



# External Commercial Borrowings (ESB) for Indian subsidiaries of foreign companies – Now simplified Borrowing Regulations in India

Government of India has decided to rationalize the External commercial Borrowings (ECB) framework for facilitating borrowings in India.

The relevant provisions with respect to borrowings for Indian Companies from its parent companies are summarized below:

## 1. Eligible Lender: Foreign Equity Holder

A foreign Equity holder is:

- Direct Foreign Equity Holder with minimum 25% direct equity holding in the borrowing entity.
- Indirect equity holder with minimum indirect holding of 51%.
- Group Company with common overseas parent.

Any company which falls in this definition is eligible to lend funds to the Indian Company.

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## 2. Eligible Borrower:

All Indian Companies and LLPs eligible to receive FDI.

## 3. Limits of borrowing:

Funds can be raised by way of borrowings to the extent of USD 750 million per financial year under the automatic route.

## 4. Forms of ECB : ECB can be raised in various forms as follows:

- Loans (including bank loans).
- Fixed Rate Notes.
- Bonds.
- Debentures (other than fully or compulsorily convertible debentures).
- Trade Credits beyond 3 years.
- FCCBs, FCEBs and Financial Lease.

Also, ECB are classified as Foreign Currency Denominated ECB and INR denominated ECB. These are classified based on the reference rates used for interest payment (e.g. LIBOR for FCY and MIBOR for INR).

## 5. Minimum Maturity Period:

- The minimum average maturity period (MAMP) is 3 years.
- However, in case the funds have been raised for working capital, the MAMP is 5 years.



## 6. Equity – Liability ratio:

- The ratio of ECB to the equity (liability - equity ratio) cannot exceed 7:1
- However, in case to total outstanding ECB in the company does not exceed 5 million, the above ratio is not applicable.

## 7. All – in – cost

Maximum interest that can be paid is Benchmark rate plus 450 bps spread. No minimum interest to be paid is specified. Hence, considering the parent – subsidiary relation, ECB in the form of loan can be interest free. However, regulations of the host country need to be evaluated and complied with.

## 8. End – use restrictions : Funds raised cannot be used for the below purposes:

- Real estate activities.
- Investment in capital market.
- Equity investment.
- Working capital purposes except from foreign equity holder.
- General corporate purposes except from foreign equity holder.
- Repayment of Rupee loans except from foreign equity holder.
- On-lending to entities for the above activities.

## 9. Reporting Requirements:

- Obtain Loan Registration Number through an application to AD along with other declarations.
- Changes in ECB parameters to be reported within 7 days of the change.
- Monthly reporting of actual ECB transactions in form ECB2.

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## Your next steps

Contact us to learn about the Reserve Bank of India's liberalisation of the rules governing external commercial borrowing (ECB). We have the expertise to give you the support and advice you need to make the most of these changes. To access our members please visit our website <https://www.mgiworld.com/find-a-member/>.

## Contact our experts at Kamdar Desai & Patel Chartered Accountants in Mumbai, India:



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