

INSIGHT

M&R NewsBites

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Table of Contents

Sl. No.	Content	Page No
1	FDI Policy updates	2
2	Reserve Bank of India updates	4
3	Companies Act updates	11
4	SEBI – LODR updates	17
5	Direct Tax updates	19
6	Indirect Tax updates	22



Review of Foreign Direct Investment Policy (FDI Policy) for curbing opportunistic takeovers/ acquisitions of Indian Companies due to the Current COVID 19 pandemic

A. Amendments under the General Conditions of the FDI Policy vide Press Note No. 3(2020 series) dated April 17, 2020:

Paragraph 3.1.1 of the General Conditions of the FDI Policy stated “A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, a citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

The said paragraph has been amended as follows:

Paragraph 3.1.1:

Paragraph 3.1.1(a) A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

Paragraph 3.1.1(b) In the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction/purview of the para 3.1.1(a), such subsequent change in beneficial ownership will also require Government approval.

The above decision will take effect from the date of notification under FEMA.

M&R Comments

The changes are in line with protective positions taken by many European countries and seem to be primarily aimed at restricting foreign investments from China. India's FDI policy allows foreign investment in certain sectors under automatic route and up to the limit set out in that sector. For instance, 100% FDI is allowed under automatic route in manufacturing, oil and gas, greenfield airport, construction, etc. In other sectors, FDI is allowed under automatic route up to a certain threshold, say 26% or 49% and any further investment then requires government approval. Such condition applies to defence, broadcast, print media, aviation and other sectors. There is also a list of prohibited sectors like lotteries, cigarettes, atomic energy etc.

The Government has now narrowed the definition of eligible investors. It states that entities from countries which share land border with India will now be permitted to invest only under approval route. This restriction will also apply if beneficial owner of the investment is an entity situated in or a citizen of such countries. India shares land borders with China, Pakistan, Bangladesh, Nepal, Myanmar, Bhutan and Afghanistan.

However, the Government needs to issue certain clarifications such as:

- Whether the changes apply to only Foreign Direct investment and not Foreign Portfolio investment (FPI)? Any investment of less than 10% of the total paid up capital of a listed company is treated as an FPI.
- It is unclear whether the existing shareholders from these countries would be permitted to subscribe to rights issue.
- Whether any de minimis limit is applicable or even minority investments from such countries would require prior approval from the Government?
- The term "beneficial owner" has not been defined in the Press Note. An issue may arise as to whether one has to consider the immediate or ultimate beneficial ownership of investors proposing to invest in Indian entities.
- The position with respect to investments through special purpose vehicles is ambiguous. It needs to be clarified if whether beneficial ownership of less than 49% in restricted countries would suffice or the control would also need to be with persons from non-restricted countries.

Consequential changes in KYC norms (to include details of beneficial ownership) as well as the reporting forms such as FC-GPR, FC-TRS, etc can be expected.

The policy would take effect from the date of notification in the official Gazette, which is awaited.



RBI announces further measures on April 17, 2020 for dealing with the COVID-19 pandemic

The Governor of RBI during his press address stated that “Today, humanity faces perhaps the trial of its time as COVID-19 grips the world in its deadly embrace. Everywhere, as also in India, the mission is to do whatever it takes to prevent epidemiological curve from steepening any further. Human spirit is ignited by the resolve to overcome the pandemic. It is during our darkest moments that we must focus on the light. As Mahatma Gandhi said in his famous address at Kingsley Hall, London in October 1931: “In the midst of death life persists, in the midst of untruth truth persists, in the midst of darkness light persists.”

Current Economic Situation Assessments:

1. The International Monetary Fund (“IMF”) has estimated a cumulative loss to Global GDP over 2020 and 2021 at around USD 9 Trillion – greater than the economies of Japan and Germany, combined. The IMF’s Economic Counsellor has named it the “Great Lockdown”
2. India is among the handful of countries that is projected to cling on tenuously to positive growth at 1.9%. That would be the highest growth rate among the economies of G20 Countries.
3. The Global Merchandise Trade contraction is expected to be as much as 13%-32% in 2020 as estimated by the World Trade Organisation (“WTO”).
4. Global financial markets remain volatile and emerging market economies are grappling with capital outflows and volatility in the exchange rates.
5. Despite the agreements on production cuts by the OPEC Plus Countries, the crude oil process remains in the state of flux
6. For 2021, the IMF projects sizable V-shaped recoveries: close to 9 percentage points for global GDP.
7. India is expected to post a sharp turnaround and resume its pre-COVID pre-slowdown trajectory by growing at 7.4 per cent in 2021-22.

