



MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

An Extended Enterprise



EXTERNAL COMMERCIAL BORROWINGS

What is ECB?

- ECBs are commercial loans
- Raised by eligible borrowers
- From non-resident entities
- For permitted end use prescribed by RBI
- Should conform to parameters directed by RBI



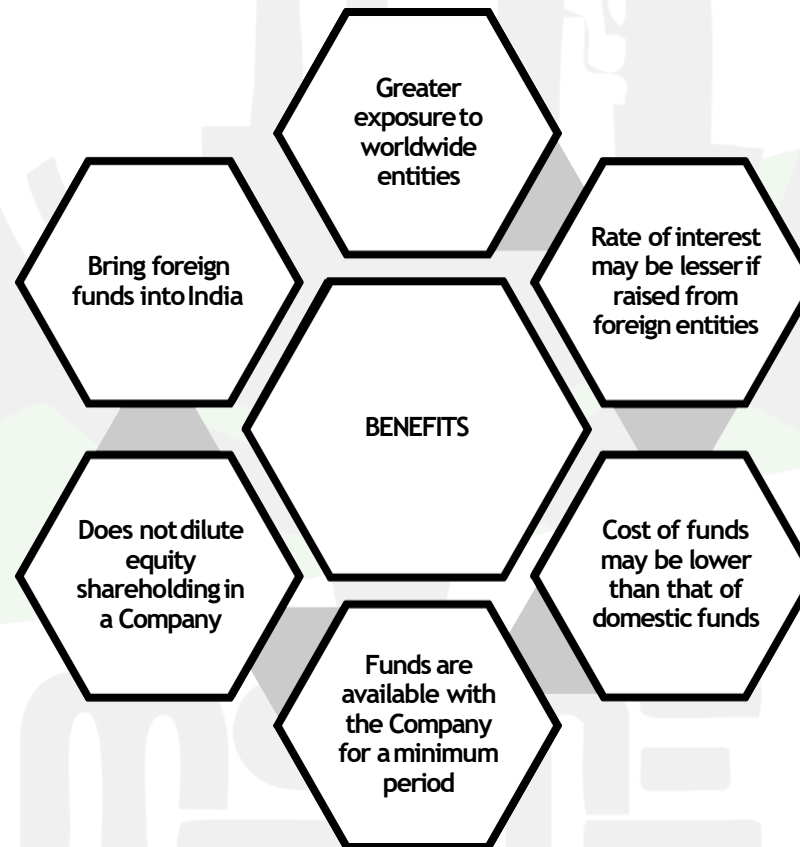
सूक्ष्म, लघु, एवं मध्यम उद्योग

Borrowing vs Investments

ECB	ECL	ODI	FDI
External Commercial Borrowings are commercial loans raised by eligible resident entities from recognised non-resident entities.	Eligible resident entity extend foreign currency denominated ECL to a borrower outside India.	Direct investment outside India in the capital instruments of non-resident entities.	Direct investment by non-resident entities in the capital instruments of the Company.

