

1. Government fiscal measures

1.1 General fiscal stimulus measures that have been adopted

Various measures have been taken by the Indian Government (as well as State Governments, so far as the federal structure of the Indian Government permits) to combat the impact of the Covid-19 pandemic. The individual State and Territory measures are not considered in this chapter.

On 24 March 2020, the Central Government in India announced a nationwide lockdown lasting until 14 April 2020, which has been subsequently eased gradually.

Recently, during the Budget Session of the Parliament of India, the Finance Minister announced a total budget outlay of INR2,23,846 crore for the financial year (FY) 2021–2022 as against budgetary estimates for FY 2019–20 of INR94,452 crore, reflecting an increase of 137%. Specifically, the Government has proposed a provision of INR35,000 crore for Covid-19 vaccine as budgetary estimates for FY 2021–22.

During the course of the last calendar year, the Government of India had announced INR1,700 billion relief package for the financially challenged sections of the population impacted by the Covid-19 outbreak. Key highlights included:

- insurance cover of INR5million for each health worker assisting in the Covid-19 pandemic to be provided under a specified insurance scheme;
- 800 million lower-income citizens to be provided with a specified quantity of free basic food supplies every month until June 2020;
- 200 million women who hold *Jan Dhan* accounts (bank accounts under a Government scheme to assist lower-income groups) to be provided with INR500 per month until June 2020;
- an increase in the rural guaranteed employment wage (under the Mahatma Gandhi National Rural Employment Guarantee Act)¹ by INR182 a day to INR202, benefitting approximately 136.2 million families;
- a one-time payment of INR1,000 each to 30 million lower-income senior citizens, widows and disabled citizens; and
- the Government front-loaded INR2,000 to approximately 87 million farmers in the first week of April 2020 under the existing PM "*Kisan Yojana*" scheme (under which farmers receive an annual amount of INR6,000 in three instalments).

The Ministry of Finance, Government of India had also announced various relief and credit support measures on 13 May 2020, including in relation to micro, small and medium enterprises (MSMEs) and power distribution companies (DISCOMs).² The key concessions / reliefs are set out below.

- For MSMEs which were classified as standard assets as on 29 February 2020, additional working capital finance of 20% of their outstanding credit limits as on 29 February 2020 was provided as term loan(s) at a concessional rate of interest. This was available to MSMEs with (a) outstanding financial debt of up to INR25 crore and (b) turnover not exceeding INR100 crores. The eligible MSME borrowers did not have to provide any guarantee or collateral of their own, which was instead guaranteed by the Government of India.
- The Government made provision for INR20,000 crore subordinate debt for 2 lakh MSMEs whose accounts were classified as "non-performing assets" (NPAs) or were stressed. It was proposed that the Government would support them with INR4,000 crore to the Credit Guarantee Trust for Micro and Small Enterprises Banks were expected to provide the subordinate-debt to promoters of such MSMEs equal to 15% of the promoter's existing stake in the unit subject to a maximum of INR75 lakhs.
- The Government also announced a proposal to establish a block of funds with a corpus of INR10,000 crore to provide equity funding support for MSMEs.
- The Power Finance Corporation and Rural Electrification Corporation would provide liquidity to DISCOMS to the extent of INR90,000 crore in two equal instalments. These funds were to be used by the DISCOMS to pay their dues to transmission and generation companies, from whom the DISCOMS acquire the electricity supply.

In addition to the above, during the Budget Session, the Finance Minister announced a budgetary estimate of INR15,700 crore for the MSME sector for FY 2020–2021.

On 31 March 2020, the Indian Commerce and Industry Ministry announced an extension of India's foreign trade policy until 31 March 2021, which has been further extended until 30 September 2021³ on the same terms to ensure stability amidst the uncertainty caused by Covid-19 for the Indian economy. This provided relief in terms of continuation of existing benefits under export promotion schemes for an additional period of 18 months and automatically extended by 12 months the validity periods of authorisations to import duty free goods and export authorisations which were scheduled to expire between 1 February 2020 and 31 July 2020.

The Ministry of Power had issued directions to the Central Electricity Regulatory Commission to provide a moratorium of three months to power distribution companies, to make payments to power-generating companies and transmission licensees, and not to levy penal rates or late payment surcharges. Further, the Ministry of Power provided relief to power distribution

1. Available at: https://nrega.nic.in/amendments_2005_2018.pdf.

2. Available at: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1623601>.

3. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1708765>.

companies such that until 30 June 2020, the payment security mechanism to be maintained by the power distribution companies with the power-generating companies for dispatch of power was reduced by 50%. These measures were to help the distribution companies whose liquidity position was impacted in view of hampered bill collection during the lockdown.

To ensure the continued supply of essential commodities during Covid-19, the Government of India has taken measures including the maintenance of freight corridors to transport essential commodities and vital goods for energy and infrastructure,⁴ ensuring the uninterrupted supplies of food grains⁵ and facilitating air transport of essential medical supplies across India. A special fund has also been constituted for providing relief for persons impacted by the Covid-19 pandemic, the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund). Directives have been issued requiring profit-making "public sector" Government companies to donate part of their corporate social responsibility funds to the PM CARES Fund.⁶

2. Legislative reforms impacting on stakeholders dealing with companies in financial distress

2.1 Reforms and measures relating to employees

To protect employees, the Central Government issued notifications / orders to ensure that the social security framework in India comes to the rescue of employers and employees in this crisis-ridden situation:

- by way of an amendment to the Employees' Provident Fund and Miscellaneous Provisions Act 1952 (EPF Act) dated 18 May 2020, the statutory rate of contribution under the EPF Act for private establishments (which are not covered under the *Pradhan Mantri Garib Kalyan Yojana*) was reduced to 10% (from the existing rate of 12%), for the months of May, June and July 2020;
- pursuant to a notification⁷ under the EPF Act read with the Employees' Provident Funds Scheme 1952 (Scheme), commissioners under the EPF Act have been authorised to permit withdrawal of a non-refundable advance from the Provident Fund account of a member of the Scheme who is employed in any establishment or factory located in an area declared to be affected by any epidemic / pandemic by the appropriate Government. The amount of such non-refundable advance is capped at the lower of three months' basic wages and dearness allowance of the member or 75% of the amount standing to the credit of the member. As per publicly available information, a total of INR300 billion has already been disbursed by the Employees' Provident Fund Organisation (EPFO) to 40,826 Provident Fund members, in the

form of advance under the aforementioned scheme;

- on 26 March 2020 the Ministry of Finance announced that the Government would pay contributions under the EPF Act for three months for all those establishments having less than 100 employees, and of whom 90% earn less than INR15,000 per month.⁸ These measures were implemented *vide* a circular issued by the EPFO.⁹ Subsequently, through a memorandum dated 10 July 2020, the Central Government announced that it would continue to pay the abovementioned contribution under the EPF Act up to the wage month of August 2020; and
- recognising the difficulty faced by establishments in making timely deposit of contributions due to economic and operational constraints imposed by the lockdown, the EPFO issued a circular¹⁰ on 15 May 2020 to provide relief to establishments and factories from the levy of penal damages for delay in payment of contributions or other charges under the EPF Act.

The Central Government had also directed that all "apprentices" engaged under the Apprentices Act 1961 should be paid their entire stipend during the lockdown period¹¹ and that reimbursement of stipend to establishments under the National Apprenticeship Promotion Scheme (NAPS) would be paid by the Government for the lockdown period as per the NAPS guidelines.

Further, the Central Government had issued an advisory to the State Governments / Union Territories to provide financial support to construction workers by transferring cess funds, collected under the Building and Other Construction Workers Act 1996, to the accounts of such workers electronically.¹² About INR520 billion was available as cess fund, and about 35 million construction workers were expected to benefit from this move. Subsequently, according to publicly available information, as many as 18 States have disbursed a total of INR2,250 crore as a one-time cash benefit directly into the accounts of approximately INR1.8 crore registered construction workers affected due to the pandemic, from the designated Building and Other Construction Workers cess funds.

The Employees' State Insurance Corporation (ESIC) had launched a pilot project, namely the *Atal Beemit Vyakti Kalyan Yojana* (ABVKY) for a period of two years in 2018, which has been extended up to 30 June 2021, as on 20 August 2020. Under the ABVKY, employees covered under the Employees' State Insurance Act 1948 can claim cash compensation for up to 90 days, as a once in a life-time measure, if the concerned individual has remained unemployed for three months, subject to fulfilment of certain conditions.

On 12 November 2020, the Government of India announced the *Aatmanirbhar Bharat 3.0* package. As part of the package, the *Aatmanirbhar Bharat Rojgar Yojana* Scheme Guidelines (ABRY Scheme) were announced to incentivise the creation of new employment opportunities

4. Ibid.

5. Ibid.

6. Ibid.

7. The Employees' Provident Funds (Amendment) Scheme 2020, 27 March 2020.

8. Finance Ministry Briefing, 26 March 2020

9. Available at: https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2019-2020/24percent.pdf.

10. Available at: https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2020-2021/Relief_in_pd_due_2_covid.pdf.

11. Office Memorandum, Ministry of Skill Development and Entrepreneurship, Government of India, 30 March 2020.

12. Press Information Bureau release, 24 March 2020.

and to facilitate the restoration of loss of employment during the Covid-19 pandemic. The ABRY Scheme commenced from 1 October 2020 and is open for registration of eligible employers and new employees up to 30 June 2021. The benefits under the ABRY Scheme will be available for a period of 24 months from the date of registration of a new employee and, in any case, not later than 30 June 2023. Under the ABRY Scheme, the Government of India will provide subsidy for 24 wage months whereby it will pay both employees' and employers' contribution (up to a maximum of 24% of wages) towards the Employees' Provident Fund (EPF) for new employees in establishments employing up to 1,000 employees in the wage month September 2020. For establishments employing more than 1,000 employees in the wage month September 2020, the Government of India will pay only the employees' share of EPF contribution (up to maximum of 12% of wages). The benefits of the aforementioned scheme will be available only to employees who earn less than INR15,000 per month.

In addition to the above, the Ministry of Labour and Employment has extended the last date for submission of contributions and filing of returns under various labour statutes.¹³

Apart from the above, the Central Government (as well as various State Governments) issued advisories or directions, most of which are in the form of an appeal to employers, to ensure (a) businesses do not dismiss their employees and (b) the continued payment of wages and salaries in a timely manner. The Supreme Court (SC) of India issued orders directing compliance with such directives, advisories and orders in letter and spirit in the interest of public safety.¹⁴ Certain employers have also challenged the validity of the governmental directives, advisories and orders before the SC as being *ultra vires* of the Constitution of India and creating immense hardship for employers. While a final pronouncement by the SC on these petitions is awaited, the SC has in some of these matters issued an interim order stating that no coercive action should be taken against employers for non-payment of employees' dues, for a limited period of time.

With the country having entered a phase of "unlock" since May 2020, the Ministry of Home Affairs (MHA) issued the Guidelines for Surveillance, Containment and Caution (Guidelines) on 25 November 2020. By way of an order dated 26 February 2021, the applicability of the Guidelines has been extended up to 31 March 2021.¹⁵ The Guidelines set out various compliances and directions for the management and containment of Covid-19 in the country. While the Guidelines do not prescribe any specific restrictions on functioning of workplaces outside containment zones, they encourage organisation and business entities with 50 or more employees to avail the *Aarogya Setu's* Open API Service, which allows organisations to track the real time health status of their employees or any other *Aarogya Setu* application user (with prior consent), to facilitate organisations and employees to return to work in a Covid-free environment. Additionally, the Standard Operating Procedures on preventive measures to contain the spread of Covid-19 in offices, issued by the Ministry of Health and Family Welfare on 4 June 2020, will continue to apply

and will be strictly enforced by concerned authorities.

