



# External Commercial Borrowings [ECBs]

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## Acronyms

AD – Authorized Dealer
INVIT – Infrastructure Investment Trust
AFC – Asset Finance Companies
LIBOR – London Inter-bank borrowing rate
AMP – Average Maturity Period
LRN – Loan Registration Number
CIC – Core Investment Company
MFI – Micro-finance Institutions
ECB – External Commercial Borrowings
NBFC – Non-banking Finance Companies
FATF – Financial Action Task Force
FCCB – Foreign Currency Convertible Bonds
FCEB – Foreign Currency Exchangeable Bonds
REIT – Real Estate Investment Trust
FPI – Foreign Portfolio Investor
IFC – Infrastructure Finance Companies

## External Commercial Borrowings – Regulations

- RBI/2017-18/169/ A.P. (DIR Series) Circular No. 25 dated 27<sup>th</sup> April, 2018
- RBI Master Direction -No. 5/2015-16 dated 1st January 2016 (updated with Notifications AP DIR Circulars from time to time)
- FAQs issued by RBI (updated as on 14<sup>th</sup> August 2018)

### ***Latest update:***

#### **RBI liberalizes ECB norms; more access to cheaper funds**

In a bid to facilitate cheaper access of overseas funds, the Reserve Bank of India (RBI) on Friday further liberalized External Commercial Borrowings (ECB) policy by including more sectors in the window.

It has been decided to increase the ECB Liability to Equity Ratio for ECB raised from direct foreign equity holder under the **automatic route to 7:1**. This ratio will not be applicable if total of all ECBs raised by an entity is up to USD 5 million or equivalent.

With a view to harmonizing the extant provisions of Foreign Currency and Rupee ECBs and Rupee Denominated Bonds, it has been decided to stipulate a **uniform all-in-cost ceiling of 450 basis points over the benchmark rate**. The benchmark rate will be **6 month USD LIBOR** (or applicable benchmark for respective currency) for Track I and Track II, while it will be **prevailing yield** of the Government of India securities of corresponding maturity for Track III (Rupee ECBs) and RDBs.

It has been decided to **permit Housing Finance Companies and Port Trust** can avail of ECBs under all tracks. Such entities should have a board approved risk management policy and should keep their ECB exposure **hedged 100 per cent** at all times for ECBs raised.

As part of condition for investment raised through **ECBs should avoid putting that money in real estate or purchase of land** except when used for affordable housing, construction and development of SEZ and industrial parks/integrated townships.

Besides, it also **restricts ECB fund to be invested in share market and equity investment**. **On-lending** to entities for the above activities is also barred as per the law.

## Framework for raising loans through External Commercial Borrowings

### What are External Commercial Borrowings (ECB)?

ECBs are commercial loans raised by eligible resident entities from recognized non-resident entities and 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.

The framework for raising loans through ECB (herein after referred to as the ECB Framework) comprises the following three tracks:

**Track I :** Medium term foreign currency denominated ECB with minimum average maturity of 3/5 years.

**Track II :** Long term foreign currency denominated ECB with minimum average maturity of 10 years.

**Track III :** Indian Rupee (INR) denominated ECB (RDBs) with minimum average maturity of 3/5 years.

### What are the forms of ECB?

The ECB Framework enables permitted resident entities to borrow from recognized non-resident entities in the following forms:

- i. Loans including bank loans;
- ii. Securitized instruments (e.g. floating rate notes and fixed rate bonds, non-convertible, optionally convertible or partially convertible preference shares / debentures);
- iii. Buyers' credit;
- iv. Suppliers' credit;
- v. Foreign Currency Convertible Bonds (FCCBs);
- vi. Financial Lease; and
- vii. Foreign Currency Exchangeable Bonds (FCEBs)

However, ECB framework is not applicable in respect of the investment in Non-convertible Debentures (NCDs) in India made by Registered Foreign Portfolio Investors (RFPIs).



