

FEMA Updates for the month of December 2018

I. RBI announces the limit for the stock of External Commercial Borrowings:

RBI in consultation with the Government of India to have a rule-based dynamic limit for outstanding stock of External Commercial Borrowings (ECB) at 6.5 per cent of GDP at current market prices. Based on the GDP figures as on March 31, 2018, the soft limit works out to USD 160 billion for the current financial year. The outstanding stock of ECB as on September 30, 2018 stood at USD 126.29 billion.

For more details, refer press release: 2018-2019/1422 dated December 20, 2018.

II. External Commercial Borrowings (ECB) Policy-Review of Hedging Provisions:

RBI has reviewed the extant hedging provisions of Master Direction No. 5 dated 1st January, 2016 on "External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers" vide A.P. (DIR Series) Circular No.15 dated 26th November, 2018. (Refer Notification No. RBI/2018-19/79)

On November 06, 2018, RBI vide A. P. (DIR Series) Circular No. 11 dated, informed that certain eligible borrowers raising foreign currency denominated ECBs under Track I, having an average maturity between 3 and 5 years, are mandatorily required to hedge their ECB exposure fully.

However, on a further review of the extant provisions, it has been decided in consultation with the Government of India to reduce the mandatory hedge coverage from 100 per cent to 70 per cent for ECBs raised under Track I of the ECB framework by eligible borrowers.

Further, it is also clarified that ECBs falling within the aforesaid scope but raised prior to the date of this circular will be required to mandatorily roll-over their existing hedge(s) only to the extent of 70 per cent of outstanding ECB exposure.

III. Update on Compounding Orders issued under FEMA Regulations:

RBI has issued several Compounding Orders under FEMA Regulations and we have summarised few such Compounding Orders issued during last week of October, 2018 for reference.

a. Pran Beverages (India) Private Limited

Regulation	:	Extant Paragraph 9(1)A and 9(1)B of Schedule I to FEM (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 - 'FDI Regulations, 2000'
Contravention	:	Delay in submission of Form ARF after receipt of inflow from a person resident outside India [Paragraph 9(1)A] and Form FCGPR after issue of shares to a person resident outside India beyond the stipulated 30 days [Paragraph 9(1)B] to the Reserve Bank
Date of order	:	31 st October 2018
Compounding Fee	:	Rs. 3,14,084/-

b. Parijat Industries (India) Private Limited

Regulation	:	Regulation 15(i) and Regulation 16(1)(v) of FEMA 120/RB-2004 dated July 7, 2004 - 'ODI Regulations, 2004'
Contravention	:	Receipt of share certificates / proof of investment in overseas entity beyond the prescribed period of 6 months [Regulation 15(i)] and disinvestment involving partial write off within one year of remittance to the JV/WOS [Regulation 16(1)(v)]
Date of order	:	31 st October 2018
Compounding Fee	:	Rs. 74,982/-

c. Candor View India Private Limited

Regulation	:	Extant Paragraph 8 of Schedule I to FEM (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 - 'FDI Regulations, 2000'
Contravention	:	Allotment of shares to the foreign investors, persons resident outside India beyond the then available time limit of 180 days from the receipt of the inward remittances
Date of order	:	30 th October 2018
Compounding Fee	:	Rs. 31,500/-