



Navigating the COVID-19 World

Snapshot of Government Measures



CORPORATE COMPLIANCE & FOREIGN INVESTMENT

- MCA has permitted board/ shareholders' meetings through video-conferencing or other audio-visual means.
- MCA relaxed compliances with respect to:
 - residency requirements for the resident director;
 - meetings of the independent directors of a company;
 - declaration of commencement of business;
 - creation of deposit reserve of maturing deposits;
 - filing of forms related to creation or modification of charge;
 - additional fees and extension of late date for filing of CR-4 (form for filing of cost audit report);
 - disclosure of annual return with the board's report in MGT 9.
- Fresh Start Scheme, immunity from non-compliance, waiver of late filing fee and limited immunity from prosecution for delayed filings announced by MCA.
- In relation to holding of annual general meeting, additional time has been granted to companies which are unable to hold their annual general meetings for the financial year ended on 31 March 2020.
- SEBI announced relaxations with respect to certain compliance requirements for:
 - listed companies;
 - InvITs, REITs, AIFs and FVCI;
 - listing of NCDs/ NCRPS/ CPs;
 - depository participants/ RTAs;
 - trading members/ clearing members.
- SEBI introduced guidelines/ amendments with respect to:
 - provision of exit options to dissenting unitholders of REITs and InvITs;
 - operational framework for transactions in defaulted debt securities;
 - creeping acquisitions by promoters and voluntary open offers;
 - investment norms for sponsors/ asset management companies under the Mutual Fund Regulations.
- SEBI also relaxed norms for preferential issue of shares by companies with stressed assets with additional conditions *inter-alia*:
 - price of equity shares to be based on a look back period of 2 weeks immediately preceding the relevant date;
 - allotted shares to be locked-in for 3 years from the last date of the trading approval.
- SEBI amended the ICDR Regulations to revise the pricing guidelines for preferential issue of shares by a listed company with certain conditions. The price of these equity shares is to be based on a look back period of 12 weeks and 2 weeks preceding the relevant date. Further, these shares will be subject to a lock in for 3 years from the date of allotment.
- SEBI has issued guidelines to mutual funds, trustees, asset management companies and debenture trustees regarding valuation of debt and money market instruments due to COVID-19.

- SEBI has issued relaxations to credit rating agencies in recognition of default for restructuring by the lenders/ investors solely due to COVID-19 related stress.
- SEBI amended the ICDR Regulations with the aim of rationalizing eligibility criteria and disclosure requirements for rights issues to facilitate fund-raising.
- Foreign Investment from countries that shares land borders with India brought under government approval route.
- Revised pricing guidelines regarding subscription of shares of a listed company renounced by a resident in favor of non-resident in a rights issue.
- Foreign investment in the defense industry and air transport services has been further liberalized.
- The Department of Promotion of Industry and Internal Trade has clarified that 26% FDI in 'uploading/ streaming of news and current affairs through digital media' under the Government route is applicable for:
 - digital media entity streaming/ uploading news and current affairs on websites, applications or other platforms;
 - news agency that gathers, writes and distributes/ transmits news to digital media and/ or news aggregators; and
 - news aggregators (being an entity that aggregates news contents from various sources using software or web application in one location).

EMPLOYMENT LAW

- Medical Insurance for health workers worth INR 5 million per individual.
- Direct cash transfer and food subsidies for poor and migrant workers.
- Building and Construction Workers Welfare Fund for relief to construction workers.
- Guidelines on resuming operations at workplaces albeit with restrictions based on zones.

- SOPs prescribed by various state governments on resuming offices/ plants.
- Employees permitted to withdraw up to 75% of the non-refundable advance from EPF account or 3 month's basic salary and dearness allowance, whichever is lower.
- Extension of timelines for filing of returns under various labour legislations.
- Uttar Pradesh and Madhya Pradesh State Governments announced radical labour relaxations to woo investors.