## Ambits and Routes

### Available routes for raising ECB:

Automatic Route	Approval Route
<ul style="list-style-type: none"> <li>AD Category 1 Banks examine cases</li> </ul>	<ul style="list-style-type: none"> <li>Prior application to the RBI through AD Bank</li> </ul>
<ul style="list-style-type: none"> <li>Obtain LRN from RBI by filing Form No. 83 through AD Bank</li> </ul>	<ul style="list-style-type: none"> <li>RBI Empowered Committee to consider such application</li> </ul>
<ul style="list-style-type: none"> <li>Monthly filings with RBI through AD Bank in Form ECB2</li> </ul>	<ul style="list-style-type: none"> <li>Post approval, obtain LRN and Monthly filings same as applicable under Automatic Route</li> </ul>
<ul style="list-style-type: none"> <li>Bank/ Other Loans</li> </ul>	<ul style="list-style-type: none"> <li>FCEBs</li> </ul>
<ul style="list-style-type: none"> <li>Securitized instruments</li> </ul>	<ul style="list-style-type: none"> <li>Rupee Denominated Bonds</li> </ul>
<ul style="list-style-type: none"> <li>FCCBs</li> </ul>	<ul style="list-style-type: none"> <li>Import of second-hand goods as per DGFT guidelines</li> </ul>
<ul style="list-style-type: none"> <li>Buyers' credit / Suppliers' credit</li> </ul>	<ul style="list-style-type: none"> <li>On-lending by EXIM Bank</li> </ul>
<ul style="list-style-type: none"> <li>Finance Lease</li> </ul>	<ul style="list-style-type: none"> <li>All other forms of ECBs for instance, beyond individual limits</li> </ul>

## Parameters for ECBs

Various parameters of raising loan under ECB framework are mentioned in the following sub-paragraphs.

### I. Minimum Average Maturity Period

The minimum average maturities for the three tracks are set out as under:

Track I	Track II	Track III
i. 3 years for ECB upto USD 50 million or its equivalent.  ii. 5 years for ECB beyond USD 50 million or its equivalent.  iii. 65 years for eligible borrowers under para 2.4.2.vi, irrespective of the amount of borrowing.  iv. 75 years for Foreign Currency Convertible Bonds (FCCBs)/ Foreign Currency Exchangeable Bonds (FCEBs) irrespective of the amount of borrowing. The call and put option, if any, for FCCBs shall not be exercisable prior to 5 years.	10 years irrespective of the amount	Same as under Track I

## Calculation of Average Maturity- An Illustration

ABC Ltd.

Loan Amount = USD 2 million

Date of Drawal/ repayment (MM/DD/YY)	Drawal (in USD mil)	Repayment (in USD mil)	Balance	No. of days** balance with borrower	Product = (Col. 4* Col. 5)/(Loan amt * 360)
Col. 1	Col. 2	Col. 3	Col. 4	Col.5	Col. 6
05/11/2007	0.75		0.75	24	0.0250
06/05/2007	0.50		1.25	85	0.1476
08/31/2007	0.75		2.00	477	1.3250
12/27/2008		0.20	1.80	180	0.4500
06/27/2009		0.25	1.55	180	0.3875
12/27/2009		0.25	1.30	180	0.3250
06/27/2010		0.30	1.00	180	0.2500
12/27/2010		0.25	0.75	180	0.1875
06/27/2011		0.25	0.50	180	0.1250
12/27/2011		0.25	0.25	180	0.0625
06/27/2012		0.25	0.00		

Average Maturity= 3.2851 \*\*Calculated by = DAYS360 (firstdate, seconddate, 360)



## II. Eligible Borrowers

The list of entities eligible to raise ECB under the three tracks is set out in the following table:

Track I	Track II	Track III
<ul style="list-style-type: none"> <li>i. Companies in manufacturing and software development sectors.</li> <li>ii. Shipping and airlines companies.</li> <li>iii. Small Industries Development Bank of India (SIDBI).</li> <li>iv. Units in Special Economic Zones (SEZs).</li> <li>v. Export Import Bank of India (Exim Bank) (only under the approval route).</li> <li>vi. Companies in infrastructure sector, Non-Banking Financial Companies -Infrastructure Finance Companies (NBFC-IFCs), NBFCs-Asset Finance Companies (NBFC-AFCs), Holding Companies and Core Investment Companies (CICs).</li> </ul>	<ul style="list-style-type: none"> <li>i. All entities listed under Track I.</li> <li>ii. Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (INVITs) coming under the regulatory framework of the Securities and Exchange Board of India (SEBI).</li> </ul>	<ul style="list-style-type: none"> <li>i. All entities listed under Track II.</li> <li>ii. All Non-Banking Financial Companies (NBFCs)</li> <li>iii. NBFCs-Micro Finance Institutions<sup>1</sup> (NBFCs-MFIs), Not for Profit companies registered under the Companies Act, 1956/2013, Societies, trusts and cooperatives (registered under the Societies Registration Act, 1860, Indian Trust Act, 1882 and State-level Cooperative Acts/Multi-level Cooperative Act/State-level mutually aided Cooperative Acts respectively), Non-Government Organisations (NGOs) which are engaged in micro finance activities.</li> <li>iv. Companies engaged in miscellaneous services viz. research and development (R&amp;D), training (other than educational institutes), companies supporting infrastructure, companies providing logistics services.</li> </ul>

