

Client Alert

Highlights of Economic Stimulus Package – Ease of Doing Business

The COVID-19 pandemic continues to create havoc in economies around the world, including India. To tackle this, the Indian Government has introduced economic stimulus packages to restart economic growth.

On May 12, 2020, the Prime Minister of India announced an economic stimulus scheme called “*Atmanirbhar Bharat Abhiyan*” (‘self-reliant India scheme’) worth INR 20 trillion (~ USD 265 bn) in order to boost the economy and stimulate growth.

The scheme covers many aspects of the economy, ranging from agricultural reform to amendments in India’s foreign direct investment policy and company law.

The theme of the scheme is to increase self-reliance and move towards further privatization of various sectors of the economy.

Some highlights of the scheme are as follows:

(a) Enhancement of ease of doing business through Insolvency and Bankruptcy Code, 2016 (IBC) related measures

The minimum threshold of financial default by a corporate debtor to initiate insolvency proceedings has been raised to INR 10,000,000 from INR 100,000. The government has also decided to suspend fresh initiation of insolvency proceedings for a period of 1 year, and the government may also exclude COVID-19 related debt from the definition of ‘default’ under the IBC for the purpose of triggering insolvency proceedings. Further, a special insolvency resolution framework for micro, small and medium enterprises (MSMEs) under the IBC will be notified soon.

(b) Policy reforms to fast-track investment

Investment clearances shall be provided by the Empowered Group of Secretaries on a fast-track mode. Each ministry shall have a Project Development Cell to prepare investible projects and coordinate with investors and central/state governments. The government will also introduce incentive schemes for promotion of new champion sectors, such as solar PV manufacturing, advanced cell battery storage, etc.

(c) Corporate law reforms

Certain technical and procedural default provisions set out in the Companies Act, 2013

(Companies Act) have been decriminalized. Such default provisions are in relation to shortcomings in corporate social responsibility reporting, inadequacies in board report, statutory filing defaults, delay in holding annual general meeting of the company, etc.

A majority of the compoundable offence provisions set out in the Companies Act have been moved under the ambit of an Internal Adjudication Mechanism (IAM), and such matters will primarily be resolved through an online mechanism. As per the announcement, 58 provisions shall be dealt with under IAM as compared to 18 earlier. Also, 7 compoundable offences have been dropped and 5 compoundable offences have been shifted to an alternative framework. The power of the Regional Directors of the Registrar of Companies in relation to compounding has also been expanded.

Further, small companies, one person companies, producer companies and start-up companies shall be subject to lower penalties for the defaults committed by them. Indian private companies which list their non-convertible debentures on stock exchanges shall not be regarded as listed companies in India. Further, appropriate reforms shall also be made which will enable direct listing of securities by Indian public companies in permissible foreign jurisdictions. Also, additional/ specialized benches shall be created at the National Company Law Appellate Tribunal.

(d) Income tax reforms

- The rates of tax deduction at source (TDS) and tax collection at source (TCS) on specified non-salaried payments and specified receipts respectively have been reduced by 25% of the existing rates. This reduction shall be applicable from May 14, 2020 to March 31, 2021. A press release dated May 13, 2020 by Central Board of direct Taxes, Department of Revenue, Ministry of Finance has been issued in this regard. In the said press release, it has also been clarified that there shall be no reduction in rates of TDS or TCS where the tax is required to be deducted or collected at a higher rate due to non-furnishing of PAN/Aadhaar number.
- The due dates of filing all income-tax returns for FY 2019-20 has been extended from July 31, 2020 and October 31, 2020 to November 30, 2020, and the due date for tax audit has been extended from September 30, 2020 to October 31, 2020. The dates of assessments which are getting barred on September 30, 2020 and March 31, 2021 respectively have also been extended to December 31, 2020 and September 30, 2021 respectively.
- The validity period of '*Vivad se Vishwas Scheme*' (a tax dispute resolution scheme) for making disputed tax payments without payment of interest and penalty has been extended to December 31, 2020. The said scheme was introduced by the Government of India to resolve pending direct tax disputes.

(e) Revised public sector enterprise policy

With a view to further privatizing the economy, a new policy has been envisaged where all

sectors are open to the private sector, while public sector enterprises (PSEs) continue to play an important role in defined areas. This new policy will list strategic sectors where along with private sector companies, in public interest, there will be at least one PSE. In strategic sectors, the number of PSEs in strategic sectors will ordinarily be only one to four, while others will be privatized, merged, or brought under holding companies. In other sectors, PSEs will be privatized.

(f) Introduction of commercial mining in the coal sector

In line with the government's objective to increase self-reliance and reduce dependency on imports, the government has done away with its monopoly in the coal sector by allowing commercial coal mining. To facilitate this, the government will introduce competition and private sector participation in the coal sector through revenue-sharing models. Bidding will be opened up to all parties rather than only captive consumers with end-use ownership. Market entry norms for entities will also be liberalized. Infrastructure development of INR 500 bn will be carried out, including INR 180 bn worth of investment in mechanized transfer of coal (conveyor belts) from mines to railway sidings.

(g) Enhancing self-reliance in defence production

The government will further promote 'Make in India' in the defence sector by notifying a list of weapons/platforms that will be banned from import, with year-wise timelines. Further, there will be indigenisation of imported spares and a separate budget provision for domestic capital procurement. A significant change has been brought to India's FDI policy with respect to defence manufacturing under the automatic route. The current FDI limit of 49% has been increased to 74%.

(h) Increased Public-Private Partnership in airports

The Airports Authority of India has already awarded three new airports for operation and maintenance on a public-private partnership basis. Six more airports have been identified for the second round of bidding. Another six airports will be put out for the third round of bidding.

(i) Micro, Small and Medium Enterprises (MSMEs)

Through this scheme, the government has amended the definition of MSMEs. In order to classify as an MSME, the following investment and turnover thresholds must be met:

| | Investment | Turnover |
|---------------|---------------------------|-----------------------------|
| Micro | less than INR 10,000,000 | less than INR 50,000,000 |
| Small | less than INR 100,000,000 | less than INR 500,000,000 |
| Medium | less than INR 200,000,000 | less than INR 1,000,000,000 |

The purpose of this reclassification is to allow more companies to avail of special benefits and concessions given to MSMEs by the government.

(j) Relief to contractors

An extension of up to 6 months (without costs to contractors) will be provided by all central agencies (such as the Railways, Ministry of Road Transport & Highways, Central Public Works Dept, etc.) for pending projects. These agencies will also partially release bank guarantees, to the extent contracts are partially completed, to ease cash flows of contractors.

(k) India as a global hub for aircraft maintenance, repair, and overhaul (MRO)

To achieve this, the government has rationalised the existing tax regime for the MRO industry. More details in this regard are awaited. Further, a convergence between the defence sector and the civilian MROs will be established to create economies of scale.

(l) Boosting private participation in space activities

The private sector will now be able to participate in satellites, launches and space-based services. A conducive regulatory environment will be created for private players. Private entities will also be allowed to use government facilities and other assets to improve capacities.

About Chadha & Co.

Chadha & Co. is a leading corporate and commercial law firm based in New Delhi, India. The Firm has a specialized inbound practice in advising domestic and foreign corporations doing business in India on all Indian laws and regulations that are relevant to their business.

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