8. The contraction in exports in March 2020 at (-) 34.6 per cent has turned out to be much more severe than during the global financial crisis. Barring iron ore, all exporting sectors showed a decline in outbound shipments.
9. Merchandise imports also fell by 28.7 per cent in March across the board, barring transport equipment.
10. The trade deficit declined to USD 9.8 billion in March 2020 from USD 11 billion a year ago.
11. During the period April 2019 – February 2020 the net foreign direct investments amounted to USD 40.6 billion as compared to USD 29.9 billion a year ago.
12. The level of foreign exchange reserves continues to be robust at USD 476.5 billion on April 10, 2020 which is equivalent to 11.8 months of imports.
13. The payment infrastructure among the banking sector is running seamlessly.
14. Banks have been required to put in place business continuity plans to operate from their disaster recovery (DR) sites and/or to identify alternate locations for critical operations so that there is no disruption in customer services.
15. On an average, ATM operations stood at over 91% of full capacity.
16. The average availability of Business Correspondents (BCs) is over 80%.
17. To meet the increased demand for currency in the wake of COVID 19 pandemic, the RBI through its regional offices has supplied fresh currency to the tune of INR 1.20 Lakh Crore (~ USD 16 Billion).
18. Systemic liquidity surplus, as reflected in net absorptions under the Liquidity Adjustment facility (LAF), averaged INR 4.36 lakh crore (~ USD 58.13 Billion) during the period March 27, 2020 - April 14, 2020.
19. As announced on March 27, 2020, the RBI undertook three auctions of targeted long-term repo operations (TLTRO), injecting cumulatively INR 75,041 crore (~ USD 10 Billion) to ease liquidity constraints in the banking system and de-stress financial markets.

Additional Measures:

Against the backdrop of the current situation and based on RBI's continuing assessment of the macroeconomic situation and financial market conditions, RBI has proposed to take further measures to (i) maintain adequate liquidity in the system and its constituents in the face of COVID-19 related dislocations; (ii) facilitate and incentivise bank credit flows; (iii) ease financial stress; and (iv) enable the normal functioning of markets.

A. Liquidity Management:
i. RBI Announces Targeted Long-Term Repo Operations 2.0 (TLTRO 2.0):

1. In order to channel liquidity to small and mid-sized corporates, including non-banking financial companies (NBFCs) and micro finance institutions (MFIs), that have been impacted by COVID-19 disruptions, it has been decided to conduct Targeted Long-Term Repo Operations (TLTRO) 2.0 at the policy repo rate for tenors up to three years for a total amount of up to INR 50,000 crores (~ USD 6.67 Billion), to begin with, in tranches of appropriate sizes.
2. The funds availed under TLTRO 2.0 shall be deployed in investment grade bonds, commercial paper (CPs) and non-convertible debentures (NCDs) of Non-Banking Financial Companies (NBFCs). At least 50% of the total funds availed shall be apportioned as given below:
 - a. 10% in securities/instruments issued by Micro Finance Institutions (MFIs);
 - b. 15% in securities/instruments issued by NBFCs with asset size of INR 500 crore (~ USD 0.07 Billion) and below; and
 - c. 25% in securities/instruments issued by NBFCs with assets size between INR 500 crores (~ USD 0.07 Billion) and INR 5,000 crores (~ USD 0.67 Billion).

The asset size shall be determined as per the latest audited balance sheet of the investee institution/company.

3. Investments made under this facility will be classified as held to maturity (HTM) even in excess of 25 per cent of total investment permitted to be included in the HTM portfolio. Exposures under this facility will not be reckoned under the Large Exposure Framework (LEF).
4. The first auction under TLTRO 2.0 will be conducted on April 23, 2020. The details of the auction are as under:

Sl. No.	Date of operation	Notified Amount (INR in crores)	Tenor	Window Timing	Date of Reversal
1	April 23, 2020	25,000	3 years	10:30 AM-11:30 AM	April 21, 2023

5. The funds availed under this facility would have to be deployed within 30 working days from the date of the operation. A declaration to this effect would need to be submitted within one month to Financial Markets Operations Department and to Department of Supervision.
6. All other terms and conditions will remain the same as under the TLTRO scheme.

ii. Refinancing for All India Financial Institutions (AIFIs):

AIFIs like National Bank for Agriculture and Rural Development (“NABARD”), the Small Industries Development Bank of India (“SIDBI”) and the National Housing Bank (“NHB”) play an

important role in meeting the long term funding requirements of the agricultural and rural sector, small industries and the housing finance companies, Non-Banking Financial Companies (“NBFCs”) and Micro Finance Institutions (“MFIs”). These AIFIs raise resources from the market through the specified instruments allowed by the RBI in addition to relying on the internal resources. In view of the tightening of the current financial conditions in wake of COVID 19 pandemic, these AIFIs are facing difficulties in raising resources from the market.

