ECONOMIC LAWS PRACTICE
ADVOCATES & SOLICITORS

ELP Knowledge Series

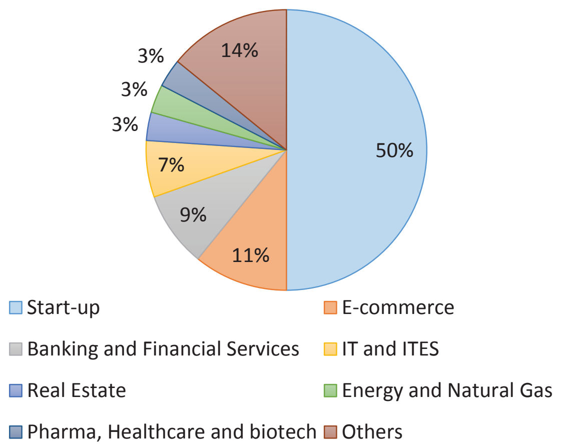
Corporate & commercial

QUARTERLY UPDATE | PE & VC

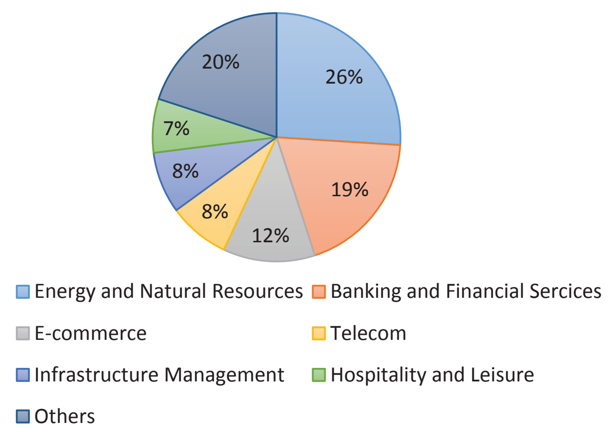
Volume 2 of 2019

DEAL STATISTICS FOR Q1 OF 2019

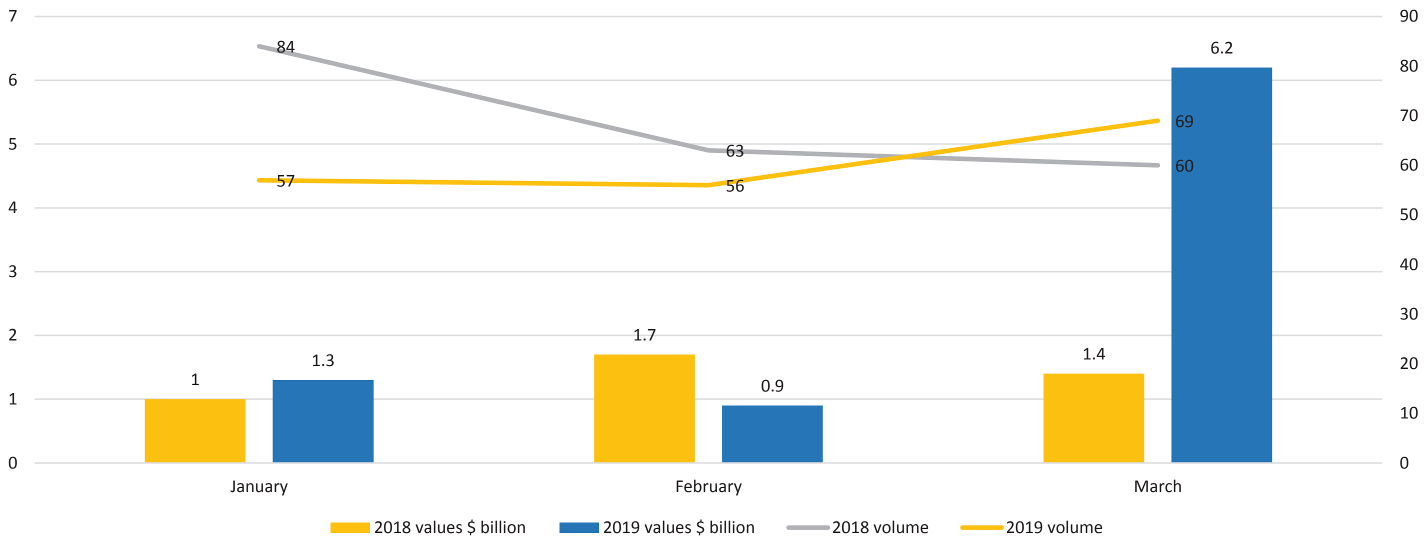
Deal volume analysis



Deal value analysis



Comparative analysis : Q1 2018 vs Q1 2019



LATEST TRENDS LEADING UPTO JUNE 2019

01

- PE & VC investments in India rose 79 % to USD 4.4 billion in April 2019, compared to April 2018
- The dollar value of PE & VC deals fell 54% to USD 2.8 billion in May 2019 compared to May 2018

02

- April 2019 exits stood at USD 1.6 billion
- May 2019 saw 11 exits USD 739 million

03

- The number of deals announced during April 2019 was the highest ever for any month — 36 % higher compared with April 2018
- The number of deals in May 2019 was 82 which is 24% higher than May 2018

04

- There were 11 large deals (deals of value more than USD 100 million) totalling USD 2.9 billion in April 2019
- Large deals declined to five transactions aggregating to USD 1.8 billion in May 2019

