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Policy Recommendations

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Comments to the Reserve Bank of India on the Draft Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025

Comments on behalf of the Policy Inputs Research Group, GNLU Centre for Law & Economics

CENTRE FACULTY

Prof. (Dr.) Ranita Nagar
Professor of Economics
Head of GNLU Centre for Law & Economics

Dr. Hiteshkumar Thakkar
Assistant Professor of Economics
Co-Convenor, GNLU Centre for Law & Economics

CONTRIBUTORS

AADI VIGHNESH J.
ARJUN V. SUNIL
PANKHURI KHORAWAL
SATEJ DESALE
ISHAAN UDAY
SHREYA SRIKANTH
PRESHTHA AGARWAL

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INTRODUCTION

The Policy Input Research Group constituted under the Gujarat National Law University Centre for Law & Economics ("**the Centre**"), welcomes the opportunity to provide comments on the Draft Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025 ("**Draft Regulations**"), released by the Reserve Bank of India ("**RBI**").

The Draft Regulations aim to liberalise the foreign exchange regulatory framework in India governing borrowing, lending, and guarantees under the Foreign Exchange Management Act, 1999 ("**FEMA**"). It represents a significant policy overhaul towards liberalising the external borrowing regime, thereby enhancing the depth and access of Corporate India to global credit markets.

Through these comments, the contributors aim to:

(i) Examine the regulatory coherence of the proposed amendments vis-à-vis the existing Foreign Exchange Management (Borrowing and Lending) Regulations, 2018; and

*(ii) Assess the macroeconomic and market implications of liberalising external commercial borrowings ("**ECBs**"), especially in the context of corporate financing, M&A transactions, and acquisition funding.*

GENERAL COMMENTS

The Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 ("**2018 Regulations**") established the foundation for India's external borrowing architecture. The Draft Regulations represent a metamorphosis of a rigid prescriptive regime to a principle-based regulatory framework. They consolidate scattered directions, incorporate recent legislative instruments, and embed the concept of Authorised Dealer ("**AD**") bank led self-governance as the first line of compliance.

Regulation 2 of the Draft Regulations replaces the definitions of various terms set out in the 2018 Regulation. It defines terms including benchmark rate, cost of borrowing, designated AD Category I bank, group entity, and infrastructure sector, in alignment with FEMA definitions.

Schedule I to the Draft Regulations revises the quantitative framework. Now, Eligible Borrowers are allowed to raise ECBs up to the higher of: (i) USD 1 billion, or (ii) 300 percent of their net worth as per the latest audited balance sheet. Earlier, a flat ceiling of USD 750 million per financial year was there. The change would enable Indian Corporates to structure their borrowings to commensurate their financial statements strengths. The 2018 framework was marked by high rigidity where each transaction required compliance with fixed benchmarks, often necessitating prior RBI approval or sectoral permission. The proposed transition is an important step toward deepening Corporate India's access to global credit markets.

Further, Provision 2 of Schedule I states that recognized lenders include a person resident outside India, or a branch resident outside of India, or a branch of a foreign/domestic entity that is located within the IFSC, i.e., GIFT City, whose lending business is regulated by the RBI. The previous regulation restricted lending to non-resident entities from FATF or IOSCO-compliant nations. The proposed regime expands this criterion to include any non-resident to be a recognized lender. The IFSC in GiFT City, Gujarat, is now empowered to lend to both residents and non-residents in foreign currency and is an offshore zone with different RBI compliance requirements.

Provision 3 enables borrowers to raise ECB in any currency and not just Indian Rupees. Exchange to any other currency is also permitted marking a shift from when it was restricted to change Indian Rupee to Foreign Currency. This has potential to unlock substantial capital for domestic companies looking for foreign financing. The market rate in effect at the time of exchange or a rate with less liability is another factor that influences the exchange rates. This clause emphasizes the position of the Indian Government in bringing in more foreign currency, directly contributing to the stabilization of Balance of Payments.

Further, the introduction of Regulation 3A, codifies the negative list of prohibited end-uses. Importantly, Regulation 3A(f) represents a landmark reform by expressly permitting the utilisation of ECB proceeds for mergers, amalgamations, and acquisitions governed by the Companies Act, 2013, SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, and the Insolvency and Bankruptcy Code, 2016. This formal recognition of acquisition financing is perhaps one of the most consequential effects of the Draft Regulation, removing a long-standing regulatory barrier that constrained cross-border deal structuring and transactions.

