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## CAPITAL MARKETS

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### » Revisions to the External Commercial Borrowings Policy

The Indian Government has announced revisions to its External Commercial Borrowings ("ECB") policy. These broadly are as follows:

#### **Automatic route**

NGOs engaged in micro-finance activities have been permitted to raise ECBs of up to USD 5 million during a financial year for permitted end-uses. Guidelines for the same have also been announced by the Reserve bank of India ("RBI").

Utilisation of ECB proceeds is not permitted for investment in capital markets by corporates or for on-lending, except for cases coming under: roads including bridges; industrial parks; or urban infrastructure (water supply, sanitation and sewage projects). ECBs may also be used for the development of townships, housing, built-up infrastructure and construction-development projects as covered in Press Note 2 (2005 Series) dated March 3, 2005.

Presently, prepayment of ECBs of upto USD 100 million was permitted, subject to compliance with the stipulated minimum average maturity period as applicable for the loan, without prior RBI approval. It has now been decided to revise this upward to USD 200 million, subject to a minimum average maturity of 5 years. Pre-payment of ECBs exceeding USD 200 million or with a minimum average maturity of 3 - 5 years would require RBI approval.

#### **Approval route**

The eligibility / end-use has broadly been expanded further, as below:

ECBs by Non-Banking Finance Companies ("NBFCs") will be permitted under the Approval Route from multilateral financial institutions, reputed regional financial institutions, official export agencies and international banks towards import of infrastructure equipment for leasing to infrastructure projects with a minimum average maturity of 5 years.

Foreign Currency Convertible Bonds (FCCBs) by Housing Finance Companies with strong financials satisfying criteria, to be notified by RBI, will be permitted under the Approval Route. The policy for ECB is applicable to FCCBs in all respects, except in the case of Housing Finance Companies for which, as mentioned above, RBI will notify criteria.

These amendments shall come into force from the date of notification of regulations / directions by RBI under the Foreign Exchange Management Act, 1999 ("FEMA").

For further details please contact our Capital Markets Team.

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