



# BAIL OUT LIKELY FOR AIRLINES TO ALLOW FOREIGN DEBT TO REPAY LOANS

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By a proposal raised by Reserve Bank of India (“RBI”) at the behest of a State Bank of India (“SBI”)-led consortium, the Department of Economic Affairs has called for exempting airlines from the end-use restrictions laid down for external commercial borrowings (“ECBs”) which would permit airlines to use foreign debt to repay loans to local banks.

SBI which has granted loans to Kingfisher Airlines and NACIL had previously approached RBI in view of the ballooning debts of the cash-strapped carriers and their inability to service loans, and proposed loan structuring. The RBI had, instead of a special dispensation for selective airlines, preferred to move an industry-wise dispensation.

Under the debt restructuring initiatives, the lenders have tentatively suggested a 2 year moratorium on short-term debt, better interest rate and conversion of a part of the debts into ECBs or cumulative convertible preference shares.

**PSA’s view:** With an increasing debt of \$10bn between Kingfisher Airlines, NACIL and Jet Airways, the financial position of the carriers is quite evident. The change in policy would, no doubt throw a lifeline to the beleaguered airlines; however, it would be interesting to assess the investors infusing funds in the carriers especially Kingfisher. Clearly, the lenders would now in future forbearance in lending to airlines and would rely on tangible assets.

## **DGCA flight slot circular to be implemented at four Airports by September 2010**

The Directorate General of Civil Aviation (“DGCA”) had issued Air Transport Circular (“Circular”) which ensures procedure to be followed by airlines to mitigate flight delays. The circular issued by the DGCA was implemented in Mumbai and Delhi Airports respectively on July 19, 2010. Since then, flights delays in both these airports have been considerably reduced during the morning and evening traffic hours. According to the Circular, airlines must close their check-in counters 40 minutes before their departure time. Also, the start-up clearance for the flight should be obtained 15 minutes in advance. The push back action has to be completed within five minutes of seeking the permission. After implementing this Circular in Delhi and Mumbai respectively, DCGA has decided to implement this Circular in other major airports such as Kolkata, Bengaluru, Chennai and Hyderabad.

**PSA’s view:** Following the strict enforcement of the Circular by airlines to mitigate flight delays, there has been significant improvement in the On Time Performances of airlines. The purpose of implementing this

Circular is to keep all airports in the loop and to make arrival and departure of flights more organized and timely.

### **RBI questions change in FDI norm**

The new FDI policy issued on April 1, 2010 has left the ceiling on non-scheduled airline services, chartered services, cargo airlines and ground handling services unchanged at 74%. The change has been introduced under the policy vis-à-vis the automatic route which now is allowed only till 49% as opposed to 74% earlier. The RBI has sought clarification from the Department of Industrial Policy and Promotion (“**DIPP**”) for why the norm has been tightened, before the same is notified by the RBI under the Foreign Exchange Management Act, 1999, as this will impact not only existing operators falling in those categories in India, but future investment prospects of the sector.

**PSA’s view:** By allowing FDI under the automatic route only till 49%, any operator wishing to invest more or up till 74% will have to seek the approval of the Foreign Investment Promotion Board. This is likely to cause problems for foreign investors looking to invest at 74% holding as they will have to seek approval from the FIPB, which in turn may require the foreign investor to comply with certain onerous conditions. The RBI has in an attempt to understand the rationale of the DIPP, sought clarification. If the RBI does not see reason in the DIPP’s approach, it may not effect the change giving much needed respite to domestic airline carriers who are riddled with mounting debt.

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