The trajectory of liberalization aligns with RBI's broader policy direction towards expanding sectoral access to offshore credit. Allowing real estate developers to raise funds through ECBs would mark a significant departure from the long-standing exclusion of this sector under the negative list. To avoid potential asset-liability mismatches or currency exposure risks, the Centre recommends that any extension of sectoral eligibility must be accompanied by prudential filters and risk management safeguards, especially in capital-intensive industries such as real estate.

The Minimum Average Maturity Period ("**MAMP**") remains unchanged at three years but is relaxed to one to three years for manufacturing entities, subject to a cap of USD 50 million. This reflects policy and regulatory sensitivity to highly volatile sectoral credit cycles.

In totality, the Centre views the Draft Regulations as a welcome and timely reform that strengthens India's credit market regime with global markets, further increasing the competitiveness among Indian corporates and liberalising the external borrowing framework of the nation. The Centre, however, respectfully submits that the specific comments provided will assist in further strengthening the Draft Regulations into actualizing a well-calibrated external borrowing framework.

SPECIFIC COMMENTS

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1	Regulation 2 (Definitions)	Draft Regulations propose to substitute Regulation 2 of the 2018 Regulations, aligning the definitions better with other existing regulatory frameworks, introducing clearer cross-references to previous FEMA regulations such as "Authorised Bank," "Foreign Currency Convertible Bonds (FCCBs)," "FCNR (B) Account," and "Exchange Earners' Foreign Currency (EEFC) Account." New definitions such as "arm's-length basis," "benchmark rate," "cost of borrowing," "group entity," "financial sector regulator," and	(i) The Draft broadly defines "benchmark rate" as any widely accepted interbank rate or Alternative Reference Rate (ARR) with a six-month tenor. But it doesn't say what exact rates or indices are acceptable, which could lead to AD banks and borrowers using it in different ways. (ii) By replacing "eligible resident entity" with "person resident in India," the list of people who can borrow money is significantly expanded, making it more open to everyone. In the same way, lending definitions are made easier to include people who live outside of India. The IFSC is also recognized as a lending zone, which brings together the offshore branches of domestic and foreign banks into the ECB framework. (iii) The draft officially names SEBI, RBI, IRDAI, and PFRDA as "financial sector regulators." It also makes it clear which regulators have power over ECB-related activities.	(i) To ensure uniformity in the marketplace and lessen regulatory uncertainty, it is crucial to specify a definitive list or criteria for benchmark rates. This will ensure that borrowing costs are calculated consistently. (ii) While preserving the required supervisory oversight, extending borrower and lender eligibility promotes wider access to the capital market and harmonizes regulatory recognition of IFSC branches with India's ambitions as a global financial center.. (iii) Defining financial sector regulators clarifies administrative boundaries, helps avoid regulatory overlap, and facilitates unified governance over diverse ECB

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		“net worth” modernize the ECB framework. The explicit inclusion of the International Financial Services Centre (IFSC) further recognizes its role as an offshore financial zone for domestic lenders. Overall, these revisions signal a shift toward a more market-aligned, risk-sensitive, and transparent ECB framework.	(iv) The introduction of “net worth” definitions for corporate and non-corporate entities is a crucial step for regulatory uniformity.	activities spanning multiple financial sectors. (iv) Mandating audited or third-party certification of net worth would safeguard the integrity of borrowing limits and prevent circumvention through inflated financial reporting, promoting prudent and trustworthy capital inflow management.
2	New Regulation 3A – Prohibition on end-use	The use of borrowed funds are prohibited absolutely for end-use in: (i) Chit funds; (ii) Nidhi companies; (iii) Trading in Transferrable Development Rights (iv) Real Estate business/construction	(i) Define “*Real estate business*” in the 2025 regulation. The following could be clarified/adopted: (1)real estate business with exclusions; (2)industrial land scope; (3)greenfield/brownfield/modernization; (4)long-term leasing minimum 10 years	(i) “*Real Estate Activity*” was defined in the 2018 regulation. However, the same has been substituted without a definition in its place under the 2025 regulation. This lacuna could give rise to substantial confusion and interpretational difficulties as to what constitutes “*real estate business*”.