RBI has decided to provide special refinance facilities for a total amount of INR 50,000 Crores (~ USD 6.67 Billion) to NABARD, SIDBI and NHB. This will comprise as following:

1. INR 25,000 Crores (~ USD 3.33 Billion) to NABARD for refinancing regional rural banks, co-operative banks and MFIs.
2. INR 15,000 Crores (~ USD 2 Billion) to SIDBI for on lending / refinancing.
3. INR 10,000 Crores (~ USD 1.33 Billion) to NHB for supporting housing finance companies.

Advances under this facility will be charged at the RBI’s policy repo rate at the time of availment.

iii. Liquidity Adjustment Facility: Fixed Rate Reverse Repo Rate:

1. RBI has decided to reduce the interest rate on fixed rate reverse repo under the Liquidity Adjustment Facility (LAF) by 25 basis points from 4.00% to 3.75% with immediate effect.
2. The policy repo rate under the LAF remains unchanged at 4.40% and the interest rate on the marginal standing facility (MSF) under the LAF and the Bank Rate remain unchanged at 4.65%.

iv. Review of ways and means advances (WMA) for states and Union Territories:

RBI had announced an increase in the WMA limit of the States on [April 1, 2020](#) by 30%. With a view to providing greater comfort to the States to undertake COVID-19 containment and mitigation efforts and enable them to better plan their market borrowings, it has been decided to:

1. Increase the WMA limit of the States by 60% over and above the level as on March 31, 2020.
2. The increased limit will be available till September 30, 2020.

B. Regulatory Measures:

i. BASEL III Framework on the Liquidity Standards – Liquidity Coverage Ratio:

1. As part of post Global Financial Crisis (GFC) reforms, Basel Committee on Banking Supervision (BCBS) had introduced Liquidity Coverage Ratio (LCR), which requires banks to maintain High Quality Liquid Assets (HQLAs) to meet 30 days net outgo under stressed conditions. Further, as per Banking Regulation Act, 1949, the banks in India are required to hold liquid assets to maintain Statutory Liquidity Ratio (SLR). In view of the fact that liquid assets under SLR and HQLAs under LCR are largely the same, RBI has been allowing banks to use a progressively increasing proportion of the SLR securities for being considered as

HQLAs for LCR so that the need to maintain liquid assets for both the requirements is optimised.

2. At present the assets allowed as Level 1 High Quality Liquid Assets (HQLAs), inter alia, includes among others within the mandatory SLR requirement, Government securities to the extent allowed by RBI under (i) Marginal Standing Facility (MSF) and (ii) Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) [15 per cent of the bank's NDTL with effect from April 1, 2020].
3. Given that SLR has now been reduced to 18 per cent of NDTL from April 11, 2020, and with increase in MSF from 2 per cent to 3 per cent of the banks' NDTL (with effect from March 27, 2020 and applicable up to June 30, 2020), entire SLR-eligible assets held by banks are now permitted to be reckoned as HQLAs for meeting LCR.
4. Further, banks are required to maintain LCR of 100 per cent with effect from January 1, 2019 (small finance banks are required to meet LCR of 90% with effect from January 01, 2020 and 100% from January 01, 2021). In order to accommodate the burden on banks' cash flows on account of the COVID 19 pandemic, banks are permitted to maintain LCR as under:

Till September 30, 2020	80 per cent
Oct 1, 2020 to March 31, 2021	90 per cent
April 1, 2021 onwards	100r cent

ii. Asset Classification under the Prudential norms on Income Recognition & Asset Classification (IRAC Norms):

1. In terms of the announcement on March 27, 2020 ('Regulatory Package'), the lending institutions were permitted to grant a moratorium of three months on payment of all term loan instalments falling due between March 1, 2020 and May 31, 2020 ('moratorium period').

As such, in line with the clarification provided by the Basel Committee on Banking Supervision, in respect of all accounts classified as standard as on February 29, 2020, even if overdue, the moratorium period, wherever granted, shall be excluded by the lending institutions from the number of days past-due for the purpose of asset classification under the IRAC norms.

2. Similarly, in respect of working capital facilities sanctioned in the form of cash credit/overdraft ("CC/OD"), the Regulatory Package permitted the recovery of interest applied during the period from March 1, 2020 up to May 31, 2020 to be deferred ('deferment period')

Such deferment period, wherever granted, in respect of all facilities classified as standard, including SMA, as on February 29, 2020, shall be excluded for the determination of out of order status.

