



ECB Alert



Significant overhaul of ECB Regime: Key Highlights

On February 16, 2026, the Reserve Bank of India (“RBI”) published the Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026 with the objective to *inter alia* liberalise the external commercial borrowing (“ECB”) framework by expanding the scope of eligible borrowers and recognised lenders, rationalising borrowing limits and restrictions on average maturity period, review of end-use restrictions, and simplifying reporting requirements. These amendments have been issued basis the feedback received from the public by the RBI on the draft Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025 issued by the RBI in October 2025. Our analysis on the draft amendments can be accessed [here](#).

Set out below is a comparative analysis of the key changes introduced to the ECB regime pursuant to the amendment regulations compared to the erstwhile ECB regulations and the draft amendments:

Key parameters	Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations dated March 26, 2019 (“2019 ECB Directions”)	Draft - Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025 (“Draft ECB Regulations”)	Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026 (“New ECB Regulations”) which supersede the 2019 ECB Directions
Eligible borrower	<ul style="list-style-type: none"> • For FCY ECB: all entities eligible to receive FDI including port trusts, units in SEZ, SIDBI, and EXIM Bank of India. • For INR ECB: all entities eligible to raise FCY ECB and registered entities engaged in micro-finance activities, viz., registered not for profit companies, registered societies/trusts/cooperatives and non-government organisations. 	A person resident in India (other than an individual) incorporated under a Central Act or State Act provided it is permitted to borrow in terms of the applicable laws.	<p>Any person resident in India (other than an individual) that is incorporated under a Central or State Act provided it is permitted for ECB¹ in terms of applicable act(s).</p> <p>The definition of eligible borrower has been expanded to include entities incorporated under a central or state legislation, which will now also include LLPs. The ability of REITs, InvITs and other trusts to avail ECB is under review as RBI has in the feedback summary declined to expressly clarify if trusts can avail ECBs.</p> <p>Having said that, the new ECB Regulations have expressly permitted on-lending for purposes of construction development projects including for developing commercial & residential projects and for infrastructure purposes which are some of the main end uses for REITs & InvITs.</p>

1 In what appears to be a drafting oversight – the New ECB Regulations contemplate that eligible borrowers must be permitted to ‘avail’ ECB under their statute of incorporation, as opposed to a more pragmatic stipulation in the Draft ECB Regulations which required eligible borrowers to be able to only ‘borrow’ under their statute of incorporation.



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Eligible lender	<p>Residents of a FATF or IOSCO compliant countries, or</p> <ul style="list-style-type: none"> Multilateral and regional financial institutions where India is a member country. Individuals as lenders only if they are foreign equity holders or for subscription to bonds/debentures listed abroad. Foreign branches or subsidiaries of Indian banks permitted to extend only FCY ECBs (except FCCBs and FCEBs). 	<ul style="list-style-type: none"> Any person resident outside India; or A branch outside India or in the IFSC of an entity whose lending business is regulated by the RBI. 	<ul style="list-style-type: none"> A person resident outside India. A branch outside India of an entity whose lending business is regulated by the RBI. A financial institution or a branch of a financial institution set up in IFSC. The condition that lenders must be residents in FATF or IOSCO compliant jurisdictions has been dropped.
All-in-Cost ceiling and other costs/ penal charges	<ul style="list-style-type: none"> Capped at: <ol style="list-style-type: none"> Benchmark Rate + applicable Spread of up to 550/ 500 basis points in case of FCY ECB. Benchmark Rate + Spread of up to 450 basis points in the case of INR ECB. Prepayment charges / penal interest (exclusive of all-in-cost) were capped at 2% over and above the rate of interest. 	<p>Cost of borrowing along with prepayment charges / penal interest, if any, linked to prevailing market conditions but remain subject to satisfaction of the authorised dealer bank (“AD Bank”).</p>	<p>Cost of borrowing along with prepayment charges / penal interest, if any, must be in line with prevailing market conditions. Note that:</p> <ul style="list-style-type: none"> this is lender driven and there is no requirement for the AD Bank to confirm cost of borrowing. It is pertinent to note that such costs are not subject to any stipulated caps and can therefore be determined based on commercial considerations. while the concept of foreign equity holder has been deleted, ECB from related parties is required to be at an arm’s length basis.
Minimum Average Maturity Period (“MAMP”)	<ul style="list-style-type: none"> 3 years MAMP for ECB but for specific categories (basis the end-use of the ECB) the MAMP to be 5 years, 7 years and 10 years, as applicable. For manufacturing companies, MAMP of 1 year for an ECB of up to USD 50 million or its equivalent per financial year. 	<ul style="list-style-type: none"> Uniform MAMP of 3 years for all ECBs. For manufacturing companies, MAMP between 1 year and 3 years, subject to the condition that outstanding stock of such ECBs must not exceed USD 50 million. 	<ul style="list-style-type: none"> Uniform MAMP of 3 years for all ECBs. For manufacturing companies, the threshold for outstanding amount of such ECBs has been increased from USD 50 million to USD 150 million.