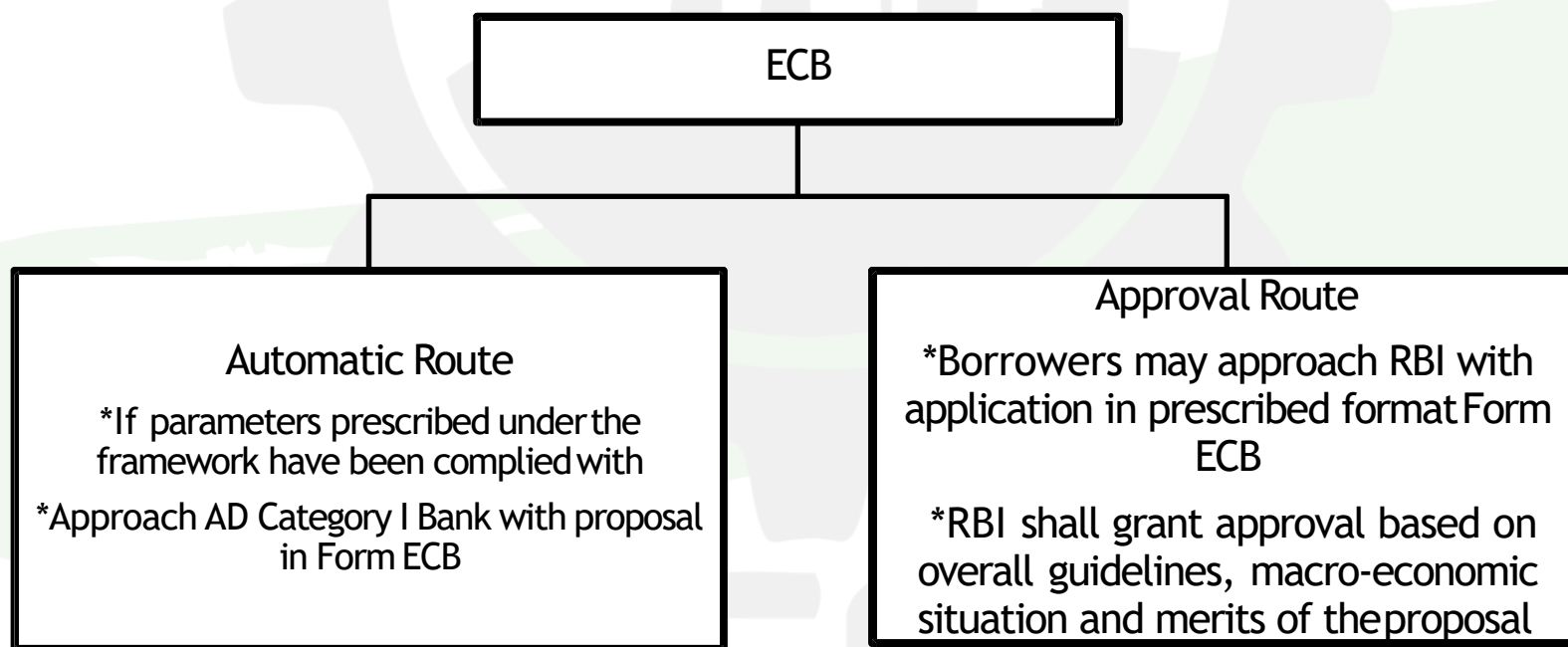
सूक्ष्म, लघु, एवं मध्यम उद्योग

Benefits of lending through ECB



सूक्ष्म, लघु, एवं मध्यम उद्योग

Procedure of raising ECB



सूक्ष्म, लघु, एवं मध्यम उद्योग

Forms

ECB

Foreign currency
denominated ECB

INR denominated
ECB

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

- **Foreign Currency denominated ECBs:**

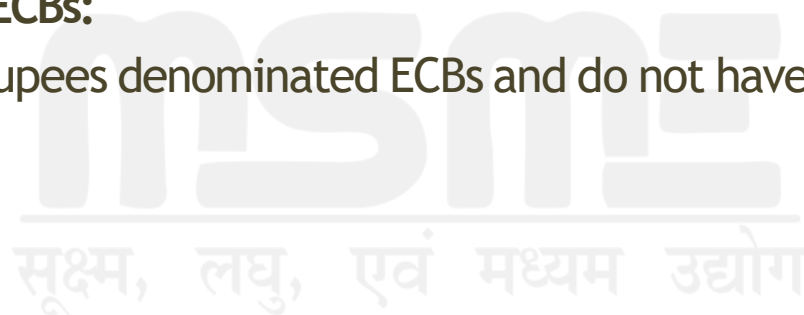
As per the erstwhile provisions, ECB was divided into:

- Track I Foreign Currency ECBs
- Track II Foreign Currency ECBs
- Track III Rupee denominated ECBs

However, the recent amendment dated 31st July, 2019 has merged track I and II as foreign currency denominated ECBs. These ECBs have forex hedging risk due to foreign currency difference.

- **INR denominated ECBs:**

These are Indian Rupees denominated ECBs and do not have hedging risk.