3. NBFCs which are required to comply with Indian Accounting Standards (IndAS) shall, as hitherto, continue to be guided by the guidelines duly approved by their Boards and as per ICAI Advisories for recognition of the impairments.

iii. Provisioning:

1. In respect of accounts in default but standard where provisions of paragraphs (1) and (2) above under “*Asset Classification under the Prudential norms on Income Recognition & Asset Classification (IRAC Norms)*” are applicable, and asset classification benefit is extended, lending institutions shall make general provisions of not less than 10 per cent of the total outstanding of such accounts, to be phased over two quarters as under:
 - a. Quarter ended March 31, 2020 – not less than 5 per cent.
 - b. Quarter ending June 30, 2020 – not less than 5 per cent.
2. The above provisions may be adjusted against the actual provisioning requirements for slippages from the accounts reckoned for such provisions. The residual provisions at the end of the financial year can be written back or adjusted against the provisions required for all other accounts.
3. The above provisions shall not be reckoned for arriving at net NPAs till they are adjusted against the actual provisioning requirements as under paragraph 2 above. Further, till such adjustments, these provisions shall not be netted from gross advances but shown separately in the balance sheet as appropriate.
4. All other provisions required to be maintained by lending institutions, including the provisions for accounts already classified as NPA as on February 29, 2020 as well as subsequent ageing in these accounts, shall continue to be made in the usual manner.

iv. Review of Resolution Timelines under the Prudential Framework on Resolution of Stressed Assets:

Under RBI’s prudential framework of resolution of stressed assets dated June 7, 2019, in the case of large accounts under default, Scheduled Commercial Banks, all India Financial Institutions and Non-banking finance companies are currently required to hold an additional provision of 20 per cent if a resolution plan has not been implemented within 210 days (review period of 30 days and resolution period of 180 days thereafter) from the date of such default. Recognizing the challenges to resolution of stressed assets in the current volatile environment, it has been notified as under:

- In respect of accounts which were within the Review Period as on March 1, 2020, the period from March 1, 2020 to May 31, 2020 shall be excluded from the calculation of the 30-day timeline for the Review Period. In respect of all such accounts, the residual Review Period

shall resume from June 1, 2020, upon expiry of which the lenders shall have the usual 180 days for resolution.

1. In respect of accounts where the Review Period was over, but the 180-day resolution period had not expired as on March 1, 2020, the timeline for resolution shall get extended by 90 days from the date on which the 180-day period was originally set to expire.
2. Consequently, the requirement of making additional provisions shall be triggered as and when the extended resolution period, as stated above, expires.
3. In respect of all other accounts, the provisions of the Prudential Framework shall be in force without any modifications.
4. The lending institutions shall make relevant disclosures in respect of accounts where the resolution period was extended in the 'Notes to Accounts' while preparing their financial statements for the half year ending September 30, 2020 as well as the financial years FY 2020 and FY 2021.

v. *Distribution of Dividends:*

1. Banks in India have been granted general permission to declare dividends, subject to compliance with the guidelines laid out in terms of DBOD.NO.BP.BC. 88 / 21.02.067 / 2004-05 dated May 04, 2005 titled as "*Declaration of Dividends by Banks*" and other associated circulars.
2. It is important for banks to conserve capital to retain their capacity to support the economy and absorb losses in the environment of increased uncertainty caused by COVID 19. Accordingly, RBI has decided that all banks shall not make any further dividend payouts from the profits pertaining to the financial year ended March 31, 2020 until further instructions.
3. The RBI shall reassess the restrictions on the financial results of the banks for the quarter ended September 30, 2020.

vi. *NBFC Loans to Commercial Real Estate Projects:*

In terms of the extant guidelines for banks, the date for commencement for commercial operations (DCCO) in respect of loans to commercial real estate projects delayed for reasons beyond the control of promoters can be extended by an additional one year, over and above the one-year extension permitted in normal course, without treating the same as restructuring. It has now been decided to extend a similar treatment to loans given by NBFCs to commercial real estate. This will provide relief to NBFCs as well as the real estate sector.



UPDATES IN THE COMPANIES ACT, 2013

The Ministry of corporate affairs (“MCA”) in view of current extraordinary circumstance due to COVID-19 has issued various clarifications and relaxation to companies to reduce their compliance burden and other risks.

A. COVID -19 related frequently asked questions (FAQs) on Corporate Social Responsibility (CSR)

The MCA upon receiving the several references or representations from various stakeholders seeking the clarifications on eligibility of CSR expenditure related to COVID-19 activities has released a set of FAQs along with clarifications through General circular No.15/2020 dated April 10, 2020. The same is discussed as below:

Question 1: Whether contribution made to ‘PM CARES Fund’ shall qualify as CSR expenditure?

Clarification: Contribution made to ‘PM CARES Fund’ shall qualify as a CSR expenditure under item no (viii) of Schedule VII of the Companies Act, 2013 (“CA-13”) and same has been clarified vide office memorandum F No.CSR-05/1/2020-CSR-MCA dated March 28,2020.

