAMEWORK |
|---|--|---|
| Structure of ECB | Track I - Medium-term foreign currency denominated ECB. Track II - Long-term foreign currency denominated ECB. Track III - Indian Rupee (INR) denominated ECB. | Track I and Track II have been merged under Foreign Currency denominated ECB. Track III and Rupee Denominated Bond have now been merged under Rupee Denominated ECB. |
| Minimum Average Maturity Period (MAMP) | The MAMP was 3 years/5 years/10 years depending upon the track under which the ECB was classified. | 3 years irrespective of the currency of the ECB. 5 years for ECB raised from foreign equity holder and utilized for specific purposes, as detailed in the annexure to notification. 1 year for ECB up to USD 50 million per financial year raised by manufacturing sector. |
| Eligible borrowers | Various entities were specifically allowed to raise ECB under the various tracks in the erstwhile ECB framework. | The list of eligible borrowers has been simplified to include all entities which are eligible to receive FDI. Further Port Trusts, Units in SEZ, SIDBI, EXIM Bank, registered entities engaged in micro-finance activities and other specified entities can also borrow under the revised framework. |
| Recognised lenders | Only those categories of lenders specifically allowed by RBI were allowed to lend under previous ECB framework. | The recognized lenders should be resident of Financial Action Task Force (FATF) or International Organization of Securities Commission's (IOSCO) compliant country. Further, there are other specified entities which can also be lenders as detailed in the notification. |
| Negative list for end use of ECB | Investment In real estate, capital markets, equity investment, working capital purposes, general corporate purposes, repayment of rupee loans and on-lending to entities for the above activities. | The negative list for end use of ECB has been amended to allow ECB for working capital purposes, general corporate purposes and for repayment of rupee loans from foreign equity holders. |

KNAV COMMENTS:

- This is a welcome move from the RBI to liberalize raising of ECB by eligible borrowers from recognized lenders.
- One of the most important features of the revised framework is the relaxation in the end uses – negative list, which has now allowed an Indian entity to obtain ECB for working capital as well as general corporate purposes from foreign equity holder.
- Further, the liberalization of the ECB framework from 4 tier structure to 2 tier structure by merging of tracks along with standardization in the MAMP shall enable the eligible borrowers to raise ECB in a simplified and effective manner.
- Further, under the revised regime, even service companies and trading companies will be allowed to raised ECB and private equity firms & venture capital firms would now be able to fund Indian corporates, which was not the case in erstwhile regime.



For expert assistance, please contact:

Uday Ved

Global tax partner

Email: uday.ved@knavcpa.com

Mobile: +91 9820058327

Visit us at: www.knavcpa.com