*May 20, 2020*

## COVID-19 ECONOMIC RELIEF PACKAGE - 8 SIGNIFICANT ANNOUNCEMENTS

On May 12, 2020 the Indian Prime Minister announced a special economic relief package to revive the Indian economy in light of the COVID-19 outbreak. The package was divided into five '*tranches*', with details announced by the Finance Minister between May 13, 2020 to May 17 2020. Press releases on the relief package can be accessed here.

Below are some key reliefs announced as part of the package.

### 1. Micro, Medium and Small Enterprises ("MSMEs")

i. Collateral free term loans will be provided to finance the working capital needs of businesses.
   a) Loans of upto 20% of the outstanding credit of businesses as of February 29, 2020.
   b) Amounts will be guaranteed by Government of India.
   c) Businesses with up to Rs 25 crore (about USD 3.3 million) outstanding and turnover up to Rs 100 crore (about USD 13.2 million) will be eligible.
   d) Loans will be of a 4-year term with moratorium of 12 months on principal repayment, and interest to be capped.

ii. Revised MSME classification based on both investment and turnover.

iii. Global tenders will be disallowed in government procurement tenders of up to Rs. 200 crores (about USD 26.4 million) to give MSMEs greater opportunities and promote self-reliance.

***Takeaway:***

a) *This should have an immediate impact on jump starting MSME production, with banks likely to be more forthcoming in lending funds to cash-strapped MSMEs, since the loans are now guaranteed by the central government. The funds will effectively act as working capital for the MSMEs, enabling them to pay bills, wages, buy raw materials etc.*

b) *The revised MSME classification metrics linked to turnover (and not simply investment limits) will also bring more entities within the scope of MSME benefits (whereas previously entities may have needed to artificially operate at reduced levels, or spread operations across multiple units to remain with the MSME threshold).*

c) *However, ground level reports suggest that banks are still insisting on future cash and other projections which may lead to bottlenecks in disbursements. It is to be noted that these measures are only applicable to MSMEs and not to medium or large sized industries.*

### 2. Defence Sector

i. Reforms introduced to promote 'Make in India' in defence production. A list of weapons/platforms banned from being imported will be notified, along with year-wise timelines.

ii. Foreign direct investment limit in defence manufacturing under the automatic route will be raised from 49% to 74%.

***Takeaway:***

a) *The push for domestic capital procurement in this strategic sector is aimed at reducing India's significant defence import bill and promoting local and self-sustaining manufacture.*

b) *On a related note, this move ties in with the proposed revision of the Defence Procurement Procedure, 2020 which is also geared towards indigenization and Make in India.*

c) *However, any material impact of these reforms will be in the medium to long term and it is unlikely to have an immediate impact on the economy.*

### 3. Power Sector

i. Tariff policy will be released with reforms relating to consumer rights, promotion of industry and sustainability of sector.
ii. Privatization of power departments/utilities in Union Territories.
iii. Power Finance Corporation and Rural Electrification Corporation will help DISCOMs with liquidity to the extent of Rs 90,000 crores in two equal instalments. This amount is to be utilized to pay their dues to transmission and generation companies.

***Takeaway:***

a) *While cash flows and revenues of DISCOMs have been hit owing to low demand from industrial consumers during the lockdown, the proposed emergency liquidity infusion will avert a scenario where transmission and generation companies are forced to stop supplies to DISCOMs in default.*
b) *The loans will be issued against a guarantee from the relevant State related to the DISCOM.*
c) *The issue of how quickly the liquidity will be trickle down to the creditors will be a key question. The other reforms are once again only likely to have an impact in the long term subject to the efficiency with which they are implemented.*

### 4. Contract Extension

Extension of government contracts due for completion on or after February 20, 2020 to be extended by 3-6 months on invocation of force majeure clause ("**FMC**") without imposition of any cost or penalty. FMC would be held valid only if parties to the contract were not in default of the contractual obligations as of February 19, 2020.

***Takeaway:***

a) *This move will come as a relief to businesses transacting with the government, not only allowing them additional time to complete their contractual obligations temporarily affected by COVID-19 (and potentially by the max migrant labour exodus as well), but also protecting them from contractual penalties/delay costs, which can be significant amounts.*
b) *However, companies availing of this benefit should have their contracts vetted prior to invoking FMC, as it may have other implications on the performance of the contract.*

### 5. Insolvency Measures

i. Minimum threshold to initiate insolvency proceedings raised to Rs. 1 crore (about USD 132,000) from Rs. 1 lakh (about USD 1,320).
ii. Special insolvency resolution framework for MSMEs under Insolvency and Bankruptcy Code, 2016.
iii. Suspension of fresh insolvency proceedings for upto 1 year, depending on pandemic's progresses.

***Takeaway:***

a) *Increasing the money threshold for insolvency proceedings, and its suspension during the pandemic, reduces the risk of liability for organizations that are unable to meet their obligations due to the pandemic.*
b) *This broad-based approach has multiple ramifications, however, including but not limited to inability of creditors to institute insolvency proceedings against debtors. Your options for recovery of monies due to you may have contracted as a result of this.*

### 6. Employee Provident Fund relaxations

i. The Government's decision to pay 24% provident fund contribution for those earning up to ₹15,000 a month as salary and working in units that employ less than 100 workers for 3 months, has been extended until August 2020.
ii. Statutory provident fund contribution of both employer and employee will be reduced to 10% each from existing 12% each for next 3 months. Scheme will also apply to workers not eligible for earlier announced provident fund support and its extension.

***Takeaway:***

*a) These measures will create more liquidity in the hands of both employers and employees, but mainly in the MSMEs where employees are paid at low thresholds.*
*b) This further changes the way in which employee benefits are calculated and paid in India, coming in the wake of judicial changes in the past year. Your employee benefit policies may need to be updated for these changes.*

### 7. Ease of doing business measures

i. Private companies which list non-convertible debentures on stock exchanges not to be regarded as listed companies.
ii. Power to create additional/specialized benches for National Company Law Appellate Tribunal.
iv. Lower penalties for all defaults for small companies, one-person companies, producer companies (provisions to be introduced) & start-ups. Decriminalization of violations under the Companies Act, 2013 for minor technical and procedural defaults such as shortcomings in CSR reporting, inadequacies in Board report, filing defaults, delay in holding of AGM, etc.

***Takeaway:***

*a) These aspirational measures are intended to increase the ease of doing business in India and make Indian companies more attractive to foreign investors.*
*b) They will be tested in the medium to long term, and how they are enforced on the ground.*

### 8. Tax measures

i. Tax deduction at source for various non-salaried payments reduced by 25% for the period from May 14, 2020 to March 31, 2021. Tax collection at source for various specified receipts also reduced by 25% for the same period.
ii. Due date of all income-tax returns for FY 2019-20 extended from July 31, 2020 & October 31, 2020 to November 30, 2020 and Tax audit from September 30, 2020 to October 31, 2020.

***Takeaway:***

*a) These reliefs will temporarily ease the taxation burden on non-salaried persons (such as consultants and independent service providers), creating immediate liquidity at an individual level and indirectly increasing purchasing power.*
*b) These may also change the way in which companies pay their vendors.*

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