Instruments of borrowings covered by ECB

FCB

- Bank Loan
- Fixed or floating rate notes or bonds
- Debentures (other than compulsorily convertible)
- Trade credits beyond 3 years
- Foreign Currency Convertible Bond

INR-ECB

- Bank Loan
- Fixed or floating rate notes or bonds
- Debentures/**preference shares** (other than fully and compulsorily convertible)
- Trade credits beyond 3 years
- **Financial lease**
- **Plain vanilla rupee denominated bonds issued overseas (which can be either privately placed or public issue as per host country regulations)**

सूक्ष्म, लघु, एवं मध्यम उद्योग



Parameters for borrowing through ECBs

- ECBs should be borrowed from eligible borrowers
- To ensure whether lenders are eligible to borrow from ECB route
- Minimum maturity period of ECB
- All-in-cost ceiling should be maintained
- End uses of ECB should not be restricted
- Exchange rate
- Hedging provision for foreign exchange exposure

सूक्ष्म, लघु, एवं मध्यम उद्योग

Eligible borrowers

FCD-ECB

All entities eligible to receive FDI

Port Trusts

Units in SEZ

SIDBI

EXIM Bank of India

INR-ECB

All entities eligible to receive FCD-ECB

Registered entities engaged in micro finance activities

Registered not for profit companies

Registered societies/trusts/cooperatives

Non-Government Organisations

Note: An entity/ individual can invest in India as per the FDI Policy, except in those sectors/activities in which FDI is not permitted

सूक्ष्म, लघु, एवं मध्यम उद्योग

Eligible lenders

Should be resident of FATF or IOSCO compliant country

Multilateral and Regional Financial Institutions where India is a Member Country

Foreign Equity Holders- Means:

- a) Direct foreign equity holder with min 25% direct equity holding in borrowing entity
- b) Indirect equity holder with min 51% indirect equity holding
- c) Group company with overseas parent

Individuals who subscribe to bonds and debentures listed abroad

Foreign branches/ subsidiaries of Indian Banks are permitted as lenders only for FCY ECB (except FCCBs and FCEBs). Further, they can participate as arrangers/underwriters/market-markers/traders for INR-ECBs issued overseas. However, underwriting by foreign branch of Indian banks for issuances by Indian banks will not be allowed