DIRECT TAX

- Extended timelines for roll-over relief on capital gains and other investments, statutory compliances (like filing tax returns, tax audit report issue of notices, passing orders etc), filing of appeals/replies.
- Interest rate for delayed payment of withholding tax and certain other taxes reduced from 12% to 9% per annum for tax payments up to certain dates with waiver of penalty and consequential prosecution.
- Limited extension for validity of nil / lower withholding tax certificate in certain cases. Reduced rate of withholding tax on payment to branch offices of foreign companies up to certain dates.
- Withholding tax rates and rates for tax collection at source for certain payments (made up to 31 March 2021) reduced by 25%.
- Procedure for obtaining lower withholding tax rate certificate for FY 2020-21 eased.
- Due date for settlement under Direct Tax Dispute Resolution Scheme extended to 31 December 2020.
- Due date for exporters in SEZs for commencing production to claim tax exemption extended to 30 September 2020.
- 100% tax deduction for donation made to the PM CARES Fund.

- Tax residency criteria for stranded individuals relaxed for FY 2019-20. Similar relaxations being proposed for FY 2020-21.
- Speedy disposal of refunds up to INR 500,000 and immediate release of all pending refunds to charitable trusts and non-corporate business and professions.

INDIRECT TAX

Goods and Service Tax (GST)

- The due date for filing returns and depositing GST was relaxed in a staggered manner basis the turnover of the taxpayers. Specifically, the last date for filing the Annual Return under GST law for FY 2018 – 2019 has been extended till 31 October 2020.
- Time limit for filing any reply, appeal, application or furnishing any report, document or statements initially extended unconditionally till 31 August 2020. Thereafter, interest and penalty chargeable at reduced rates on delayed filings.
- The validity of e-way bills issued from 20 March 2020 to 29 June 2020 was extended to 30 June 2020.
- One-time extension of due dates for issuance of tax invoice for goods supplied on approval basis, falling between 20 March 2020 to 30 October 2020, has been granted till 31 October 2020.
- The GST disputes adjudication authorities and appellate forums have adopted the e-hearing facility via video conferencing for disputes under the erstwhile Indirect Tax and GST laws.

Customs

- The online customs clearance system (ICEGATE) made functional round the clock (i.e. 24 hours for all seven days in a week).
- Extension of due dates for various compliances such as filing of reply, appeal, application or furnishing any report, document, return or statement, etc. up till 30 September 2020, and is further

extendable by way of issuance of notification by the Central Government.

- Expedited processing of refund or drawback of customs duties to eligible exporters.
- The Government has launched the pilot project of faceless assessment of imports.
- Akin to GST, the customs dispute adjudication authorities and appellate forums have also adopted the e-hearing facility via video conferencing.

Foreign Trade Policy

- Extension of validity of various export promotion schemes.
- Exemption from GST on imported raw material and capital goods to specific scheme beneficiaries extended.

CORPORATE FINANCE & RESTRUCTURING

- RBI introduced additional time relaxations to FPIs to invest in their committed portfolio size (CPS) as under the voluntary retention route.
- RBI permitted lending institutions to (i) allow moratorium on repayment of term loans; and (ii) defer recovery of interest on working capital facilities.
- Regulatory package announced by RBI to permit lending institutions to take specific measures to ease working capital financing sanctioned to its borrowers.
- RBI to conduct Targeted Long-Term Repo Operations at the policy repo rate for tenors up to 3 years for a total amount of up to INR 500 billion, to begin with, in tranches of appropriate sizes.
- RBI announced:
 - reduction in repo rate under LAF by 40 basis points from 4.40% to 4%;
 - reduction in bank rate by 75 basis points from 5.40% to 4.65%;
 - reduction in cash reserve ratio by 100 basis points from 4% to 3%.

- To ease trade, RBI announced:
 - extension of realization period of export proceeds from 9 months to 15 months from the date of export;
 - extension of time limits for settlement of import payments from 6 months to 12 months from the date of shipment.
- RBI granted extension of timeline to NBFCs to finalize its unaudited accounts within the prescribed period.
- Special liquidity facility for mutual funds of INR 500 billion opened by RBI.
- Ministry of Finance announced economic packages to support businesses and micro, small and medium enterprises.
- Relief from disclosure requirements for debenture and commercial paper issuances.
- Threshold for initiating insolvency increased to INR 10,000,000 from the existing threshold of INR 100,000.
- Exemption from IBC proceedings for financial default during the exemption period (from 25 March 2020 to 24 December 2020). The Government has an authority to further extend this period by another 3 months.
- The lockdown period to be excluded from timelines set out under the IBC for corporate insolvency resolution process and liquidation process.



