

M&R NewsBites

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SYNOPSIS:

I. Reserve Bank of India (“RBI”) Updates:

1. RBI announces bi-monthly Monetary Policy.
2. Emergency Credit Line Guarantee Scheme (“ECLGS”) expanded for onsite oxygen generation, wider coverage of ECLGS 3.0 and increase in tenor for ECLGS 1.0.

II. Securities and Exchange Board of India (“SEBI”) Updates:

1. Business responsibility and sustainability reporting by the listed entities.
2. Relaxation from certain compliances to Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) due to the COVID-19 pandemic.
3. Enhancement of overall limit for overseas investment by Alternative Investment Funds (“AIFs”) / Venture Capital Funds (“VCFs”).
4. ‘Off-market’ transfer of securities by FPI.

III. Company Law Updates:

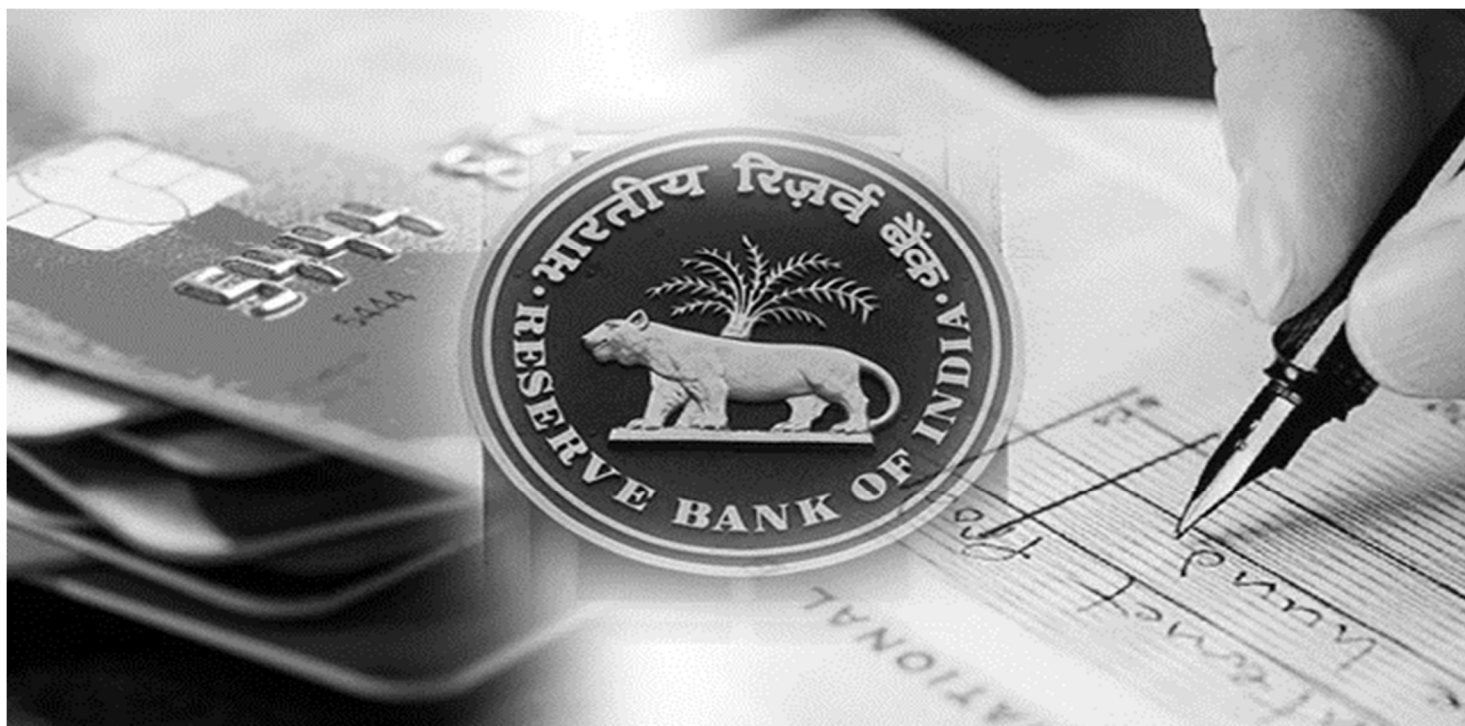
1. Clarification on offsetting the excess spending on Corporate Social Responsibility Activities (“CSR Activities”) during Financial Year 2019-20.

