Recent updates & relief measures

India has introduced a USD 23 billion financial stimulus package to battle coronavirus pandemic spreading its tentacles across the country. The country is now in midst of a 21-day national lockdown aimed at avoiding a colossal disaster.

The stimulus announced by finance minister covers some of the basics like ensuring essential services remain operational, migrant workers' welfare, functional public distribution system, etc.

Reserve Bank of India

Reserve Bank of India (**RBI**) announced a slew of measures to mitigate the impact of coronavirus-related lockdown on businesses. The steps taken would push lending rates down, encourage banks to infuse money into productive sectors, infuse liquidity and address the financial stress in the system. RBI rolled out a notification dated March 27, 2020 which provides for a massive dose of monetary stimulus to be injected to overcome the current situation in economy and to help strengthen the extremely fragile financial markets.

Liquidity measures

- Reduction in the Credit Reserve Ratio for banks by 100 basis point, thereby bringing the effective rate from 4% to 3% of the net demand and time liabilities.
- Revised limit of 3% of the statutory liquidity ratio for borrowing under the marginal standing facility.
- Infusion of liquidity of INR 2.74 lakh crores into the banking system through adjustments in capital conservation buffer.
- Infusion of additional liquidity of INR 1 lakh crores through auction of targeted long-term Repo, provided the liquidity availed by the banks under this scheme shall mandatorily be deployed in investment grade corporate bonds, commercial paper, and non-convertible debentures.

Supervisory measures

- Lending institutions allowed to grant a moratorium of three months for repayments of term loans falling due between March 1, 2020 and May 31, 2020; lending institutions permitted to defer the recovery of interest during the Moratorium Period in respect of the working capital facility availed by borrowers in the form of either cash, credit and overdraft.
- While interest shall continue to accrue on both the term loan and the working capital facility during the Moratorium Period, the accrued interest on working capital facility shall be recoverable immediately on the elapse of Moratorium Period (the notification is silent on recovery of such interest in respect to term loans).
- The lending institutions have further been advised to revise the working capital limit available to borrowers under existing facility agreements by reassessing the margins and/or the working capital cycle, subject to bank satisfying itself that such rearrangements are necessitated due to economic fallout of Covid-19.

Impact

- Even though the Covid-19 regulatory package announced by the RBI is advisory in nature, but it nevertheless clarifies the intent of RBI to ensure that the additional liquidity infused through adoption of unprecedented liquidity measures reaches its intended targets i.e. the borrower(s)
- The Apex Bank has directed the lending institutions to frame Board approved polices for providing the relief stated in the regulatory package
- Further, slashing of the repo rate will bring down the cost of the borrowing for the new loans and significantly reduce the cash outflow due to loans on floating interest, if the same is passed on to the borrowers by the lending institution.
- RBI has clarified that such rearrangements in the working capital facility or deferred repayments in respect of the term loan, shall not be treated as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under paragraph 2 of the Annex to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated June 7, 2019 (Prudential Framework). Consequently, such a measure, by itself, shall not result in asset classification downgrade and will not qualify as a default for the purposes of supervisory reporting and reporting to Credit Information Companies by the lending institutions.

Procedure

- Since the discretion to extend the relief under the Covid-19 regulatory packages vests with the concerned lending institutes, the process for making such application shall be notified by the concerned lending institute.
- In the absence of any such procedure being notified by the concerned lender, it is advisable that an application is made to the said lender requesting grant of relief under the package. In respect of revision of working capital limits, it is advisable that the representation includes the detailed reasoning for seeking such revision.

Extension of realization period of export proceeds

- The time period for realisation and repatriation of export proceeds for exports made up to or on July 31, 2020, has been extended to 15 months (Increased from 9 months) from the date of export. This will enable the exporters to realise their receipts, especially from virus affected countries, within the extended period and also provide greater flexibility to the exporters to negotiate future export contracts with buyers abroad.