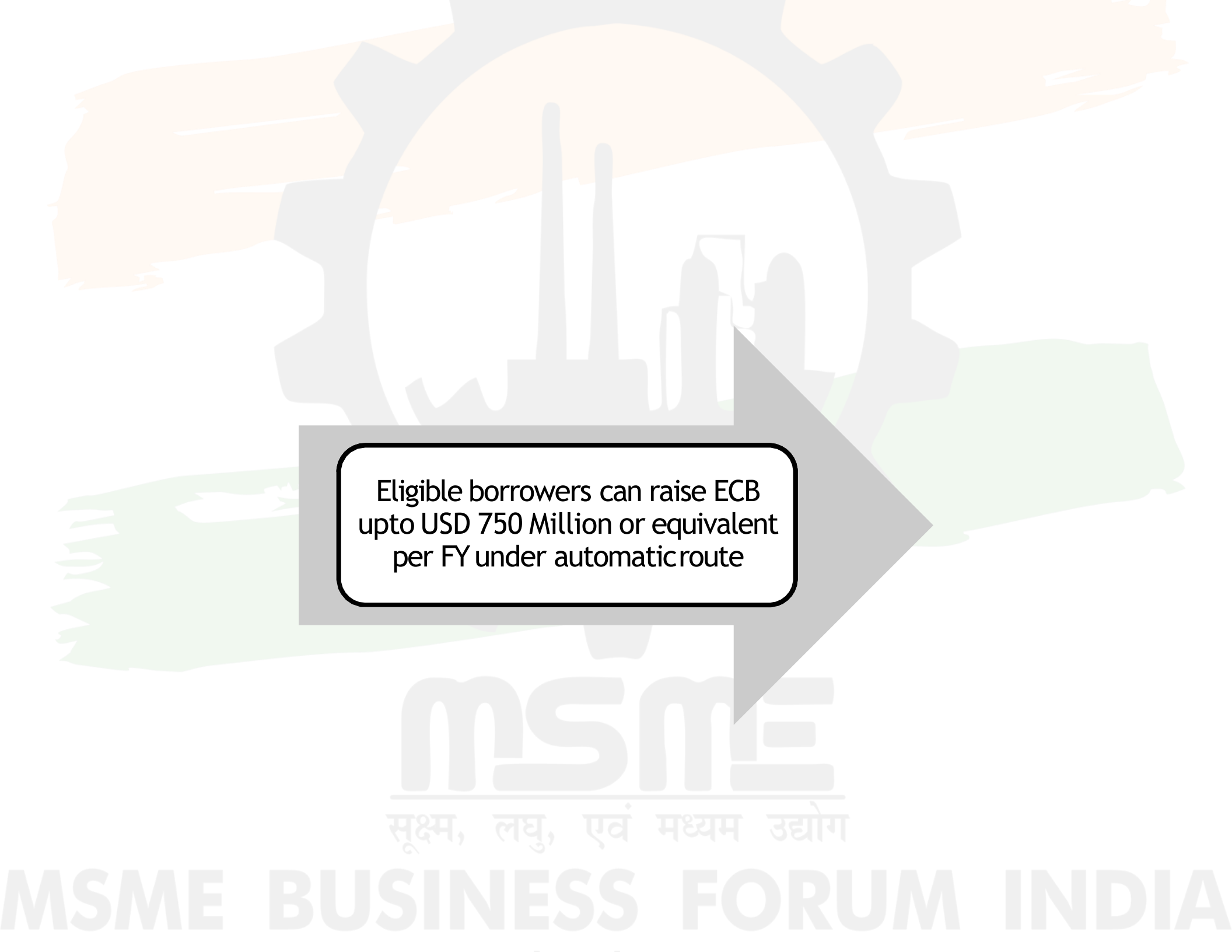
सूक्ष्म, लघु, एवं मध्यम उद्योग

Minimum Average Maturity Period (MAMP)

Generally MAMP for ECBs shall be **3 YEARS**. However, different criteria of MAMP is provided for some companies:

Raised by (Borrower)	Raised from (Lender)	Raised upto/for	MAMP
Manufacturing companies	Eligible Lender	Upto 50 million or its equivalent per FY	1 year
Eligible borrower	Foreign equity holder	a) General corporate purposes b) Repayment of rupee loans	5 years
Eligible borrower	Eligible Lender except foreign branches/ overseas subsidiaries of Indian banks	a) Working capital purposes or general corporate purposes b) Repayment of rupee loans availed domestically for purposes other than capital expenditure	10 years
NBFCs	Eligible Lender except foreign branches/ overseas subsidiaries of Indian banks	On lending for working capital purposes or general corporate purposes	7 years
NBFCs	Eligible Lender except foreign branches/ overseas subsidiaries of Indian banks	On leading for repayment of rupee loans availed domestically for purposes other than capital expenditure	10 years

सूक्ष्म, लघु, एवं मध्यम उद्योग



Eligible borrowers can raise ECB
upto USD 750 Million or equivalent
per FY under automatic route

msme

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

ECB Liability-Equity Ratio

- Debt/equity ratio in case of foreign equity shareholders means the ECB liability-equity ratio.
- 'ECB liability' means the proposed borrowing plus the outstanding borrowing from the concerned foreign equity holder lender and 'Equity' means paid -up capital plus free reserves (including the share premium received in foreign currency from the concerned foreign equity holder lender).
- In case of FCY denominated ECB raised from direct foreign equity holder, ECB liability-equity ratio for ECB raised under the automatic route cannot exceed 7:1
(Not applicable if o/s amount of all ECB including proposed one is upto 5 Million)

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

‘All-in-Cost’ comprises of *rate of interest, other fees, expenses, charges, guarantee fees* whether paid in foreign currency or Indian Rupees (INR) but shall not include commitment fees, pre-payment fees / charges, withholding tax payable in INR.

Further, in the case of fixed rate loans, the swap cost plus spread should be equivalent of the floating rate plus the applicable spread.

The All in cost ceiling per annum has been limited to 450 bps spread

Prepayment charge/ Penal interest, if any, for default or breach of covenants, should not be more than 2% over and above the contracted rate of interest on the outstanding principal amount and will be outside the all-in-cost ceiling.

