VOLUME 4

COVID-19:

RELAXATIONS ANNOUNCED BY RBI

April 6, 2020

Introduction

In view of the outbreak of the COVID-19 pandemic, various governmental authorities have granted several relaxations from regulatory compliances. In our previous updates dated March 20, 2020, March 23, 2020 and March 24, 2020, we had summarised some of the key relaxations and measures which have been introduced by the Ministry of Corporate Affairs, Securities and Exchange Board of India and other courts/ tribunals. The earlier updates can be found here- http://www.argus-p.com/papers-publications/thought-paper/covid-19-relaxations-from-certain-regulatory-compliances-for-corporates-and-other-measures/, http://www.argus-p.com/papers-publications/thought-paper/covid-19-update-csr-funds-can-be-used-for-covid-19/ and http://www.argus-p.com/papers-publications/thought-paper/covid-19-latest-relaxations-from-provisions-of-the-companies-act-2013-and-the-ibc/.

In this update, we have summarised some of the key relaxations announced by the Reserve Bank of India ("**RBI**") to address the consequential stress caused in financial conditions in the economy and to ensure the continuity of viable businesses.

COVID-19 – Regulatory Package

On March 27, 2020, RBI issued the COVID-19 – Regulatory Package ("**Regulatory Package**") setting out the instructions to banks, all-India financial institutions and non-banking financial companies including housing finance companies ("**Lenders**") in order to mitigate the burden of debt servicing. In this regard, certain clarifications have also been issued by the Indian Banks' Association by way of a list of frequently asked questions ("**IBA FAQs**").

Rescheduling of payments

In terms of the Regulatory Package, Lenders have been permitted to grant a moratorium of 3 (three) months on payment of all instalments falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as well as the residual tenor, will be shifted by 3 (three) months after the aforesaid moratorium period. However, interest will continue to accrue on the outstanding portion of the term loans during the aforesaid moratorium period.

In respect of cash credit/ overdraft facilities, Lenders have been permitted to defer the recovery of interest applied in respect of such facilities during the period from March 1, 2020 up to May 31, 2020. The accumulated accrued interest will be recovered immediately after the completion of the aforesaid period.

Easing of working capital financing

In respect of cash credit/ overdraft facilities sanctioned to borrowers facing stress on account of the economic fallout of the pandemic, Lenders may recalculate the 'drawing power' by reducing the margins and/ or by reassessing the working capital cycle. The aforesaid relief will be available in respect of all such changes effected up to May 31, 2020 and the accounts which are provided such relief will be subject to subsequent supervisory review with regard to their justifiability on account of the economic fallout from COVID-19.

It may be noted that in the IBA FAQs it has been stated that at present non-banking financial companies, housing finance companies and micro finance institutions are not being considered under the aforesaid scheme.

Asset classification

The moratorium/ deferment/ recalculation of the 'drawing power' as mentioned above will not be treated as a concession or a change in terms and conditions of loan agreements due to financial difficulty of the borrower for the purposes of the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019. Accordingly, such measures, by itself, will not result in downgrade of asset classification.

The asset classification of term loans which are granted relief as mentioned above will be determined on the basis of the revised due dates and the revised repayment schedule. Similarly, working capital facilities where relief is provided as mentioned above, the SMA and the out of order status will be evaluated considering the application of accumulated interest immediately after the completion of the permitted deferment period as well as the revised terms.

The rescheduling of payments, as aforesaid, will not qualify as a default for the purposes of supervisory reporting and reporting to credit information companies ("**CICs**") by the Lenders. CICs are required to ensure that the actions taken by the Lenders pursuant to the Regulatory Package do not adversely impact the credit history of the beneficiaries.

Other compliances

Lenders are required to frame board-approved polices for providing the reliefs pursuant to the Regulatory Package to all eligible borrowers.