## II. Eligible Borrowers

Continued..

Track I	Track II	Track III
<p>vii. Housing Finance Companies, regulated by the National Housing Bank <sup>2</sup></p> <p>viii. Port Trusts constituted under the Major Port Trusts Act, 1963 or Indian Ports Act, 1908 <sup>3</sup></p>		<p>v. Developers of Special Economic Zones (SEZs)/ National Manufacturing and Investment Zones (NMIZs).</p> <p>vi. Companies engaged in the business of Maintenance, Repair and Overhaul and freight forwarding to raise ECBs denominated in INR only.</p>
<p>Notes:</p> <ol style="list-style-type: none"> <li>1. Entities engaged in micro-finance activities to be eligible to raise ECB: (i) should have a satisfactory borrowing relationship for at least three years with an AD Category I bank in India, and (ii) should have a certificate of due diligence on 'fit and proper' status from the AD Category I bank.</li> <li>2. Housing Finance Companies shall have a board approved risk management policy and shall keep their ECB exposure hedged 100 per cent at all times for ECBs raised under Track I.</li> <li>3. Port Trusts shall have a board approved risk management policy and shall keep their ECB exposure hedged 100 per cent at all times for ECBs raised under Track I.</li> </ol>		

### III. Recognised Lenders/Investors

The list of recognized lenders / investors for the three tracks will be as follows:

Track I	Track II	Track III
<ul style="list-style-type: none"> <li>International banks.</li> <li>International capital markets.</li> <li>Multilateral financial institutions (such as, IFC, ADB, etc.) / regional financial institutions and Government owned (either wholly or partially) financial institutions.</li> <li>Export credit agencies.</li> <li>Suppliers of equipment.</li> <li>Foreign equity holders.</li> <li>Overseas long term investors such as:               <ul style="list-style-type: none"> <li>Prudentially regulated financial entities;</li> <li>Pension funds;</li> <li>Insurance companies;</li> <li>Sovereign Wealth Funds;</li> <li>Financial institutions located in International Financial Services Centres in India</li> </ul> </li> <li>Overseas branches / subsidiaries of Indian banks<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>All entities listed under Track I (excluding overseas branches / subsidiaries of Indian banks).</li> </ul>	<ul style="list-style-type: none"> <li>All entities listed under Track I except overseas branches / subsidiaries of Indian banks.</li> <li>In case of NBFCs-MFIs, other eligible MFIs, not for profit companies and NGOs, ECB can also be availed from overseas organisations<sup>3</sup> and individuals<sup>4</sup>.</li> </ul>

### III. Recognised Lenders/Investors

Continued..

**Notes:**

2. Overseas branches / subsidiaries of Indian banks can be lenders only under Track I. Further, their participation under this track is subject to the prudential norms issued by the Department of Banking Regulation, RBI. Indian banks are not permitted to participate in refinancing of existing ECBs.
3. Overseas Organizations proposing to lend ECB would have to furnish to the authorised dealer bank of the borrower a certificate of due diligence from an overseas bank, which, in turn, is subject to regulation of host-country regulators and such host country adheres to the Financial Action Task Force (FATF) guidelines on anti-money laundering (AML)/ combating the financing of terrorism (CFT). The certificate of due diligence should comprise the following: (i) that the lender maintains an account with the bank at least for a period of two years, (ii) that the lending entity is organised as per the local laws and held in good esteem by the business/local community, and (iii) that there is no criminal action pending against it.
4. Individual lender has to obtain a certificate of due diligence from an overseas bank indicating that the lender maintains an account with the bank for at least a period of two years. Other evidence /documents such as audited statement of account and income tax return, which the overseas lender may furnish, need to be certified and forwarded by the overseas bank. Individual lenders from countries which do not adhere to FATF guidelines on AML / CFT are not eligible to extend ECB.

