News Update

April 2016

RBI REVISES ECB FRAMEWORK FOR INFRASTRUCTURE

Reserve Bank of India **(“RBI”)** vide its Notification no. RBI/2015-16/349 A.P. (DIR Series) Circular No.56 dated 30 March 2016 **(“the Notification”),** has revised the External Commercial Borrowing **(“ECB”)** Guidelines for infrastructure companies and certain Non-Banking Financial Institutions **(“NBFCs”)**. It has also issued few clarifications in respect of the Master Directions and the circular issued on 30 November 2015.

Background

In the last quarter of 2015, RBI had revised the ECB Guidelines. One of the main changes brought in by RBI was segregation of the borrowers into ‘Track I’, ‘Track II’ and ‘Track III’. Certain NBFCs and companies in the infrastructure sector were governed by the provisions of under the Track II borrowings and were *inter-alia* subject to maintenance of minimum average maturity period of 10 years. RBI has now, by the Notification, amended this position by allowing such companies to avail ECBs as Track I borrowings thereby giving more flexibility in the tenor of the loan.

Revisions made by RBI

Following are the key revisions made in the ECB Guidelines under the Notification:

1. Infrastructure and NBFCs:-
    a. Infrastructure Companies and certain NBFCs (i.e. the NBFCs carrying out the business of Infrastructure Finance, Asset Finance, Holding Companies and Core Investments) are now allowed to raise ECBs with a minimum average maturity period of five years subject to 100% hedging;
    b. Companies engaged in “exploration, mining and refinery” are now deemed as infrastructure companies and can avail ECBs as applicable to the infrastructure sector.

2. The individual limit of borrowing under the automatic route for the companies specified at item 1 above is USD 750 million.

3. Only those NBFCs which are under the regulatory purview of RBI are permitted to raise an ECB. NBFCs specified at item 1(a) above can avail ECBs under Track I scheme whereas other NBFCs can avail ECBs under Track III scheme.

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4. The companies mentioned at item 1 must have an approved risk management policy by its board.

Clarifications issued by RBI

RBI has also, by the Notification, clarified ambiguities arising from the ECB Guidelines. These are:-

1. ECB Guidelines are not applicable in respect of investments in non convertible debentures in India by resident foreign portfolio investors.

2. The minimum average maturity period of Foreign Currency Convertible Bonds and Foreign Currency Exchangeable Bonds is 5 years irrespective of the amount of borrowing.

3. Authorised Dealer Category-I Banks are allowed to approve refinancing of ECBs raised under the old guidelines, provided such refinancing satisfies three conditions, namely (i) the refinancing must be at a lower all-in-cost; (ii) the borrower continues to be an eligible borrower under the ECB Guidelines; and (iii) the residual maturity of the facility is not reduced.

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