

The RBI has amended the Foreign Exchange Management regulations for 2026, updating the external commercial borrowing (ECB) framework

The Reserve Bank of India (RBI) vide its Notification No. FEMA 3(R)(5)/2026-RB dated February 09, 2026, has notified the “Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026” and made amendments to the [Foreign Exchange Management \(Borrowing and Lending\) Regulations, 2018 \(Notification No. FEMA 3\(R\)/2018-RB dated December 17, 2018\)](#).

Key Definitions (Regulation 2)

- **Benchmark Rate:** This is defined as a widely accepted interbank rate or Alternative Reference Rate (ARR) of a 6-month tenor for foreign currency (FCY) ECBs. For Indian Rupee (INR) denominated ECBs, it is the prevailing yield of a Government of India security of corresponding maturity.
- **Control:** For companies, ‘control’ aligns with the definition in the Companies Act, 2013. For LLPs, it means the right to appoint a majority of designated partners who have control over all LLP policies.
- **Cost of Borrowing:** This includes the rate of interest, other fees, expenses, charges, and guarantee fees. It explicitly excludes commitment fees and statutory taxes payable in India.
- **Indian Entity:** This is defined as a company incorporated under the Companies Act, 2013, a body corporate established under a Central/State Act, or an LLP registered under the Limited Liability Partnership Act, 2008.
- **Real Estate Business:** The definition clarifies that this involves the purchase, sale, or lease of land with a view to earning profit. It excludes activities like the development of industrial parks, integrated townships, SEZs, infrastructure sector projects, and construction-development projects.

Restriction on End-Use of Borrowed Funds (Regulation 3A)

A new Regulation 3A has been inserted, which prohibits the use of borrowed funds for specific purposes in India, including: (i) Chit funds and Nidhi companies; (ii) Real estate business and construction of farmhouses, with specific conditions for construction-development projects and industrial parks; (iii) Agricultural and animal husbandry, with specified exceptions like floriculture, pisciculture, and services related to agro sectors under controlled conditions; (iv) Plantation activities, except for tea, coffee, rubber, cardamom, palm oil, and olive oil trees; (v) Trading in Transferrable Development Rights (TDRs); (vi)

Transacting in listed or unlisted securities, except for strategic corporate actions like mergers, acquisitions, or demergers; (vii) Repayment of a domestic INR loan that was originally used for a restricted end-use or is classified as a Non-Performing Asset (NPA); and (viii) On-lending for any of the prohibited purposes.

Substitution of Schedule I - Revised External Commercial Borrowing (ECB) Framework

- **Eligible Borrowers** – Any resident Indian entity (other than an individual) incorporated, established, or registered under a Central or State Act is eligible. Entities under restructuring or investigation can also raise ECB, subject to specific permissions or disclosures.
- **Recognised Lenders** – An eligible borrower can raise ECB from a person resident outside India, a foreign branch of an Indian bank, or a financial institution in an IFSC.
- **Borrowing Limit** – An eligible borrower can raise ECB up to the higher of: (a) USD 1 billion (outstanding ECB), or (b) 300% of its net worth as per the last audited standalone balance sheet. This limit does not apply to borrowers regulated by financial sector regulators.
- **Minimum Average Maturity Period (MAMP)** – The MAMP for an ECB is three years. However, manufacturing sector entities can raise up to USD 150 million with a MAMP between one and three years. The MAMP requirement is waived for conversion to non-debt instruments, refinancing, debt waiver, and certain corporate actions.
- **Cost of Borrowing** – The cost must align with prevailing market conditions. For ECBs with a MAMP of less than three years, the cost must comply with the ceiling specified for Trade Credits.
- **Security for ECB** – ECBs can be secured by a charge on immovable, movable, financial, and intangible assets, or by a guarantee. The creation of such security is subject to conditions like obtaining a 'No Objection Certificate' from existing lenders if the asset is already encumbered.
- **Refinancing & Conversion** – An existing ECB can be refinanced with a fresh ECB, provided the MAMP requirement of the original borrowing is not breached. ECBs can be converted into non-debt instruments subject to compliance with the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, and consent from the lender.
- **Reporting Requirements** – Borrowers must use 'Form ECB 1' to obtain an LRN, 'Revised Form ECB 1' to report changes, and 'Form ECB 2' to report drawdowns and debt servicing. Failure to report for four consecutive quarters can lead to the borrower

being classified as an “untraceable borrower”, which must be reported to the RBI and the Directorate of Enforcement.

Borrowing by Individuals from NRIs/OCIs (Regulation 6(B))

The amendment modifies the rules for resident individuals borrowing in INR from an NRI or a relative who is an OCI cardholder. Such borrowing is permitted subject to the conditions that: (i) The loan amount must be received via inward remittance or by debit to the lender's NRE/NRO/FCNR(B)/SNRR account; and (ii) The borrowing must be on a non-repatriation basis, meaning both interest and principal repayment must be credited only to the lender's NRO account.

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