#### IV. All-in-Cost (AIC)

The amended all-in-cost requirements for the three tracks will be as under:

Track I	Track II	Track III
<p>I. The all-in-cost ceiling is prescribed through a uniform ceiling of 450 basis points per annum over the benchmark over 6 month LIBOR or applicable bench mark for the respective currency.</p> <p>II. Penal interest, if any, for default or breach of covenants should not be more than 2 per cent over and above the contracted rate of interest.</p>	<p>The maximum spread over the benchmark will be 450 basis points per annum.</p>	<p>The all-in-cost will be prevailing yield of the Government of India securities of corresponding maturity</p>



## V. End-use prescriptions

The amended end-use prescriptions for ECB raised under the three tracks are given in the following table:

Track I	Track II	Track III
<p>The ECB proceeds can be used for all purposes excluding the following:</p> <ul style="list-style-type: none"> <li>• Investment in Real estate or purchase of land<sup>1</sup></li> <li>• Investing in capital market</li> <li>• Using the proceeds for equity investment domestically;</li> <li>• Working capital purposes<sup>2</sup></li> <li>• General corporate purposes<sup>2</sup></li> <li>• Repayment of Rupee loans<sup>2</sup></li> <li>• On-lending to other entities with any of the above objectives;</li> </ul>	<p>The ECB proceeds can be used for all purposes excluding the following:</p> <ul style="list-style-type: none"> <li>• Investment in Real estate or purchase of land<sup>1</sup></li> <li>• Investing in capital market</li> <li>• Using the proceeds for equity investment domestically;</li> <li>• On-lending to other entities with any of the above objectives;</li> </ul>	<p>Same as Track I</p>

**Note 1:** Investment in real estate or purchase of land except when used for affordable housing as defined in Harmonised Master List of Infrastructure Sub-sectors notified by Government of India, construction and development of SEZ and industrial parks/integrated townships.

**Note 2:** For Tracks I and III, the negative end uses will apply except when raised from Direct and Indirect equity holders or from a Group company, and provided the loan is for a minimum average maturity of five years.

## VI. Equity Holder

### Foreign Equity Holder means:

- Direct foreign equity holder minimum 25% equity holding by the lender in borrowing company
- Indirect equity holding minimum 51%
- Group company with common overseas parent

## VII. Individual Limits

The individual limits refer to the amount of ECB which can be raised in a financial year under the automatic route.

Sector	Maximum Amount per FY
Companies in manufacturing and infrastructure sectors, NFC-IFCs, NBFCs, Holding Companies, CICs	USD 750 Million
Companies in software development sector	USD 200 Million or equivalent
Companies in micro-finance activities	USD 100 Million or equivalent
All remaining entities	USD 500 Million or equivalent

- ECB proposals beyond aforesaid limits will come under the approval route. For computation of individual limits under Track III, exchange rate prevailing on the date of agreement should be taken into account
- **In case of Direct Equity Holder**
  - In case ECB is raised from Direct Equity Holder, it needs to comply with ECB Liability: Equity Ratio
  - Automatic route 7:1, Approval route 7:1
  - NA if ECB is up to USD 5 Million or equivalent
  - Only applicable to Direct Equity Holders
  - For the purpose of ECB liability: equity ratio, the paid-up capital, free reserves (including the share premium received in foreign currency) as per the latest audited balance sheet can be reckoned for calculating the 'equity' of the foreign equity holder.