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		of farmhouses: except (a) sectors permitted for FDI & (b) Purchase/lease of industrial land for greenfield projects, and modernization and expansion. (v) For lending purposes; except (a) when lending business resident in India and regulated by RBI & (b) Statutory company/body corporate resident in India lending to its group entities. (vi) Transacting in securities; expect: (a) Investments compliant with FEM (Overseas Investment) Rules, 2022 and FEM (Overseas	(ii)Define "RBI-regulated lending business" excluding payment banks (lending prohibited), NBFC-P2P (balance sheet lending barred), NBFC-AA (data aggregators), investment companies. Furthermore, another provision could be added to prevent any kind of cascading on-lending beyond two layers. The same could prevent a regulatory blackhole and prevent parties from bypassing the regulations in its regulatory spirit. (iii) Regulation 3A(f) should be amended to exclude restriction on transacting in unlisted securities. Presently, 3A(f) points towards both "listed and unlisted securities", which will also cover debt instruments going beyond the range and scope of current regulations.	(ii) There are entities falling within a wide range of risk - class even within the super-set of "RBI-regulated lending business". Henceforth, Reg. 3A(e) should be amended to reflect that only a certain class of "RBI regulated lending businesses" alone are capable of lending using ECB proceeds. (iii) The inclusion of "unlisted securities" in the prohibition sweeps within its scope debt instruments (non-convertible securities, bonds) that are fundamentally different from the capital market speculation the provision aims to prevent. NCDs and bonds issued in primary market - serve on-lending functions; under Exception 3A(1)(f)(iii), RBI-regulated lenders are permitted to subscribe to primary market debt instruments for on-lending

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		Investment) Regulations, 2022. (b) **Mergers, Amalgamations, Arrangements, or Acquisitions.** (c) Investment in primary market instruments issued by non-financial entities for on-lending		purposes. Prohibiting ALL unlisted securities undermines this exception and creates regulatory incoherence
3	Schedule I – Paras 1 to 4 (Eligible borrowers, Recognised lenders, Currency of borrowing, Forms of borrowing)	<u>Eligible Borrowers (Para 1)</u> The 2018 Regulations have permitted ECB only by entities entitled to receive FDI under FEMA. The Draft Regulations replace this with "any person resident in India (other than an individual)" and allow entities under investigation or insolvency to raise ECB subject to disclosure.	<u>Eligible Borrowers (Para 1)</u> Introduce a two-step framework: (i) an automatic route for fully compliant entities; (ii) an approval route for borrowers under investigation or IBC resolution, with strict monitoring by Authorised Dealer Category-I banks per RBI Master Direction on ECB (2023). Clarify whether "investigation or adjudication" includes pending compounding under s. 15 of FEMA and Rule 4 of the Foreign Exchange (Compounding Proceedings) Rules 2000. Re-link eligibility to entities under Reg. 5(1) of the FEMA (Non-Debt Instruments) Rules 2019 for policy consistency.	<u>Eligible Borrowers (Para 1)</u> Broadening eligibility criteria without prudential filters could permit financially distressed or non-compliant borrowers to access foreign credit, contrary to RBI's risk-based capital approach. This differentiated route aligns with international practice (IMF External Debt Guide 2014) and maintains macro-prudential discipline while supporting responsible liberalisation.

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		Schedule I – Para 4 (Forms of Borrowing) The 2018 Regulations listed specific forms of ECB (FCCB, FCEB, OCD etc.) and linked hybrids to FEM (Debt Instruments) Regulations, 2019. The Draft Regulations defines ECB broadly as “any commercial borrowing arrangement with interest and principal repayment” and excludes trade credit and export advances.	Schedule I – Para 4 (Forms of Borrowing) To address the regulatory uncertainty surrounding hybrid instruments, there’s a compelling need to create clearer cross-references between the FEMA (Debt Instruments) Regulations, 2019 and the FEMA (Non-Debt Instruments) Rules, 2019. Currently, instruments like Optionally Convertible Debentures (OCDs) and structured notes exist in a somewhat grey zone - they possess characteristics of both debt and equity, making their classification under the ECB framework ambiguous. Market participants would benefit from a specific RBI notification that regulates these “quasi-debt” instruments, possibly in the form of a master direction or stand-alone circular. By establishing prudential caps through the automatic route, such a notification could permit lawful hybrid financing while upholding regulatory oversight. The RBI could, for example, set a 20% cap on quasi-debt instruments or enforce stricter disclosure laws that require upfront	Schedule I – Para 4 (Forms of Borrowing) In line with India’s capital-market liberalization policy and the OECD’s hybrid-capital guidelines, the explicit classification of hybrid/quasi-debt instruments will curb regulatory arbitrage and encourage innovation in start-up and infrastructure financing.

