



Volume I • Issue I • Year 2009

DSK Legal Knowledge Center

Updates on

- Corporate
- Banking and Finance

CORPORATE

Foreign Currency Convertible Bonds (“FCCBs”)

The Reserve Bank of India (“RBI”) has, vide its circular dated December 08, 2008¹, permitted premature buyback of FCCBs through Authorized Dealers Category – I under Automatic Route and under the Approval Route subject to fulfillment of certain conditions as stipulated in the said circular, as applicable. The RBI has also set out in the aforesaid circular the general conditions that are applicable to such buyback/ pre-payment of FCCBs.

For more information please refer to

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88805.pdf>

BANKING AND FINANCE

- A. Operations of foreign branches and subsidiaries of the Indian banks – Compliance with statutory/ regulatory/ administrative prohibitions/ restrictions

The RBI has clarified, vide its notification dated December 1, 2008², certain issues relating to the applicability of various extant statutory and regulatory prohibitions and restrictions, as stipulated under the Banking Regulations Act, to the operations of foreign branches and subsidiaries of the Indian banks.

¹ RBI/2008-09/317 A. P. (DIR Series) Circular No. 39

² RBI/2008-09/302 DBOD.No.BP.BC.89 /21.04.141/2008 -09 dated December 1, 2008

For more information please refer to
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88705.pdf>.

B. Lending under Consortium Arrangement / Multiple Banking Arrangements

The RBI has, vide its circular dated December 8, 2008³, revised the formats for certain documents to reflect information relating to derivatives transactions entered into by the banks with the borrowers and the un-hedged foreign currency exposures of the borrowers.

For more information please refer to
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88815.pdf>.

C. Un-hedged foreign exchange exposure of clients – Monitoring by banks

The RBI, vide its circular dated December 10, 2008⁴, reiterated the instructions contained in the circular dated December 5, 2003⁵ and advised the following:

- The broad policy of the banks should cover un-hedged foreign exchange exposure of all their clients including Small and Medium Enterprises (“SMEs”). Further, for arriving at the aggregate un-hedged foreign exchange exposure of clients, their exposure from all sources including foreign currency borrowings and External Commercial Borrowings to be taken into account.
- The banks should monitor and review, on regular basis, in respect of the timelines as prescribed in the aforesaid circular and, through a suitable reporting system, the un-hedged portion of the foreign currency exposures of those clients, whose total foreign currency exposure is relatively large (say, about US \$ 25 million or its equivalent), review of un-hedged exposure for SMEs and all other cases.
- In the case of consortium / multiple banking arrangements, the lead role in monitoring the un-hedged foreign exchange exposure of clients, as indicated above, to be assumed by the consortium leader / bank having the largest exposure.

For more information please refer to
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88827.pdf>.

³ RBI/2008-2009/313 DBOD.No.BP.BC.94 /08.12.001/2008 -09

⁴ RBI 2008-09/ 319 DBOD.BP.BC. 96 /21.04.103/2008 -09

⁵ DBOD. BP. BC 51/21.04.103/2003 -2004

D. Guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks

The RBI, vide its circular dated December 11, 2008⁶, in respect of the off-shore outsourcing of financial services relating to Indian Operations, necessitates that the banks should ensure certain additional requirements including protection of data, accessibility of the RBI to make inspections and that the foreign court do not have jurisdiction on the operations of banks in India .

For more information please refer to
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88930.pdf>.

E. Banks' Exposure to Capital Market – Loans extended by the banks to Mutual Funds and Issue of Irrevocable Payment Commitments (IPCs)

The RBI, vide its circular dated December 12, 2008⁷, has decided to extend from December 13, 2008 to March 31, 2009 the transition period allowed to the banks to comply with the

requirements contained in the circular No.DBOD.Dir.BC.57/13.03.00/2007-2008 dated December 14, 2007.

For more information please refer to
<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/88968.pdf>.

⁶ RBI/2008-09/322 DBOD.No.BP. 97 /21.04.158/2008-09

⁷ RBI/2008-09/323 DBOD.No.Dir.BC.98/13.03.00/2008 -2009

DSK Legal Knowledge Center

Contact Details: dsklegal.knowledgecenter@dsklegal.com

Mumbai Office
4th Floor, Express Towers,
Nariman Point,
Mumbai 400 021
India
Tel: (91 - 22) 6658 8000
Fax: (91 - 22) 6658 8001

Delhi Office
46, Aradhana, Chanakyapuri,
New Delhi 110 066
India
Phone: (91 - 11) 2687 1122; 2687 1133;
2687 1144
Fax: (91 - 11) 2687 1155

Disclaimer

The update is intended for your general information only. The information and opinions contained in this document are derived from public sources which we believe to be reliable and accurate but which, without further investigation, cannot be warranted as to their accuracy, completeness or

correctness. It is not intended to be nor should be regarded as legal advice and no one should act on such information without appropriate professional advice. DSK Legal accepts no responsibility for any loss arising from any action taken or not taken by anyone using this material.