## Currency and Hedging

### Currency of ECB

- Currency – INR or Freely Convertible Foreign Exchange
- ECB from CFE to INR is permitted, not vice-versa
- If converted from CFE to INR, rate of exchange on the date of agreement or lower

### Hedging

- Companies in Infrastructure Sector, NBFC-IFCs, NBFC-AFCs, Holding Companies, CICs to keep 100% hedged
- Board approved risk management policy
- Other entities as per concerned sectoral or prudential regulator

### Security of ECB

- ECB as per extant guidelines
- Security clause in the loan agreement
- AD Category 1 Bank allowed to create charge on immovable assets, movable assets, financial securities, corporate / personal guarantee
- Immovable Assets subject to Regulations and can be sold only to person resident in India
- Encumbered movable assets can be taken out subject to NOC from domestic lender, if any
- Financial securities – Pledge of shares of Borrowing Company held by Promoters / domestic associate companies / Bonds or debentures / Government securities, Government saving certificates, UTIs, mutual funds – Borrower / Promoter. Invocation of pledge as per Regulations
- Security interest over current and future loan assets and current assets
- Corporate / Personal Guarantees can be given as per Regulations



### Conversion to Equity

- ECBs including matured but unpaid can be converted into equity:
  - Activity under automatic route as per FDI or FIPB approval obtained
  - Lender's consent and no additional cost as per FDI sectoral cap
  - Applicable pricing guidelines / Applicable prudential guidelines for other credit facilities
  - Consent / information to other lenders
- Exchange rate on date of agreement of conversion or lesser rate if agreed by Lender
- Reporting:
  - Partial conversion in Form FC-GPR and Form ECB-2
  - Fully conversion – Form FC-GPR and no further Form ECB-2
  - In phases, Form ECB-2 in phases

### Powers delegated to AD Banks

- Changes in drawdown/ repayment schedule
- Changes in currency of borrowing
- Change in AD Bank - NOC
- Change in name of Borrower Company / Transfer of ECB
- Change in recognized lender / name of lender, Prepayment of ECB – Minimum AVP
- Cancellation of LRN
- Change in end-use proceeds
- Reduction in amount of ECB
- Change in All-in-Cost
- Refinancing of ECB
- Extension of matured but unpaid ECB
- Change in All-in-Cost
- Refinancing of ECB
- Extension of matured but unpaid ECB

### FCCBs and FCEBs

- Foreign Currency Convertible Bonds ('FCCB's) shall conform to the FDI guidelines including sectoral cap. In addition to the requirements of (i) minimum maturity of 5 years, (ii) the call & put option, if any, shall not be exercisable prior to 5 years, (iii) issuance without any warrants attached, (iv) the issue related expenses not exceeding 4 per cent of issue size and in case of private placement, not exceeding 2 per cent of the issue size, etc. as required in terms of provisions contained in related Regulations
- Foreign Currency Exchangeable Bonds ('FCEB's) can be issued only under the approval route and shall have minimum maturity of 5 years. The bonds are exchangeable into equity share of another company, to be called the Offered Company, in any manner, either wholly, or partly or on the basis of any equity related warrants attached to debt instruments. Issuance of FCEBs shall conform to the provisions contained in the related Regulation.

## ECB – Start-ups

<b>Eligibility</b>	<ul style="list-style-type: none"> <li>An entity recognized as a Startup by the Central Government as on date of raising ECB eligible to raise ECB</li> </ul>
<b>Average Maturity &amp; All-in-costs</b>	<ul style="list-style-type: none"> <li>Amount - Limited to USD 3 Mn or equivalent per FY either in INR or convertible forex or combination of both.</li> <li>Maturity - Minimum average maturity period of 3 years</li> <li>All-in-cost - Mutually agreed between the borrower and lender</li> </ul>
<b>Recognized Lender</b>	<ul style="list-style-type: none"> <li>Resident of a country who is member of FATF or FATF-Style Regional Bodies and not from a country identified in the public statement of the FATF</li> <li>Not permissible - Overseas branches/subsidiaries of Indian banks and overseas WOS / JV of an Indian company</li> </ul>
<b>Form and End-use</b>	<ul style="list-style-type: none"> <li>Form - Loans or non-convertible or optionally convertible or partially convertible preference shares</li> <li>End Use - For any expenditure in connection with the business of borrower</li> </ul>
<b>Currency and conversion</b>	<ul style="list-style-type: none"> <li>Denominated in any freely convertible currency or in Indian Rupees (INR) or a combination thereof</li> <li>Conversion of ECB into equity is freely permitted</li> </ul>
<b>Security and Guarantee</b>	<ul style="list-style-type: none"> <li>Security = movable, immovable, intangible assets (including patents, IPRs), financial securities, etc.</li> <li>Issuance of corporate or personal guarantee is allowed</li> </ul>