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			explanations of conversion mechanisms, valuation techniques, and trigger events. This approach would mirror international best practices. the Monetary Authority of Singapore has distinct guidelines that differentiate between conventional debt and hybrid capital instruments, each of which is given a different prudential treatment. The RBI would promote more efficient capital flows, improve regulatory predictability, and lessen interpretive disputes by implementing a similar framework while preserving the essential protections against systemic risks.	
4	Schedule I – Paras 5 to 7 (Borrowing Limit, Maturity, Cost of borrowing)	<u>Borrowing Limit</u> The Regulations of 2025 replace the existing borrowing cap from 750 million USD to a ceiling of USD 1 billion or up to 300 percent of net worth. It also proposes the inclusion of proposed ECB while	<u>Borrowing Limit</u> The change in the borrowing limit is appreciated as it not only increases the capacity of borrowings that can be done which is beneficial for the borrowers, but it also aligns the borrowing capacity with the financial strength of the borrower making it a net worth linked framework. However, a few changes can be made in order to improve the efficiency of the policy drafted. The inclusion of domestic borrowings	<u>Borrowing Limit</u> The proposal of linking borrowing limits to the financial strength of the borrowers is a beneficial one as it will lead to risk sensitive regulation. However, the only major issue is that including domestic borrowings may affect the credit allocation. Credit will need to be allocated for the monitoring

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		determining compliance with borrowing limits and specifies entities that are exempted from these limits. Maturity The draft regulations introduce a uniform MAMP of three years for all ECB transactions and have allowed for a shorter maturity period for ECB of USD 50 million. The regulations have also specified areas where this MAMP requirements are waived off. Cost of borrowing The draft regulations also removed the existing all-in-cost caps and have instead proposed that the cost	within the limit can create complexities as fluctuations are common in domestic borrowings due to short term credit facilities etc. Owing to this change the borrowers may face a trade-off between domestic credit market and ECB borrowings. Maturity The standardisation of MAMP at 3 years is a great step. It will lead to simplification of compliance, reduction in transaction cost and elimination of complexities associated with end use linked maturity tracks. However, some improvements can be done. There can be a provision inserted specifying that the USD 50 million for short tenor ECBs have to be periodically revised. Cost of borrowing The transition to market determined cost of borrowing is strongly supported as it will promote efficient capital allocation, lead to risk-based pricing and will also enhance the global	cost that will be incurred to keep track of the fluctuating domestic borrowings. Limiting the overside to external borrowings can decrease the regulatory friction. Maturity The standardisation of maturity period will lead to a decrease in the regulatory burden and transaction cost. The relaxation in MAMP for ECBs below 50 million USD caters to the entities which operate on shorter cycles and requires frequent financing. Also, this 50 million USD limit needs to be revived periodically owing to inflation and other economic factors. Cost of borrowing The shift towards a market determined cost of borrowing is a welcome one as it would make the market efficient. But at the same time it is important

