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FEMA UPDATE: External Commercial Borrowings (ECB) Policy

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External Commercial Borrowings (ECBs) are commercial loans raised by eligible resident entities from recognized non-resident entities which should conform to parameters such as minimum maturity, permitted and non-permitted end-uses, maximum all-in-cost ceiling, etc. The parameters apply in totality and not on a standalone basis.

BACKGROUND:

At present, ECB regulations mandates that the ECB proceed utilisation for working capital purposes, general corporate purposes and repayment of rupee loans can be made **only if they are lent by a "Foreign equity holder."**

In order to further relax the above ECB regulations, the Reserve Bank of India ("RBI"), vide its A.P. (DIR Series) Circular No. 4 dated July 30th, 2019, has introduced the following liberalisation scheme:

- ❖ Relaxed the above end-use restrictions
- ❖ Widened the scope of the 'Eligible Lenders' who can provide ECBs to Eligible borrowers.

PROVISIONS OF THE CIRCULAR:

- Accordingly, the said relaxations by RBI has been tabulated below:

Eligible Borrower	Permitted End- use	Minimum Average Maturity Period (MAMP)
All Eligible Borrower (other than NBFC)	Working capital and general corporate purposes	10 Years
NBFC	On-lending for usage of working capital, general corporate purposes	
All Eligible Borrower (other than NBFC)	Repayment of Rupee loans availed domestically for purposes other than capital expenditure	
NBFC	On-lending for repayment of Rupee loans availed domestically for purposes other than capital expenditure	
All Eligible Borrower (other than NBFC)	Repayment of Rupee loans availed domestically for capital expenditure	7 Years
NBFC	On-lending for repayment of Rupee loans availed domestically for capital expenditure	

- Additional relaxation granted for Manufacturing and infrastructure sector:
 - ❖ These sectors are now permitted to avail ECB for repayment of Rupee loans availed domestically for capital expenditure even **if classified as Special Mention Account (SMA-2) or Non-Performing Assets (NPA)**.
 - ❖ The above facility is available only under any **one-time settlement** with lenders.
 - ❖ Lender banks are also **permitted to transfer** via sell or assignment, such loans to eligible ECB lenders (except foreign branches/ overseas subsidiaries of Indian banks) provided, the resultant external commercial borrowing complies with all relevant norms of the ECB framework.

Note: Foreign branches/ overseas subsidiaries of Indian Banks are carved out from being part of this liberalisation scheme. Accordingly, such branches / subsidiaries cannot lend ECBs for the above mentioned end-use.