- Any entity recognized as a Startup by the Central Government as on date of raising ECB eligible to raise ECB – Does not necessarily have to be an ‘eligible borrower’
- Guarantee, standby letter of credit, letter of comfort by Indian Banks, all Indian Financial Institutions and NBFCs not permitted
- Advised to hedge
- Conversion as per market rate on date of agreement
- ECB liability : Equity ratio not applicable
- Other applicable provisions

## Rupee Denominated Bonds (RDBs)

RBI Circular of June 17 – Revised Framework for issuance of Rupee denominated bonds overseas:

<b>Meaning</b>	Plain vanilla bonds issued by an eligible Indian entity in foreign markets and the interest payments and principal reimbursements are denominated (expressed) in rupees.
<b>Eligible Borrower</b>	Any corporate or body corporate including REITs and INVITs including Indian Banks subject to certain conditions
<b>Form of Borrowing</b>	Eligible resident entities allowed to issue only plain vanilla Rupee denominated bonds issued overseas in a Financial Action Task Force (FATF) compliant financial centres.
<b>Available routes and limits</b>	Any proposal for issuance of these bonds will be examined at FED, Central Office, Mumbai and such request should be forwarded through AD bank only (Approval Route only)
<b>Minimum Maturity</b>	Up to USD 50 million per FY - 3 years and above USD 50 million per FY – 5 years. Put and call option after minimum maturity
<b>All-in-cost ceiling</b>	Prevailing yield of the GOI securities of corresponding maturity
<b>Recognised Investors</b>	Can only be Issued in country and only to resident of country who is member of FATF or member of a FATF-Style Region Bond AND whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding. The investor should not be related party as per IND AS 24
<b>End-use</b>	All purposes except: •Real estate activities other than development of integrated township / affordable housing project •Activities prohibited as per FDI guidelines • Investing in capital market and using the proceeds for equity investment domestically • On-lending to other entities for any of the above purposes • Purchase of land

- ◆ Exchange rate on date of settlement ◆ Overseas investors can hedge with Indian AD Category I Banks ◆ Leverage Ration as per sectoral regulator ◆ Reporting by AD Category I Banks on the date of transaction itself ◆ Reporting in Form 83 and Form ECB 2 by Borrowers ◆ Other applicable provisions

## Trade Credits

- Credits for imports extended directly by the overseas supplier, bank and financial institution for a maturity period upto 5 years
- Includes Suppliers credit (extended by the overseas supplier) and Buyers credit (loans for payments arranged by the importer from overseas bank or permissible institution)
- Imports permitted under Foreign Trade Policy of DGFT
- Automatic route – AD permitted to approve TC for import of capital and non-capital goods upto USD 20 million per import transaction
- Approval route – For import of non-capital and capital goods beyond USD 20 million per import transaction by the RBI
- Non-Capital Goods: Up to 1 year from date of shipment or operating cycle whichever is less
- Capital Goods: Up to 5 years from date of shipment
  - For trade credit up to 5 years, ab-initio period of 6 months
- No rollover / extension is permitted beyond permissible period
- Cost of raising Trade Credit
  - All-in-cost ceiling : 350 basis points over 6 months LIBOR
  - Includes arranger fee, upfront fee, management fee, handling processing charges, OPE and legal expenses
- Guarantee for Trade Credit
  - Non-capital goods (except gold, palladium, rhodium, silver) : AD Category 1  
Banks can issue guarantee / Letters of Undertaking / Letters of Comfort]
- Guarantee for Trade Credit
  - Non-capital goods (except gold, palladium, rhodium, silver) : AD Category 1  
Banks can issue guarantee / Letters of Undertaking / Letters of Comfort
  - Capital Goods : Guarantee / Letters of Undertaking / Letters of Comfort for maximum period of 3 years from the date of shipment and should be as per period of credit
    - Subject to prudential guidelines of the RBI
- Reporting
  - Monthly Reporting by AD Bank
    - Approvals, draws, utilisation and repayment of Trade Credit by all branches in Form TC to RBI by 10th of next month
  - Quarterly Reporting by AD bank
    - Guarantee / Letters of Undertaking / Letters of Comfort by all branches by 10th of month following the quarter