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		of borrowing will be determined by the market forces.	competitiveness of Indians borrowers. There are some areas that still require clarifications. Firstly, there is a need to specify what would be the parameters that would be considered while determining the ‘prevailing market conditions’ such as pricing for similarly rated entities in the international market etc. And secondly, it does not make much sense to keep the cost of borrowing for short tenor ECBs to be subject to trade credit as credit risk does not inherently differ based on sector (like manufacturing) or tenor (like less than 3 years). Rather, even the short tenor ECBs should be fixed at the market determined prices.	to determine on what parameters would the market be determined as a lack of uniformity can lead to variations of prices across different banks, sectors, tenors etc.
5	Schedule I – Paras 8 to 11 (Other costs, Arm’s length principle, Drawdown , Securing the Borrowing)	<u>Para 8: Other costs</u> The draft regulation explicitly addressed that prepayment charges and penal interest for ECB transactions must be consistent with prevailing market conditions, as incompletely satisfied by the designated AD	<u>Para 8: Other costs</u> The draft clearly recognises prepayment/penalty and puts commercial judgment on the market, plus AD bank certification. This will facilitate negotiations between lenders and borrowers, but could result in enforcement/ transfer pricing and related-party issues, if not tied to ceiling or disclosure. AD bank certification is a low-barrier compliance condition, but may disadvantage some lenders. We would	<u>Para 8: Other costs</u> The proposed change harmonizes India’s ECB system with practices in international markets, permitting the nature of prepayment and penal interest to be based on economic factors like credit risk, maturity, and lender opportunity costs, rather than regulatory ceilings. Prepayment charges are meant

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		Category I bank. The Regulations 2018 do not contain an independent provision regarding these charges, but had stated a 2% ceiling on penal interest through general cost provisions. The amendment changes the structure of ECB charged penal interest from prescriptive rules to flexible market-driven provisions. <u>Para 9: Arm's length principle</u> This draft regulation makes it clear that all ECB transactions occurring from a related party, group entity, or other connected lender	suggest clearer definitions of "prevailing market conditions" (e.g. benchmark and reference transactions) and documentation/reporting requirements (to AD/RBI) for large/related-party prepayment fees. <u>Para 9: Arm's length principle</u> The draft regulations closes a significant regulatory gap in that it requires intra-group debt to be priced at market rate, thereby providing a check on transfer pricing abuse, the round-tripping of funds, and the protection of India's tax base. In practice, borrowers must now have valid transfer pricing	to compensate lenders for reinvestment and interest rate risks when loans are paid off or refinanced early; penal interest acts to mitigate risks for lenders from covenant breaches. The previous regulatory ceiling of 2% from the 2018 regime disincentivized international lenders whose risk-based pricing exceeded the regulatory limit. The 2025 Draft introduced market-linked flexibility under the supervision of authorized dealer (AD) banks, reducing regulatory friction and improving efficiency of capital allocation. <u>Para 9: Arm's length principle</u> The arm's length requirement for related-party ECBs reduces economic distortions arising from base erosion and profit shifting through heightened interest rates, or disguised equity. By pricing aligned with market

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		must be entered into on an arm's length basis. This is a significant change from the 2018 Regulations, which explicitly prescribed all-in-cost ceilings and permitted borrowings from related parties as long as the general Schedule terms were preserved, without any separate explicit arm's length pricing requirement.	documentation - such as comparable studies, benchmarks, or valuation reports to establish that the terms of the loan are at market rates, and banks will be required to certify compliance. For intra-group cross-border loans, companies would need to manage compliance with Indian taxation and with Transfer pricing requirements. It would help if the regulation also: a. listed acceptable proof documents (like (a) independent pricing or auditor certificates), b. allowed simplified documentation for smaller loans, and c. provided a safe-harbour or pre-approval option to avoid future disputes.	benchmarks, the arm's length requirement limits tax-avoidance strategies and preserves all-in-cost ceilings. The arm's length requirement also protects India's revenue base while ensuring a level competitive landscape between lenders. Economically, this supports efficient allocation of capital by ensuring intra-group financing reflects the actual risk and return profile.
		<u>Para 10: Drawdown</u> The Draft Regulations enhance the drawdown procedure. Since borrowers will be required to first obtain a Loan Registration Number (LRN) from their	<u>Para 10: Drawdown</u> The Draft Regulations enhance the management of cash flows, requiring both foreign currency (FCY) and INR borrowings to be routed back to India immediately and delineating acceptable locations for leaving unused funds with controls such as credit ratings, limited tenors, unencumbered deposits, etc. This improves prudential monitoring	<u>Para 10: Drawdown</u> The proposal for the drawdown of outstanding funds address extensive offshore parking and misallocation by requiring immediate return and limits on tenure for onshore term deposits to 12 months to ensure that foreign capital is