Question 2: Whether contribution made to ‘Chief Minister’s Relief Funds’ or ‘State Relief Fund for COVID-19’ shall qualify as CSR expenditure?

Clarification: ‘Chief Minister’s Relief Fund’ or ‘State Relief Fund for COVID-19’ is not included in Schedule VII of the CA -13 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.

Question 3: Whether contribution made to State Disaster Management Authority shall qualify as CSR expenditure?

Clarification: Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the CA-13 and the same has been clarified vide General circular No. 10/2020 dated March 23, 2020.

Question 4: Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?

Clarification: The MCA vide general circular No. 10/2020 dated March 23,2020 has clarified that CSR funds for COVID-19 related activities shall qualify as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under item nos. (i) and (xii) of Schedule VII relating to promotion of health care including preventive health care and sanitation, and disaster management

Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.

Question 5: Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?

Clarification: Payment of salary/ wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period.

Thus, payment of salary/ wages to employees and workers during the lockdown period (including imposition of other social distancing requirements) shall not qualify as admissible CSR expenditure.

Question 6: Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?

Clarification: Payment of wages to temporary or casual or daily wage workers during the lockdown period is part of the moral/ humanitarian/ contractual obligations of the company and is applicable to all companies irrespective of whether they have any legal obligation for CSR contribution under section 135 of the CA-13.

Hence, payment of wages to temporary or casual or daily wage workers during the lockdown period shall not qualify for adjustment against CSR expenditure.

Question 7: Whether payment of ex-gratia to temporary /casual /daily wage workers shall qualify as CSR expenditure?

Clarification: If any ex-gratia payment is made to temporary / casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID 19, the same shall be admissible towards CSR expenditure as a onetime exception provided there is an explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor.

B. Filings under Sec 124 (Unpaid Dividend Account) and 125 (Investor Education and Protection Fund) of the CA-13 r/w Investor Education and Protection Fund Authority (“IEPFA”) (Accounting, Audit, Transfer and Refund) Rules 2016:

- i. The stakeholders have pointed out the various difficulties faced due to outbreak of COVID-19 (which requires adherence to social distancing norms) and sought relaxation especially in procedure relating to:
 - Transfer of money remaining unpaid or unclaimed for a period of seven years as per provisions of section 124(4) of the CA-13 and
 - Transfer of shares u/s 124(6) of CA-13 r/w IEPFA (Accounting, Audit, Transfer and Refund) Rules 2016.
- ii. In this regard, the MCA had already allowed relaxation for filing e-forms in MCA-21 registry without additional fees till September 30, 2020 vide General Circular No. 11/2020 dated March 24, 2020 and General Circular No. 12/2020 dated March 30, 2020.
- iii. The above relaxation has also been provided in so far as the filing of various other IEPF (Investor Education and Protection Fund) e-forms like IEPF-1, IEPF-1A, IEPF-2, IEPF-3, IEPF-4, IEPF-7 and e-verification of claims filed in e-form IEPF-5. The MCA has suggested the stakeholders to plan related actions accordingly.

Above is as per the General Circular No. 16/2020 dated April 13, 2020.

C. Clarification on passing of ordinary and special resolutions by Companies under the CA-13 and rules made thereunder on account of the threat posed by COVID-19

Based on the General Circular No.14/2020 dated April 8, 2020, the MCA received representations from various stakeholders for clarification based on some of the elements in the framework laid down therein. The stakeholders have highlighted the difficulties in serving and receiving notices/ responses by post due to the current circumstances. In view of the same and with a view to bring a greater clarity on the modalities to be followed by the companies for conduct of Extraordinary General Meeting (“EGM”) during COVID-19 outbreak the following clarifications are issued:

I. Manner and mode of issue of notices to the members before convening the general meeting:

- a. **For companies which are required to provide the facility of e-voting under the CA-13 or any other company which has opted for such facility:**
 - i. In accordance with the provisions of Rule 18 of the Companies (Management and Administration) Rules, 2014 “Notice of Meeting”, the notices to members may be given only through e-mails registered with the company or with the depository participant / depository.
 - ii. The Companies while publishing the public notice shall state the following matters as required under rule 20(4)(v) of the Rules related to “Voting through electronic means”:

1. A statement that the EGM has been convened through Video conferencing (VC) or Other audio-visual means (OAVM) in compliance with applicable provisions of the CA-13 r/w General Circular No.14/2020 dated April 8,2020 and this Circular;
2. The date and time of meeting through VC or OAVM;
3. Availability of notice of meeting on the website of company and the stock exchange;
4. The manner in which the members holding the shares in physical form or who have not registered their email addresses with the company can cast their vote through the remote e-voting or through the e-voting system during the meeting;
5. The manner in which the members who have not registered their email addresses with company can get the same registered with the company.
6. Any other details as considered necessary by the company.