Review of WMA limits of States/UTs

- The RBI had constituted an advisory committee to review the Ways and Means Advances (**WMA**) limits for state governments and Union Territories (**UTs**).
- Pending submission of the final recommendations by the committee, it has been decided to increase WMA limit by 30% from the existing limit for all states/UTs to enable the state governments to tide over the situation arising from the outbreak of coronavirus.
- The revised limits will come into force with effect from April 1, 2020 and will be valid till September 30, 2020.

Insolvency and Bankruptcy Code

On March 24, 2020, the Finance Ministry announced special relief packages for companies and inter alia raised the existing threshold of default of INR 1 lakh for triggering insolvency proceedings under the IBC to INR 1 crore. It was also announced that the Ministry would also consider suspending Sections 7, 9 and 10 of the IBC for six months if the lockdown situation continues beyond April 30, 2020.

Measures taken by Registrar, National Company Law Tribunal (NCLT)

- All NCLT Benches will remain closed from March 23, 2020 till April 14, 2020. Matters to be listed between during this time will be suitably listed from April 15, 2020 onwards before respective NCLT benches.
- Regarding urgent matters, the Notice mentions that an Application should be filed (after verification by the respective counsel through Affidavit) by the respective counsel vide email to the Registrar NCLT after service of notice to the other side.
- The Acting President sitting singly at Chennai examined Applications and passed necessary orders on March 25, 2020 and March 27, 2020. Currently, urgent matters filed has been uploaded on NCLT's website and shown in NCLT Chennai Bench.

Measures taken by Registrar, National Company Law Appellate Tribunal (NCLAT)

- Till April 01, 2020, only urgent matters shall be listed before the NCLAT, for which the Registrar of NCLAT would have to be contacted via telephone (9412159663).
- The matters listed for hearing between March 21, 2020 and April 01, 2020 shall stand adjourned and the next date of hearing will be informed later.
- The interim orders passed in the said matters will continue till the next hearing. The filing counters will also remain closed.

Period of Limitation

- Vide order passed in Suo Moto Writ Petition (Civil) No. 3/2020, the Supreme Court exercised its powers under Article 142 read with Article 141 of the Constitution of India and ordered that the period of limitation in all proceedings irrespective of the limitation prescribed under the general law or special Laws whether condonable or not will stand extended w.e.f. March 15, 2020 till further orders.
- Consequent to the above, on March 24, 2020 the NCLT and NCLAT issued notices stating that the litigant public pertaining to the matters within the jurisdiction of the said authorities shall abide by the abovementioned order passed by the Supreme Court.

IBBI and Insolvency Professionals

- The Insolvency and Bankruptcy Board of India (**IBBI**) issued a letter to Insolvency Professionals inter alia reminding them of their obligations towards the corporate debtors and their stakeholders in these difficult days.
- Further, the Insolvency Professionals were also advised to follow certain steps such as holding stakeholders' meetings through virtual platforms, allowing their staff to work from home, exercising social distancing etc.

Ministry of Corporate Affairs

Relaxations under the Companies Act, 2013

The Ministry of Corporate Affairs notified various relaxations on March 24, 2020:

Extended till September 30, 2020

- No additional fees will be charged for any late filing (in the MCA21 Registry) during the moratorium from April 1, 2020 until September 30, 2020.
- Mandatory requirement of holding board meetings within the intervals provided in Section 173 of the Companies Act, 2013 extended by a period of 60 days, i.e. until September 30, 2020.

Extended till June 30, 2020

- Requirement under Section 73(2)(c) of CA-13 to create the deposit repayment reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till June 30, 2020.
- Requirement under Rule 18 of the Companies (Share Capital & Debentures) Rules, 2014 to invest or deposit at least 15% of amount of debentures maturing in specified methods of investments or deposits before April 30, 2020, may be complied with till June 30, 2020.

