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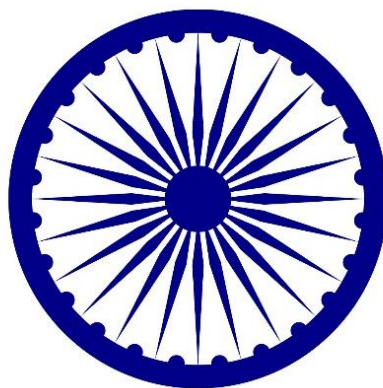
NEWSFLASH INDIA

ADDING VALUE

Issue:
January
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Latest news on compliance, tax and business in India

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Read in this issue:

→ NEW ECB POLICY FRAMEWORK

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The Reserve Bank of India ("RBI") has issued on 16th January, 2019, new External Commercial Borrowings (ECB) Policy Framework which contains some major relaxations for foreign investors.

With the aim of promoting ease of doing business in India, the new framework has introduced a more concise and less complicated guidelines for raising ECB, by consolidation of three-tier tracks under which ECB could be raised, and replacing it with a structured two-tier track. Further, relaxations have been introduced by elimination of sector-wise yearly ECB limits and also by aligning "eligible borrowers" under ECB with eligible investors under Foreign Direct Investment ("FDI"). The new ECB Policy Framework therefore now allows entities engaged in trading and service sectors as well as Limited Liability Partnerships (LLP), that were not considered as eligible borrowers under the erstwhile framework, to raise ECB.

Key highlights of the revised ECB policy framework are as under:

ELIGIBLE BORROWERS:

- "Eligible borrower" under ECB framework has been aligned with the FDI policy, whereby all the entities that are eligible to receive FDI have now been brought under the classification of "eligible borrowers".
- The scope of eligible borrowers has therefore been widened, thereby allowing LLP, who are eligible to avail FDI, to raise ECB.
- Further, FDI eligible entities engaged in service/trading sectors, can also now raise ECB.

CONSOLIDATION OF TRACKS:

- Now track I and Track II ECBs under the erstwhile guidelines have been merged. Loans can now be raised through ECB under two tracks that are categorized on the basis of currency as under:

- Foreign Currency Denominated ECB (Merging of Tracks I and Track II as provided in the erstwhile regime).
- Rupee Denominated ECB (Merging of Track III and Rupee Denominated Bonds as provided in the erstwhile regime).

END USES:

- In addition to the end-use restrictions as provided in the framework, ECB proceeds shall not be used for activities that are prohibited under FDI.
- On first glance the purchase of land for expansion/ modernization seems to be permitted now.

MINIMUM AVERAGE MATURITY PERIOD (MAMP):

MAMP will be 3 years for all ECBs, irrespective of the amount of ECB raised, except for following:

- For ECB up to USD 50 million or its equivalent for entities engaged in the manufacturing sector - MAMP can be 1 year.
- For ECB raised from foreign equity holder and utilised for specified purposes like working capital purposes, general corporate purposes and repayment of Rupee loans - MAMP will be 5 years.

YEARLY ECB LIMITS:

- ECB up to USD 750 million or its equivalent can be raised by eligible borrowers per financial year under the automatic route.

INTRODUCTION OF LATE SUBMISSION FEE (LSF):

- A default involving reporting of drawdown of proceeds before availing LRN or filing monthly returns can be regularized by payment of LSF in accordance with the LSF matrix as provided within the new framework.

Imprint

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