iii. The Chairman of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all the efforts feasible under the circumstances have indeed been made by the company to enable members to participate and vote on the items being considered in the meeting.

b. For companies which are not required to provide the facility of e-voting under the CA-13:

- i. In accordance with the provisions of Rule 18 of the Companies (Management and administration) Rules 2014 “Notice of Meeting”, the notices to members may be given only through e-mails registered with the company or with the depository participant /depository.
- ii. A copy of the notice shall also be prominently displayed on the website (if any) of the company.
- iii. In order to ensure all members are aware that a general meeting is proposed to be conducted in compliance with the applicable provisions of the CA-13 r/w General Circular No.14/2020 dated April 8,2020 the company shall:
 1. Contact all those members whose email address are not registered with the company over telephone or any other mode of communication for registration of their email address before sending the notice for meeting to all its members; or
 2. Where the contact details of any of the members are not available with the company or could not be obtained as per (a) above, it shall cause a public notice by way of advertisement published immediately in at least once in vernacular newspaper in principal vernacular language of the district in which the registered office of the company is situated and having wide circulation in that district, and at least one in English language in an English newspaper, both having a wide circulation in that district preferably both newspapers having electronic edition in that district. The advertisement shall also include the following information:
 - ❖ The company intends to convene a general meeting in compliance with the applicable provisions of CA-13 r/w General Circular No.14/2020 dated April 8,2020 and this

Circular , and for the said purpose it proposes to send the notices to all its members by email after, at least 3 days from the date of publication of the public notice.

- ❖ The details of the email address and telephone number on which the members may contact for getting their email address registered for participation and e-voting in the general meeting.
3. The chairman of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all the efforts feasible under the circumstances have indeed been made by the company to enable members to participate and vote on the items being considered in the meeting.

II. Requirement of Voting by show of hands:

As per the General Circular No. 14/2020 dated April 8, 2020 relevant companies were allowed to pass the resolution in certain cases through show of hand. Considering the dissimilarities involved in e-voting and voting by show of hands the paragraph related to show of hands has now been substituted.

The erstwhile paragraph in the General Circular No. 14/2020 related to show of hands was as below:

“The Chairman depending on the number of members present shall ensure facility of e-voting system for the purpose of conducting a poll during the meeting through VC or OAVM in the following manner:

- a. If members present at the meeting are less than 50, the voting can be conducted either through e-voting or Show of Hand (if demand for poll is made in accordance with section 109 “Demand for Poll”)
- b. In all other cases, the voting shall be conducted through e-voting.

This has now been substituted with:

“The Chairman present at the meeting shall ensure that the facility of e-voting system is available for the purpose of voting during the meeting held through VC or OAVM”

III. Passing of certain items only through postal ballot without convening a general meeting:

In the General Circular No. 14/2020 dated April 8,2020 it was stated all companies may pass resolutions through postal ballot /e-voting without holding a general meeting unless it is required as per Section 110(1)(b) of the CA-13. In this regard companies have sought clarifications on dispatch of notices by companies via post and communication its members of assent or dissent on relevant resolutions by post under the current circumstances.

It has been clarified that the company would send notice by email to all its shareholders who have registered their email addresses with the company or depository participant/depository. The Company would also be duty bound to provide a process of registration of e-mail addresses of members and state so in its public notice. The communication of assent or dissent of the members would only take place through remote e-voting system, so no meeting will be required to be called for.

IV. Sending of Emails by members where a poll on any item is required for companies:

Query: Whether the members are required take part in the poll on items considered during the meeting by sending the emails in advance to the company before the meeting is actually held through VC or OAVM facility.

Clarification: The subparagraph B-XII of para 3 of the general circular 14/2020 dated April 8,2020 does not provide for polling of members at any time before the General meeting. The poll will take place during the meeting, and the members may convey their assent or dissent only at such stage on items considered in the meetings by sending e-mails to the designated e-mail address of the company, which was circulated by the company in the notice sent to the members.

Subparagraph B-XII of para 3 of general circular 14/2020: The meeting held through VC or OAVM facility, where a poll on any item is required, the members shall cast their vote on the resolution only by sending emails through their email addresses which are registered with the company. The emails shall only be sent to designated email address circulated by the company in advance.

Above is as per the General circular No.17/2020 dated April 13,2020.

D. Company Affirmation of Readiness towards COVID-19:

In the light of the COVID-19 outbreak, the MCA on March 23,2020 introduced Form CAR-2020 (Company Affirmation of Readiness towards COVID-19) to be filled by all the companies/Foreign companies/LLPs/Foreign LLPs .The form required the companies/LLPs to confirm compliances of COVID-19 guidelines including implementation of Work from home policy .