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		chosen AD Category I bank prior to making use of any ECB funds, all the drawn-down funds would first need to be remitted to an INR account with that bank. The funds can be retained in unencumbered fixed deposits for a maximum of 12 months prior to utilization. Unutilized borrowed amounts can be retained in FCY (foreign currency) accounts in India and abroad, only as long as it is not going to be used for RE approved foreign currency expenses.	and reduces the risk of capital flight or the use of proceeds for other investment opportunities. While adding controls, the Draft Regulations could create implementation burdens in terms of localized timelines for action around repatriation, tracking credit ratings of offshore instruments, and mitigating foreign exchange or timing implications for overseas expenditures on projects.	quickly swept into the domestic economy. Identifying high credit-quality instruments for limited interim investments serves to provide controlled credit risk and limiting tenure serves to minimize indefinite seating of funds. Having these standards improves oversight for foreign currency flows, increases transparency and tracking for parked ECB proceeds, and minimizes risk to sudden capital withdrawals. These changes improve the alignment of parked funds within prudential investment standards and provide limits for exposure, assuring the measures minimize systemic foreign-exchange volatility and improve financial stability.
		<u>Para 11: Securing the borrowing</u>	<u>Para 11: Securing the borrowing</u> The draft is somewhat more comprehensive and more clearly	<u>Para 11: Securing the borrowing</u>

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		The draft regulation modifies Schedule I to outline the comprehensive regime for securing ECBs under Para 11. Lenders can take a security by way of charges on the immovable, movable, financial, and intangible assets (including intellectual property), or corporate or personal guarantees, although, in any given transaction, entities regulated by the Reserve Bank of India (RBI) cannot extend any guarantees. It is also mandatory to provide for a security clause in any borrowing arrangement.	delineates intangible assets (such as IP) and adds safeguards like co-terminus security and NOC requirements. It is a beneficial update to the security framework and subject lends for getting more than has been advanced in an ECB. Obtaining NOCs from various lenders may slow down transactions and co-terminus and enforcement limits may complicate refinancing or cross border recovery. Suggested improvements include: a. clear procedures for charge registration and acceptable security documents; b. defined timelines for AD/RBI approvals and NOCs; c. a carve-out for cross-border enforcement through authorised security trustees; and d. guidance on enforcing IP security, including governing law and registration requirements.	The modification to para 11, in draft, simplifies and modernizes the security provisions, enabling charges to be taken over intangible assets in respect of intellectual property. This is a relevant change given the way the content and the interactions in this arena have evolved, with a sense for more market aligned practices. It also increases the possible assets a lender could look to take security over in decreasing credit risk and reducing client borrowing costs while lenders have the benefit of more enforceable rights. Economically, this amendment supports increased foreign capital inflows and protects government interests in limiting foreign acquisition of Indian assets and complying with the FEMA in asset transfers.
6	Schedule I – Paras 12 to 16	<u>Refinancing:</u> The Draft Regulations	<u>Refinancing:</u> The previous regulation allowed for refinancing, provided that the	<u>Refinancing:</u> The change in the refinancing requirements reduces the

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	(Refinancing, Conversion into non-debt instruments, Change of terms, Debt servicing, Reporting)	mentions that the refinancing doesn't result in a failure to meet the MAMP requirements on the original borrowing, and the credit spread on the fresh ECB is not greater than the credit spread of the original borrowing.	outstanding maturity if the original borrowing is not reduced; the all-in-cost of the fresh ECB is lower than the existing ECB, and allowed participation of Indian Banks for refinancing only for certain enterprises. Further, the Draft Regulations remove the requirement of refinancing INR ECBs with foreign currency, and change in the currency of an ECB is freely permitted. The requirement of limiting Indian Bank's participation only in certain cases has also been removed. The change in the regulations reduces costs, improves efficiency, and enables market expansion while maintaining procedural safeguards. Overall, there is better resource and capital allocation and market growth. However, some clarifications are needed, specifically: • Clear guidance regarding credit spread calculation • Clarification regarding certain kinds of ECBs like those with a MAMP of less than 3 years matching remaining maturity of an existing ECB; whether longer tenor	procedural and administrative friction, enhances the timeline, thereby reducing the The relaxation of the rigid requirement of foreign currency and removing the limitations on Indian Bank's participation, enables market expansion. The safeguards are maintained in the nee framework through the MAMP requirements. There are easier approvals, meaning more refinancing attempts; more lenders, meaning more competitive rates; and currency flexibility, allowing broader use. • Benefits for lenders: The volume of refinancing in the market increases, Indian Banks gain more business which increases income and revenue. • Benefits to borrowers: The increase in volume enables them to get competitive rates, lower interest payments, and reduced

