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Restarting India | Fiscal measures 2.5

17 May 2020

Measures announced in India's fight against COVID-19: 17 May 2020

Following the Prime Minister's announcement on 12 May 2020 of a special economic and comprehensive package of INR 20 trillion (~US$ 267 billion)[1] (~ 10% of India's GDP) and the call for building a self-reliant India, the Finance Minister, held her final press conference on the measures to fight COVID-19 on 17 May. The Finance Minister announced measures aimed at supporting employment, health, education and business during COVID-19, aimed at decriminalization of offences under the Companies Act, on the ease of doing business and the building of a road map for the public sector to increase participation in economic activity in the country.

This is the fifth and last tranche of the measures announced by the Finance Minister. We have summarised key features of these announcements below:

Additional allocation of funds for Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS)

- **Purpose to be achieved:** To provide the much needed fillip to employment including for returning migrant workers
- **Key proposals**: Allocation of additional funds of INR 400 billion (~US$ 5.33 billion) towards MGNREGS
- **Comment:**
  - This is expected to generate nearly 3 billion person days of work in aggregate.
  - It is aimed at addressing the demand for more work considering the return of migrant work force for the monsoon season.
  - This will enable creation of a larger number of durable and livelihood assets including water conservation assets.
  - It is expected to boost the rural economy through higher production.
  - Lastly, it is also expected to put more money in the hands of labour, in exchange for work and not merely as a dole.

Health reforms and initiatives

- **Purpose to be achieved: To** increase investments in public health and to prepare India for any future pandemics
- **Key proposals**:
  - Infectious diseases hospital blocks to be set up in all districts.
  - Integrated public health laboratories to be set up in all districts.
  - Setting up of block level laboratories and public health units to manage pandemics.
  - To encourage research in health sciences, Indian Council of Medical Research (ICMR) will set up a National Institutional Platform for One health.
  - National Digital Health Blueprint to be implemented.

[1] USD-INR rate considered as 1 USD = 75 INR

- **Comment:** This will give impetus to the public health infrastructure of the country, which has been under severe pressure in dealing with the pandemic. This measure, coupled with the higher viability gap funding announced on May 16, 2020, will represent significant funds and commitment to building better health infrastructure in the country.

Policy reforms to facilitate technology driven education with equity and technology systems

- **Purpose to be achieved:** To introduce immediate initiatives to educate students, including usage of technologically driven systems for online education during COVID-19
- **Key proposals**:
  - To launch PM eVidya programme for multi-mode access to online education. It will consist of:
    - One nation, one digital platform – DIKSHA for school education; e-content and QR-coded energized textbooks for all grades
    - One class, one channel – one earmarked TV channel per class from 1 to 12
    - To permit top 100 universities to start online courses by 30 May 2020
    - E-content for visually and hearing impaired
  - To launch new national curriculum and pedagogical framework integrated with global and 21st century skill requirements for school, early childhood and teachers
  - *Manodarpan* initiative to be launched for psycho-social support of students, teachers and families for mental health and emotional well-being
  - National Foundational Literacy and Numeracy Mission to be launched by December 2020 for ensuring every child attains learning levels and outcomes in grade 5 by 2025
  - SWAYAM PRABHA DTH channels to support and reach those who do not have access to the internet, including coordination with states to share air time to telecast their education content
  - To tie-up with Tata Sky and Airtel DTH operators to air educational video content and enhance reach
  - Provision made for telecast of live interactive sessions with experts from home through Skype
  - 200 new textbooks added to e-Paathshaala and extensive use of radio, community radio and podcasts
- **Comment:** The measures offer increased usage of technology, including television, radio, and electronic content to encourage continued education across all levels. While the measures may not be an immediate stimulus, they reflect the willingness of the government to allocate resources to educate youth on lines similar to how urban centres are reaching out to their students in these times. Execution on a larger scale will certainly assist in spreading a learning culture in the country.

Relaxation in IBC matters

- **Purpose to be achieved:** To provide relief to Micro, Small and Medium Enterprises (MSMEs), stressed and defaulting companies, from a harsh potential outcome due to COVID-19, while not diluting the purpose of the IBC Code.

- **Key proposals**:
  - Minimum threshold to initiate insolvency proceedings raised from existing INR 0.1 million to INR 10 million.
  - Special insolvency resolution framework for MSMEs to be notified.
  - Suspension of fresh initiation of insolvency proceedings up to 1 year, depending upon the pandemic situation.
  - Defaults in debts due to COVID-19 to be excluded from the definition of "default" under the IBC, for the purpose of triggering insolvency proceedings.
- **Comment:** There was an urgent need to address this situation. The IBC has been a great tool to address defaults in India. However, with COVID-19, defaults could also occur by companies that are otherwise managed well and operating good businesses. The change seeks to protect companies from undue pressure resulting from invoking the IBC, which could potentially end up hurting jobs, the economic sentiment and also the financial will of promoters that have the potential to turnaround their companies.