## Borrowing in Foreign Exchange by persons other than ADs

- For execution of projects outside India and for exports on deferred payments
  - A person resident in India
  - By way of loan / overdraft / any other credit facility from a Bank outside India
  - Stipulated by the Authority which has granted approval is in accordance with FEMA
- For Imports
  - An Importer in India avail foreign currency credit
  - For a period not exceeding 6 months
  - Compliance with EXIM Policy of India
- Borrowing by a Resident Individual
  - A sum not exceeding USD 2,50,000, from close relative (as per Companies Act), outside India, minimum maturity is 1 year, free of interest, received by inward remittance in free foreign exchange or debit to NRE / FCNR account

## Lending in Foreign Exchange by persons other than ADs

- To JV / WOS abroad under FEMA
- Selected Institutions – EXIM Bank of India, IDBI, SIDBI, Industrial Credit and Investment Corporation of India Limited or any other institution
  - May extend loans to their constituents in India
  - Out of Foreign Exchange raised with the approval of the Central Government for onward lending
- Lending by Indian Companies to their employees
  - Employees of their branches outside India
  - For personal purposes
  - In accordance with Lender's Staff Welfare Scheme applicable to its staff resident in India and abroad





## Borrowing in Foreign Exchange by ADs

- From the HO / Branch / Correspondent Bank or entity permitted by RBI
- Aggregate Amount = < 100% of unimpaired Tier 1 Capital / limit as per RBI / USD 10 Million, whichever is more
- Branch outside India for business outside India as per RBI and relevant Regulatory Authority
- From Bank / FI outside India for grant of pre-shipment / post-shipment credit to exporter constituent in India
- Compliance with prudential norms, interest rate directives and guidelines

## Lending in Foreign Exchange by ADs

- AD or Branch outside India
- Normal course of business
- To constituents in India for foreign exchange requirements / Rupee working capital requirements or capital expenditure
- To WOS / JV abroad of an Indian Entity with 51% equity as per Transfer of issue of Foreign Security Regulations
- To constituents maintaining RFC Account against security of funds in account
- Security of funds held in NRE / FCNR (B) deposit accounts as per Deposit Regulations
- To another AD
- Compliance with prudential norms, interest rate directives and guidelines

## ECB erstwhile USD 5 Million Scheme / arrangements prior to 2 December 2015

- ECB under erstwhile USD 5 Million Scheme
  - AD Banks can approve extension of repayment period with consent letter from lender and without any additional cost
- ECB arrangements prior to 2 December 2015
  - Could raise loans upto 31 March 2016 if agreement signed prior to 2 December 2015
  - Carve outs
  - Working capital by airlines companies
  - Consistent foreign exchange earners under the USD 10 Billion Scheme
  - Low cost affordable housing projects





## Our Offices in India

### New Delhi:

S-13, St. Soldier Tower, G-Block Commercial Complex, Vikas Puri, New Delhi – 110018 (India)

Phone : +91 11 28543739  
: +91 11 28544939  
: +91 11 45527239  
Fax : +91 11 43850030

### Gurgaon:

1156, Tower B2, 11th Floor, Spaze I Tech Park, Sohna Road, Sector 49, Gurgaon-122001, Haryana (India)

Phone : +91 124 4371317  
: +91 124 4371318  
Fax : +91 11 43850030

### Mumbai:

Unit No.3, 1st Floor, New Laxmi Shopping Centre, A-Wing, H.D.Road, Ghatkopar (W), Mumbai – 400086 (India)

Phone : + 91 98202-63544  
: + 91 22-25110016

E-mail : [info@neerajbhagat.com](mailto:info@neerajbhagat.com)

Web site : [www.neerajbhagat.com](http://www.neerajbhagat.com)

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Neeraj Bhagat is a member of the Institute of Chartered Accountants of India (ICAI) since 1997. He is also an Associate member of Association of International Accountants, United Kingdom. He is founder of Neeraj Bhagat & Co, an Indian Chartered Accountancy firm serving various MNC'S from across the globe. Neeraj Bhagat & Co. has its offices at New Delhi, Gurgaon and Mumbai. They are part of Allinial Global Accounting Association which is one of the World's Top 10 in accounting associations.