The Webservice for filing “Company Affirmation of Readiness towards COVID-19” has been discontinued with effect from 14th April 2020.

As per Notice dated April 15,2020.



ADDITIONAL RELAXATIONS/ CLARIFICATIONS FROM COMPLIANCE WITH CERTAIN PROVISIONS OF THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 DUE TO COVID-19 VIRUS PANDAMIC

SEBI has come up with relaxations/ clarifications to the listed companies vide multiple circulars on March 19, 2020, March 23, 2020 and March 26, 2020. In addition to the relaxations provided by the earlier circulars, SEBI has provided additional relaxations/ clarifications vide its circular dated April circulars issued earlier, SEBI has issued a new circular on April 17, 2020. The additional relaxations/ clarifications provided by the SEBI are listed below:

A. Prior intimation to the stock exchanges about the board meetings:

- i. Under Regulation 29 (1) of the LODR Regulations, every listed entity shall give prior intimation to the stock exchanges about the meeting of the Board of Directors in which one of the following proposals is due to be considered:
 - a. Quarterly/ half yearly/ annual financial results.
 - b. Proposal for buy back of securities.
 - c. Proposal for voluntary delisting by the listed entity from the stock exchange(s).
 - d. Fund raising by way of further public offer, rights issued, American Depository Receipts/ Global Depository Receipts/ Foreign Currency Convertible Bonds, Qualified Institutions Placements, debt issue, preferential issued or any other method or for determination of the issue price.

Provided the intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholders' approval for further fundraising indicating type of issuance.

- e. Declaration/ recommendation of dividend, issue of convertible securities including convertible debentures or of debentures carrying a right to subscribe to equity shares or passing over the dividend.
- f. The proposal for declaration of the bonus securities where such proposal is communicated to the board of directors of the listed entity as part of the agenda papers.

- ii. Under Regulation 29 (2) of the LODR Regulations, the intimation as provided under Regulation 29 (1) is required to be given to the stock exchanges at least two working days in advance, excluding the date of the intimation and the date of meeting.

Provided that the intimation specified in clause (a) of Regulation 29 (1) i.e. consideration of Quarterly/ half yearly/ annual financial results shall be given at least five days in advance, excluding the date of intimation and the date of the meeting. And such intimation shall include the date of such meeting of board of directors.

SEBI has decided that the above requirement of five (5) days under proviso to the Regulation 29 (2) shall be reduced to two (2) days for the board meetings held till July 31, 2020.

B. Intimation to Stock Exchanges regarding loss of share certificates and issue of the duplicate certificates:

- i. Under Regulation 39 (3) of the LODR Regulations, every listed entity should submit information regarding the loss of share certificates and issue of duplicate share certificates, to the stock exchanges within two days of it getting information.

As per the circular vide circular no. SEBI/HO/CFD/CMD/CIR/P/2018/77 dated May 03, 2018 titled as *“Non-Compliance with Certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 and the Standard Operating Procedures for suspension and revocation of trading of specified securities.”* SEBI has stipulated a penalty of INR 1,000/- per day for non-submission of information regarding the loss of share certificates and issue of duplicate share certificates within the period prescribed under Regulation 39(3).

SEBI has decided that any delay beyond the stipulated time will not attract the penal provisions laid down vide SEBI circular SEBI/HO/CFD/CMD/CIR/P/2018/77 dated May 03, 2018. This relaxation is for the intimations to be made between March 01, 2020 to May 31, 2020.

C. Clarifications relating to the use of digital signatures:

SEBI has clarified that authentication/ certification of any filing / submission made to stock exchanges under LODR Regulations may be done using digital signature certifications until June 30, 2020.

D. Publication of Advertisements in the news-papers:

Regulation 52 (8) of the LODR Regulations requires that every listed entity which has listed its Non-convertible debt securities or non-convertible redeemable preference shares or both, to publish the financial results and the statement referred to in sub-regulation (4) of regulation 52, in at least one English daily newspaper circulating in the whole or substantially the whole of India within two days from the conclusion of the meeting of the board of Directors.

SEBI has provided exemption from complying from such requirement under the aforesaid regulation till May 15, 2020.



DIRECT TAX UPDATES

Clarification issued by Central Board of Direct Taxes (“CBDT”) regarding short deduction of TDS/TCS due to increase in rates of surcharge.