IV. Direct Tax Updates:

1. Extension of time limits for certain compliances to provide relief to tax payers in view of the ongoing COVID-19 pandemic.
2. Payment received in case for providing Covid treatment to the patients for the purpose of Section 269 ST of the Income Tax Act, 1961 (“IT Act”).
3. The provision of section 50B of the IT Act dealing with the computation of capital gains in case of a slump sale amended by the Finance Act, 2021
4. CBDT prescribes procedure for exercise of option under section 245M(1) of the IT Act and intimation thereof to the Assessing Officer in Form No. 34BB.

V. Indirect Tax Updates:

1. Due dates extended for various GST compliances.



RBI UPDATES

1. RBI Announces Bi- Monthly Monetary Policy

The RBI Governor while announcing the bi- monthly monetary policy announced that the Real GDP is seen at 9.5 percent in FY 21-22 and the CPI inflation is seen at 5.1 percent. The RBI's monetary panel also kept the benchmark interest rate unchanged amid COVID-19 uncertainty and fears of over inflation to act to support growth by retaining its accommodative stance. Repo rate (lending rate) will continue at 4.00% and reverse repo rate (RBI's borrowing rate) at 3.35%. Some of the salient features of the Monetary Policy are as below:

- G-SAP 2.0 worth INR 1.2 lakh crore will be taken in the second quarter FY 22 to support the market.
- Focus of RBI is turning to equitable distribution of liquidity.
- The country's foreign exchange reserves rose by USD 2.865 billion to a record high of USD 592.894 billion for the week ended May 21, boosted by gold and currency assets.
- Rural demand is expected to remain strong due to normal monsoon forecast.
- Real GDP scaled down to 9.5% in FY21-22 in view of the 2nd wave of Covid.
- CPI inflation is seen at 5.1% in 2021-22; 5.2% in Q1, 5.4% in Q2, 4.7% in Q3 and 5.3% in Q4. Upside risks of inflation emanate from the second covid wave.
- Resilience of agriculture, gathering momentum of global economy can provide tailwind to domestic economy.
- Reverse Repo Rate maintained at 3.35%, MSF rate at 4.25% & Bank Rate at 4.25%.
- The central bank will buy INR 40,000 crore of government securities on June 17.
- A separate liquidity window of INR 15,000 crore for the hospitality sector was announced- Banks can provide support to hotels and restaurants, tourism, aviation support services and other services under this programme.
- RBI to expand the coverage of borrowers under resolution framework 2.0- It has been decided to increase the limit of loans to INR 50 crore for small businesses and individual loans from INR 25 crore earlier.
- RBI to extend special liquidity facility of INR 16,000 crore to SIDBI for on-lending and refinancing.

2. Emergency Credit Line Guarantee Scheme (ECLGS) expanded - ECLGS 4.0 for onsite oxygen generation, wider coverage of ECLGS 3.0 and increase in tenor for ECLGS 1.0

The Government of India on May 30, 2021 has further enlarged the scope under ECLGS Scheme on account of disruptions caused by second wave of COVID-19 pandemic to the businesses across various sectors as follows:

- (i) ECLGS 4.0: 100% guarantee cover to loans up to INR 2 crore to hospitals/nursing homes/clinics/medical colleges for setting up on-site oxygen generation plants, interest rate capped at 7.5%;
- (ii) Borrowers who are eligible for restructuring as per RBI guidelines of May 05, 2021 and had availed loans under ECLGS 1.0 of overall tenure of four years comprising of repayment of interest only during the first 12 months with repayment of principal and interest in 36 months thereafter will now be able to avail a tenure of five years for their ECLGS loan i.e., repayment of interest only for the first 24 months with repayment of principal and interest in 36 months thereafter;
- (iii) Additional ECLGS assistance of up to 10% of the outstanding as on February 29, 2020 to borrowers covered under ECLGS 1.0, in tandem with restructuring as per RBI guidelines of May 05, 2021;
- (iv) Current ceiling of INR 500 crore of loan outstanding for eligibility under ECLGS 3.0 to be removed, subject to maximum additional ECLGS assistance to each borrower being limited to 40% or INR 200 crore, whichever is lower;
- (v) Civil Aviation sector to be eligible under ECLGS 3.0
- (vi) Validity of ECLGS extended to September 30, 2021 or till guarantees for an amount of INR 3 lakh crore are issued. Disbursement under the scheme permitted up to December 31, 2021.