Decriminalisation of offences under the Companies Act, 2013 (2013 Act)

- **Purpose to be achieved:** To reduce the burden of compliance cost on companies due to violations involving minor technical and procedural defaults. To de-clog criminal courts and the National Company Law Tribunal (NCLT)
- **Key proposals**:
  - Violations or defaults, including technical and procedural inadequacies, to be decriminalised under the 2013 Act, which *inter alia* includes appointment and qualification of directors, inadequacies in Board Reports, short-comings in CSR reporting, delay in holding AGMs, failure to file annual accounts and annual return with ROC, and other filing defaults.
  - Most of the compoundable offences to be dealt with under Internal Adjudication Mechanism (IAM) with enhanced powers proposed to be given to Regional Directors (58 sections as against existing 18).
  - 7 compoundable offences to be dropped and 5 to be dealt with under an alternative framework.
- **Comment:**
  - Decriminalisation of offences is a step to do away with imprisonment for defaults and to re-categorise such offences as civil liability which are technical lapses or are procedural in nature.
  - This measure will reduce the burden of compliance cost on companies and will further enhance ease of doing business for corporates.
  - It is in line with the stated objective of the government to reduce criminality of procedural and technical lapses which could have otherwise resulted in harassment of company officials.

Improving fund raising opportunities for Indian companies

- **Purpose to be achieved:** Removing certain impediments to raising of funds by Indian companies

- **Key proposals**:
  - Indian public companies can list their securities directly in permissible foreign jurisdictions, without having their securities first listed in India.
  - Private companies which list only non-convertible debentures (NCDs) on stock exchanges will not to be considered as 'listed companies'.
- **Comment:** Indian companies have had to utilise depositary receipt mechanism to list overseas and attract foreign investment directly, in addition to listing in India. The freedom to list overseas without having to list in India first, will allow many companies to tap the huge capital market internationally and could help take Indian companies global.

  At present, listing NCDs even if privately placed, would make a company a listed company having to deal with all the attendant compliances. With the proposed change, listed debentures, particularly the ones privately placed, would not result in making the company a listed company thus unburdening it from the cumbersome obligations of a listed company. Listing of debentures has operational and legal advantages and may also help in deepening the debt market in India.

Ironing out certain procedural aspects of Indian corporate laws

- **Purpose to be achieved:** Dealing with certain procedural aspects that have been sought by the industry.
- **Key provisions:**
  - The provisions relating to producer companies to be included in the 2013 Act on similar lines as per Part IXA (Producer Companies) of Companies Act 1956.
  - Power to be given to create additional/ specialised benches for NCLAT, which will help in speedy disposal of matters.
  - Lower penalties to be prescribed for defaults by small companies, one person companies, producer companies and start-ups.
- **Comment:** These measures should assist with the overall ease of doing business in India. The lowering of prescribed penalties will reduce financial burden on small companies, one person companies, producer companies and start-ups.

Public Sector Enterprise (PSE) policy

- **Purpose to be achieved:** Defining the role of the public sector.
- **Key proposals:**
  - Government will announce a coherent policy where all sectors would be open to private sectors with PSEs playing an important role in defined areas.
  - Policy to include:
    - List of strategic sectors requiring presence of PSEs in public interest.
    - Strategic sectors to have at least one PSE (but not more than 4); private sector enterprises will also be allowed.
    - In non-strategic sectors, PSEs and the private sector will participate, though the government will endeavour to exit this sector over time.
- **Comment:** The public sector plays a very important role in driving economic growth and activity. However, there is a clear need for a coherent strategy and approach for the public sector, now that the private sector is quite active and foreign investment has also been allowed in many sectors. This provides clarity in an important area and should set the tone for future

transactions (either exits, amalgamations, etc) and for clear guidelines on government participation in commercial activity.

Proposal to link enhanced borrowing by states to specific reforms

- **Purpose to be achieved:** Enabling states to raise more funds and to also incentivise states to reach targeted central reform priorities
- **Key proposals**:
  - Currently state borrowing is limited to 3% of GSDP[2]
  - This has been increased, per the demand of the states, to 5%, *only for FY 2020-21*
  - Part of the enhanced limit will be linked to specific measures
  - The proposed break-up is:
    - Unconditional increase of 0.50%
    - 4 tranches of increased borrowing limit of 0.25% each, with each tranche linked to "measurable reform actions"
    - Additional 0.5% to be enhanced if specified milestones are achieved in at least 3 out of 4 areas
  - The four areas of focus are :
    - Universalisation of 'One Nation One Ration card'
    - Ease of doing business
    - Power distribution
    - Urban local body revenues
  - FM has also provided a detailed break-up of the expected outlay on each of the packages announced over these 5 days
- **Comment:** The FM has recognised that a large part of the borrowing limit is unutilised by states and that they have still been requesting further borrowing flexibility. While acceding to this request, the additional funding has been tied-in to meeting certain objectives to ensure that the Centre's strategic objectives / initiatives are acted upon.

Source: **Press Release issued by the Ministry of Finance dated 17 May 2020.**
The press release issued by the Ministry of Finance on 17 May 2020 is the fifth part of a series of measures announced by the Ministry of Finance.

The link to our alerts on the previously announced measures are as follows:

- Government announces tax reliefs in first tranche of special economic, comprehensive package of INR 20,000 billion
- Measures announced in India's fight against COVID-19: 13 May 2020
- Measures announced in India's fight against COVID-19: 15 May 2020
- Measures announced in India's fight against COVID-19: 16 May 2020

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[2] Gross State Domestic Product