

Update

Relaxation of ECB norms- Advantage for Manufacturing & Infrastructure Sector

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The Reserve Bank of India (“**RBI**”) on Monday came out with a sigh of relief for Indian companies engaged in the manufacturing and infrastructure sector. The market regulator on June 25, 2012 vide circular number RBI/2011-12/617 A. P. (DIR Series) Circular No. 134 decided to allow the Indian companies to avail External Commercial Borrowings (ECB) for the repayment of **Rupee Loan(s)**. This came like a blessing for such Indian companies who now can avail ECB to repay their loans taken from domestic Indian banks for their business purpose. They can also raise ECB for fresh **Rupee Capital Expenditure** which is done through the approval route. This approval by the **RBI** is subject to a few conditions which are to be satisfied in order to avail this facility:

1. Only companies in the manufacturing and infrastructure sector can avail this facility.
2. Such companies should have earned foreign exchange in a consistent manner during the past three years.
3. Such companies should not be in the default list/caution list of the **RBI**; and
4. Such ECBs shall only be utilized for the repayment of the Rupee loan(s) availed off for “capital expenditure” incurred earlier and are still outstanding in the book of the domestic bank and/or for fresh **Rupee capital expenditure**.

Salient features of the notification:

In addition to the existing conditions applicable to ECB, certain additional conditions have been placed:

1. The overall ceiling of such ECB shall be **USD 10 billion**.
2. The maximum permissible amount that can be availed by an individual company will be limited to **50%** of the average annual export earnings realized during the past three financial years.
3. The companies should draw down the entire facility within a month after taking the Loan Registration Number (LRN) from the RBI.
4. Companies desirous of availing such ECBs may submit their applications in a prescribed form through their designated Authorised Dealer bank with certification from the statutory auditor regarding the utilization of Rupee loan(s) with respect to 'capital expenditure' incurred earlier.

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5. Certification from the statutory auditor is also required to show that the company has earned enough foreign exchange during the last three financial years.
6. Authorised Dealer should ensure that the foreign exchange for repayment of ECB is not accessed from Indian markets and the liability arising out of ECB is extinguished only out of the foreign exchange earnings of the borrowing company.
7. A designated Authorised Dealer bank shall monitor the end use of the funds so availed. Local Indian banks will not be allowed to provide any guarantee for any such liability of the company.

Thus, with the advent of this notification the Indian companies found another avenue to pay back their liabilities regarding the capital expenditure incurred by them. The authorized dealer is empowered to monitor such borrowing and their end use. Therefore, they would be monitoring the entire process. Thus, enough accountability and transparency will be ensured for the process making it advantageous both to the companies and to the specified sector as a whole. With this announcement the government has allowed to inculcate more foreign exchange into the country and provided the end-use guidelines for such ECBs.

The previous amendments are as follows:

The Government vide notification number RBI/2011-12/199 A.P. (DIR Series) Circular No. 25 dated September 23, 2012 declared that Indian companies will be allowed to repay existing Rupee Loans with ECBs which was not allowed earlier. The existing ECB policy was revised and the Indian companies were allowed to use **25 per cent** of their fresh ECB to repay their existing Rupee Loans availed by them from the domestic banking system through the approval route.

Further, on April 20, 2012 after the announcement of the Union Budget for the year 2012-2013 the government came out with yet another amendment through its notification number RBI/2011-12/519 A. P. (DIR Series) Circular No. 111 liberalizing the norms of ECB for companies in the Power Sector. Indian companies in the power sector were allowed to utilize **40 per cent** of the fresh ECB raised towards refinancing of the Rupee loan/s availed by them from the domestic banking system, under the approval route, subject to the condition that at least 60 per cent of the fresh ECB proposed to be raised should be utilized for fresh capital expenditure for infrastructure project(s).

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Thus, it is evident from the above discussion that the government took steps to liberalize the infrastructure sector from time to time by providing several amendments in the ECB policy. It has helped the sectors to evolve in a new manner and induced efficiency in them. The steps taken by the government promoted the inflow of more foreign exchange resulting in strengthening the Indian economy.

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