Certain State Governments also issued orders allowing employers to extend the working hours of their employees in factories after the lockdown is lifted, provided safety and sanitisation conditions are continued to be met and the workers are paid for the overtime work performed.¹⁶ Some other State Governments went a step further and issued ordinances¹⁷ and notifications whereby provisions under several labour laws were relaxed. However, these measures faced considerable criticism as well as a constitutional challenge before the SC.¹⁸ In fact, some States had to withdraw the notifications whereby working hours in factories had been extended.¹⁹

2.2 Procurement contracts of the Central Government

The Ministry of Finance, Union of India, issued an office memorandum on 19 February 2020 (MOF Memorandum) to Central Government ministries and departments to consider disruption of supply chains due to the Covid-19 outbreak or any other country as a case of "natural calamity" and allowed invocation of *force majeure* clauses, wherever considered appropriate, only in relation to "public procurement contracts".

3. Legislative reforms for companies in financial distress

3.1 Changes to the insolvency process

3.1.1 Suspension of the fresh initiation of insolvency proceedings

- On 5 June 2020, the President of India promulgated the Insolvency and Bankruptcy (Amendment) Ordinance 2020 (IBC Ordinance) (effective from the date of the ordinance), in furtherance to the economic measures announced by the Ministry of Finance²⁰ to support Indian businesses impacted by the outbreak of the Covid-19 pandemic. The IBC Ordinance was subsequently approved by both the houses of Parliament and replaced by the Insolvency and Bankruptcy Code (Second Amendment) Act 2020 on 23 September 2020 (Amendment Act), with effect from 5 June 2020. The Amendment Act has introduced the following amendments to the Insolvency and Bankruptcy Code 2016 (Bankruptcy Code).
 - a) Section 10A was inserted into the Bankruptcy Code, restricting filing of any application for initiation of the corporate insolvency resolution process (CIRP) against a corporate debtor (being a company or a limited liability partnership) for any default²¹ arising after 25 March 2020, for a period of six months or such further period as may be notified in this behalf (Specified Period), not exceeding one year from 25 March 2020. The Specified Period was extended by the Central Government on two occasions for

13. The timeline for payment of contributions under the EPF Act for the month of March 2020 and Employees' State Insurance Act 1948 for the month of February 2020 was extended, vide circulars dated 15 April 2020 and 13 April 2020, respectively. Similarly, on 1 January 2021, the ESIC allowed employers to file the contribution, for the contribution period from 1 April 2020 to 30 September 2020 up to 15 January 2021, as a one-time relaxation.

14. Alakh Alok Srivastava v Union of India (Order dated 31 March 2020) [Writ Petition(s) (Civil) No(s) 468/2020].

15. Available at: https://www.mha.gov.in/sites/default/files/DOtoChiefSecretaries_26022021.pdf.

16. Currently, such exemption orders have been issued under the Factories Act 1948 in the States of Himachal Pradesh and Punjab.

17. Ordinances to relax labour laws have been passed by the Governor / State Governments of Gujarat, Uttar Pradesh and Madhya Pradesh. The Gujarat ordinance, however, is not available in the public domain.

18. Pankaj Kumar Yadav v Union of India & Others, 14 May 2020

19. The states of Rajasthan and Uttar Pradesh have withdrawn the notifications whereby working hours under the Factories Act 1948 had been extended in these states.

20. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1624661>.

21. "Default" under the Bankruptcy Code means, "non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be".

a further period of three months from 25 September 2020²² and 25 December 2020 respectively.²³ Accordingly, the extension was made effective until 24 March 2021.

Further, a proviso has been inserted in section 10A to specify that no application can ever be filed for initiation of CIRP of a corporate debtor for the said default occurring during the Specified Period, i.e., CIRP can never be initiated on the basis of a default which occurred during the Specified Period, even if the default is continuing after the expiry of the Specified Period.

The amendment does not however, restrict initiation of the insolvency proceedings in respect of default committed prior to 25 March 2020 even though such application has been filed after 25 March 2020.²⁴

- b) Section 66 (Fraudulent trading or wrongful trading) of the Bankruptcy Code has also been amended to give protection to the directors of a corporate debtor from proceedings being initiated against them for wrongful trading, relating to a default during the Specified Period. Pursuant to the amendment, no application can be filed by a resolution professional against a director or a partner (of the relevant corporate debtor) for wrongful trading, in respect of such defaults in respect of which initiation of CIRP is restricted under section 10A of the Bankruptcy Code.

- The Government has also indicated that a special insolvency resolution framework for MSMEs under the provisions of the Bankruptcy Code will be notified soon.

3.1.2 Filing requirements

Under section 4 of the Bankruptcy Code, the minimum amount of default for initiating a CIRP against a corporate debtor was previously INR100,000. The Ministry of Corporate Affairs (MCA) *vide* its notification dated 24 March 2020 increased this threshold to INR10,000,000.²⁵ The National Company Law Appellate Tribunal (NCLAT) has held that the threshold is prospective in nature and that it will not apply to the applications which were pending adjudication at the time of issuance of the notification.²⁶

3.1.3 Changes to procedural timeframes and enhanced moratoria

The nationwide lockdown, which also extends to bankruptcy and insolvency courts in India, has impacted upon, among other things, the timelines relating to the insolvency resolution process of the relevant entities under the Bankruptcy Code. In view of the hardships faced in undertaking insolvency resolution (including by the litigants and insolvency professionals), certain measures have been introduced by the courts and regulators in India, as set out below.

- The SC of India on 23 March 2020 passed an order providing that the “limitation period” in all proceedings, irrespective of the limitation prescribed under the general law or special laws, whether condonable or not, would be extended with effect from 15 March 2020 until further orders to be passed by the SC in the relevant proceedings.²⁷ Recently, *vide* order dated 8 March 2021, the SC vacated its order dated 23 March 2020 in view of the improved situation and ease in lockdown restrictions and issued *inter alia* the following directions:
 - a) in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15 March 2020 to 14 March 2021 shall stand excluded and, accordingly, the balance period of limitation remaining as on 15 March 2020, if any, shall be computed with effect from 15 March 2021;
 - b) for cases where the limitation would have expired during the period between 15 March 2020 to 14 March 2021, irrespective of the actual balance period of limitation remaining, all persons have been allowed an extended limitation period of 90 days from 15 March 2021. If the actual balance period of limitation remaining, with effect from 15 March 2021, is greater than 90 days, that longer period will apply;
 - c) the period from 15 March 2020 to 14 March 2021 shall also stand excluded in computing the periods prescribed under the following legislations:
 - i) the limitation period prescribed under section 23(4) of the Arbitration and Conciliation Act 1996 (Arbitration Act) (which requires that the statement of claim and defence must be completed within a period of six months from the date when the arbitrator / arbitrators (as applicable) receive notice, in writing of their appointment) and section 29A of the Arbitration Act (which requires that an award in matters other than international commercial arbitration shall be made by the arbitral tribunal within a period of 12 months from the date of completion of pleadings, unless extended by the relevant jurisdiction court);
 - ii) the limitation period prescribed under section 12A of the Commercial Courts Act 2015 (which requires that the mediation process must be completed within three months of the application, which can be further extended for a period of two months with consent of the parties);
 - iii) the limitation period prescribed under provisos (b) and (c) of section 138 of the Negotiable Instruments Act 1881 (which relates to remedy in the case of dishonouring of cheques). Proviso (b) requires the payee / holder in due course of the cheque (as applicable) to make a demand for the payment by giving a notice in writing, to the drawer of the cheque, within 30 days of the receipt of information

22. Available at: <https://ibbi.gov.in/uploads/legalframework/2987e1e33d62d2e1781c700ee16baa36.pdf> (Notification dated 24 September 2020).

23. Available at: <https://ibbi.gov.in/uploads/legalframework/df55d4f612f270d6c637ee4b3c8131c8.pdf> (Notification dated 22 December 2020).

24. Ramesh Kymal v M/s. Siemens Gamesa Renewable Power Private Limited (Order dated 19 October 2020).

25. Ministry of Corporate Affairs Notification bearing reference number SO1205(E) dated 24 March 2020.

26. Madhusudan Tantia v Amit Choraria (Order dated 12 October 2020).

27. In Re: Cognizance for Extension of Limitation [Suo Motu Writ Petition (Civil) No(s)3/2020] (Order dated 23 March 2020).

by him or her from the bank regarding the return of the cheque as unpaid. Further, proviso (c) states that the drawer of such cheque shall fail to make the payment to the payee / holder in due course of the cheque (as applicable), within 15 days of the receipt of the said notice); and

- iv) the limitation period prescribed under any other laws, for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
- to mitigate the hardships being faced by various stakeholders in complying with the provisions of the Bankruptcy Code, the NCLAT took *suo motu* cognisance of the unprecedented situation arising out of the spread of Covid-19 virus pandemic and passed the following directions.²⁸
 - (a) The period of lockdown ordered by the Central Government and the State Governments (including the period as may be extended either in whole or part of the country, where the registered office of the corporate debtor may be located) shall be excluded for the purpose of counting the period for insolvency resolution process under section 12 of the Bankruptcy Code, in all cases where a corporate insolvency resolution process has been initiated and is pending before any bench of the National Company Law Tribunal (NCLT) or NCLAT.
 - (b) Any interim order / stay order passed by NCLAT will continue until the date of the next hearing. However, unlike the recent order passed by the SC on the limitation period, no further order has been passed by the NCLAT in this regard.
- The insolvency regulator in India, the Insolvency and Bankruptcy Board of India (IBBI) amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations (effective 29 March 2020) so that the period of lockdown imposed by the Central Government in the wake of Covid-19 will be excluded in calculating timelines relating to the CIRP.²⁹
- Similarly, the IBBI (Liquidation Process) Regulations (effective 17 April 2020) were amended to exclude the period of lockdown imposed by the Central Government in the wake of Covid-19 in calculating timelines relating to the liquidation process.³⁰ However, the overall timelines prescribed under the Bankruptcy Code for the completion of an insolvency resolution process (180 days extendable to 330 days) remain unchanged.³¹

3.2 Other changes

3.2.1 Initiatives by the Competition Commission of India in light of the Covid-19 pandemic

Initially, on 17 March 2020, the Competition Commission of India (CCI) had adjourned hearings in all matters, except urgent ones, until 31 March 2020. On 23 March 2020, the CCI had also suspended all filings (i.e., pertaining to both enforcement and merger control, submissions to the Director General etc.) until 31 March 2020.³²

Subsequent to the first nationwide lockdown announced on 30 March 2020, the CCI continued with the suspension of all filings and submissions until 14 April 2020 (i.e., the earlier date for the end of the lockdown period), except if parties were proceeding to file a merger control notification under the “green channel” route. The green channel route is available only to parties where the transaction will not result in any form of overlaps and such filings can be submitted electronically. Until 14 April 2020, the CCI was also not available for any pre-filing consultation sessions.³³

However, in view of the extension of the nationwide lockdown to 3 May 2020, the CCI on 13 April 2020 permitted e-filings for both antitrust (information filings against anti-competitive conduct and abuse of dominance) as well as combination matters. However, the CCI adjourned its hearings for anti-trust matters but permitted electronic filings and pre-filing consultation meetings through videoconferencing for merger control. This has been positive development to aid deal activity in India.

Simultaneously, in one of the most important steps taken by the CCI in the wake of the Covid-19 Pandemic, the CCI issued an advisory on 19 April 2020. The CCI took cognisance of the disruption to supply chains, including of critical healthcare products and other essential commodities / services and acknowledged that certain businesses may need to coordinate their activities by way of sharing data on stock levels, timings of operation, sharing of distribution network and infrastructure, transport logistics, research and development, production etc., to ensure continued supply and fair distribution of products.

The CCI clarified that the Competition Act 2002 (Competition Act) has in-built safeguards to protect businesses from sanctions for certain coordinated conduct, provided such arrangements result in increasing efficiencies and that the CCI will be guided by these provisions while exercising its decision-making powers. However, the CCI specified that only such conduct of businesses which is necessary and proportionate to address concerns arising from Covid-19 will be considered. It has expressly cautioned entities against taking any undue advantage of these flexibilities. The CCI will not falter in taking relevant action against such companies that engage in anti-competitive conduct that is unnecessary and disproportionate to address any concerns under the Covid-19 situation.

