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Lex Favios
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Reserve Bank of India eases External Commercial Borrowings ("ECB") norms

RBI vide Circular dated January 16, 2019 has decided, in consultation with the Government of India, to rationalize the extant framework for ECB and Rupee Denominated Bonds in light of the experience gained to improve the ease of doing business.

The salient features of the new framework are as under:

- ✓ **Merging of Tracks** - Merging of Tracks I and II as "Foreign Currency denominated ECB" and merging of Track III and Rupee Denominated Bonds framework as "Rupee Denominated ECB".
- ✓ **Eligible Borrowers** - This has been expanded to include all entities eligible to receive FDI. Additionally, Port Trusts, Units in SEZ, SIDBI, EXIM Bank, registered entities engaged in micro-finance activities, viz., registered not for profit companies, registered societies/trusts/cooperatives and non-government organizations can also borrow under this framework.
- ✓ **Recognized Lender** - The lender should be resident of FATF or IOSCO compliant country. Multilateral and Regional Financial Institutions, Individuals and Foreign branches/subsidiaries of Indian banks can also be lenders as detailed in Annex.
- ✓ **Minimum Average Maturity Period ("MAMP")** - MAMP will be 3 years for all ECBs. However, for ECB raised from foreign equity holder and utilized for specific purposes, as detailed in the Annex, the MAMP would be 5 years. Similarly, for ECB up to USD 50 million per financial year raised by manufacturing sector, which has been given a special dispensation, the MAMP would be 1 year
- ✓ **Late Submission Fee ("LSF") for delay in Reporting** - Any borrower, who is otherwise in compliance of ECB guidelines, except for delay in reporting drawdown of ECB proceeds before obtaining LRN or Form ECB 2 returns, can regularize the delay by payment of LSF as per the laid down procedure.

ECB up to USD 750 million or equivalent per financial year, which otherwise are in compliance with the parameters and other terms and conditions set out in the new ECB framework, will be permitted under the automatic route not requiring prior approval of the Reserve Bank. The designated AD Category I bank while considering the ECB proposal is expected to ensure compliance with applicable ECB guidelines by their constituents. Any contravention of the applicable provisions will invite penal action or adjudication under the Foreign Exchange Management Act, 1999.

The amended policy has come into force with immediate effect.

Securities and Exchange Board of India ("SEBI"): Norms for Investment and Disclosure by Mutual Funds in Derivatives

SEBI vide Circular dated January 16, 2019 has issued the issued an amendment to the norms for Investment and Disclosure by Mutual Funds in Derivatives reviewed vide Circular dated August 18, 2010.

Mutual Fund schemes are permitted to undertake transactions in equity derivatives in accordance with the exposure limits specified in the above mentioned circular. Paragraph 4 of the said Circular dated August 18, 2010 and it states that *Mutual Funds shall not write options or purchase instruments with embedded written options*. On the suggestions of market participants and recommendations of Mutual Fund Advisory Committee, SEBI has been decided to permit mutual funds to write call options under a covered call strategy as prescribed below

Writing of Covered Call Options by Mutual Fund Schemes

In partial modification to aforementioned circular dated August 18, 2010, Mutual Fund schemes (except Index Funds and ETFs) may write call options only under a covered call strategy for constituent stocks of NIFTY 50 and BSE SENSEX subject to the following:

- ✓ The total notional value (taking into account strike price as well as premium value) of call options written by a scheme shall not exceed 15% of the total market value of equity shares held in that scheme.
- ✓ The total number of shares underlying the call options written shall not exceed 30% of the unencumbered shares of a particular company held in the scheme. The unencumbered shares in a scheme shall mean shares that are not part of Securities Lending and Borrowing Mechanism ("**SLBM**"), margin or any other kind of encumbrances.
- ✓ At all points of time the Mutual Fund scheme shall comply with the provisions at paragraph 4(a) and 4(b) above. In case of any passive breach of the requirement at paragraph 4(a), the respective scheme shall have 7 trading days to rebalance the portfolio. During the rebalancing period, no additional call options can be written in the said scheme.
- ✓ In case a Mutual Fund scheme needs to sell securities on which a call option is written under a covered call strategy, it must ensure compliance with paragraphs 4 (a) and 4 (b) above while selling the securities.
- ✓ In no case, a scheme shall write a call option without holding the underlying equity shares. A call option can be written only on shares which are not hedged using other derivative contracts.
- ✓ The premium received shall be within the requirements prescribed in terms of paragraph 5 of SEBI circular dated August 18, 2010 i.e. the total gross exposure related to option premium paid and received must not exceed 20% of the net assets of the scheme.

The format for disclosing call options has been specified in the Circular.

SEBI issues guidelines for public issue of units of Infrastructure Investment Trusts ("InvITs") and Real Estate Investment Trusts ("REITs")

SEBI in continuation to Circular dated December 19, 2016 has issued Circular dated January 01, 2019 which issues guidelines for public issue of units of InvITs and REITs. SEBI with a view to further rationalize and ease the process of public issue of units of REITs, it has been decided to provide for following in the REIT Guidelines. The following amendments have been made to the Bidding Process as elaborated in Circular dated December 19, 2016

Sub-clause (1) to (5), have been substituted with following:

- ✓ (1) The REIT shall accept bids using only the Application Supported by Blocked Amount facility for making payment i.e. writing their bank account numbers and authorizing the banks to make payment in case of allotment, by signing the application forms. Further, the bidding process shall be done only through an electronic bidding platform provided by recognized stock exchanges.
- ✓ (2) An investor, intending to subscribe to a public issue, shall submit a completed bid-cum-application form to Self-Certified Syndicate Banks ("**SCSBs**"), with whom the bank account to be blocked is maintained or any of the following intermediaries:
    - A syndicate member (or sub-syndicate member);
    - A stock broker registered with a recognized stock exchange;
    - A depository participant ("**DP**");
    - A registrar to an issue and share transfer agent ("**RTA**")

(3) Role of intermediaries

- ✓ (a) Intermediaries accepting the application forms shall be responsible for uploading the bid along with other relevant details in application forms on the electronic bidding system of stock exchange(s) and submitting the form to SCSBs for blocking of funds (except in case of SCSBs, where blocking of funds will be done by respective SCSBs only).
- ✓ (b) All applications shall be stamped and thereby acknowledged by the intermediary at the time of receipt.

(4) Role of Stock Exchanges:

- ✓ Stock Exchanges to provide transparent electronic bidding facility.
- ✓ Stock exchange(s) shall validate the electronic bid details with depository's records for DP ID, Client ID and PAN, by the end of each bidding day and bring the inconsistencies to the notice of SCSBs or intermediaries concerned, for rectification and re- submission within the time specified by stock exchange(s).
- ✓ Stock exchange(s) shall allow modification of selected fields viz. DP ID/Client ID or Pan ID (Either DP ID/Client ID or Pan ID can be modified but not BOTH), Bank code and Location code in the bid details already uploaded

on a daily basis upto timeline as has been specified.

- ✓ The stock exchanges shall develop the systems to facilitate the investors to view the status of their public issue applications on their websites and sending the details of applications and allotments through SMS and E-mail alerts to the investors.
- ✓ (5) The blocking of funds accompanied with any revision of bid, shall be adjusted against the amount blocked at the time of the original bid or the previously revised bid.

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please email us at info@lexfavios.com

Contact details

Sumes Dewan
Managing Partner
Lex Favios
Email: sumes.dewan@lexfavios.com
Tel: 91-11-41435188/45264524