

Update

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Simplification of Procedures relating to External Commercial Borrowings- delegation of powers to the Authorised Dealer Category -I Bank

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Update

The regulatory body, Reserve Bank of India (RBI) has vide RBI/2011-12/390 A.P. (DIR Series) Circular No. 75 dated February 07, 2012 simplified procedures of External Commercial Borrowing (ECB) relating to the following:

1. Reduction in amount of ECB;
2. Changes/modifications in the drawdown schedule when original average maturity period is not maintained;
3. Reduction in the all-in-cost of ECB.

The simplification in procedure was done by delegating the powers with respect to above to the Authorised Dealer Category-I (AD) Banks to grant approvals to the requests of ECB borrowers subject to certain conditions.

Previous scenario:

The existing Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 (the "Regulations") relating to ECB requires that a request for any of the matters mentioned above needs to be referred by the AD Category-I bank to the Foreign Exchange Department, Central Office, Reserve Bank of India for necessary approval.

Current scenario:

The present circular has simplified the procedure for such requests as detailed below:

1. Reduction in amount of ECB:

The circular envisages processing of requests by the AD banks, for reduction in the loan amount of ECB only under **automatic route**, subject to the following conditions:

- a. The consent of the lender for reduction in loan amount has been obtained;
- b. The average maturity period of the ECB is maintained;
- c. The monthly ECB-2 returns in respect of the LRN have been submitted to the Department of Statistics and Information Management (DSIM)
- d. There is no change in the other terms and conditions of the ECB.

2. Changes/modifications in the drawdown schedule when original average maturity period is not maintained:

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The existing procedures allow requests to be approved by AD Banks in case of change/ modification in the drawdown schedule only when the original average maturity period is maintained.

However, with the issue of this circular, the designated AD Banks can also approve requests for change/ modification in the drawdown schedule **even** when the original average maturity period is not maintained subject to the following conditions:

- a. There are no changes/modifications in the **repayment schedule** of the ECB;
- b. The average maturity period of the ECB is **reduced** as against the original average maturity period stated in Form 83 at the time of obtaining the LRN;
- c. Such reduced average maturity period **complies with the stipulated minimum average maturity period** as per the extant ECB guidelines;
- d. The change in all-in-cost is only due to the change in the average maturity period and the ECB complies with the extant guidelines;
- e. The monthly ECB-2 returns in respect of the LRN have been submitted to DSIM.

Requests can be made for ECB availed under the **automatic** as well as **approval** route.

However, as in the extant procedures, any elongation/ rollover in the repayment, on expiry of the original maturity period of the ECB would require the prior approval of RBI.

3. Reduction in the all-in-cost of ECB

The designated AD Category-I bank may approve requests from ECB borrowers for reduction in all-in-cost, subject to the following conditions:-

- a. The consent of the lender has been obtained and there are no other changes in the terms and conditions of the ECB; and
- b. The monthly ECB-2 returns in respect of the LRN have been submitted to DSIM.

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Requests can be made for ECB availed under the **automatic** as well as **approval** route.

This is in addition to the prevalent ECB guidelines.

The onus of ensuring that the other provisions of the existing ECB guidelines are maintained and prompt reporting of changes to the Department of Statistics and Information Management (DSIM), Reserve Bank of India in Form 83 remains with the designated AD Banks.

The circular also specifically mentions that all other aspects of the ECB policy, such as, USD 750 million limits per company per financial year under the automatic route, eligible borrower, recognized lender, end-use, all-in-cost ceiling, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements shall remain unchanged.

The modifications as prescribed by the circular to the ECB guidelines shall come into force with immediate effect.

Our Analysis

With this circular, the RBI, by delegating additional powers to AD Banks, is trying to make the AD Banks more responsible while undertaking any ECB transactions. The said amendments will also ensure that the requests are processed faster and with lesser hassles. The circular also focuses on compliance with respect to timely filing of monthly returns under ECB-2 for the requests to be at all processed.

Where on one hand the circular has delegated powers, it has also made the AD Banks more liable for their acts. The matters delegated with this circular require the AD Banks to exercise proper caution while processing requests and also to ensure that other provisions of the existing guidelines are maintained. The AD Banks also have to ensure that the monthly returns under ECB-2 are timely filed with the DSIM.

The RBI has always intended to make procedures simpler for the general public and also to ensure that proper compliances are made. This circular is another step in that direction and more such circulars are expected from the RBI.