28. NCLAT in [Suo Moto – Company Appeal (AT) (Insolvency) No 01 of 2020] (Order dated 30 March 2020).

29. Regulation 40C of the CIRP Regulations.

30. Regulation 47A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

31. IBBI Press Release dated 29 March 2020 bearing reference number IBBI/PR/2020/06, available at: <https://ibbi.gov.in/uploads/press/927197aa5f444ab7215707834d4821409.pdf>.

32. Public notice dated 23 March 2020, “CCI measures in view of threat of Coronavirus/COVID-19 pandemic”, available at: https://www.cci.gov.in/sites/default/files/whats_newdocument/scan1.pdf.

33. Public notice dated 30 March 2020, “CCI measures in view of threat of Coronavirus/COVID-19 pandemic”, available at: https://www.cci.gov.in/sites/default/files/whats_newdocument/30thcircular.pdf.

In another attempt to simplify the merger notification procedure, the CCI has omitted paragraph 5.7 of Form I (short form) by way of an amendment to the CCI (Procedure in Regard to the Transaction of Business Relating to Combinations) Regulations 2011 on 26 November 2020.³⁴ The omission of the requirement to examine non-compete arrangements from the purview of the merger control process has been done because the CCI believes that prescribing a general set of standards for assessment of non-compete restrictions may not be appropriate in the modern business environment and that, although it may be possible to conduct a detailed examination on a case-to-case basis, the approach may not be feasible considering the timelines for combination cases. This is a welcome and business-friendly approach and will provide the parties with flexibility in determining non-compete restrictions. Such non-compete restrictions will continue to be subjected to anti-trust investigations in case they are not compliant with the Competition Act.

Currently, with an ease in lockdown restrictions, the CCI has been proceeding with merger control matters as before, owing to their urgent nature. However, it is not embarking on any immediate hearings of enforcement cases since these are not similar to those being heard by ordinary courts.

4. Financial and regulatory measures

4.1 Broader financial sector measures that have been implemented by the regulators

4.1.1 The Reserve Bank of India

On 27 March 2020, the Reserve Bank of India (RBI) released a Statement on Development and Regulatory Policies (RBI Statement) followed by circulars pursuant thereto (collectively referred to as the "RBI Covid-19 Regulatory Package") introducing a range of policy measures to address the stress in financial conditions caused by Covid-19.³⁵ Recently, pursuant to the Statement on Development and Regulatory Policies dated 5 February 2021 followed by circulars, the RBI has modified the directions issued under the RBI Covid-19 Regulatory Package. Some of the key measures introduced include are set out below.

a) Liquidity management

The RBI introduced measures for expanding liquidity in the system for financial markets and institutions for them to be able to function normally in the face of Covid-19, including the following initiatives.

Particulars	Position under RBI Covid-19 Regulatory Package	Updated position (as on 5 February 2020)
Policy repo rate ³⁶	Reduction in the policy repo rate by 75 basis points from 5.15% to 4.4%, which was further reduced by 40 basis points from 4.4% to 4%.	No change
Bank rate ³⁷	Reduction in the bank rate from 75 basis points from 5.40% to 4.65%, which has been further reduced by 40 basis points from 4.65% to 4.25%.	No change
Cash reserve ratio ("CRR") ³⁸	Reduction of the CRR of all banks by 100 basis points to 3% of net demand and time liabilities (NDTL) with effect from the reporting fortnight beginning 28 March 2020 for a period of one year (i.e., until 26 March 2021).	It has been decided to gradually restore the CRR in two phases in a non-disruptive manner. Accordingly, banks are required to maintain the CRR at 3.50% of their NDTL effective from the reporting fortnight beginning 27 March 2021 and 4.00% of their NDTL effective from fortnight beginning 22 May 2021.
Borrowing limit of scheduled banks ³⁹	The borrowing limit of scheduled banks under marginal standing facility scheme (MSF) was increased from 2% to 3% of NDTL outstanding at the end of the second preceding fortnight with immediate effect. The enhanced limit was initially applicable up to 30 June 2020. This was later extended in phases up to 31 March 2021, providing comfort to banks on their liquidity requirements and also to enable them to meet their Liquidity Coverage Ratio ("LCR") requirements.	With a view to providing comfort to banks on their liquidity requirements banks are allowed to continue with the MSF relaxation for a further period of six months, i.e., up to 30 September 2021.
Interest rate on fixed rate reverse repo ⁴⁰	Reducing the interest rate on fixed-rate reverse repo by 25 basis points from 4.00% to 3.75%, which was further reduced by 40 basis points from 4.40% to 3.35%.	No change

34. Available at: https://www.cci.gov.in/sites/default/files/regulation_pdf/CCINonCompReg261120.pdf.

35. RBI Circular on Covid-19 Regulatory Package, 27 March 2020; RBI Circular on Covid-19 Regulatory Package – Review of Resolution Timelines under the Prudential Framework on Resolution of Stressed Assets, 17 April 2020 and RBI Circular on Covid-19 Regulatory Package, 23 May 2020.

36. RBI Circular on Liquidity Adjustment Facility – Repo and Reverse Repo Rates, 27 March 2020 as further amended by RBI Circular, 22 May 2020.

37. RBI Circular on Change in Bank Rate, 27 March 2020 as further amended by RBI Circular, 22 May 2020.

38. RBI Circular on Maintenance of Cash Reserve Ratio, 27 March 2020 as amended by RBI Circular, 5 February 2021.

39. RBI Circular under section 24 of the Banking Regulation Act 1949 – Maintenance of Statutory Liquidity Ratio (SLR) – Marginal Standing Facility (MSF), 27 March 2020 as further amended by RBI Circular, 5 February 2021.

40. RBI Circular on Liquidity Adjustment Facility – Reverse Repo Rate, 17 April 2020 as amended on 22 May 2020.

b) Auction of targeted long-term repo operations

The RBI observed that the Covid-19 outbreak in India ignited large selloffs in the domestic equity, bond and forex markets. With the intensification of redemption pressures, liquidity premiums on instruments such as corporate bonds, commercial paper and debentures have surged. Combined with the thinning of trading activity during the outbreak, financial conditions for these instruments, which are used, *inter alia*, to access working capital in the face of the slowdown in bank credit, have also tightened.⁴¹ To mitigate the adverse impact on economic activity, the RBI decided to conduct auctions of targeted term repos of up to three years tenor of appropriate sizes for a total amount of up to INR1,000 billion at a floating rate linked to the policy repo rate.

Liquidity availed under the scheme by banks has to be deployed in investment grade corporate bonds, commercial paper and non-convertible debentures over and above the outstanding level of their investments in these bonds as of 27 March 2020. Banks are required to acquire up to 50% of their incremental holdings of eligible instruments from primary market issuances and the remaining 50% from the secondary market, including from mutual funds and non-banking finance companies. Investments made by banks under this facility will be classified as Held to Maturity (HTM) even in excess of 25% of total investment permitted to be included in the HTM portfolio. Exposures under this facility will also not be reckoned under the large exposure framework.

Further, on 17 April 2020, the RBI announced the Targeted Long-Term Repo Operations (TLTRO) 2.0 at the policy repo rate for tenors up to three years for a total amount of up to INR500 billion in order to increase the access to liquidity for MSMEs, non-banking finance companies (NBFCs) and micro-finance institutions (MFIs). The TLTRO 2.0 is subject to the following conditions / parameters:

- i) funds availed by banks need to be invested in investment grade bonds, commercial paper and non-convertible debentures issued by NBFCs – the stipulation relating to “investment grade paper” may limit the utility of TLTRO 2.0 for NBFCs;
- ii) funds availed under this facility need to be deployed within 30 working days from the date of the operation;
- iii) at least 50% of the total funds availed by banks are required to be apportioned as follows:
 - o 10% in securities / instruments issued by MFIs;
 - o 15% in securities / instruments issued by NBFCs with asset size of up to INR5 billion; and

- o 25% in securities / instruments issued by NBFCs with asset size between INR5 billion and INR50 billion;

- iv) investments made under this facility will be classified as HTM even in excess of 25% of total investment permitted to be included in the HTM portfolio; and
- v) exposures under this facility will not be reckoned under the *Large Exposure Framework* for banks.

c) Rescheduling of payment instalments

To mitigate the burden of debt-servicing obligations and ensure continuity of viable businesses, under the RBI Covid-19 Regulatory Package, the RBI permitted (i) commercial banks (including regional rural banks, small finance banks and local area banks), (ii) cooperative banks, (iii) all-India financial institutions and (iv) non-banking finance companies (including housing finance companies and MFIs) (collectively, the Identified Lending Institutions)⁴² to provide certain relief in relation to term loans and specified working capital facilities (i.e. cash credit and overdraft facilities) (a CC / OD Facility). Key features include the following.

▪ Suspension of “instalment” payments under term loans

The RBI permitted the Identified Lending Institutions to allow: (i) a moratorium / temporary suspension of three months for the payment of all instalments relating to term loans falling due in the period 1 March 2020 to 31 August 2020 (Specified Period); and (ii) a corresponding extension in the residual tenor of the term loans. Therefore, the time for payment can be extended for three months from the date of each instalment falling due during the Specified Period.

The circular also clarifies that: (i) the suspension of payment of “instalments” would cover all instalments, whether of principal (bullet or otherwise), interest, equated monthly instalments or credit card dues; and (ii) the interest on term loans would continue to accrue during the payment moratorium period.

▪ Deferment of interest on CC / OD Facility

The RBI permitted the Identified Lending Institutions to defer the interest payment on a CC / OD Facility during the period from 1 March 2020 up to 31 August 2020 with the accrued interest being payable immediately after 31 August 2020. Further, the Identified Lending Institutions were permitted, at their discretion, to convert the accumulated interest for the deferment period up to 31 August 2020 into a funded interest term loan which would be repayable not later than 31 March 2021.

41. Paragraph (l)(1) of the RBI Statement.

42. It may be noted that, the measures contemplated in the RBI Covid-19 Circular do not apply to other categories of lenders / institutions such as overseas lenders and bondholders and asset reconstruction companies.

To provide additional CC / OD Facilities, Identified Lending Institutions have been granted the ability to re-assess the drawing power of the borrowers considering revised working capital requirements or by reducing the margins required to be maintained by borrowers.

In relation to the above interest payment obligations specified in the RBI Covid-19 Regulatory Package, the SC *vide* its judgment dated 23 March 2021 in *Small Scale Industrial Manufactures Association v Union of India*⁴³ has directed that there shall not be any charge of interest on interest / compound interest / penal interest for moratorium during the Specified Period. The SC further directed that any amount already recovered under the head of interest on interest / compound interest / penal interest shall be refunded to the borrowers concerned and to be given credit / adjusted in the next instalment of the loan account.

In view of the above, the RBI issued a circular, dated 7 April 2021, whereby the Identified Lending Institutions have been directed to put in place a board-approved policy to refund / adjust the “interest on interest” charged to the borrowers during the Specified Period in conformity with the SC judgment. In order to ensure uniformity, the Indian Banks Association has been directed to finalise (in consultation with other industry participants / bodies) the methodology for calculation of the amount to be refunded / adjusted for different facilities, which shall be adopted by all Identified Lending Institutions. The above relief has been made available to all borrowers, including those who had availed of working capital facilities during the moratorium period, irrespective of whether a moratorium had been fully or partially availed, or not availed, in terms of the RBI Covid-19 Regulatory Package.

▪ Regulatory provisioning

The RBI Covid-19 Circular contemplates that:

- i) relief granted will not by itself result in a downgrade of the asset classification of the underlying term loan or CC / OD Facility (so that Identified Lending Institutions will not have to set aside additional provisioning in terms of the existing regulatory norms); and
- ii) the rescheduling of such instalments will not qualify as a default for the purposes of any supervisory reporting, including any reporting to Credit Information Companies by the Identified Lending Institutions.