The modifications in ECLGS, would enhance the utility and impact of ECLGS by providing additional support to MSMEs, safeguarding livelihoods and helping in seamless resumption of business activity. These changes will further facilitate flow of institutional credit at reasonable terms.



SEBI UPDATES

1. **Business responsibility and sustainability reporting by listed entities**

Reporting of company's performance on sustainability related factors has become as vital as reporting on financial and operational performance. SEBI vide Circular no. CIR/CFD/CMD/10/2015 dated November 04, 2015 has prescribed the format for the Business Responsibility Report (BRR) in respect of reporting on ESG (Environment, Social and Governance) parameters by listed entities.

Regulation 34 (2) (f) of LODR Regulations has been amended to introduce new reporting requirements on ESG parameters called the Business Responsibility and Sustainability Report (BRSR). The BRSR is accompanied with a guidance note to enable the companies to interpret the scope of disclosures. The format of the BRSR and the guidance note are detailed in the notification.

2. **Relaxation from compliance to Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) due to the COVID -19 pandemic**

In view of the pandemic and the restrictions imposed due to the same, the SEBI has decided to extend the due date for regulatory filings and compliances for InvITs and REITs for the period ending March 31, 2021 by one month over and above the timelines, prescribed under SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) and SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations) and circulars issued thereunder.

3. Enhancement of overall limit for overseas investment by Alternative Investment Funds (AIFs)/Venture Capital Funds (VCFs)

Circulars No. SEBI/VCF/CIR No. 1/98645/2007 dated August 09, 2007, CIR/IMD/DF/7/2015 dated October 01, 2015, and SEBI/HO/IMD/DF1/CIR/P/2018/103/2018 dated July 3, 2018, have permitted SEBI registered AIFs and VCFs to invest overseas, subject to an overall limit of USD 750 million.

In consultation with the Reserve Bank of India, the said limit has now been enhanced to USD 1,500 million.

Further, all other regulations governing such overseas investment by eligible AIFs/VCFs shall remain unchanged.

4. 'Off-market' transfer of securities by FPI

1. The Finance Act, 2021 provides tax incentives for relocating foreign funds to International Financial Services Centre (IFSC) in order to make the IFSC in GIFT City a global financial hub.
2. In order to facilitate such 'relocation', it has been decided that an FPI ('original fund' or its wholly owned special purpose vehicle) may approach its DDP (Designated Depository Participants) for approval of a one-time 'off-market' transfer of its securities to the 'resultant fund'.
3. The DDP after appropriate due diligence may accord its approval for a one-time 'off-market' transfer of securities for such relocation.
4. Relocation request will imply that the FPI has deemed to have applied for surrender of its registration and the DDP may be guided by the guidelines pertaining to surrender of FPI registration.
5. The 'off-market' transfer shall be allowed without prejudice to any provisions of tax laws and FEMA.



COMPANY LAW UPDATES

1. Clarification on offsetting the excess CSR spent for FY 2019-20

On March 31, 2020, in the appeal to contribute to the PM Cares Fund, it was mentioned that if such contribution exceeds the minimum prescribed CSR amount for FY 2019-20, it can later be offset against the CSR obligation arising in subsequent financial years.