सूक्ष्म, लघु, एवं मध्यम उद्योग

Security

- AD Category I banks are permitted to allow creation of charge on:
 - Immovable assets
 - Movable assets
 - Financial securities
 - Corporate and personal guarantees in favour of overseas lender/security trustee

Certain conditions to be fulfilled

- a) Compliance of ECB guidelines
- b) NOC has been obtained from existing lenders in India
- c) exists a security clause in the Loan Agreement requiring the ECB borrower to create/cancel charge, in favour of overseas lender/security trustee, on immovable assets/movable assets/financial securities/issuance of corporate and/or personal guarantee

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

Negative List of end use

- Real estate activities
- Investment in capital market
- Equity investment
- Working capital purposes except fulfils the aforesaid table
- Repayment of Rupee loan except fulfils the aforesaid table
- On lending to entities for above activities, except in case of ECB raised by NBFCs

सूक्ष्म, लघु, एवं मध्यम उद्योग

Heading Risk

FCD-ECB

- Entities are required to comply with the guideline of concerned sectoral or prudential regulator in respect of foreign currency exposure
- Infrastructure companies shall comply with Board approved risk management policy and mandatorily hedge 70% of their ECB exposure in case the average maturity is less than 5 years

INR-ECB

- Overseas investors are eligible to hedge their exposure in Rupee through permitted derivative products with AD Category I banks in India

MSME
सूक्ष्म, लघु, एवं मध्यम उद्योग

Operational Aspects w.r.t. Hedging

Coverage

- Both principal and interest should be hedged
- Financial hedge should start from the time of creation of such exposure

Tenure and rollover

- Minimum tenure of 1 year
- Periodic rollover to ensure that ECB is not unhedged at any point of time

सूक्ष्म, लघु, एवं मध्यम उद्योग

Change of currency of borrowing

FCY-ECB	INR-ECB
Change of currency of ECB from one freely convertible foreign currency to any other freely convertible currency/ INR is permitted	Change of currency from INR to any freely convertible foreign currency not permitted.

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

Non-applicability

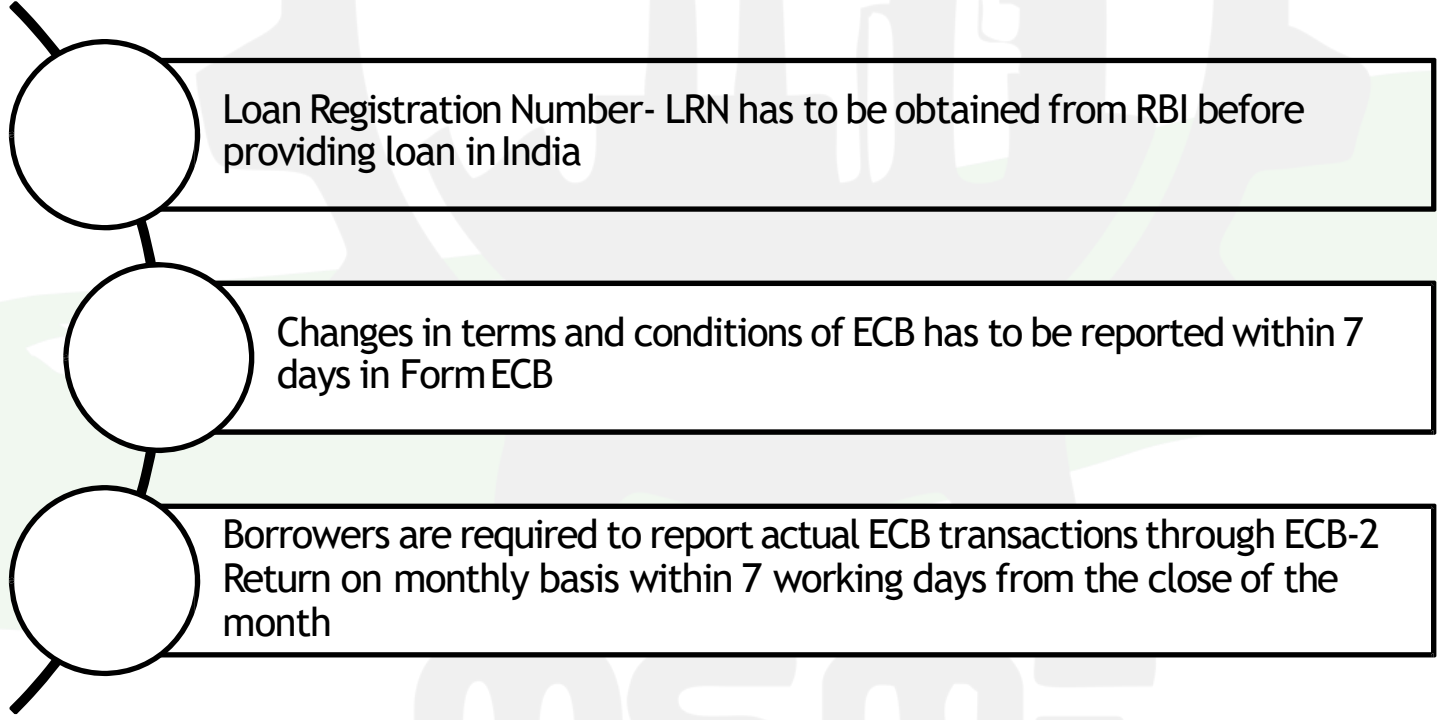
- Investments in NCDs by registered FPIs
- Lending and borrowing under the ECB framework by Indian banks and their branches/subsidiaries outside India will be subject to prudential guidelines issued by the Department of Banking Regulation of the Reserve Bank
- Other entities are required to comply with guidelines of concerned sectoral or prudential regulator