Pursuant to the COVID-19 Regulatory Package, the RBI clarified that the usual norm of classifying a loan account as NPA (i.e., where a payment default has continued for over 90 days) would not apply to accounts given the benefit of a moratorium or deferment in terms of the RBI Covid-19 Regulatory Package. As a result, for accounts which were classified as standard (even if they were classified as SMA-2) as on 29 February 2020, there would be an asset classification standstill until 31 August 2020, and such accounts

were not required to be classified as NPA until then.

Further, on account of the RBI introducing a standstill on asset classification for accounts which were overdue as on 1 March 2020, banks were also required to make an additional provisioning of 10% spread over two quarters (ending March 2020 and June 2020 respectively) for such accounts provided these had been granted a moratorium on instalment or deferment on interest payments.

d) Relaxation of prudential norms for stressed assets

Under the RBI's *Prudential Framework for Resolution of Stressed Assets* dated 7 June 2019 (June 7 Restructuring Circular), for defaulted loan accounts (with an aggregate exposure of INR15 billion), the relevant lending institutions are required to implement a resolution plan within 180 days from the end of the 30-day review period (Review Period). The RBI had permitted that a stop-clock on this Review Period, i.e., the computation of the remainder of the 30-day period, was to resume on 1 September 2020.

Consequently, for those borrowers in respect of which the Review Period did not conclude by 29 February 2020, the period between 1 March 2020 and 31 August 2020 is required to be excluded from the computation of 30 days for the Review Period. However, upon expiry of this Review Period, lending institutions were required to implement the resolution plan within 180 days of the end of the Review Period in accordance with the June 7 Restructuring Circular.

With respect of loan accounts where the Review Period was over, but the 180-day period following the Review Period (for implementation of a resolution plan) had not expired on 1 March 2020, the RBI had granted a 180-day extension for implementation of a resolution plan for the relevant borrowers (from the date that the 180-day period was originally scheduled to lapse) such that the lenders will now have a total of 360 days (as compared to 180 days earlier) from the end of the Review Period to implement a resolution plan. As a result of the extension of the period for implementation of a resolution plan by 180 days, lenders are required to make additional provisions as per the June 7 Restructuring Circular only after expiry of the 360-day period if no resolution plan has been implemented by such date.

▪ Resolution Framework for Covid-19-related Stress

In view of the economic fallout on account of the Covid-19 pandemic and with the intent to facilitate revival of real sector activities and mitigate the impact on the ultimate borrowers, the RBI issued a circular on 6 August 2020: *Resolution Framework for*

43. RBI Circular on Asset Classification and Income Recognition following the expiry of Covid-19 regulatory package, 7 April 2021.

COVID-19-related Stress (6 August Circular) to provide a window under the June 7 Restructuring Circular to enable the lenders to implement a resolution plan in respect of eligible corporate exposures which would enable the lenders to continue with the standard asset classification, subject to certain conditions. The key features of the 6 August Circular are as follows.

- i) The lending institutions are required to ensure that this facility is extended only to borrowers which have faced financial stress on account of Covid-19. The remaining accounts will continue under the existing framework of the June 7 Restructuring Circular.
- ii) The reference date for the outstanding amount of debt that may be considered for resolution shall be 1 March 2020.
- iii) Resolution of exposures (other than personal loan):
 - o only those borrower accounts shall be eligible for resolution under this framework which were classified as standard, but not in default for more than 30 days with any lending institution as on 1 March 2020: further, the accounts should continue to remain standard till the date of invocation;
 - o if there are multiple lending institutions with exposure to the borrower, the resolution process shall be treated as invoked in respect of any borrower if lending institutions representing 75% by value of the total outstanding credit facilities (fund based as well as non-fund based) and not less than 60% of lending institutions by number agree to invoke the same;
 - o resolution under this framework could be invoked not later than 31 December 2020 and is required to be implemented within 180 days from the date of invocation;
 - o in cases involving multiple lending institutions, where the resolution process is invoked and consequently a resolution plan has to be implemented, an inter-creditor agreement shall be required to be signed by all lending institutions within 30 days from the date of invocation. In case of housing finance companies, this shall be applicable irrespective of whether the account has been rescheduled in terms of the applicable RBI directions;
 - o if any of the above timelines are breached at any point, the resolution process ceases to apply immediately in respect of the borrower concerned. Any resolution plan implemented in breach of the above stipulated timelines shall

be fully governed by the Prudential Framework, or the relevant instructions as applicable to specific category of lending institutions where the Prudential Framework is not applicable, as if the resolution process was never invoked under this framework.

- iv) Resolution of stress in personal loans
In respect of the loans given to individual (other than credit facilities provided by lending institutions to their own personnel / staff):
 - o only those borrower accounts shall be eligible for resolution under this framework which were classified as standard but not in default for more than 30 days with the lending institution as on 1 March 2020;
 - o the eligible borrowers' accounts should continue to be classified as "standard" till the date of invocation of resolution under the 6 August Circular. Resolution under this framework was required to be invoked not later than 31 December 2020 and is required to be implemented within 90 days from the date of invocation;
 - o the resolution plans may *inter alia* include rescheduling of payments, conversion of any interest accrued, or to be accrued, into another credit facility, or, granting of a moratorium, based on an assessment of income streams of the borrower, subject to a maximum of two years – correspondingly, the overall tenor of the loan may also get modified commensurately. The moratorium period, if granted, shall come into force immediately upon implementation of the resolution plan;
 - o a resolution plan implemented in breach of the conditions shall be governed under 7 June Restructuring Circular.
 - v) Similar to the June 7 Restructuring Circular, the 6 August Circular also lays down the asset classification norms.
- e) *Measures for the derivative segment*
In light of increased volatility of the rupee caused by the impact of Covid-19 and in order to improve depth and price discovery in the forex market segments by reducing arbitrage between onshore and offshore markets, the RBI in consultation with the Government of India decided to permit banks in India which operate International Financial Services Centre Banking Units (IBUs) to participate in the offshore INR derivative market – the non-

deliverable forward market – with effect from 1 June 2020.

f) *Deferment of implementation of Basel norms in relation to the net stable funding ratio (NSFR) and the capital conservation buffer (CCB)*

- One of the reforms introduced by the Basel Committee on Banking Supervision (BCBS) in the years following the global financial crisis is the NSFR, whereby, in order to reduce the funding risk, banks are to fund their activities with sufficiently stable sources of funding over a time horizon of a year. Banks in India were required to maintain NSFR of 100% from 1 April 2020. The RBI had earlier deferred the implementation of NSFR by six months to 1 October 2020.

In view of the continued stress on account of the Covid-19, by way of subsequent notifications, the RBI further deferred the implementation of NSFR to 1 April 2021 and thereafter to 1 October 2021.⁴⁴

- The CCB is designed to ensure that banks build up capital buffers during normal times (i.e., outside periods of stress) which can be drawn down as losses are incurred during a stressed period. As per Basel standards, the CCB was to be implemented in tranches of 0.625% and the transition to full CCB of 2.5% was set to be completed by 31 March 2019. The RBI initially deferred the implementation of the last tranche of 0.625% of the CCB from 31 March 2019 to 31 March 2020.

However, in view of the potential stress on account of Covid-19, the RBI further deferred the implementation of the last tranche of 0.625% of the CCB from 31 March 2020 to 30 September 2020. Considering the continuing stress on account of Covid-19, and in order to aid in the recovery process, the RBI has further deferred the implementation of the last tranche of the CCB of 0.625% from 1 April 2021 to 1 October 2021.⁴⁵

g) *Lowering of the liquidity coverage ratio (LCR) Requirement*

As part of post global financial crisis reforms, the BCBS had introduced the LCR whereby banks are required to maintain high quality liquid assets (HQLAs) to meet 30 days net outgo under stressed conditions. Moreover, under the Banking Regulation Act 1949, the banks in India are required to hold liquid assets to maintain Statutory Liquidity Ratio (SLR). Since liquid assets under SLR and HQLAs under LCR were largely the same, the RBI allowed banks to use a progressively increasing proportion of the SLR securities for being considered as HQLAs for LCR so that the need to maintain liquid assets for both the requirements was optimised.

In order to accommodate the burden on banks' cash flows on account of the Covid-19

pandemic, instead of maintaining LCR of 100%, banks have been permitted to maintain LCR as follows: (i) from 17 April 2020 to 30 September 2020 – 80%; (ii) from 1 October 2020 to 31 March 2021 – 90%; and (iii) 1 April 2021 onwards – 100%.

h) *Relaxation in relation to realisation and repatriation of export proceeds*

The RBI in consultation with the Government of India increased the period of realisation and repatriation to India of the amount representing the full export value of goods or software or services exported from nine months to 15 months from the date of export, for exports made up to or on 31 July 2020.⁴⁶

i) *Relaxations for NBFC exposures to the “commercial real estate” sector*

On 7 February 2020, the RBI had permitted banks to allow extension in the date of commencement of commercial operation (DCCO) for commercial real estate (CRE) projects delayed for reasons beyond the control of the promoter without treating such extension as a “restructuring” (and the attendant consequences), subject to compliance with specified conditions. Pursuant to the Additional COVID-19 Regulatory Package, this flexibility was extended to NBFCs as well to provide greater flexibility to NBFCs with exposure to the CRE sector to allow extension in DCCO by up to two years (one year in normal course with an additional year permitted for reasons beyond the control of the promoter) while retaining the standard asset classification.

j) *Refinancing facilities for All India Financial Institutions*

The RBI decided to provide special refinance facilities for an aggregate amount of INR500 billion to:

- the National Bank for Agricultural and Rural Development – for an amount up to INR250 billion for refinancing regional rural banks, cooperative banks and MFIs;
- the Small Industrial Development Bank of India – for an amount up to INR150 billion for on-lending / refinancing; and
- the National Housing Board – for an amount up to INR100 billion for supporting housing finance companies.

Advances under this facility will be charged at the RBI's policy repo rate at the time of availing.

k) *Restricting dividend pay-outs by banks*

With an aim towards conserving capital to facilitate implementation of the various regulatory

44. RBI Circular Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR), 27 March 2020 as further amended by circulars dated 29 September 2020 and 5 February 2021.

45. RBI Circular on Basel III Capital Regulations – Review of Transitional Arrangements, 27 March 2020 as further amended by circulars dated 29 September 2020 and 5 February 2021.

46. RBI Circular on Export of Goods and Services – Realisation and Repatriation of Export Proceeds-Relaxation, 1 April 2020.

measures introduced by the RBI, both commercial banks and cooperative banks have been restricted from making any further dividend payments for the FY ended 31 March 2020 until further instructions from the RBI.

l) *Credit to MSME entrepreneurs*

Further, in order to incentivise new credit flow to MSME borrowers, the RBI has allowed scheduled commercial banks to deduct credit disbursed to new MSME borrowers from their net demand and time liabilities (NDTL) for calculation of the CRR. For the purpose of this exemption, “New MSME borrowers” shall be defined as those MSME borrowers who had not availed any credit facilities from the banking system as on 1 January 2021. This exemption will be available only for exposures up to INR2.5 million per borrower for credit extended up to the fortnight ending 1 October 2021 for a period of one year from the date of origination of the loan or the tenure of the loan, whichever is earlier.⁴⁷

4.1.2 *Other regulators*

a) *The MCA and the Securities and Exchange Board of India (SEBI)*

To support and enable companies and limited liability partnerships (LLPs) in India to focus on taking necessary measures to address the Covid-19 threat, including the economic disruptions caused by it, the MCA has introduced measures to reduce their compliance burden and other risks. Separately, the SEBI has also introduced several protective measures and relaxations for listed companies and other intermediaries, including with a view to counter the impact of Covid-19 on the volatility of the stock market. Please refer to Annexure A for the key measures introduced by the MCA and SEBI.

b) *Other regulators and governmental authorities*

Other regulators and governmental authorities have also been issuing relaxations to address challenges being faced by businesses on account of the Covid-19 outbreak. For instance:

- The Insurance Regulatory and Development Authority of India (the insurance sector regulator) directed insurance companies to: (i) extend timelines by one month for the payment of life insurance premiums (payable by its policy holders) due in the month of March 2020; and (ii) process claims expeditiously. Similarly, policy holders whose motor vehicle third-party insurance policies were to fall due for renewal during the period from 25 March 2020 up to 14 April 2020 and who were unable to make payment of their renewal premium on time were allowed time to make such payments until 21 April 2020.
- The Ministry of Shipping has, in order to maintain proper supply lines, advised seaports

not to impose any container detention charge on import shipments over and above the free-time arrangement that is currently agreed and availed of as part of any negotiated contractual terms. During this period, new or additional charges also must not be imposed. Further, the Ministry of Shipping issued specific guidelines to major ports on exemptions / remissions on penalties, demurrages charges, fees and rentals levied on any port user for any delay in operations caused due to lockdown measures from 22 March 2020 to 14 April 2020.

