

Update

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RBI Liberalises ECB policy-Relieving Indian Power and Aviation sector

Abhijit Nagee & Vishal Dhona
abhijit@vinodkothari.com
vishal@vinodkothari.com
Vinod Kothari & Company
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RBI Liberalises ECB policy-Relieving Indian Power and Aviation sector

Following the announcements made by the Hon'ble Finance Minister in the Budget 2012-13, the Reserve Bank of India ("RBI") has issued three recent circulars on External Commercial Borrowings ("ECB") back to back, viz., Circular no.111 ([Liberalisation and Rationalisation Policy](#)), Circular no. 112 ([Refinancing / Rescheduling of ECB](#)) and Circular no. 113 ([ECB for Civil Aviation Sector](#)) to alter certain extant strict provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000¹.

Circular no. 111 contains directions to liberalise and rationalise the policy for:

- (i) **Enhancement of Refinancing limit for Power Sector under approval route** - Keeping in view the plight of the Indian Power Companies, the government has decided to allow them to utilise 40% of the fresh ECB raised towards refinancing of the rupee loan availed by them. This would be subjected to the condition that at least 60% of the fresh ECB proposed to be raised by the Company should be utilised for fresh capital expenditure for infrastructure projects. This will help companies in the power sector to refinance debt on their books which in turn will allow Indian Banks to recover their rupee debt.
- (ii) **ECB for Maintenance and Operation of Toll systems for Roads and Highways** - With a view to maintain and stimulate operations of toll systems for roads and highways, ECB has been allowed for capital expenditure under the automatic route. This again is subjected to the condition that the maintenance and operation should form part of the original project.

Circular no. 112 envisages that an existing ECB can be refinanced / rescheduled by raising a fresh ECB at a higher all-in-cost under the approval route subject to the condition that the enhanced all-in-cost does not exceed the all-in-cost ceiling as per the existing guidelines. Whereas, the extant condition of refinancing an existing ECB by raising at a lower all-in-cost has been dispensed with by the circular.

Circular no. 113 is a significant step for liberalisation of the civil aviation sector as the government has now permitted ECB for working capital as a permissible end-use for the civil aviation sector under approval route. . Till date ECB was not allowed at all for working capital finance as it was usually a mode for capital expenditure – hence it is a great relaxation for airline industry. ECB for working capital can be raised in the civil aviation sector subject to the following conditions:

¹ The RBI notification is available at: [Notification No. FEMA 3/2000-RB dated May 3, 2000](#) and [A.P. \(DIR Series\) Circular No. 5 dated August 1, 2005](#),

Update

- Only airline companies registered under the Companies Act, 1956 and possessing scheduled operator permit license from DGCA for passenger transportation will be eligible to avail ECB for working capital;
- ECB to be raised within 12 months from the date of issue of Circular no.113 i.e 24th April, 2012
- With a minimum average maturity period of 3 years;
- The benefit will be available to the airline companies based on the cashflow, foreign exchange earnings and its capabilities to service the debt;
- Overall ECB ceiling for the entire civil aviation sector is US Dollar 1 billion and the maximum permissible ECB that can be availed by an individual airline company is USD 300 million;
- ECB availed for working capital/refinancing of working capital as above will not be allowed to be rolled over.
- The application for such ECB should be accompanied with a certificate from a chartered accountant confirming the requirement of the working capital loan and the projected foreign exchange cash flows/earnings which would be used for servicing the loan.

The provisions of all the three circulars are valid from immediate effect and shall come into force from the date of issuance of respective circulars.

The measures taken by the government will help Indian power companies to scale up their operations and business activities by refinancing debts on their books. It will also largely help the civil aviation industry to revive by providing them a gateway for their immediate financing needs - thus this is definitely a welcome measure which surely will answer the distressed situation of the aviation and power sector in India.