REAL ESTATE

- Extended timelines for statutory compliances and completion of on-going projects by state level real estate regulatory authorities.
- RBI stimulus - eye on re-structuring of loans and adding liquidity, RBI has granted a moratorium on loan repayment.
- Maharashtra Government has reduced stamp duty by 1% on real estate contracts for 1 year.
- Few government departments (Software Technology Parks of India, MIDC, SEZs)

have either waived or deferred lease payments for lessees for a certain time period.

- Municipal Corporations have extended the expiry dates of construction approval.



COMPETITION LAW

- Virtual hearings for CCI started. Standard operating procedures published.
- Shift to e-filing system for information filing as well as combination notifications.
- Pre-filing consultations are being conducted through video conferencing.
- Coordinated conduct for increasing efficiencies to be favourably assessed by CCI, if necessary, and proportionate to address concerns during the crisis.
- Physical filing at appellate authority (NCLAT) continue.
- Extension of timelines for statutory filings at NCLAT.



ENERGY & INFRASTRUCTURE

- Delay on account of disruption of supply chains from China and any other country recognised as 'Force Majeure' for the renewable sector.
- Liquidity injection for power distribution companies.
- Renewable energy generating stations continue to be 'must run' requiring timely payments from distribution companies.
- Extension of time for commissioning of renewable energy projects being implemented through agencies designated by MNRE (like SECI) from 25 March 2020 to 24 August 2020, without case to case examination.
- Extension of time for renewable energy projects equivalent to the lockdown period i.e. 25 March 2020 to 31 May 2020 and additional 30 days for normalization after such lockdown has been granted.

- The developers of renewable energy projects designated by the Ministry of New and Renewable Energy may also pass the benefit of time extension to other stakeholders such as EPC contractors, equipment suppliers and OEMs.
- Major Ports can permit waiver of all penal consequences on a case-to-case basis along with deferment of certain performance obligations under the concession agreement for existing and operational PPP projects.
- For the road sector, the Ministry has granted time extension to the concessionaire / contractor for complying with obligations under the concession agreement for 3 to 6 months depending on site conditions.
- Coal India Limited and its subsidiaries have waived performance related (take or pay) obligations under the coal supply agreements during the period 1 April 2020 to 30 June 2020.

Editors:

Rabindra Jhunjunwala, Partner
Malav Shah, Counsel

Contributors:

Competition Law – Anisha Chand, Partner
Corporate and Regulatory – Moin Ladha, Partner
Corporate, Restructuring and Insolvency – Kalpana Unadkat, Partner
Direct Tax – Vinita Krishnan, Director
Employment, Labour & Benefits – Anshul Prakash, Partner and Vinay Joy, Partner
Energy & Infrastructure – Akhil Bhatnagar, Partner and Dibyanshu, Partner
Indirect Tax – Kabir Bogra, Partner
Real Estate – Harsh Parikh, Partner

Write to covid19@khaitanco.com to get in touch with our focused COVID-19 working group.

This report was produced with reference to the situation as on 10 November 2020. It provides some basic information pertaining to the issues and should not be construed as a legal opinion or legal advice. It may neither be relied upon by any person for any purpose, nor is it to be quoted or referred to in any public document or shown to, or filed with any government authority, agency or other official body.

Bengaluru Embassy Quest, 3 rd Floor 45/1 Magrath Road Bengaluru 560 025 India T: +91 80 4339 7000 F: +91 80 2559 7452 E: bengaluru@khaitanco.com	Kolkata Emerald House 1B Old Post Office Street Kolkata 700 001 India T: +91 33 2248 7000 F: +91 33 2248 7656 E: kolkata@khaitanco.com	Mumbai One World Center 10 th & 13 th Floors, Tower 1C 841 Senapati Bapat Marg Mumbai 400 013, India T: +91 22 6636 5000 F: +91 22 6636 5050 E: mumbai@khaitanco.com	New Delhi Ashoka Estate 11 th Floor, 1105 & 1106 24 Barakhamba Road New Delhi 110 001, India T: +91 11 4151 5454 F: +91 11 4151 5318 E: delhi@khaitanco.com	Noida Max Towers, 7 th & 8 th Floors Sector 16B, Noida Uttar Pradesh 201 301 India T: +91 120 479 1000 F: +91 120 474 2000 E: delhi@khaitanco.com
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