- The Telecom Regulatory Authority of India extended timelines for filing monthly and quarterly reports for the period ended 31 March 2020 by six weeks.
- The Ministry of New and Renewable Energy (MNRE) permitted the renewable energy implementing agencies to grant extension of time for renewable energy projects equivalent to the period of lockdown and additional 30 days for normalisation after the end of such lockdown. This has been stated to be a blanket extension, and there will be no requirement of case-to-case examination or to ask for any evidence for extension due to lockdown. Further, all renewable energy implementing agencies of the MNRE have been directed to treat lockdown due to Covid-19, as a *force majeure* event. Further, the MNRE has directed the Renewable Energy Departments (including agencies under Power / Energy Departments of States, but dealing in renewable energy) that they may treat lockdown as a *force majeure* and consider granting appropriate time extensions on account of such lockdown.⁴⁸ It was decided that all renewable energy projects under implementation as on the date of lockdown, i.e. 25 March 2020, through renewable energy implementing agencies designated by the MNRE or under various schemes of the MNRE, should be given a time extension of five months from 25 March 2020 to 24 August 2020.⁴⁹
- In view of the challenges presented by the Covid-19 outbreak and consequent lockdown, the Ministry of Electronics and Information Technology decided to provide rental waiver of four months to IT units operating out of Software Technology Parks of India premises in the country from 1 March 2020 to 30 June 2020.⁵⁰
- Various departments of the Government, such as the Department of Customs, the Ministry of Shipping, the Ministry of Commerce and the Ministry of Railways, have granted relaxations on filing and compliance requirements, as well as the waiver of certain monetary charges.

47. RBI Circular on Credit to MSME Entrepreneurs, 5 February 2021.

48. Available at: <https://static.pib.gov.in/WriteReadData/userfiles/PIB%20Delhi/MNREpdf>.

49. Press Release, 14 August 2020. Available at: <https://pib.gov.in/PressReleaseSelfFramePage.aspx?PRID=1645869>.

50. Press Release, 21 April 2020. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1615052>.

4.2 Specific measures that have been implemented

4.2.1 Delayed tax payment treatment

- In light of the Covid-19 pandemic and in order to ease the cash flow burden on taxpayers to some extent, the Government promulgated the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020 (Tax Ordinance) on 31 March 2020 extending the due date for the payment of taxes and fees under certain specified laws falling due between 20 March 2020 and 30 June 2020.⁵¹ The Tax Ordinance was enacted as an Act of the Parliament of India on 29 September 2020 (Taxation Act). Interest for the period of delay will be charged at a reduced rate of 0.75% per month instead of the normal prescribed rate of 1% per month. Further, taxpayers will not be subject to any penalty or prosecution for delay in payments.⁵² The Taxation Act empowers the Government to extend these timelines to a later date, if required.
- The Direct Tax Vivad se Vishwas Act 2020 was introduced as an amnesty scheme to give taxpayers an opportunity to settle their pending tax disputes by paying the full disputed tax amount resulting in a complete waiver of any interest and / or penalties on the same. Initially, in order to avail themselves of the scheme without attracting the additional 10% of the prescribed amount of disputed tax, taxpayers were required to make payment of the prescribed amount on or before 31 March 2020. The last day for making payment without the additional 10% was extended to 31 December 2020.⁵³ The Government further extended this date to 31 March 2021.⁵⁴

4.2.2 Relaxed regulatory requirements

- In addition to relief in relation to the delayed payment of tax, the above Taxation Act has also relaxed certain regulatory requirements. The Taxation Act extended the time limits falling within 20 March 2020 and 31 December 2020 prescribed under certain specified laws for (i) completion of proceedings, passing an order and issuing a notice by an authority and (ii) filing of any appeal, response or application or furnishing documents to 31 March 2021.⁵⁵ The Taxation Act empowers the Government to extend these timelines to a later date, if required.
- The time limits for filing income tax returns by all taxpayers for FY 2019–2020 were extended to 30 November 2020.⁵⁶ This date was further extended to 10 January 2021. The due date for completing tax audit for FY 2019–2020 was extended from 30 September 2020 to 31 October 2020.⁵⁷ This date was further extended to 15 February 2021.
- The dates of time-barring tax assessments were extended from 30 September 2020 and 31

March 2021 to 31 December 2020 and 30 September 2021 respectively.⁵⁸

- The Indian Income Tax Act 1971 (Income Tax Act) provides certain deductions for taxpayers when they make investments and construct house property within prescribed timelines. Further, newly established units in Special Economic Zones under section 10AA of the Income Tax Act are also required to meet certain timelines for starting their manufacturing activities to claim tax benefits. These time limits were extended to 30 June 2020 (or such later date as may be notified, if required).⁵⁹ The Government further extended this date to 30 September 2020.⁶⁰
- The Government reduced the rates of tax deduction at source for non-salary payments made to residents by 25% of the original rates for the period between 14 May 2020 and 31 March 2021.⁶¹ Further, the rates for tax collection at source for certain receipts, such as the sale of timber, the sale of motor vehicles, grants of licences / leases for mining and quarrying etc., was reduced by 25% of the original rates for the period between 14 May 2020 and 31 March 2021.⁶²
- While an extension was provided by SEBI to listed companies relating to delayed submission of quarterly and yearly accounts (see Annexure A), there has been no suspension or modification of any existing accounting standards as yet. However, to ease the burden on companies and their auditors for the year 2019–2020, in light of Covid-19-related challenges, the MCA delayed the applicability of the Companies (Auditor's Report) Order 2020 from FY 2019–2020 to FY 2020–2021.

5. Specific measures for micro and small businesses

Considering the present difficult times of the Covid-19 pandemic, the Central Board of Indirect Taxes & Customs (CBIC) introduced its flagship Liberalised MSME Authorised Economic Operator Package (MSME Package) for MSMEs. The MSME Package is a voluntary compliance programme which enables swifter customs clearance for accredited stakeholders in the global supply chain viz. importers, exporters, logistic service providers, custodians etc.⁶³ The main features of the MSME Package are set out below.

In order to attract MSMEs to become authorised economic operators (AEOs) and avail the various benefits, the CBIC has relaxed the compliance criteria provided the MSMEs have a valid certificate from their line-Ministry. Accordingly, MSMEs who have filed a minimum of 10 customs clearance documents in one year and who have a clean compliance record over two years can apply for the scheme. The documentary requirements have also been appreciably simplified.

51. Clause 3(2), Taxation Act.

52. Ibid.

53. Press release, 13 May 2020. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1623585>.

54. Central Board of Direct Taxes Notification S.O. 471(E), 31 January 2021.

55. Clause 3(1), Taxation Act.

56. Press release, 13 May 2020. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1623585>.

57. Ibid.

58. Ibid.

59. Ibid.

60. Press release, 24 June 2020. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1634070>.

61. Press release, 13 May 2020. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1623745>.

62. Ibid.

63. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1686826>.

The CBIC also commits to take a decision on an application for grant of AEO status within only 15 days from electronic submission of complete documents for AEO Tier T1.

The approved AEOs can avail various benefits such as the facility of direct port delivery of imported containers, direct port entry of their export containers, a high level of facilitation in customs clearance of their consignments (thereby ensuring shorter cargo release time), exemption from bank guarantees and priority for refund / rebate / duty drawback, as well as a client relationship manager at the customs port as a single point of interaction.

Further, their payment of customs duty is deferred and need not to be paid before the clearance of the imported goods by customs.

An added advantage for Tier 2 AEOs is that their exports to certain countries are accorded facilitation by the foreign customs administration with whom India enters into a mutual recognition agreement / arrangement.

Additional benefits, like further reduction in bank guarantee requirements, have also been introduced for MSMEs and will subsequently be expanded.

Some of the relaxations and measures for relieving the debt-servicing burden on corporates and other insolvency-related amendments noted above may also indirectly have an impact on personal bankruptcy cases.

▪ *Pre-pack insolvency measures for MSMEs*

- i) The sub-committee of the Insolvency Law Committee had submitted a report on a pre-packaged insolvency resolution process dated 31 October 2020 (Pre-Pack Report). The sub-committee has recommended making pre-pack available for all corporate debtors in phases.
- ii) Based on the Pre-Pack Report, the President of India has promulgated the Insolvency and Bankruptcy (Amendment) Ordinance 2021 whereby pre-packaged insolvency resolution process for MSMEs has been introduced in respect of defaults of INR10 lakh classified as such under the Micro, Small and Medium Enterprises Development Act 2006.

6. Measures introduced by the courts to deal with increased insolvency cases

6.1 Increased e-filings and virtual hearings

Courts and tribunals in India have been responsive to challenges posed by the Covid-19 outbreak.

Prior to the nationwide lockdown, litigants were required to make only physical filings at India's bankruptcy law courts (i.e., the NCLT, which has various benches across the country, and the NCLAT) with few measures underway for electronic filings. Further, the hearings were also conducted only physically. However, during the lockdown and thereafter the judicial forums have proactively implemented a number of procedural measures to encourage e-filings and virtual hearings. These measures are intended to balance public health and safety with access to justice. Some key measures are set out below.

- a) The NCLT (which has various benches across the country) requires the litigants to complete filing of the pleadings electronically by registering⁶⁴ on the portal of the NCLT, with the physical filing to be completed later.
- b) Post lockdown, hearings in matters before the NCLT were conducted by videoconferencing.⁶⁵ For urgent matters requiring immediate consideration, an application could be filed with the relevant bench either on the e-filing portal or by email (as applicable). Thereafter, pursuant to the order dated 23 February 2021, all NCLT benches (other than the benches notified otherwise) were directed to start regular physical hearings with effect from 1 March 2021. However, in case the representing lawyer / counsel had difficulty in attending such physical hearings, they could seek exemption from the relevant bench and accordingly were permitted to attend the hearing by videoconferencing. The said order dated 23 February 2021 has been modified by the order dated 9 April 2021 whereby, on account of a sharp increase in the number of Covid-19 cases throughout the country, all the NCLT benches have been again directed to take up regular hearings through videoconferencing with effect from 12 April 2021 until further order.
- c) Filings with the NCLAT, i.e., the appellate bankruptcy court, are being effectuated through a newly developed e-filing portal,⁶⁶ with effect from 4 January 2021.⁶⁷ However, the NCLAT also requires filing of physical copies as per the prescribed procedure after electronic filing is complete.
- d) By a Circular dated 27 July 2020, the SC of India has now made it mandatory for parties to file soft copies along with hard copies of filings as per the prescribed procedure for listing of matters before the SC.⁶⁸
- e) In addition, by a Circular dated 30 August 2020, the SC has introduced limited physical hearings on an experimental basis along with the basis on which such physical hearings are to be conducted,⁶⁹ such as:
 - i) physical hearings of matters may initially commence in three courtrooms, which may eventually be increased;

64. Available at: <https://efiling.nclt.gov.in/mainPage.drt>.

65. Available at: <https://www.nclt.gov.in/sites/default/files/Feb-ALL-PDF/Constitution%20of%20%20Special%20Bench%20NCLT%20Mumbai%20%20%20on%20%2022.4.2020.pdf>.