If the exposure of a Lender to a borrower is Rs. 5,00,00,000 (Rupees five crore) or above as on March 1, 2020, such Lender is required to develop an MIS on the reliefs provided to its borrowers, including borrower-wise and credit-facility wise information regarding the nature and amount of relief granted.

Export of Goods and Services

The Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 provided that the full export value of goods/ software/ services exported should be realised and repatriated to India within 9 (nine) months and, where the goods are exported to a warehouse established outside India with the permission on the RBI, the full export value of goods exported should be paid to the authorised dealer ("**AD**") immediately upon realisation and in any event within 15 (fifteen) months.

Pursuant to the Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2020, the aforesaid condition was sought to be relaxed by providing that the export proceeds should be repatriated as aforesaid within the prescribed time period *or within such period as may be specified by RBI, in consultation with the Government, from time to time*.

Accordingly, on April 1, 2020, RBI issued A. P. (DIR Series) Circular No. 27 pursuant to which the time period for realisation and repatriation of the export proceeds to India for the goods/ software/ services exported was increased from 9 (nine) months to 15 (fifteen) months from the date of export, for the exports made up to or on July 31, 2020.

However, the time period for realisation and repatriation of the export proceeds to India for goods exported to warehouses established outside India has not been changed.

Small Accounts

In January 2011, RBI had permitted opening of ‘small accounts’ on production of a self-attested photograph and affixation of signature or thumb print, as the case may be, on the account opening form. A ‘small account’ is a savings account where (a) the aggregate of all credits in a financial year does not exceed Rs. 1,00,000 (Rupees one lakh); (b) aggregate of all withdrawals/ transfers in a month does not exceed Rs. 10,000 (Rupees ten thousand); and (iii) the balance at any point of time does not exceed Rs. 50,000 (Rupees fifty thousand).

However, such ‘small accounts’ were permitted to remain operational initially for a period of 12 (twelve) months, and thereafter for a further period of 12 (twelve) months, subject to the account holder applying and furnishing evidence of having applied for any of the officially valid documents (such as passport, driving license etc.) during the first 12 (twelve) months of the opening of such account. Further, the entire relaxation provisions in respect of such accounts shall be reviewed after 24 (twenty four) months.

On March 31, 2020, the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 were amended pursuant to which, on April 1, 2020, RBI amended the ‘Master Direction - Know Your Customer (KYC) Direction, 2016’ to provide that such ‘small accounts’ will remain operational between April 1, 2020 and June 30, 2020 and such other periods as may be notified by the Central Government, notwithstanding the conditions mentioned hereinabove.

Legal Entity Identifier (LEI) Code

The LEI (a 20-character unique identity code) is assigned to entities who are parties to a financial transaction. Pursuant to a circular, dated November 29, 2018, the RBI mandated all participants (other than individuals) undertaking transactions in the markets regulated by RBI such as Government securities markets, money markets and non-derivative forex markets (except transactions undertaken on recognized stock exchanges), either as an issuer or as an investor or as a seller/ buyer, to obtain the LEI codes by the applicable due dates.

The timeline for implementation of Phase III (where net worth of the entities is up to Rs. 200,00,00,000 (Rupees two hundred crore)) of LEI in non-derivative markets has been extended by the RBI, *vide* a circular dated March 27, 2020, to September 30, 2020.

Other Relaxations

RBI has also announced various changes in order to ease liquidity constraints, including reduction in the cash reserve ratio of banks, enhancing the borrowing limits of banks under the Marginal Standing Facility Scheme.

Further, banks having an AD category-1 license under the Foreign Exchange Management Act, 1999, and operating International Financial Services Centre (IFSC) Banking Units (“**IBUs**”), have been made eligible to offer non-deliverable derivative contracts involving the Rupee, or otherwise, to persons not resident in India. Such transactions may be undertaken by banks through their branches in India, through their IBUs or through their foreign branches (in case of foreign banks operating in India, through any branch of the parent bank).

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