

Corpsec Hotline

March 17, 2009

FCCB BUYBACK: DEADLINE EXTENDED TILL 31 DECEMBER, 2009

This is further to our Hotline "RBI Acts Santa For FCCB Issuers – Permits FCCB Buyback" dated December 09, 2008 analyzing the Reserve Bank Of India ("RBI") Circular dated December 8, 2008 ("Circular") permitting buyback of Foreign Currency Convertible Bonds ("FCCBs"). While the RBI's move to permit buyback of FCCBs was much appreciated, the deadline of March 31, 2009 to complete the entire process of FCCB buyback was considered rather short primarily on account of the time required for procuring funds for buyback, or seeking prior approval of the RBI in certain cases.

As per a recent newspaper report, since December 2008, out of 156 companies which have raised finances through FCCBs ("Issuers"), only 9 companies were able to avail the benefits of the buy-back liberalization which are Mahindra & Mahindra, Reliance Communications, Tulip Telecom, Moser Baer, Jubilant Organosys, Radico Khaitan, Hotel Leela, Pidilite Industries and U-flex. The news paper report attributed the feeble response to recession mentioning that Issuers were finding it difficult to raise funds from overseas markets due to lack of liquidity in the markets coupled with high cost of funds. Due to poor liquidity conditions in the market coupled with the limited time period within which the buybacks were required to be effected, certain Issuers were also exploring FCCB buyback structures which involved an intermediary to buy the FCCBs from the bondholders to be repackaged on mutually beneficial terms.

In light of the above and in step with the market sentiments the RBI has now, vide its Circular dated March 13, 2009, extended the deadline for FCCB Buyback from March 31, 2009 until December 31, 2009, to give effect to its original intent to capitalize on the liquidity crunch of the bondholders mitigating forex outflow. The underlying assumption for the extension of the timeline by RBI may be the hope that the market conditions would improve by December, 2009, however, in the current tight liquidity circumstances, it remains to be seen whether Issuers will be able to avail the benefits of this extension as anticipated by the RBI. Having said that, while the extension is indeed commendable, if RBI does want more buybacks to be effected, it should ideally permit buybacks out of share proceeds at a stipulated discount or even face value leaving the commercials to the parties.

Sources:

- <http://www.business-standard.com/india/news/fccb-buyback-deadline-may-be-extended/351275/>
- Circular dated March 13, 2009
- Circular dated December 8, 2008

- Vedant Shukla & Ruchir Sinha

You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Compendium of Research Papers

January 11, 2025

FAQs on Setting Up of Offices in India

December 13, 2024

FAQs on Downstream Investment

December 13, 2024

Research Articles

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

The Revolution Realized: Bitcoin's Triumph

December 05, 2024

Audio

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

"Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

Analysing SEBI's Consultation Paper

on Simplification of registration for
FPIs

September 26, 2024

**Scope of judicial interference and
inquiry in an application for
appointment of arbitrator under the
(Indian) Arbitration and Conciliation
Act, 1996**

September 22, 2024