THE RESERVE BANK OF INDIA LIBERALIZES EXTERNAL COMMERCIAL BORROWING NORMS ON END-USE PROVISIONS

Introduction

Earlier this year, the Reserve Bank of India (the "**RBI**") had revised the framework on external commercial borrowings ("**ECBs**"), and put in place a new and simplified framework for Indian entities to borrow monies from foreign lenders. On July 30, 2019, the RBI has further relaxed the restrictions on end-use of ECBs for corporates and non-banking financial companies ("**NBFCs**").

Relaxed end-use restrictions

Pursuant to the revised end-use restrictions, Indian borrowers can avail ECBs from all recognized lenders, except overseas branches of Indian banks and their subsidiaries, on the following terms:

- Corporates can avail ECBs with a minimum average maturity period of ten (10) years for working capital and general corporate purposes;

- NBFCs can avail ECBs with a minimum average maturity period of ten (10) years for on-lending;

- Corporates can avail ECBs with a minimum average maturity period of seven (7) years for repayment of rupee loans availed domestically for capital expenditure. Further, NBFCs can avail ECBs with the same average maturity period for on-lending for the purpose of repayment of rupee loans availed domestically for capital expenditure. For repayment of rupee loans for all other purposes, the ECB will be required to have a minimum average maturity period of ten (10) years; and

- Eligible borrowers classified as special mention accounts – category 2 or non-performing asset accounts under India's banking laws can avail ECBs for repayment of rupee loans availed domestically for capital expenditure in the manufacturing and infrastructure sector under any one-time settlement arrangement with their lenders. In such instances, lender banks can assign the loans to eligible ECB lenders (except overseas branches of Indian banks and their subsidiaries) provided that the resultant ECB complies with all requirements under the ECB framework.

Our comments

<u>Prior to the foregoing changes, Indian borrowers could avail ECBs for working capital, general corporate purposes and repayment of rupee loans only from their foreign equity shareholders, and not from any other category of eligible lenders. Further, ECBs for on-lending purposes and for repayment of domestic loans were also prohibited</u>.

<u>The changes to the end-use restrictions will significantly help Indian borrowers, who are facing a liquidity crunch and difficulties in raising working capital. Moreover, as the debt crisis in India has widened, the availability of the ECB option to repay rupee loans will provide a viable and cheaper option to Indian corporates to reduce their high interest domestic debt, and also provide an additional restructuring option to companies who have defaulted on their loans. Nevertheless, it remains to be seen whether long-term</u>

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international lenders will be willing to fund short-term working capital liabilities of stressed Indian NBFCs and companies in the current uncertain environment.

The simplification of the ECB framework earlier this year introduced uniform requirements for all ECBs. With the recent liberalization, the RBI has attempted to ensure that ECBs continue to be a feasible funding option over and above the more traditional routes of equity funding or domestic loans, which are often more expensive.

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