Others

- Compliance of Companies (Auditor's Report) Order, 2020 shall be made applicable from FY 2O2O-21 instead of being applicable from FY 2019-20
- The independent directors are not mandated to hold a meeting with the management and other directors of the company
- Newly incorporated companies can file a declaration under Section 10A of the Companies Act, 2013 for Commencement of Business within 360 days of incorporation (instead of 180 days)
- Requirement for 'Indian' director to spend at least 182 days in India shall be suspended for FY 2019-20

Implementation date for Stamp Duty Amendments deferred

Last year, the Indian Stamp Act, 1899 was amended and a centralized system of stamp duty with a unified rate for all financial securities transactions was introduced, which was to be implemented with effect from April 1, 2020. In light of Covid19 outbreak, the date of implementation has been shifted to July 1, 2020, in order to give further time to market participants to shift to the new requirements. As per the amendments and the new notification, stock exchanges will now collect stamp duty for trading in securities at a unified rate from July 1, 2020 and deposit the proceeds with the Centre, which will then divide it among states where the trade took place.

Introduction of fresh start scheme for defaulting companies

The Ministry of Corporate Affairs on March 30, 2020 has introduced the Companies Fresh Start Scheme, 2020 (**Scheme**) allowing defaulting companies to make filings (in the nature of MGT-7, AOC-4, INC-22A, PAS-3, ADT-1, MGT-14 etc.) between April 1, 2020 and September 30, 2020, irrespective of the time of their default and without paying any additional fee. This would provide complying companies immunity from prosecution from specific provisions of the Companies Act, 2013 and reduce their financial burden. Prior to this Scheme being in effect, the MCA was taking actions for non-compliance of statutory compliances (for e.g. delay or non-filing of annual returns, annual statutory forms and documents, etc.). Inactive companies are also allowed to take benefits under this Scheme. In order to avoid confusion, specific exceptions have also been provided which would not be covered under the said Scheme. The tenure of the Scheme is from April 01, 2020 to September 30, 2020.

Securities and Exchange Board of India

Securities and Exchange Board of India (**SEBI**) has relaxed various compliances for listed companies during the month of March 2020:

- The timeline for issuance and filing for issuers who have listed/propose to list their Non-Convertible Debentures (**NCDs**)/ Non-Convertible Redeemable Preference Shares (**NCRPS**)/ Commercial papers which had to be done by March 31, 2020, has now been extended to May 31, 2020.
- On March 23, 2020, SEBI has extended the due date for regulatory filings and compliances for REIT and InvIT for the financial year ending on March 31, 2020 by one month over and above the timelines prescribed by REITs, InvITs prescribed under SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real estate Investment Trusts) Regulations, 2014 and circulars issued thereunder.
- SEBI has also relaxed compliance with disclosure requirements pertaining to Mutual Funds as per Regulation 59 of SEBI (Mutual Funds) Regulations, 1996 and circulars issued thereunder. Also the dates of implementation of risk management framework, policy for investment norms have been extended.
- Relaxation of various timelines under the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 (**LODR**):
  - The requirement of audit committee and board of directors meeting for at least 4 times a year, with a maximum time gap of 120 days between any two meetings has been exempted
  - The yearly meeting of the nomination and remuneration committee, the Stakeholders Relationship committee and the Risk Management Committee has now been extended to June 30, 2020
  - Relaxation of the operation of the SEBI circular on Standard Operating Procedure on imposition of fines and other enforcement actions for non-compliances with provisions of the LODR dated January 22, 2020. It will now come to force with effect on or after June 30, 2020

Requirement under LODR	Original date	New date
Regulation 7(3): Compliance certificate on share transfer facility (filed half-yearly)	Apr 30, 2020	May 31, 2020
Regulation 13(3): Statement of Investor complaints (filed quarterly)	Apr 21, 2020	May 15, 2020
Regulation 24A: Secretarial Compliance report to (filed yearly)	May 30, 2020	Jun 30, 2020
Regulation 27(2): Corporate Governance report (filed quarterly)	Apr 15, 2020	May 15, 2020
Regulation 31: Shareholding Pattern (filed quarterly)	Apr 21, 2020	May 15, 2020
Regulation 33: Financial Results (filed quarterly/annual)	May 15, 2020	Jun 30, 2020
Regulation 40(9): Certificate from Practicing Company Secretary on timely issue of share certificates (filed half yearly)	April 30, 2020	May 31, 2020
Regulation 44(5): Holding of AGM by top 100 listed entities by market capitalization for FY 19-20 to be done on annual basis	Aug 31, 2020	Sep 30, 2020
Regulation 47: Publishing in the newspapers of information such as notice of the board meeting, financial results etc.	Within 48 hours of Board meeting	Exempted until May 15, 2020

