

FEMA Ke Fundae

#FamiliarwithFEMA

**External Commercial
Borrowing (ECB) in Startup**

Issue No : 96

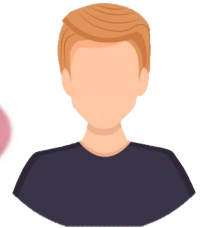
Date : 10th April, 2024





Raghav
(Indian Resident)

Hello, Mr. FEMA Gyani. I am Raghav, an Indian Resident. I have an innovative idea to start a new business. So I am planning to start a new company in India and to enter the startup Space. For doing the same, I want to raise funds. I am curious if I can raise funds from abroad as well for my startup.



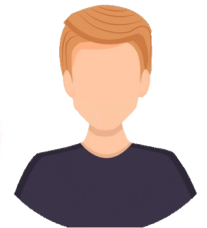
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Hi Raghav. Yes, you are allowed to raise **External Commercial Borrowings (ECBs)** under automatic route for startups and the same is permitted by AD Category-I Banks.



Raghav
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Can you please give me a brief about what ECBs are?



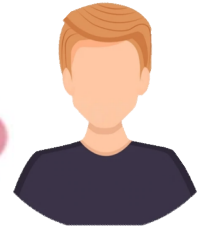
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ECBs are commercial loans raised by resident entities from recognized non-resident lender.



Raghav
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Okay. Who is a recognized lender, is there any eligibility criteria on lender that need to be considered while borrowing?



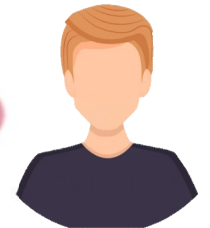
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Yes, Only those lenders who are resident of **FATF Compliant** Country are eligible as recognized lenders.



Raghav
(Indian Resident)

FEMA Gyani, what does mean by FATF Compliant Country?



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A country needs to be a member of the **Financial Action Task Force (FATF)** or a similar regional body. It should not be a country having **anti-money laundering or combating terrorism financing**.



Raghav
(Indian Resident)

Got it FEMA Gyani. It means that firstly I have to ensure that the lender should be resident of FATF Compliant Country and then I can proceed further.



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Yes Raghav. But, you have to remember that these two are outside the criteria of being a recognized lender :-

Foreign branches/subsidiaries of Indian banks, and

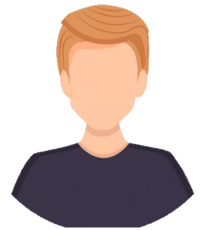
Overseas entity in which Indian entity has made overseas direct investment as per the extant Overseas Direct Investment Policy



**Raghav
(Indian Resident)**

Okay FEMA Gyani, now please tell me that can I raise funding through equity or in any other form ?

The borrowing can be in form of **loans or non-convertible, optionally convertible or partially convertible preference shares** which can be **converted into equity** subject to applicable regulations.



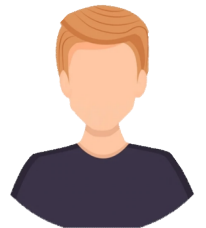
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**Raghav
(Indian Resident)**

Okay that's great. I want to borrow in Indian Rupees, am I allowed to do so?

Yes Raghav, the borrowing can be denominated **in INR or in any freely convertible currency or a combination** thereof. But you have to remember following conditions :-



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The borrowing per Startup will be **limited to USD 3 million** or equivalent per financial year.

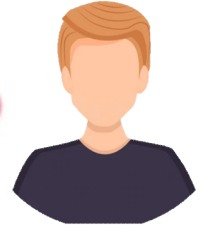
And minimum average maturity period will be **3 years.**



Raghav
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Got it but I have a doubt regarding the security. Will I have to provide any security to the lender?

Yes Raghav, you have to provide security and the choice of security to be provided is left to you i.e. the borrowing entity..



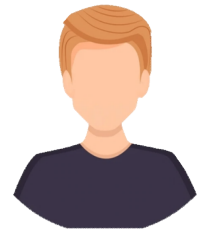
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Okay, so after considering all the compliances you mentioned, I can take a loan, but I wanted to ask one thing that are there any restrictions on the end uses of the loan?

Yes, the end use of the loan can only be for the **expenditures in connection with the business**. You can't use the loan for any other purpose.



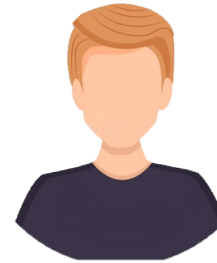
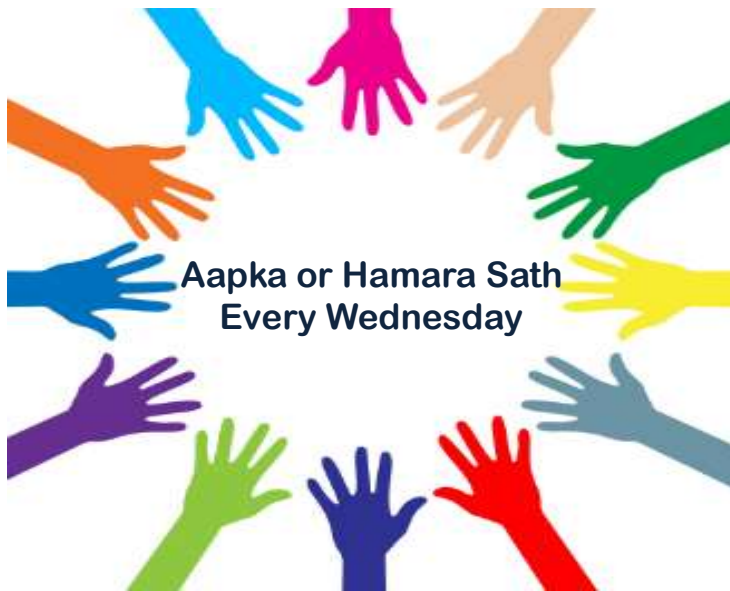
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Raghav
(Indian Resident)

Okay, got it FEMA Gyani, I will keep that in mind. Thank you so much.

Thank You



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Comments

Feedbacks

Suggestions



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