

## 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

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