It is hereby clarified that where a company has contributed any amount to 'PM CARES Fund' on March 31, 2020, which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 ("Act") for FY 2019-20, and such excess amount or part thereof is offset against the requirement to spend under section 135(5) for FY 2020-21 in terms of the aforementioned appeal, then the same shall not be viewed as a violation subject to the conditions that:

- i. The amount offset as such shall have factored the unspent CSR amount for previous financial years, if any;
- ii. The Chief Financial Officer shall certify that the contribution to "PM CARES Fund" was indeed made on March 31, 2020 in pursuance of the appeal and the same shall also be so certified by the statutory auditor of the company; and
- iii. The details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board's Report for FY 2020-21 in terms of section 134 (3) (o) of the Act.



INCOME TAX

DIRECT TAX UPDATES

1. Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic

Sl No	List of Compliances	Actual Due Date	Extended Due Date
1.	Statement of Financial Transactions (SFT) for FY 2020-21	May 31, 2021	June 30, 2021
2.	Statement of Reportable Account for calendar year 2020	May 31, 2021	June 30, 2021
3.	Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21	May 31, 2021	June 30, 2021
4.	Certificate of Tax Deducted at Source in Form No 16	June 15, 2021	July 15, 2021
5.	TDSITCS Book Adjustment Statement in Form No 24G for the month of May 2021	June 15, 2021	June 30, 2021
6.	Statement of Deduction of Tax from contributions paid by the trustees of an approved superannuation fund for the Financial Year 2020-21	May 31, 2021	June 30, 2021
7.	Statement of Income paid or credited by an investment fund to its unit holder in Form No 64D for the Previous Year 2020-21	June 15, 2021	June 30, 2021
8.	Statement of Income paid or credited by an investment fund to its unit holder in Form No 64C for the Previous Year 2020-21	June 30, 2021	July 15, 2021
9.	Due date of furnishing of Return of Income for the Assessment Year 2021-22- individual taxpayers/ HUF/ Partnership firms and partners of firms whose accounts are not required to be audited	July 31, 2021	September 30, 2021
10.	Due date of furnishing of Report of Audit for the Previous Year 2020-21	September 30, 2021	October 31, 2021
11.	Due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21	October 31, 2021	November 30, 2021
12.	Due date of furnishing of Return of Income for the Assessment Year 2021-22- Any assessee whose accounts	October 31, 2021	November 30, 2021

	are required to be audited under the Income Tax Act or any other Law and Partners of Partnership Firms whose accounts are required to be audited or for a Company Assessee		
13.	Due date of furnishing of Return of Income for the Assessment Year 2021-22- for an assessee required to furnish a Transfer Pricing Audit Report	November 30, 2021	December 31, 2021
14.	Due date of furnishing of belated/revised Return of Income for the Assessment Year 2021-22	December 31, 2021	January 31, 2022

It is clarified that the extension of the dates as referred to in clauses (9), (12) and (13) above shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.

2. Payment received in cash for providing Covid treatment to patients for the purpose of Section 269ST

The Central Government, in exercise of powers conferred by clause (iii) of Proviso to Section 269ST of the Income-tax Act, 1961, hereby specifies Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities providing Covid treatment to patients for the purpose of Section 269ST of the Income-tax Act, 1961 for payment received in cash during April 01, 2021 to May 31, 2021, on obtaining the PAN or AADHAAR of the patient and the payer and the relationship between the patient and the payer by such Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities.

3. The provisions of section 50B of the Income-tax Act, 1961 dealing with the computation of capital gains in case of a slump sale amended by the Finance Act, 2021

- The CBDT has by way of a notification dated May 24, 2021, amended the Income-tax Rules, 1962 and inserted Rule 11UAE which prescribes the method for computing the FMV of capital assets for calculation of deemed consideration in case of a slump sale under section 50B of the Act.
- The rule requires the computation of two FMVs which are referred to in the rule as FMV1 and FMV2. Both the FMVs are required to be computed as on the date of slump sale.
- The FMV1 represents the FMV of the capital assets transferred by way of slump sale and the FMV2 represents the FMV of the consideration received for slump sale.
- The deemed consideration in case of a slump sale will be the higher of two FMVs computed as per the provisions of the rule.

