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News Alert
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Changes in the Indian Exchange Control Regulations

The Reserve Bank of India (RBI) has made several changes to its exchange control policy to provide much needed support to the falling Indian rupee.

Foreign Borrowing - External Commercial Borrowings (ECB)

I. ECB allowed for funding of import of services, technical know-how and license fees though foreign debt – For manufacturing and infrastructure sectors

Under the present Indian Exchange Control Regulations (Foreign Exchange Management Act, 1999), eligible Indian borrowers can raise foreign debt for permitted end use.

The RBI has now permitted eligible Indian borrowers in the manufacturing and infrastructure sectors to use ECB proceeds for payment towards import of services, technical know-how and payment of license fees in the nature of capital expenditure under the existing policy framework, subject to compliance with the following key conditions:

- The service provider and the Indian borrower company have signed an agreement

- The Indian borrower company provides a declaration that the entire expenditure on newly permitted end use will be capitalized and it forms part of the project cost

- The Indian borrower company certifies the original invoice raised by the service provider based on the payment schedule in the agreement

A.P. (DIR Series) Circular No. 119 dated June 26, 2013

II. Relaxation in the policy for availing ECB for low-cost affordable housing projects

The RBI has notified the following key amendments to the existing ECB guidelines for low-cost affordable housing projects under the approval route:

1. *Change in eligibility criteria*

    - Developers/builders - Minimum three years of experience (previously five years) in undertaking residential projects.

    - Housing Finance Companies (**HFCs**) – Requirement of having minimum paid-up capital of not less than INR 50 crore as per the latest audited balance sheet has been withdrawn.

2. *Hedging of ECB*

    Developers, builders and HFCs (previously only HFCs) shall swap the availed ECB into Rupees for the entire maturity on a fully hedged basis.

3. *Procedural formalities*

    HFCs while making the applications are required to submit a certificate from a National Housing Bank, certifying the prescribed criteria.

4. *Extension of time limit*

    This scheme is extended for the financial years 2013-14 and 2014-15 with a ceiling of USD 1 billion in each of the two years, subject to review thereafter.

A.P. (DIR Series) Circular No. 113 dated June 24, 2013

III. Credit enhancement of domestic debt

The RBI has now permitted prescribed non-resident entities[1] to provide credit enhancement to domestic debt raised through issue of INR bonds/ debentures by all borrowers eligible (currently only Infrastructure Development and Infrastructure Finance Companies are permitted) to raise ECB under the automatic route.

Also, the minimum average maturity of the underlying debt instruments has been reduced from 7 to 3 years.

A.P. (DIR Series) Circular No. 120 dated June 26, 2013

IV. Extension/withdrawal of various ECB schemes

- **Telecom Sector - ECB for refinancing 3G spectrum rupee loans**

    This scheme has been extended upto March 31, 2014 to re-finance rupee loan taken for payment for 3G spectrum which is outstanding in telecom operator's books of accounts.

- **Civil Aviation Sector - ECB for working capital**

    Window extended till December 31, 2013.

[1] Multilateral/ regional financial institutions, Government owned development financial institutions, direct/ indirect foreign equity holder(s)

- **Buyback/prepayment of Foreign Currency Convertible Bonds**

  Window extended till December 31, 2013.

- **ECB in Renminbi**

  Given that facility of ECB in Renminbi had remained unutilised so far, this facility has been discontinued.

A.P. (DIR Series) Circular No. 114, 116, 115 and 117 dated June 25, 2013

Export of Goods and Services

I. Realization and Repatriation period for units in Special Economic Zones (SEZ)

The RBI has directed that the proceeds of goods/software/services exported by SEZs should be realized and repatriated within twelve months from the date of export. However, RBI may grant further extension of time on a case to case basis.

Prior to this amendment, no such period was specified for SEZs.

This would be valid for a period of one year and subject to review thereafter.

A.P. (DIR Series) Circular No. 108 dated June 11, 2013

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