Labour & Employment

To give effect to the proclaimed nationwide lockdown in response to the Coronavirus Pandemic, the Ministry of Home Affairs, Government of India (**GoI**) released an order on March 24, 2020 (**Order**), in line with the responsibilities and powers granted to it by Section 6 of the Disaster Management Act, 2005 (**Act**), which will have an overriding effect over all other laws or orders issued across India on the subject, to the extent of their inconsistency.

The GoI Order and the measures to be taken thereunder as mentioned in the associated Guidelines (**Guidelines**) will affect employees in several labor-intensive industries and white-collar establishments. The pertinent labor and employment legal issues and its widespread impact are addressed below.

The Guidelines issued prescribe closure of all offices of/under the GoI or any State Government, commercial or private establishments, industrial establishments, hospitality services, transport services, educational institutions, places of worship and bar all kinds of gatherings, with certain exceptions. They fundamentally relate to the movement of people, and not of essential goods/commodities, and similarly list exceptions under each head mentioned above, pertaining to the kinds of establishments (providers of essential services & commodities) that may continue to operate during the period of the lockdown, all others being permitted only to work-from home.

- **Non-exempt employers:** The Act prescribes for piercing the corporate veil by holding every individual (and the company itself) in charge of/responsible for managing the affairs of the company (at the time of contravention) guilty for offences committed consensually or negligently. Persons held guilty are liable for punishment unless proven that the offence was committed without knowledge or preventive due diligence was exercised. This correspondingly applies to firms (and partners) and other associations of individuals and government departments. Employers engaged in the provisioning of non-essential services & commodities that are not-exempt under the guidelines must refrain from opening their offices or requiring employees to perform any duties other than working from home.
- **Non-exempt employees:** Non-compliance with the obligation to work from home during the period of the lockdown may result in punishment under section 188 of the Indian Penal Code, 1860.
- **Essential services and commodities:** Employees working in the essential services and commodities establishments, both private establishments and government departments, would fall under the exempt category, subject to the Guidelines issued under the Order.
- **Private establishments:** Employers are obligated to assure that passes for enabling essential movements are obtained for each employee separately, from the Executive Magistrates, which can be facilitated online. Employers in essential services/commodities will have to ensure that the employees perform their employment obligations taking necessary measures against Covid-19, as prescribed by the GoI. Applicable labour and employment laws would continue to regulate employees during this period, including provisions for leave, termination and other contractual obligations inter alia.
- **Government departments:** The offices should operate with minimum number of employees, ensuring necessary precautions against COVID-19 including social distancing measures. An officer, on whom a duty has been imposed by the Order or any other order made under the Act, may not cease or refuse to perform it unless approved by their official superior or done with a lawful excuse.

Employment regulatory insights

- The Employees' Provident Fund Scheme has been amended to allow withdrawal of non-refundable advance by EPF Members due to the pandemic. It permits withdrawal of amount not exceeding the basic wages and dearness allowance for three months or up to 75% of the amount standing to the credit of the members' EPF account, whichever is less.
- Employers will be required to pay contribution for 45, instead of 15 days for the months of February and March, towards Employees' State Insurance. The deadlines for the same have been extended by a month each.
- The Unified Annual Return (under 8 labour laws) for 2019 may now be filed up to April 30, 2020.
- The Ministry of Labour & Employment has issued an advisory for all private establishments against terminating or reducing the wages of their employees during the period of non-operationality due to COVID-19. Any Employee on leave should be deemed to be on duty in such cases. The enforceability of such advisory by way of letters to all Employers' Associations and the Ministry of Housing and Urban Affairs, however, remains in question.