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

Reporting Requirements



Loan Registration Number- LRN has to be obtained from RBI before providing loan in India

Changes in terms and conditions of ECB has to be reported within 7 days in Form ECB

Borrowers are required to report actual ECB transactions through ECB-2 Return on monthly basis within 7 working days from the close of the month

MSME
सूक्ष्म, लघु, एवं मध्यम उद्योग

ECB in case of stressed assets

- Where entity is under a restructuring scheme/ corporate insolvency resolution process- it can raise ECB only if permitted under resolution plan.
- Where domestic loans of eligible borrower for capital expenditure in manufacturing and infrastructure sector is classified as NPA or SMA-2 - can avail ECB for repayment of these loans under any one time settlement with lenders.

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

Conversion of ECB into equity

- Following conditions have to be satisfied:
 - Activity of borrowing co. should be covered under automatic route for FDI or Govt., Approval if received
 - Lender's consent without additional cost
 - Should not result in contravention of eligibility or breach of sectoral cap under FDI policy
 - Applicable pricing guidelines for shares should be complied
 - If partial conversion, reporting in FC GPR and ECB-2 shall be required
 - If full conversion, reporting in FC-GPR shall be required
 - If borrower has obtained credit facilities from banks, applicable prudential norms of Banking Reg has to be complied
 - Consent of other lenders to the same borrower
 - exchange rate prevailing on the date of the agreement between the parties concerned for such conversion or any lesser rate can be applied with a mutual agreement with the ECB lender. It may be noted that the fair value of the equity shares to be issued shall be worked out with reference to the date of conversion only.

सूक्ष्म, लघु, एवं मध्यम उद्योग



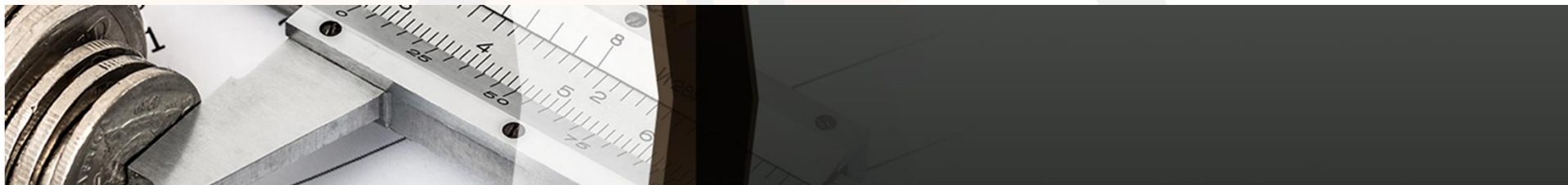
Tax

- Taxability on interest on ECBs shall be dependent on whether borrowing is in foreign currency or Indian rupees
- Interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India before the 1st of July, 2020 is liable for concessional rate of tax of Five Percent (5%).. However, the same is exempt from tax till 31st March, 2019.

MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA



THANK YOU



MSME

सूक्ष्म, लघु, एवं मध्यम उद्योग

MSME BUSINESS FORUM INDIA

An Extended Enterprise

Ravi Nandan Sinha

+91-8700479570

msmebusinessforum.com

MSME BUSINESS FORUM INDIA