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			ECBs, ECBs from foreign equity holders can be refinanced by ECBs with a MAMP of 3 years	transaction costs due to regulatory ease.
		<u>Conversion of ECBs:</u> The Draft Regulations permit eligible borrowers to convert their ECBs (including matured but unpaid amounts) into non-debt instruments, in compliance with the FEMA Rules, 2019. The conversion is allowed, provided that there are no additional costs to the lender, there is consent of the lender, and that the other lenders consent and are informed.	<u>Conversion and Transfer of ECBs:</u> The Draft Regulations allow for conversion of ECBs into debt instruments, provided that there is consent of the lender and that there are no additional costs. This ensures that there is no increase in the costs, and the consent of the lender ensures that there is no friction in conversion, while enabling a better cooperative outcome from the game. The compliance with the FEMA Rules ensures safeguards as well. Previously, the transfer of an ECB from one lender to another, required the approval of the AD Bank. The Draft Regulations remove such requirements of AD Bank approval. This is a helpful change, especially for situations when the borrower is in insolvency or is uncooperative.	<u>Conversion and Transfer of ECBs:</u> The conversion of ECBs may be beneficial for borrowers as it reduces their borrowing costs, and the conversion ensures efficiency. The conversion into equity provides opportunities for additional investors, which enables market growth. The cost associated with repayment obligations also reduces, which reduces transaction costs. The removal of additional cost obligations and simplified consent requirements lowers administrative costs as well. Previously, the transfer of an ECB from one lender to another, required the approval of the AD Bank. The Draft Regulations remove such requirements of AD Bank approval.

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		Change in ECB Terms: The Draft Regulations permit changes to the ECB's parameters, terms and conditions. The consent of the lender is required and the changes must comply with the regulatory schedule. However, any modifications involving the conversion of FCCBs and FCEBs require prior approval from the RBI. Reporting: The Draft Regulations specify that: • Form ECB is to be filled for obtaining a Loan Registration Number	Change in terms of the ECB: The Draft Regulations do away with the requirement of approval from the AD Bank for changing the terms of the ECB loan, which may be made with the prior consent of the lender. The previous regulations required approval from the AD Bank for such changes in terms. The procedural change, omitting the approval requirement is helpful, mainly because of its reduction in costs. Reporting: The Draft Regulations introduces a significant procedural improvement, by specifying the exact reporting forms and the specific timelines to be complied with. The earlier approach simply directed the borrowers to follow the RBI procedures "as reported from time to time". The previous framework	Change in terms of the ECB: The Draft Regulations do away with the requirement of approval from the AD Bank for changing the terms of the ECB loan, which may be made with the prior consent of the lender. • Reduction in costs: The removal of AD Bank approval streamlines the process of amending the terms of the ECB loan, reducing overall cost. • Macroeconomic impact: The change may encourage more innovative arrangements and financial structures among firms. Reporting: The compliance burden is reduced reporting forms are streamlined, with specific forms being listed for their specific purposes. • Reduction in Transaction costs: By explicitly listing the required forms and

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		• Form ECB-2 is to be filled for reporting drawdown and debt servicing • Revised Form ECB for reporting changes in the ECB parameters The Draft also proposed a specific timeline, and non-adherence to timelines means that the borrowers shall pay a late submission fee.	put the responsibility on the borrowers to continuously monitor and update themselves on the requisite procedure and ensure timely compliance, which involves higher search, information and administrative costs for them. The new regulations proposed reduces costs and increases efficiency.	timelines, the amendment lowers the search, information, and interpretation costs for the borrowers. • Improves Regulatory Certainty: The well-defined and simplified reporting framework enhances compliance and predictability, which proves valuable for the borrowers.