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Reserve Bank of India simplifies the procedure for ECB from Foreign Equity Holder

As per the existing External Commercial Borrowing (ECB) policy, ECBs from direct foreign equity holders (FEHs) are considered under both automatic and approval routes as the case may be. However, in the case of ECBs from indirect equity holders and group companies and ECBs from FEH, for general corporate purposes are considered under the approval route. Further, RBI's approval is required if any further request is to be made for change of the ECB lender for FEH.

Vide RBI/2013-14/594 A.P. (DIR Series) Circular No. 130 dated May 16, 2014 the Reserve Bank of India (RBI) has aimed at simplifying the present procedure in place by delegating powers to the AD banks to approve the following cases under the automatic route:

- Where ECB is raised by companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors from indirect equity holders and group companies.
- Where ECB is raised by companies in miscellaneous services from direct/indirect equity holders and group companies. Miscellaneous here refers to the companies engaged in training activities (excluding educational institutes), research and development activities also include those companies that support infrastructure sector. However companies doing trading business, companies providing logistics services, financial services and consultancy services aren't covered under this facility.
- Where ECB is raised by companies belonging to manufacturing, infrastructure, hotels, hospitals and software sectors for general corporate purpose. However ECB for general corporate, including working capital financing, is permitted only from direct equity holder.
- In the case of proposals involving change of lender when the ECB is from FEH – direct /indirect equity holders and group company.

With the new changes coming into force with immediate effect, terms and conditions in the relative circulars shall continue to be applicable. Other aspects of the ECB policy such as eligible borrower, recognised lender, permitted end-use, amount of ECB, all-in-cost, avergae maturity period, pre-payment, ECB liability: equity ratio, refinance of existing ECB, reporting arrangements, etc too shall remain unmodified.

The above mentioned directions have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999.

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RBI advises Banks to extend Fund/Non-Fund based credit facilities carefully

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RBI vide its Circular RBI/2013-14/568 DBOD.No.BP.BC.107/21.04.048/2013-14 dated April 22, 2014 has issued certain directions and advises on how fund/ non-fund based credit facilities are to be extended by banks.

Vide circular DBOD.IBD.BC.No.96/23.37.001/2006-07 dated May 10, 2007, banks were permitted to extend the fund/non-fund based credit facilities to overseas Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS)/Wholly owned Step-down Subsidiaries (WoSDS) of subsidiaries of Indian companies upto 20 per cent of their unimpaired capital funds (Tier I and Tier II capital) provided certain conditions are fulfilled. Further, Paragraph 5(b) of Notification No.FEMA 8/2000-RB dated May 3, 2000, permits Authorised dealer Banks to extend guarantees to or on behalf of overseas JV/WOS of an Indian company in connection with its business. Moreover, A.P. (DIR Series) Circular No.29 dated March 27, 2006 states that guarantees issued by banks in favour of overseas JV/WOS of Indian companies are subject to norms issued by the RBI from time to time.

These measures were introduced with the intention to assist Indian companies in their overseas business. However it has come to light that contrary to these measures, banks have been extending non-fund based credit facilities such as guarantees, stand-by letter of credits, letter of comforts etc. on behalf of JV/WOS/WoSDS for non-business related purposes. So much so, that in certain cases these facilities are extended just to avail foreign currency loans for repayment of Rupee loans. Therefore, accordingly vide RBI/2013-14/568 DBOD.No.BP.BC.107/21.04.048/2013-14 dated April 22, 2014, the Reserve Bank of India (RBI) has advised banks (including overseas branches/subsidiaries of Indian banks) to not issue letters of credit/guarantees/letter of comforts etc. on behalf of overseas JV/WOS/WoSDS of Indian companies for the purpose of raising loans/advances from other entities except in connection with the ordinary course of overseas business. RBI further advised the banks to monitor the end use that such fund/non-fund based credit facilities of such entities.

Furthermore, through A.P. (DIR Series) Circular No.134 dated June 25, 2012 Indian companies in the manufacturing and infrastructure sector were allowed to avail External Commercial Borrowings (ECBs) for the purpose of repayment of Rupee loans acquired from domestic banking system and/or for fresh rupee capital expenditure through the approval route, provided certain conditions are fulfilled. However, the risk remains within the Indian banking system if the ECB is availed from overseas branches/subsidiaries of Indian banks. Therefore repayment of Rupee loans availed of from domestic banking system through ECBs extended by overseas branches/subsidiaries of Indian banks isn't permitted from 22nd April 2014.

According to paragraph 4(1)(i) of Notification No.FEMA 8/2000-RB dated May 3, 2000 authorised dealer banks are permitted to issue guarantees pertaining to a debt, obligation or other liability incurred by an exporter with regard to exports from

India. The intention was to facilitate execution of export contracts by the exporter and wasn't meant for other purposes. Nevertheless some exporter borrowers have been using export advances, received by virtue of guarantees issued by Indian banks, for the repayment of loans availed from India banks. This is a violation of the instructions set forth except for the cases where banks have received approvals under FEMA. Therefore banks are advised to stop such practices.

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Volkswagen to invest 100 million Euros in India to expand business

In order to capture the auto market of India, the German auto giant Volkswagen group is making an investment of 100 million euros, equivalent to Rs. 800 crores, to launch new models and for further localization of parts and components in India. Volkswagen has indicated that they intend to make 'further large investments' in the coming years before the end of this decade.

The Wolfsburg-based group, which has five brands namely Audi, Volkswagen, Skoda, Porsche and Lamborghini in the Indian market, is present in India through a wholly-owned subsidiary. It invested around 100 million Euros in 2012-13 after the initial investment of 580 million Euros on its Pune –based manufacturing facility.

Volkswagen is considering various options such as a compact sedan specially made for India and compact sports utility vehicle (SUV). Besides this, Volkswagen is also working on upgrading existing models in market. It is also contemplating re-introduction of new generation passat (premium sedan) at the earliest possible.

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