66. Available at: <https://efiling.nclat.gov.in>.

67. Available at: <https://nclat.nic.in/Useradmin/upload/8068794105ff1e18eb2712.pdf>.

68. Available at: https://main.sci.gov.in/pdf/LU/27072020_124229.pdf.

69. Available at: https://main.sci.gov.in/pdf/LU/31082020_092032.pdf.

- ii) provision for issuance of daily “special hearing passes” by the Registry; and
- iii) a facility for online nomination of counsels and clerks, hearing passes and declarations for limited physical hearings.⁷⁰
- f) The SC published a standard operating procedure for e-filings, mentioning, listing and videoconferencing hearings on 16 May 2020, which was further revised on 4 July 2020.⁷¹ As per this standard operating procedure:
 - i) the fresh matters which could not be listed earlier, were listed before the virtual court from 6 July 2020 to 10 July 2020;
 - ii) with effect from 13 July 2020, subject to availability and requirement, miscellaneous and non-miscellaneous cases may be listed on designated days of the week along with fresh matters, with preference to matters which have been partly heard by the relevant bench; and
 - iii) for matters involving urgency, the standard operating procedure requires advocates to file the necessary proceedings preferably on the e-filing portal and thereafter, upon completing the necessary formalities, file an application (one page) as per prescribed format by email highlighting the urgency. If the matters are considered as being urgent, they will be listed on the next available date.
- g) By a circular dated 1 February 2021, the SC notified that three additional virtual courts would start functioning with effect from 1 February 2021.
- h) Separately, it is worth noting that, on 6 April 2020, the SC passed an order, laying down general guidelines for implementing videoconferencing technology by High Courts and lower courts across the country.

7. Pending reforms

The Ministry of Finance has indicated that a special framework for insolvency resolution of MSMEs is proposed to be introduced.

70. Available at: https://main.sci.gov.in/pdf/LU/12092020_105000.pdf.

71. Available at: https://main.sci.gov.in/pdf/LU/04072020_153040.pdf.

SEBI and MCA: Key Measures and Relaxations on account of COVID-19 - Annexure A

Sr. No.	Category	Summary
1.	Manner and timelines for holding meetings of board	<ul style="list-style-type: none"> i) The requirement of holding meetings for certain specific items, with physical presence of directors, has been relaxed, and such meetings may, until 30 June 2021, be held through videoconferencing or other audio visual means. ii) The mandatory requirement of holding board meetings of companies within the prescribed interval of 120 days (since the previous board meeting) was extended by a period of 60 days for the next two quarters (i.e., until 30 September 2020). iii) The requirement for independent directors to hold at least one meeting without the attendance of non-independent directors and members of management was relaxed for the year 2019-2020. iv) Relaxations were granted for meetings of the Audit Committee, Nomination and Remuneration Committee, Stakeholders' Relationship Committee and Risk Management Committee of a listed company.
2.	Shareholder Meetings – Virtual Extra-ordinary General Meetings	<p>All companies have been requested to take all decisions of urgent nature which require the approval of members of the companies (other than items of ordinary business or business where any person has the right to be heard), through postal ballot/e-voting and without holding a general meeting which requires physical presence of members.</p> <p>However, if an extraordinary general meeting (an "EGM") by a company is considered to be unavoidable, then certain additional procedures (in addition to those prescribed under the Companies Act 2013 and the rules thereunder) need to be adopted by the company for holding such a meeting on or before 30 June 2021. These additional procedures have been categorised based on companies which are required to provide the facility of e-voting under the Companies Act (and companies which have opted for the same) and those which are not required to provide the facility of e-voting under the Companies Act. Such additional procedures include: (a) maintaining a safe custody of the recorded transcript of the EGM and, in case of a public company, making available the recorded transcript of the meeting on the website (if any); (b) scheduling the meeting, considering the convenience of different people positioned at different time zones; and (c) ensuring that the meeting through videoconferencing or other audio visual means allows two-way teleconferencing or webex for ease of participation of members and the participants being allowed to pose questions concurrently or being given time to submit questions in advance on the company's email address.</p> <p>The MCA also provided certain clarifications on the procedure for conducting EGMs during the Covid-19-related social-distancing norms and lockdown. Such clarifications pertain to the:</p> <ul style="list-style-type: none"> i) manner and mode of issue of notices to the members before convening the general meeting – notices of meetings to be given to the members only through emails registered with the company or the depository participant/depository. The company should try contacting members over telephone and detailing in the public notice the manner in which members can get their email addresses registered with the company; ii) The chair at a meeting shall ensure that the facility of e-voting is available for the purposes of voting; iii) unless so required under the Companies Act, companies may pass resolutions through postal ballot/e-voting without holding a general meeting; iv) sending of emails by members, where a poll on any item is required for companies which are not required to provide the facility of e-voting under the Companies Act – it has been clarified that the poll will take place during the meeting only (and not at any time before the general meeting) and that the members may convey their assent or dissent only at such stage by sending emails to the designated email address of the company which was circulated in the notice sent to members.

Sr. No.	Category	Summary
3.	Shareholder Meetings – virtual annual general meetings (“AGMs”)	<p>i) The MCA clarified that companies whose FY ended on 31 December 2019, could hold their AGMs for such FY within a period of nine months from closure of the FY, i.e., by 30 September 2020.</p> <p>ii) The MCA allowed companies to conduct AGMs through videoconferencing or other audio visual means, during the calendar year 2020, subject to the fulfilment of certain requirements. These requirements were categorised based on companies which are required to provide the facility of e-voting under the Companies Act (and companies which have opted for the same) (Category A Companies) and those which are not required to provide the facility of e-voting under the Companies Act (Category B Companies).</p> <p>Some of these requirements in the case of Category A Companies include:</p> <ul style="list-style-type: none"> a) other than ordinary business, only those items of special business, which are considered to be unavoidable by the board, may be transacted at such AGM; b) copies of financial statements (including, the board’s report, auditors’ report and other documents required to be attached therewith) can be sent only by email to members, trustees for debenture holders and other persons entitled; c) before sending the notices and copies of the financial statements, etc., a public notice by way of advertisement must be published at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district, preferably both newspapers having electronic editions, and containing specified information therein; d) in case the company has received permission from the relevant authorities to conduct its AGM at its registered office, or at any other place, after following any advisories issued from such authorities, the company may, in addition to holding such meeting with physical presence of some members, also provide the facility of videoconferencing or other audio visual means, so as to allow other members of the company to participate in such meeting. All members who are physically present in the meeting as well as the members who attend the meeting through such facility shall be reckoned for the purpose of quorum. All resolutions shall continue to be passed through the facility of an e-voting system. <p>In the case of Category B Companies, such companies may conduct AGMs through the facility of videoconferencing or other audio visual means only when it has in its records the email addresses of at least half of its total number of members, who <i>inter alia</i>:</p> <ul style="list-style-type: none"> a) in case of companies (other than Nidhi companies, i.e., a company which is notified as nidhi or a mutual benefit society by the Central Government) having share capital, represent not less than 75% of such part of the paid-up share capital of the company as gives a right to vote at the meeting; and b) in case of companies not having share capital, have the right to exercise not less than 75% of the total voting power exercisable at the meeting. <p>The requirements for holding AGMs for such Category B Companies include:</p> <ul style="list-style-type: none"> a) taking all necessary steps to register the email addresses of all persons who have not registered their email addresses with the company; b) other than ordinary business, only those items of special business, which are considered to be unavoidable by the board may be transacted; c) sending copies of financial statements (including, the board’s report, auditors’ report and other documents required to be attached therewith) only by email to members, trustees for debenture holders and other persons entitled; and d) making adequate provisions for allowing members to give their mandate for receiving dividends directly in their bank accounts through the Electronic Clearing Service or any other means. For shareholders whose bank accounts are not available, the company shall upon normalisation of the postal services, dispatch the dividend warrant / cheque to such shareholder by post. <p>Further, both categories of companies will have to ensure that all other compliances associated with the provisions relating to general meetings (i.e., making of disclosures, inspection of related documents / registers by members, or authorisations for voting by bodies corporate etc.), as provided in the Companies Act and the articles of association of the company, are made through electronic mode.</p>

Sr. No.	Category	Summary
		<p>Recently, <i>vide</i> circular dated 13 January 2021, the MCA has allowed companies whose AGMs were due to be held in the year 2020 or became due in the year 2021 to conduct them on or before 31 December 2021 in accordance with the requirements specified above.</p> <p>iii) The SEBI granted the following further relaxations / issued clarifications regarding listed companies.</p> <ul style="list-style-type: none"> a) Requirement to send physical copies of annual reports: the requirement for sending a hard copy of the statement containing salient features of all the documents to the shareholders who have not registered their email addresses and hard copies of full annual reports to those shareholders who request for the same, respectively, and similar requirement for entities who have listed their non-convertible debentures (“NCDs”) and non-convertible redeemable preference shares (“NCRPS”) were dispensed for listed entities who conduct their AGMs during calendar year 2020, i.e. up to 31 December 2020. This relaxation has been further extended by SEBI <i>vide</i> circular dated 15 January 2021 to 31 December 2021. b) Requirement of proxy for general meetings: the requirement to send proxy forms to holders of securities was temporarily dispensed with for listed entities who conduct their AGMs through electronic mode during calendar year 2020, i.e., up to 31 December 2020. This relaxation has been further extended by SEBI <i>vide</i> circular dated 15 January 2021 to 31 December 2021.
4.	Filings with the MCA and stock exchanges	<ul style="list-style-type: none"> i) The MCA has introduced a voluntary Companies Affirmation of Readiness towards Covid-19 (“Form CAR-2020”) form to be filed by all companies / foreign companies / limited liability partnerships (the LLPs) etc. to confirm compliance of Covid-19 guidelines, including, work-from-home policy. For ease of filing, there is no requirement of digital signature certificate or payment of any fee. It has further been clarified that non-filing of Form CAR-2020 will not attract any penalty or enforcement-related action. ii) The MCA had granted certain relaxations to companies and LLPs, in relation to filings to be made, including with respect to the following: <ul style="list-style-type: none"> a) no additional fees / penalty was to be charged for late filing during a moratorium period from 1 April 2020 to 30 September 2020, in respect of any document / return / statement required to be filed in the MCA-21 registry, irrespective of the due date; b) newly incorporated companies are required to file a declaration for commencement of business within six months of incorporation – An additional period of 180 days was allowed for the same; c) the last date of filing of National Financial Reporting Authority (the “NFRA”) Form NFRA-2, for the reporting period FY 2018–19, will be 210 days from the date of deployment of this form on the website of the NFRA. iii) Timelines for filings to be made by the listed companies (i.e., companies with listed equity) were relaxed by the SEBI in several instances, including with respect to the following: <ul style="list-style-type: none"> a) The due date of submission of compliance certificate on share transfer facility was extended from 30 April 2020 to 31 May 2020. b) The due date for submission of annual secretarial compliance report was extended from 30 May 2020 to 30 June 2020. c) The due date for filing a certificate from practicing company secretary on timely issue of share was extended from 30 April 2020 to 30 May 2020. d) The requirement for giving prior five days / two working days stock exchange intimation by listed companies, for certain specific items, was reduced to two days for board meetings held up to 31 July 2020. e) Delay in submitting information regarding loss of share certificates and issue of duplicate certificates to the stock exchanges, which was to be submitted within two days of getting the information, did not attract any penal actions, for intimations to be made between 1 March 2020 to 31 May 2020. f) Authentication / certification of any filing / submission made to stock exchanges may be done using digital signature certifications, until 31 December 2020. g) Dividend payment: the requirement of issuance of payable at par warrants or cheques in cases where electronic payment is not possible (and where the amount of dividend exceeds INR1,500, such warrants or cheques to be sent by speed post) can be complied with upon normalisation of the postal services. However, in cases where email addresses are available, listed entities will have to endeavour to obtain bank details and use electronic modes of payment.