For the detailed procedure for computation of FMV 1 and 2, please refer link below:

https://www.incometaxindia.gov.in/communications/notification/notification_68_2021.pdf

4. CBDT prescribes Procedure for exercise of option u/s 245M(1) & intimation thereof to AO in Form No. 34BB

The Income-tax Settlement Commission has been abolished by the Finance Act 2021 with effect from 1st February 2021 and no application for settlement will be accepted from that date.

Hence, the assessee has the option that if there is any pending application u/s 245M(1) before settlement commission, the assessee can withdraw the same by furnishing and upload of Form No. 34BB under sub-rule (1) of Rule 44DA of Income-tax Rules, 1962.

For detailed format of the application, please refer to the notification below:

https://www.incometaxindia.gov.in/communications/notification/notification_no_5_2021.pdf

INDIRECT TAX

INDIRECT TAX UPDATES

1. Extension in dates of various GST Compliances for GST Taxpayers

Government has extended the dates of various compliances by Taxpayers under GST. The details are summarized below:

A. Filing of Form GSTR-1/IFF by Normal Taxpayers:

Sl. No.	Form Type	To be filed by	Tax period	Due Date/last date	Due Date/ last date Extended till
1	Form GSTR-1 (Monthly)	Normal Taxpayer filing Monthly returns	May 2021	June 11, 2021	June 26, 2021
2	Form IFF (optional)	Normal Taxpayers under QRMP Scheme	May 2021	June 13, 2021	June 28, 2021

B. Filing of Returns by Composition, NRTP, ISD, TDS & TCS Taxpayers:

Sl. No.	Return Type (Form)	To be filed by	Tax period	Due Date	Due Date Extended till
1	GSTR-4	Composition Taxpayers (Annual Return)	FY 2020-21	April 30, 2021	July 31, 2021
2	GSTR-5	Non-Resident Taxpayers (NRTP)	March/ April/ May, 2021	April / May / June 20, 2021	June 30, 2021
3	GSTR-6	Input Service Distributors (ISD)	April/ May 2021	May/ June 13, 2021	June 30, 2021
4	GSTR-7	Tax Deductors at Source (TDS deductors)	April/ May 2021	May/ June 10, 2021	June 30, 2021
5	GSTR-8	Tax Collectors at Source (TCS collectors)	April/ May 2021	May/ June 10, 2021	June 30, 2021

C. Filing of Form ITC-04:

The due date for filing of Form GST ITC-04 (to be filed by Principal/Manufacturer for goods sent/ received/ supplied from Job Worker) for the quarter Jan-March, 2021, (due date April 25, 2021) has been extended till June 30, 2021



INSOLVENCY & BANKRUPTCY CODE

1. Supreme Court upholds provisions of IBC on Corporate Debt Recovery from Personal Guarantors

A notification dated November 15, 2019, allowed financial institutions to proceed against individual corporate guarantors for recovery of loans of a company under Insolvency and Bankruptcy Code (IBC) proceedings., which brought into force provisions of the Part III of the IBC, extending insolvency and bankruptcy for individuals and partnership firms to the promoters of big business houses, along with the stressed corporate entities for whom they gave guarantee.

Writ petitions which were filed against this notification challenged the constitutional validity of Part III of the IBC, which deals with insolvency resolution for individuals and partnership firms. The top court, considering the importance of the issue transferred all the petitions to itself in October last year.

The notification of the Centre allowing creditors, usually financial institutions and banks, to move against personal guarantors under the Insolvency and Bankruptcy Code (IBC) was held by the Apex Court to be “legal and valid”. The apex court said there was an “intrinsic connection” between personal guarantors and their corporate debtors. It was this intimacy which made the government decide that corporate debtors and their personal guarantors should be dealt by a common forum — the National Company Law Tribunal (NCLT) — through the same adjudicatory process.

The adjudicating authority for personal guarantors will be the NCLT if a parallel resolution process is pending in respect of a corporate debtor for whom the guarantee is given. A side-by-side bankruptcy proceedings before the same forum for both corporate debtors and their personal guarantors would help the NCLT consider the whole picture, as it were, about the nature of the assets available, either during the corporate debtor’s insolvency process, or even later.

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