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End-use	Prescriptive list with numerous restrictions on end use.	Significantly liberalized.	End-use restrictions have been significantly liberalised. <ul style="list-style-type: none"> On-lending is no longer limited to be only undertaken by NBFCs. Acquisition finance has now been permitted. Borrowing for investment in real estate, agriculture and horticulture, construction-development projects, including residential and commercial projects has been permitted to a limited extent.
Utilisation of ECB proceeds to pay components of cost of borrowing	Not permitted.	Not permitted.	Permitted to utilise ECB proceeds to pay cost of borrowing.
Acquisition finance	Not permitted as an end-use for an ECB.	Permitted for listed acquisitions with conditions - unclear whether permitted for both listed and unlisted securities. The eligible borrowers may avail ECBs for: <ul style="list-style-type: none"> mergers or acquisitions in terms of the Companies Act, 2013, SEBI Takeover Regulations and the IBC; overseas investments made in terms of FEMA (Overseas Investment) Regulations; and investment in primary market instruments issued by non-financial entities for on-lending. 	Permitted for both listed and unlisted acquisitions – but only where control is being acquired, with a strategic purpose of creating long-term value and not short-term gains. Eligible borrowers may avail ECBs for corporate actions such as merger or acquisition of control ² in accordance with the act under which the entity is incorporated /established, SEBI Takeover Regulations, SARFAESI and IBC, as applicable.

² Control in case of a company will include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner. Control in case of a limited liability partnership will mean the right to appoint majority of the designated partners, where such partners, with specific exclusion to others have control over all the policies of the LLP.



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Borrowing limits	<ul style="list-style-type: none"> • USD 750 million or equivalent per financial year under the automatic route. • In case of FCY ECB raised from direct foreign equity holder, ECB liability-equity ratio for ECB raised under the automatic route cannot exceed 7:1. This ratio will not be applicable if the outstanding amount of all ECB, including the proposed one, is up to USD 5 million or its equivalent. 	<p>An eligible borrower (which is not regulated by a financial sector regulator) may raise ECB up to the higher of:</p> <ol style="list-style-type: none"> outstanding ECB up to USD 1 billion; or total outstanding borrowing (external and domestic) up to 300% of its net worth as per the last audited balance sheet. <p><i>However, the borrowing limits will not be applicable on eligible borrowers that are regulated by financial sector regulators.</i></p> <p>Note that:</p> <ul style="list-style-type: none"> • Limb (i) above is an ECB-only test: the outstanding ECB should not exceed USD 1 billion. Domestic debt is irrelevant for this limb. • Limb (ii) above is a total debt test: company's combined borrowings (domestic + external) do not exceed 300% of its net worth. <p>Because the provision permits ECB up to the higher of the two, a company only need to satisfy one of the limbs – whichever is more favourable to it.</p>	<p>Same borrowing limits as prescribed in the Draft ECB Regulations, but RBI has clarified that:</p> <ul style="list-style-type: none"> • the net worth is to be calculated as per the last audited standalone balance sheet of the borrower. • the outstanding borrowing will not include non-fund based credit and funds raised through issuance of securities which are mandatorily convertible to equity.



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Refinancing ECB - restriction on credit spread	All-in-cost of the new ECB must be lower than the all-in-cost of existing ECB which is proposed to be refinanced.	Same position as in 2019 ECB Directions.	This condition has been dropped. Borrowers are free to refinance on the terms they deem fit, provided that refinancing doesn't result in failure to meet MAMP requirement applicable on the original borrowing (weighted outstanding maturity in case of multiple borrowings).
Ease in on-lending	On-lending was subject to negative list restrictions, however NBFCs were permitted to on-lend for certain specified negative list items.	Eligible borrowers may avail ECB for on-lending where: <ul style="list-style-type: none"> the eligible borrower's lending business is regulated by the RBI; and the eligible borrower is an Indian company or body corporate established under a Central Act or State Act for the purpose of lending to its group entities (such as a CIC) 	ECBs cannot be utilised for on-lending for any of the purposes for which funds cannot be borrowed and utilised under the New ECB Regulations. Restrictions on on-lending have been simplified. It can be inferred that on-lending is no longer restricted to Indian companies or body corporates only. On-lending to individuals has been permitted, and REITs and InvITs may also on-lend to their special purpose vehicles - though, this will need to be analysed in detail along with the new definition of eligible borrower.
No-objection certificate (NOC) from AD Bank	AD Bank NOC required for creation of security for ECB, changes in the terms of an ECB and transfer of ECBs by lenders.	No NOC from AD Bank required for creation of security for ECB, changes in the terms of an ECB and transfer of ECBs by lenders.	No NOC from AD Bank required for creation of security for ECB, changes in the terms of an ECB and transfer of ECBs by lenders.
Real estate business	Construction-development projects not a recognised category towards which ECB proceeds could be utilised.	While ECB proceeds are permitted to be utilised towards construction-development projects but there was no clarity on whether ECB proceeds could be used towards purchase, sale and lease of land or immovable property for construction-development projects.	It has been expressly clarified that ECB can be availed for purchase, sale and lease (not amounting to transfer) of land or immovable property for construction-development projects. Further, similar to FDI Policy construction-development projects have been defined to include development of townships, construction of residential /commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships.