Sr. No.	Category	Summary
		<p>h) Relaxation from requirement of publication of advertisements in newspapers, until 30 June 2020, in relation to items such as notice of the board meeting for discussing financial results, the condensed financial results, notices to be given to shareholders by advertisement etc. by listed companies.</p> <p>iv) Relaxations by the SEBI for companies with listed NCDs, NCRPS, municipal debt securities or commercial papers (CPs):</p> <p>a) The initial and annual disclosures (as applicable), which were to be made on a yearly basis by 30 April 2020 and 15 May 2020, respectively, could be made by 30 June 2020.</p> <p>b) The half-yearly and annual financials (as applicable), which were to be filed by 15 May 2020 and 30 May 2020, respectively, could be filed by 30 June 2020.</p> <p>c) Timeline for compliance with the maximum limits for investment in unlisted NCDs (as issued <i>vide</i> SEBI Circulars dated 1 October 2019 and 23 March 2020) as 15% and 10% of the debt portfolio of the scheme, were extended to 30 September 2020 and 31 December 2020 respectively.</p> <p>v) The MCA introduced a Companies Fresh Start Scheme (“CFSS”) 2020, the objective of which was to enable all companies registered in India to make a fresh start, by granting certain alleviative measures. Such measures include:</p> <p>a) to condone delay by companies in filing annual returns, financial statements and various other statements, documents, returns etc, without being subject to a higher additional fee on account of any such delay;</p> <p>b) granting immunity from launching of prosecutions or proceedings for imposition of any penalty on account of a delay associated with certain filings (provided that any consequential proceeding involving an interest of a shareholder or any other person qua the company, its directors, key managerial personnel, will not be covered under this immunity); and</p> <p>c) withdrawal of appeal filed by a defaulting company against any prosecution or proceedings launched for imposition of penalty, before filing an application for issue of immunity certificate under the scheme.</p> <p>This scheme, however, will not apply to <i>inter alia</i> (a) companies against which action for striking-off has been initiated; (b) companies which have amalgamated under a scheme of arrangement or compromise; (c) where applications have been filed for obtaining dormant status; (d) vanishing companies; (e) where increase in authorised share capital is involved; and (f) charge-related filings.</p> <p>This scheme came into effect from 1 April 2020 and was in force until 30 September 2020 (which was further extended to 30 December 2020).</p> <p>Belated documents were required to be filed during the currency of the scheme. If the scheme benefits are availed, such a company had to file the CFSS E-form on or after 1 October 2020 and before 31 March 2021.</p> <p>vi) In continuation of its earlier circular introducing an LLP Settlement Scheme and allowing LLPs to remedy their default by filing pending documents and to serve as a compliant LLP in future, the MCA, in order to incentivise compliance and to reduce burden during the outbreak of Covid-19, made further modifications to the scheme. These included:</p> <p>a) the LLP Scheme coming into effect on 1 April 2020 instead of 16 March 2020 and to remain in force until 31 December 2020 instead of 30 September 2020; and</p> <p>b) ability for any defaulting LLP to file the “belated documents” which were due for filing on 30 November 2020, instead of 31 October 2019 (as provided under the original LLP Scheme).</p> <p>vii) The continuous disclosure requirements under the Takeover Regulations require filings to be made (by promoters and persons holding shares above specified thresholds and to the company and stock exchanges) within seven working days from the end of the FY. These reports as per the 2020 calendar were required to be filed by 15 April 2020. The due date of filing such disclosures was extended to 1 June 2020.</p>

Sr. No.	Category	Summary
5.	Financial Statements	<p>i) For listed companies, the due date for filing of quarterly financial results for the quarter ended 31 March 2020 was extended from 15 May 2020 to 30 June 2020, and the due date for filing of quarterly financial results for the quarter ending on 31 July 2020 was extended to 15 September 2020, and the due date for preparation of yearly financial results was extended from 31 July 2020 to 30 September 2020.</p> <p>ii) The SEBI had clarified that listed entities which are banking and/or insurance companies or having subsidiaries which are banking and / or insurance companies may submit consolidated financial results for the quarter ending 30 June 2020 on a voluntary basis. However, they must continue to submit the standalone financial results. In cases where the listed entities choose to publish only standalone financial results, and not the consolidated financial results, they must give reasons for the same.</p>
6.	Corporate social responsibility ("CSR") of companies	<p>The MCA had <i>vide</i> its General Circular dated 23 March 2020 clarified that spending funds for Covid-19 is an eligible CSR activity and funds spent on various activities related to Covid-19, relating to promotion of healthcare, including preventive healthcare and sanitation and on disaster management, would be considered as falling within the definition of a company's CSR obligations. Further, any contribution made to the PM CARES Fund and to the State Disaster Management Authority will qualify as CSR expenditure.</p> <p>The MCA has further provided that the following will not constitute CSR spending:</p> <p>i) payment of salary or wages to employees and workers even during the lockdown period (being a moral obligation of the employers); and</p> <p>ii) payment of wages to temporary or casual or daily wage workers during the lockdown period. However, if any ex gratia payment is made to temporary, casual or daily wage workers over and above their wages as relief to deal with Covid-19, such payment can be set off against the CSR spending obligation as a one-time exception. However, for this, there has to be an explicit declaration by the company's board which is to be certified by the statutory auditor.</p> <p>In continuation of the clarification issued by the MCA <i>vide</i> General Circular dated 23 March 2020, the MCA has <i>vide</i> Circular dated 13 January 2021 clarified that spending of CSR funds for carrying out awareness campaigns / programmes or public outreach campaigns on the Covid-19 vaccination programme is an eligible CSR activity relating to promotion of health care, including preventive health care and sanitisation, promoting education and disaster management respectively.</p>
7.	Relaxations vis-à-vis corporate compliances	<p>i) The Companies (Auditor's Report) Order 2020 (dealing with specified disclosures to be made by the auditors in the audit report) will be made applicable from the FY 2020-2021 instead of the FY 2019-2020 as notified earlier.</p> <p>ii) The requirement to create a deposit reserve of 20% of deposits maturing during the FY 2020-2021 before 30 April 2020 was allowed to be complied with until 30 September 2020.</p> <p>iii) The requirement to invest or deposit at least 15% of debentures maturing during a particular year in specified instruments before 30 April 2020, was allowed to be complied with on or before 30 September 2020.</p> <p>iv) Non-compliance of minimum residency requirement (i.e., 182 days) in India, by at least one director of the company, shall not be treated as a violation.</p> <p>v) Issuers intending to list their NCDs / NCRPS / CPs can rely on their audited financial statements of 30 September 2019, until issuances made on or before 30 June 2020 (instead of issuances made on or before 31 March 2020).</p>

Sr. No.	Category	Summary
8.	Covid-19-related disclosures by listed companies	<p>i) The SEBI has encouraged listed entities to evaluate the impact of the Covid-19 pandemic on their business, performance and financials, both qualitatively and quantitatively, to the extent possible and to disseminate the same.</p> <p>ii) An illustrative list of disclosures which listed entities may consider disclosing, subject to application of materiality, is as follows:</p> <ul style="list-style-type: none"> a) impact of the Covid-19 pandemic on business; b) ability to maintain operations including the factories / units / office spaces, functioning and closed down; c) schedule, if any, for restarting operations; d) steps taken to ensure smooth functioning of operations; e) estimation of the future impact of Covid-19 on operations; f) details of impact of Covid-19 on listed entity's capital and financial resources; profitability; liquidity position; ability to service debt and other financing arrangements; assets; internal financial reporting and control; supply chain; and demand for its products / services; g) existing contracts/agreements where non-fulfilment of the obligations by any party will have significant impact on the listed entity's business; and h) other relevant material updates about the listed entity's business. <p>iii) Further, listed entities may provide regular updates, as and when there are material developments, in order to have continuous information about the impact of Covid-19 on operations.</p> <p>iv) Additionally, while submitting financial statements under Regulation 33 of the Listing Obligations and Disclosure Requirements ("LODR") Regulations, listed entities may specify / include the impact of the Covid-19 pandemic on their financial statements, to the extent possible.</p> <p>v) Listed entities should not resort to selective disclosure and should revisit, refresh and update the previous disclosures made, depending on peculiarity of circumstances and on account of passage of time.</p>
9.	Buy-back of securities by listed companies	<p>The restriction that the companies shall not raise further capital for a period of one year from the expiry of the buyback period, except in discharge of their subsisting obligations has been temporarily relaxed and reduced to six months. This relaxation was applicable until 31 December 2020.</p>
10.	Buy-back offers and open offers – procedural relaxations	<p>The following one-time relaxations are granted from a strict enforcement of certain provisions of the Buy-back Regulations and the Takeover Regulations pertaining to open offers and buy-back tender offers opening up to 31 July 2020:</p> <p>Service of the letter of offer and/or tender form and other offer related material to shareholders may be undertaken by electronic transmission, subject to the following:</p> <ul style="list-style-type: none"> a) the acquirer / company shall be required to publish the letter of offer and tender form on the websites of the company, registrar, stock exchanges and the manager(s) to offer; b) the acquirer / company along with lead manager(s) shall be required to undertake all adequate steps to reach out to the / its shareholders through other means such as ordinary post or SMS or audio visual advertisement on television or digital advertisement etc; c) the acquirer / company shall be required to make an advertisement containing details regarding the dispatch of the letter of offer electronically and availability of such letter of offer along with the tender form on the website of the company, registrar and manager to the offer in the same newspapers in which detailed public statement for open offer / public announcement for the buy-back offer was published; d) the acquirer / company may have the flexibility to publish the advertisement in additional newspapers, over and above those required under the respective regulations; e) the acquirer / company shall be required to make use of advertisements in television channels, radio, internet etc. to disseminate information relating to the tendering process – such advertisements can be in the form of crawlers / tickers as well;

INSOL International – World Bank Group Global Guide

INDIA

Sr. No.	Category	Summary
		<p>f) all the advertisements issued should also be made available on the website of the company, Registrar, managers to the offer, and stock exchanges; and</p> <p>g) the acquirer / company and the manager to offer shall be required to provide procedures for inspection of material documents electronically.</p>
11.	Credit ratings	<p>In furtherance to the moratorium permitted by the RBI (on loan servicing, working capital facilities etc.) for three months, the following relaxations were granted by SEBI.</p> <p>i) If the credit rating agency(ies) (CRA) is of the view that the delay in payment of interest / principal has arisen solely due to the lockdown conditions creating temporary operational challenges in servicing debt, including due to procedural delays in approval of moratoria on loans by the lending institutions, CRAs may not consider the same as a default event and/or recognise default. Appropriate disclosures in this regard shall be made in the press release. This shall also be applicable on any rescheduling in payment of debt obligation done by the issuer, prior to the due date, with the approval of the investors/lenders. The said relaxation is extended until the period of moratorium by the RBI.</p> <p>ii) The timelines for rating action / issue of press release by CRAs were relaxed. However, CRAs were directed to endeavour to finish the exercise on a best effort basis. Such cases could not be put up for ratification by the rating sub-committee of the board of the CRA.</p> <p>iii) The timeline for making annual and semi-annual disclosures by CRAs on its website for the period ending March 2020 was extended by a period of 30 days.</p>
12.	Registrars to an issue (“RTAs”) and share transfer agents (“STAs”) / issuer companies – extension of timelines	<p>The following directions were issued by the SEBI to SEBI-registered category 1 or 2 RTAs and STAs, extending the timelines for processing various investor requests relating to physical securities and compliance and disclosures to be made under various SEBI regulations and various SEBI circulars:</p> <p>i) Relaxation to intermediaries / market participants for equivalent period of lockdown declared by the Government of India, over and above the prescribed limits, for the following activities / investor requests / compliances:</p> <p>a) processing of demat requests;</p> <p>b) processing of transmission requests;</p> <p>c) processing of request for issue of duplicate share certificates;</p> <p>d) processing of requests for name deletion / name change / transposition / pending share transfers (re-lodgement cases in the case of share transfers);</p> <p>e) processing of requests for consolidation / split / replacement of share certificates / amalgamation of folios;</p> <p>f) handling investor correspondence / grievances / SCORES complaint;</p> <p>g) submission of half-yearly report to SEBI;</p> <p>h) compulsory internal audit of RTAs by chartered accountant / company secretary / certified management accountant holding certificate of practice and certified information systems auditor / diploma information systems auditor pursuant to Circular dated 20 April 2018, issued by the SEBI;</p> <p>i) submission of audit report by CISA / CISM qualified or equivalent auditor by RTAs and STAs servicing more than two crore folios (referred to as qualified RTAs or “QRTAs”) to SEBI along with comments of the board; and</p> <p>j) submission of compliance report by QRTAs duly reviewed by the board of directors of the QRTA to SEBI on enhanced monitoring of QRTAs.</p>
13.	Minimum public shareholding (MPS) norms – relaxation	<p>For listed entities for whom the deadline to comply with MPS requirements fell between the period from 1 March 2020 to 31 August 2020, and which have not met such deadline, there would be no penal action taken for such non-compliance.</p>