05

- About 40% of the total investments in May 2019 came from sovereign wealth funds and pension funds

06

- 2019 has emerged as the best year for investments in the infrastructure sector with USD 3.7 billion invested so far, 64 % higher than the previous high recorded in 2007

07

- ADIA and NIIF's $929-million investment in GVK's airport subsidiary for a 49 per cent stake was the largest deal during April 2019

08

- In May 2019, the infrastructure sector received the highest investment commitments of around USD 900 million, followed by real estate, which saw investments to the tune of USD 507 million

09

- Start-up investments recorded the highest number of deals in April 2019 (66 deals vs 38 deals in April 2018)

10

- Buyouts comprised half the investment flow in May 2019 at USD 1.4 billion, about 17% higher than May 2018

Clarifications on External Commercial Borrowings

The RBI via notification dated 17 December 2018 consolidated two primary regulations dealing with borrowing and lending of foreign currency and Indian Rupees into the Foreign Exchange Management (borrowing and lending) Regulations, 2018, which supersedes Foreign Exchange Management (Borrowing and Lending in Indian Rupee) Regulations, 2000 and Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.

Key changes introduced

Merger of tracks	Track 1 – Medium-term Foreign Exchange Loans and Track 2 – Long Term Foreign Exchange Loans have been merged into Foreign Currency denominated ECB. While Track 3- Rupee Denominated ECB has been merged with the separate category of Rupee denominated Bonds (RDB) into INR denominated ECB. Now, RBI's prior approval for issuing RDB isn't required anymore, as long as other required conditions have been complied with.
Minimum Average Maturity Period (MAMP)	The earlier regulation had prescribed different period of MAMP on different amounts, sectors, tracks, etc. The MAMP for all ECBs has been prescribed as 3 years. Manufacturing sector companies which raise ECB up to USD 50 million will have a MAMP of 1 year and for ECB raised from foreign equity holder and utilized for working capital purposes, general corporate purposes or repayment of rupee loans, MAMP of 5 years is permitted.
Eligible borrowers	The definition has been expanded so as to include all possible entities so has to be eligible to receive FDI. It includes Port Trusts, Units in the Special Economic Zone (SEZ), Exim Bank, registered societies/trusts, NGOs. Some companies which can now avail ECB are in sectors such as – agriculture, natural gas and insurance.
Eligible lenders	Any resident of Financial Action Task Force (FAFT) or International Organization of Securities Commission (IOSCO) compliant country can be a lender of ECB to eligible Indian borrowers.
All-in-cost	Clarifications have been provided by the RBI in this matter. Various components of the AIC must be paid without taking recourse to the drawdown of ECB. Also, the export credit agency charges and guarantee fees will be included in the AIC, whether paid in foreign currency or INR.
End uses	Since 'Tracks' have been eliminated , the negative list of end uses are applicable to all ECBs. The negative list includes , real estate activities, equity investment, working capital purposes or general corporate purposes or repayment of rupee loans, except from the foreign equity holder.
Limits	Borrowing limits have been set up based on the sector in which the borrower operates: ▪ Companies in manufacturing sector, non-banking financial companies- infrastructure finance companies, infrastructure – USD 750 million. ▪ Companies in Software Development Sector – USD 200 million.
Form 83	Form 83 which was required to be filled by Indian Borrowers to obtain a Loan Registration Number (LRN) has been done away with and has been replaced by Form ECB.
ECB liability – Equity ratio	The new framework provides the ratio which is 7:1 and is applicable in case of foreign currency denominated ECB.

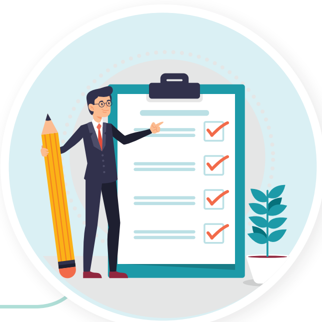
Clarification on activities in LLPs

Under the LLP Act 2008, LLPs can be incorporated to undertake a lawful 'business' which is defined to include 'every trade, profession, service and occupation

The Ministry of Corporate Affairs had issued an office memorandum March 06, 2019 interpreting the above definition of business to restrict it to trade, profession, service and occupation and excluded manufacturing and allied activities. i.e. incorporation of LLPs to conduct manufacturing and allied activities were not allowed

By a message posted on the website of the Ministry of Corporate Affairs, the aforesaid office memorandum has been withdrawn. Hence, LLPs can continue to be incorporated for manufacturing and allied activities

Enhanced disclosures for listed debt securities



Debenture trustees are required to disclose on their website the nature of compensation arrangement with its clients, including the minimum fee to be charged (in absolute terms or as a percentage of the issue size) and factors determining the same

In privately placed issues, In privately placed issues, following covenants have to be included

- In case of delay in listing of the debt securities beyond 20 days from the deemed date of allotment, the issuer is required pay minimum penal interest of 1 % p.a. over the coupon rate for a specified period until the listing of the debt securities
- In case of interest payment and/or principal redemption payment defaults on the due dates, minimum additional interest of 2% p.a. over the coupon rate will be payable by the issuer for the defaulting period

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Sources of Data *Venture Intelligence*
Grant Thorton : Quarterly Deal Tracker
EY : Private Equity Monthly Deal Tracker

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