CNK & Associates LLP

Quarterly Insights- RBI/FEMA, October 2018

In Brief

Form ARF has been subsumed into Form FC – GPR. Form DI and Form InVi has to be filed within 30 days from the date of allotment of capital instruments or issue of units respectively.

Amendment to Transfer or Issue of Security by a Person Resident outside India [vide Notification No. FEMA 20(R)/2017-RB (Amended up to 24th September 2018)

The RBI has in continuation with its policy of integrating the extant reporting requirements of various types of foreign investment in India, and introduction of Single Master Form (SMF), with effect from 1st September 2018, has subsumed into Form FC- GPR the Advance Remittance Form (ARF) such that now reporting of FDI and allotment of Securities is done through single Form FC-GPR.

It has also notified the due date of filing Form DI and Form InVi, which is within 30 days from the date of allotment of capital instruments (Form DI) or issue of units (Form InVi) respectively.

Also, from 30th September 2018, RBI has moved from e – biz portal to Foreign Investment Reporting and Management Systems (FIRMS).

In Brief

For BO/LO/PO in the nature of NGO / NPO / Foreign Government's body/agency/department (activities covered under FCRA), approval no longer required to be obtained in Form FNC

Amendment to FEM (Establishment in India of a branch office or a liaison office or a project office or any other place of business [vide Notification No. FEMA 22(R)(1)/2018, dated 31st August 2018]

The RBI has vide the above notification amended Regulation 5 and Form FNC, wherein the RBI Approval for establishment of branch office (BO),liaison office (LO) or project office (PO) in case of Non-Government Organisation, Non-Profit Organisation, Body/Agency/Department of a foreign government shall not require a separate approval for BO/LO/PO from RBI if such entity is engaged, partly or wholly, in any of the activities covered under Foreign Contribution (Regulation) Act, 2010 (FCRA), and has obtain a certificate of registration under the said FCRA Act.

Accordingly, due to above change the form FNC has also been amended. The BO/LO /PO filing Form FNC have to give a declaration stating that they will not undertake either partly or fully, any activity that is covered under FCRA.

In Brief

Manufacturing sector permitted to raise up to USD 50mn ECB loans under Track I & Track III with minimum average maturity of 1 year.

Oil Marketing Companies (OMCs)permitted to raise loans through ECB up to USD 10 billion for 3/5 years subject to other conditions applicable to such ECB's.

Indian banks can now act as arrangers /underwriters /market makers /traders in RDB issued overseas.

Amendment to Master Direction on External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers

•**Manufacturing Sector:** The RBI has vide the above notification has amended Framework for raising loans through External Commercial Borrowings (ECB) wherein manufacturing sectors may raise ECBs under Track I (Foreign currency) & Track III (INR denominated) up to USD 50 million or its equivalent with minimum average maturity period of 1 year.

•**ECB facility for Oil Marketing Companies:** Public Sector Oil Marketing Companies (OMCs) can now raise ECB up to USD 10 billion or equivalent for working capital purposes with minimum average maturity period of 3/5 years from all recognized lenders under the automatic route without mandatory hedging requirements. Provided the OMC has in place Board approved forex mark to market procedure and prudent risk management policy, for such ECBs. All other provisions under the ECB framework will continue to be applicable to such ECBs.

•**Recognized lender for Rupee Denominated bonds (RDB):** Earlier, Indian banks, subject to applicable prudential norms, can act as arranger and underwriter for RDBs issued overseas and in case of underwriting an issue, their holding cannot be more than 5 per cent of the issue size after 6 months of issue. It has now been decided to permit Indian banks to participate as arrangers/underwriters/market makers/traders in RDBs issued overseas subject to applicable prudential norms.

In Brief

The limit of remittance by non-bank entities for overseas education increased to USD 10,000

Amendment to FED Master Direction No. 19/2015-16 on Miscellaneous

The RBI has vide above notification amended the operating framework for facilitating outward remittance services by non-bank entities through Authorized Dealer (Category I) banks in India, wherein exception has been carved out by increasing the limit of remittances for overseas education up to USD 10,000 per transaction from the overall limit of USD 5,000 per transaction by such non-bank entities.

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