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Eligibility criteria for AD Banks	No requirement on the borrower to have a current account established with the AD Bank.	Mandatory requirement that the AD Bank should be the one with which the Borrower maintains its current account.	Post feedback, this requirement has been dropped, and borrowers now retain the flexibility to select or change their AD Bank based on expertise and service levels, rather than current account led relationships.
Hedging requirement	Specific hedging requirements on infrastructure companies in relation to FCY ECBs (in case the average maturity of the FCY ECB is less than 5 years).	No mandatory hedging requirement.	Same position as in Draft ECB Regulations.
Investments by foreign venture capital investors ("FVCIs")	No clarity on exclusion of investments by FVCIs from the ECB framework.	No clarity on exclusion of investments by FVCIs from the ECB framework.	The New ECB Regulations expressly exclude investments received from FVCIs through debt instruments from the purview of the ECB framework, providing clarity that such investments will not be treated as an ECB.

Key Issues for Consideration

Contrasts & Parallels with Bank Acquisition Finance Regulations.

- In what is one of the most historic policy changes in acquisition finance space, RBI has opened up two new sources for acquisition financing almost contemporaneously.
- In both regulations RBI's key focus is on permitting control acquisitions, while RBI's recent amendments to the capital market exposure framework ("**Bank Acquisition Finance Regulations**") permit entities to acquire incremental control stakes at 50%, 75% and 90%, similar permission has not been extended explicitly under the New ECB Regulations.
- Another important distinction is that financing under the Bank Acquisition Finance Regulations has been subjected to several regulatory conditions such as compulsory security over target's shares, parent guarantee from ultimate acquiring company, debt to equity ratio caps, limits on maximum financing that can be undertaken, whereas the New ECB Regulations do not impose such conditions. MAMP of 3 years is key, however even 100% of acquisition may be financed by ECB proceeds.

Security Restrictions

Bank Acquisition Finance Regulations contemplate compulsory security over target's shares. However, banks will have to be cognizant of the 30% maximum limit for pledged shares under Section 19(2) of the Banking Regulation Act, 1949. Similar restriction will not be applicable to ECB lenders, and they could effectively have pledge over 100% of the target's shares. However, restrictions on ability to secure target's assets in case where target is a public company will continue to be relevant in both ECB & Bank Acquisition Finance Regulations context. In such cases, corporate guarantees of ultimate acquiring companies may be of greater consequence for deriving credit comfort (though not compulsorily required in case of the New ECB Regulations).

New route for acquisition financing for FOCCs

Under existing foreign direct investment rules, a foreign owned and controlled entity ("**FOCC**") in India cannot make a downstream investment by leveraging funds from the Indian market. An FOCC, in addition to financing under the FPI listed NCD route, may now also explore capital via an ECB for downstream investments. However, further clarity is required on whether FOCCs may avail ECBs from overseas branches of Indian banks to finance acquisitions. Note that there are no requirements linked to minimum net worth, net profit after tax or and credit rating prescribed under the New ECB Regulations for undertaking an acquisition.



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Use cases for listed NCDs to FPIs

FPI listed NCDs continue to be of relevance for minority acquisitions, or where eligibility criteria are not met by acquirers as per the Bank Acquisition Finance Regulations. These will also be relevant for trades where the conditions under the Bank Acquisition Finance Regulations or the New ECB Regulations are unviable for borrowers.

Outlook

The above amendments will make ECB a preferred route for financing allowing parties to commercially determine market linked pricing. Acquisition financing as a permitted end use (without any significant and cumbersome prerequisites) gives Indian acquirers an additional source of offshore capital, particularly FOCC entities, which until now could only avail financing via the FPI listed NCD route for domestic acquisitions. The removal of restrictions on end use and pricing are equally significant measures. Markets can certainly expect increased ECB flows and activity, particularly from lenders based in GIFT City.

Please feel free to address any further questions or request for advice to:

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