Taxation

Direct taxes

- The due date for filing Income Tax Returns (**ITR**) for the Financial Year 2018-19 has been extended to the June 30, 2020.
- The due date for issuance of notices, filings, compliances, availing benefits under the following acts where the time limit is expiring between March 20, 2020 to June 29, 2020 have been extended to the June 30 2020: The Income Tax Act, 1961; The Wealth Tax Act, 1957; The Benami Transaction (Prohibition) Act, 1988; The Black Money Act; The Security Transaction Tax; and The Commodity Transaction Tax.
- Interest rates on delayed payments of advance tax have been reduced from 12% to 9%.
- No extension has been provided on deposit of TDS. However, interest rates payable on the delayed payment has been reduced from 18% to 9%. This reduction is temporary and the same will only be valid till June 30, 2020.
- Last date for Investment related deduction under section 80, 54, 54B, 54EC etc extended to June 30, 2020.
- Deadline for linking Aadhar and PAN Card has been extended to June 30, 2020 from March 31, 2020.
- Investments/constructions/purchases for claiming roll over benefit/deduction in respect to capital gains under section 54 to 54G of the Income Tax Act has been extended to June 30, 2020.
- The date for commencement of operation for the SEZ units for claiming deduction under deduction 10AA of the Income Tax Act has been extended to June 30,2020 for the units which received necessary approval by March 31, 2020.
- The deadline for availing benefits under the Vivaad se Vishwas Scheme has been extended to June 30, 2020 *vide* an amendment to Section 3 of the Vivaad se Vishwas Scheme Act, 2020.

Indirect taxes

Goods and Services Tax

- An enabling section 168A has been inserted in the CGST Act, 2017 empowering the Government to extend due dates for various compliances.
- The due date for filing the GSTR-3B for March, April and May have been extended till the June 30, 2020- Notification no. 15/2020 – Central Tax dated 23 March 2020 has already been issued in relation to the extension of due date for filing annual return for FY 2018-19.
- Deadline for availing the composition scheme, which enables taxpayers with less than an annual turnover of INR 1.5 crore to pay Goods and Services Tax at a fixed rate, has been extended to June 30, 2020.
- Sabka Vishwas Scheme i.e. the scheme which was introduced with an aim to resolve and conclude disputes pertaining to the erstwhile indirect tax regime which was earlier extended to March 31, 2020 has now been extended to June 30, 2020. No interest would be levied irrespective of amount involved pertaining to the said scheme.

Customs and Service Tax Act

- The last date for filing appeal, refund application or any other documents under the Central Excise Act,1944 and the rules made thereunder from March 20, 2020 to June 29, 2020 has been extended to June 30, 2020.
- The last date for filing of appeal etc. relating to Service Tax which is from March 20, 2020 to June 29, 2020 has been extended to June 30, 2020.
- For companies with an annual turnover of less than INR 5 Crores, no interest, late fee or penalty will be charged. However, for companies with a turnover higher than INR 5 Crore, interest at the rate of 9% would be charged from 15 days after the due date. The rate of interest is concessionary as the current rate of interest at 18%.

- Customs clearance would operate 24X7 till June 30, 2020. Further, the due date for issuing of notices, notifications, sanctions, claiming refund and any other document under the Customs Act and other allied laws has been extended to the June 30, 2020.

Central Excise Act

- The due date for filing the annual return for the financial year 2018-19 has been extended to June 30, 2020 from March 31, 2020.
- The last date for furnishing the Central Excise returns due in March, April and May has been extended to June 30,2020.

PM CARES Fund

- A special fund called as Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (**PM CARES FUND**) has been set up for providing relief to the persons affected from the outbreak of the Covid-19.
- Accordingly section 10(23C)(i) and section 80G(2)(a) of Income Tax Act have been amended to include the said fund.
- The donation made to the PM Cares Fund shall be eligible for 100% deduction under section 80G of the Income Tax Act, without any limit.
- Donation made up to June 30, 2020 shall also be eligible for deduction from income of financial year 2019-20.
- Any person including corporate paying concessional tax on income of financial year 2020-21 under new regime can make donation to PM Cares Fund upto June 30, 2020 and can claim deduction under section 80G against income of financial year 2019-20 and shall also not lose his eligibility to pay tax in concessional taxation regime for income of financial year 2020-21.