Sr. No.	Category	Summary
14.	Public issues	<p>Any increase or decrease in the estimated fresh issue size by more than 20% of the estimated fresh issue size requires a fresh filing of the draft offer document along with fees. However, the SEBI permitted the issuers (in respect of issues (initial public offers / rights issues / follow-on public offers) opening before 31 December 2020) to increase or decrease the fresh issue size by up to 50% of the estimated issue size without requiring filing fresh draft offer document with SEBI subject to <i>inter alia</i> the following:</p> <ul style="list-style-type: none"> i) there has been no change in the objects of the issue; and ii) the lead manager ensures that all appropriate changes made to the draft red herring prospectus and addendum, if any, in relation to the increase or decrease of the estimated fresh issue size, as mentioned above, are made public.
15.	Rights issue	<p>The SEBI introduced the following temporary relaxations in the provisions related to rights issues, as contained in the Issue of Capital and Disclosure Requirements Regulations. These temporary relaxations will be applicable for right issues opened on or before 31 March 2021.</p> <ul style="list-style-type: none"> i) Eligibility conditions related to fast-track rights issue have been relaxed. For instance: <ul style="list-style-type: none"> a) the threshold of INR2.5 Billion of minimum average market capitalisation of public shareholding of the issuer has been reduced to INR1 Billion; b) with respect to the condition of equity shares of the issuer that have been listed on any stock exchange for a period of at least three years immediately preceding the reference date – three years reduced to 18 months; c) with respect to the condition in relation to the issuer being in compliance with the SEBI LODR Regulations for at least three years preceding the reference date – the period of three years has been reduced to 18 months; and d) with respect to the condition that the equity shares of the issuer should not have been suspended from trading as a disciplinary measure during the last three years immediately preceding the reference date – the period of three years has been reduced to 18 months. ii) Minimum subscription: the requirement of 90% has been relaxed to 75%. Further, for issues subscribed between 75%–90%, out of the funds, raised at least 75% of the issue size has to be utilised for the objects of the issue other than general corporate purpose. iii) The minimum threshold for not filing draft letter of offer with SEBI for rights issue has been increased to INR25 crores from INR10 crores. <p>The aforesaid relaxations are not applicable for issuance of warrants.</p> <p>The SEBI further granted additional relaxations pertaining to rights issues, opening up to 31 July 2020 (which was further extended by SEBI for rights issues opening up to 31 December 2020).</p> <ul style="list-style-type: none"> i) Service of the abridged letter of offer, application form and other issue material to shareholders may be undertaken by electronic transmission, and failure to adhere to modes of dispatch through registered post or speed post or courier services due to prevailing Covid-19-related conditions will not be treated as non-compliance during the said period. However, the issuers shall publish the letter of offer, abridged letter of offer and application forms on the websites of the company, registrar, stock exchanges and the lead manager(s) to the rights issue. The issuer along with lead manager(s) shall undertake all adequate steps to reach out to its shareholders through other means such as, ordinary post or SMS or audio visual advertisement on television or digital advertisement etc. ii) The issue-related advertisement must contain additional information with regards to the manner in which shareholders who have not been served notice electronically may apply. The issuer may have the flexibility to publish the dispatch advertisement in additional newspapers. The advertisement should also be made available on the website of the issuer, registrar, lead managers and stock exchanges. The issuer shall make use of advertisements in television channels, radio, internet etc. to disseminate information relating to the application process. Such advertisements can be in the form of crawlers / tickers as well. iii) The issuer along with lead manager(s) and other recognised intermediary shall institute a mechanism to allow physical shareholders to apply in the rights issue. The issuer along with lead manager(s) shall be required to ensure to take adequate steps to communicate such a mechanism to physical shareholders before the opening of the issue. Such shareholders shall not be eligible to renounce their rights entitlements. iv) The issuer shall, along with lead manager(s) to the issue, the registrar, and other recognised intermediaries (as deemed fit by issuer and lead manager(s)) institute an optional mechanism (non- cash mode only) to accept the applications of the shareholders subject to ensuring that no third-party payments shall be allowed in respect of any application. <p>By a recent notification dated 19 January 2021, the relaxation granted in point (iv) above was further extended for rights issues opening up to 31 March 2021 provided that the issuer along with the lead manager shall continue to comply with the conditions specified in the original circular.</p> <p>Further, the MCA has clarified that for rights issue opening up to 31 July 2020 the inability to despatch notices through postal or courier services to the shareholders would not be considered as a violation of the relevant provision of the Indian Companies Act.</p>

Sr. No.	Category	Summary
16.	Mutual funds – relaxations	<p>The key relaxations granted by the SEBI to mutual funds include:</p> <ul style="list-style-type: none"> i) All schemes (new fund offerings, NFOs) where an observation letter was issued by the SEBI and yet to be launched shall have a validity period of one year from the date of the SEBI letter. All new schemes (NFOs) where a final observation letter will be issued shall have a validity period of one year from the date of the SEBI letter. ii) Timelines for certain disclosures and filings were extended. <p>The access control presently exercised in the asset management companies' dealing room, including, call recording of deals, was temporarily relaxed subject to checks and balances including, electronic confirmation by way of email or other system having an audit trail being in place.</p>
17.	Address Market Volatility	<p>The SEBI had issued the following regulatory measures (to address the market volatility owing to concerns over the Covid-19 pandemic, with the objective of ensuring orderly trading and settlement, effective risk management, price discovery and maintenance of market integrity):</p> <ul style="list-style-type: none"> i) Revised the market wide position limit to 50% of the existing levels for stocks in futures and options (F&O) segment meeting the specified criteria. The revised market wide position is only for the purpose of introducing a ban period on fresh positions and not for determining the enhanced eligibility criteria for derivative stocks. ii) Laid down a phased manner in which the minimum margin rate shall be increased for stocks with price band of 20% and witnessing an intraday (high-low) price movement of more than 10% for three or more days in last one month. iii) Revised position limits in equity index derivatives (futures and options) in which mutual funds / foreign portfolio investors / trading members (proprietary) / clients may take exposure. iv) Dynamic price bands may be flexed only after a cooling off period of 15 minutes from the time of meeting the existing criteria specified by stock exchanges for flexing. <p>These measures were in force and extended from time until 26 November 2020.</p> <p>Based on market feedback and changed market environment, the SEBI has now reviewed the abovementioned regulatory measures as set out below.</p> <ol style="list-style-type: none"> 1. Stocks in the derivatives segment (F&O stocks): the regulatory measures in relation to revision of the market wide position limit (MWPL) to 50% of the existing levels for stocks in F&O segment meeting the specified criteria has been withdrawn with effect from close of business on 26 November 2020, subject to the continuation of the following until further directions. In the event MWPL utilisation in a security crosses 95%, derivative contracts enter into a ban period, wherein, all clients / trading members are required to trade in the derivative contracts of said scrips only to decrease their positions through offsetting positions. Any increase in open positions would attract appropriate penal and / or disciplinary action of the stock exchanges / clearing corporations. Accordingly, stock exchanges / clearing corporations shall put in place effective mechanisms to monitor whether the market wide open interest for scrips meeting the aforesaid criteria exceeds 95% of the reduced MWPL as arrived at above. Further, the stock exchanges / clearing corporations shall check on an intraday basis (monitoring of peak intraday open interest or periodic intraday monitoring of open interest) whether any member or client has exceeded its existing positions or has created a new position in the scrips in the new ban period. 2. Index derivatives – the regulatory measures mentioned in relation to index derivatives shall continue to remain in force till further directions, subject to following revisions: if any of the specified entities exceeds the respective limits prescribed, an additional deposit shall be payable by the entity equivalent to the amount of margin chargeable on excess position beyond the limits prescribed and the same shall be retained by stock exchanges / clearing corporations for a period of one month. 3. The relaxations regarding Increase in margin for non-F&O Stocks in cash market which laid down a phased manner in which minimum margin rate shall be increased for stocks with price band of 20% and witnessing an intraday (high-low) price movement of more than 10% for three or more days in the last one month has been withdrawn with effect from close of business on 26 November 2020. 4. The regulatory measures regarding flexing of dynamic price bands for F&O stocks relating to the dynamic price bands may be flexed only after a cooling-off period of 15 minutes from the time of meeting the existing criteria specified by stock exchanges for flexing shall continue to remain in force till further directions.

Sr. No.	Category	Summary
18.	Market participants – ease of compliance	<p>With a view to reducing the compliance burden on various market participants, the SEBI decided on the following:</p> <ul style="list-style-type: none"> i) The penal provisions for non-collection / short collection of margins by brokers which was to be implemented from 1 April 2020 were deferred until 30 April 2020. ii) National Institute of Securities Markets certifications which were expiring during the period between 15 March 2020 to 31 March 2021 have been extended until 30 June 2021. iii) Trading members working from designated alternate locations were exempted from the penal provisions for not maintaining call recordings of orders / instructions received from clients up to 28 February 2021. However, the trading member and the stock exchange had to send a confirmation on the registered mobile number of the client immediately after execution of the order. iv) The delay in submission of various reports by trading members did not attract penal provisions until 30 April 2020. v) Trading members will be placed in risk reduction mode upon utilisation of 90% of members capital towards margins, instead of 85%. vi) Services of stock market entities to be exempted from the purview of lockdown and to permit essential staff of the stock market participant to commute so as to ensure the SEBI-regulated stock market entities function smoothly. vii) Filing fees on offer documents for public issue, rights issue and buyback of shares were reduced to 50% of the existing fee structure. This was effective for documents filed from 1 June 2020 to 31 December 2020. viii) The broker turnover fee was reduced to 50% of the existing fee structure for the period June 2020 to March 2021. The benefit of the above reduction in fees will automatically be passed on to the investors as well.
19.	Debenture holders	<p>In order to secure the interest of investors in listed debt securities and to enable debenture trustees to perform their duties effectively, the SEBI had issued a circular dated 3 November 2020 which <i>inter alia</i> required the issuer to provide the various information / documents (such as details of encumbered and unencumbered assets, details of the guarantor along with the details of their assets, details of security etc.) to the debenture trustees in order to enable the debenture trustee to exercise due diligence with respect to creation of security, at the time of entering into debenture trustee agreement. Further, the debenture trustee by itself or through its advisers or experts shall independently carry out due diligence. The terms and conditions with respect to exercising due diligence shall also be included in the debenture trustee agreement.</p> <p>Further, pursuant to the above circular, before making the application for listing of debt securities, the issuer is required to create a charge in favour of the debenture trustee and also execute a debenture trust deed (DTD) with the debenture trustee. The stock exchanges shall list the debt securities only upon receipt of a due diligence certificate as per format specified from debenture trustee confirming creation of the charge and execution of the DTD. The charge created by the issuer shall be registered with the Sub-registrar, Registrar of Companies, Central Registry of Securitisation Asset Reconstruction and Security Interest, Depository etc., as applicable, within 30 days of creation of such charge.</p> <p>The provisions of the above circular dated 3 November 2020 was proposed to come into force with effect from 1 January 2021 for new issues proposed to be listed on or after 1 January 2021. However, taking into consideration, amongst others matters, the challenges arising out of prevailing market conditions due to Covid-19 pandemic, the implementation date was extended to 1 April 2021.</p>