The Finance (No.2) Act, 2019 provided for an increase in the rate of the surcharge and was made applicable from Assessment Year 2020-21 effective from April 01, 2019. The Act provided for increase in the rate of surcharge as under:

Sl. No	Income slab	Surcharge before the Act	Enhanced surcharge as provided by the Act
1	Less than 50 lakh rupees	Nil	Nil
2	50 lakh rupees but less than 1 crore rupees	10%	10%
3	1 crore rupees but less than 2 crore rupees	15%	15%
4	2 crore rupees but less than 5 crore rupees	15%	25%
5	5 crore rupees and above	15%	37%

The President of India gave his assent to the Finance (No.2) Bill on August 01, 2019 after both the houses of parliament passed the Finance (No.2) Bill on July 05, 2019 and the enhanced rates of surcharge was made applicable from April 1, 2019 for previous year 2019-20 relevant to assessment year 2020-21. Thus, every person falling in the respective slab rates were required to compute their tax liability after taking into account the enhanced rates of surcharge. Further, TDS/TCS under various provisions of the Income-tax Act was required to be deducted/ collected after taking into account the enhanced rate of surcharge. The CBDT vide its circular no. 8/2020 dated April 13, 2020 issued a Clarification regarding short deduction of Tax Deduction at Source (TDS)/ Tax Collected at Source (TCS) due to increase in rates of surcharge by Finance Act, 2019.

Several cases have come to the notice of the CBDT wherein deductors/collectors were held to be an assessee in default for short deduction of TDS/short collection of TCS for transaction which happened between April 1, 2019 and July 5, 2019. Since these transactions were completed before the enhanced surcharge was announced and the concerned deductee/payee is required to furnish their Income-tax return for the relevant assessment year, it has been requested that in such cases, deductor/collector shall not be held to be an assessee in default under section 201 of the Income Tax Act.

Based on the above requests the CBDT has examined the issue and has clarified that a person responsible for deduction/ collection of tax under any provision of the Income Tax Act will not be considered to be an assessee in default in respect of the transactions where:

- i. Transaction has been completed and entire payment has been made to the deductee/ payee on or before July 5, 2019 and there is no subsequent transaction between the deductor/ collector and the deductee/ payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/ collector;
- ii. TDS has been deducted or TCS has been collected by such deductor/ collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act;
- iii. Such tax deducted or collected has been deposited in the account of Central Government by the deductor/ collector on or before the due date of depositing the same;
- iv. TDS/TCS statement has been furnished by such person on or before the due date of filing of the said statement.

However, if the person fails to fulfil any of the conditions as laid down above, such person will, with respect to short deduction/ collection, not be eligible for benefit provided under the circular.

Further, if the deductor/ collector has deducted/collected shortfall of tax after July 5, 2019 from the transactions made subsequently after the said date, interest, if any, for such delay in deduction/collection of such tax shall not be levied.

The above relaxation does not absolve the deductee/ payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax

Clarification issued by CBDT regarding tax rate option exercised by employee for the purpose of deducting TDS.

In the Finance Bill 2020, Honourable Finance Minister announced insertion of new section 115BAC in Income Tax Act, 1961, effective from the Assessment Year 2021-22 (FY 2020-21) which gives taxpayers, being an individual or HUF having income other than “Income from Profession or Business”, an option to pay taxes under an alternative concessional rate of tax, if they are willing to forego specified exemptions or deductions, set off of losses, additional depreciation etc as provided in section 115BAC.

CBDT has received representations from the various stakeholders expressing the concerns regarding the tax to be deducted at source as the assessee is required to exercise the option only at the time of the filing of the return. The deductor being an employer, would not come to know whether the assessee would opt to compute his total income and taxes under section 115BAC. Hence there was a lack of clarity regarding whether the provisions of section 115BAC are to be considered at the time of deduction of tax.

In order to avoid the genuine hardships faced by the stakeholders, CBDT vide its Circular C1 of 2020 dated April 13, 2020 clarified in respect of exercising the option under section 115BAC the following:

- i. An employee, having income other than “profit and gains of business or profession” (such as salary income, etc) will have to intimate his/her employer of his/her choice of tax regime for the outgoing FY 2020-2021. The employer will have to deduct the tax (TDS) from employee’s salary accordingly. And

in case the employee fails to inform the same to the employer, then employer must deduct tax considering the old tax regime (i.e without considering the provisions of section 115BAC of the Act.)

- ii. It has also been clarified that once a tax regime has been opted by the Individual or HUF at the start of the financial year for the purpose of TDS, then this option cannot be changed during the year. However, the Individual or HUF will be able to change the option at the time of filing of income tax returns.
- iii. Further, it has been clarified that an employee having income under the head “Income from Profession or Business” opts for a particular tax regime at the time of filing income tax returns, then such employee cannot change the tax regime in the future years except in certain circumstances. And shall intimate about such tax regime to his employer for the purpose of deducting tax

INDIRECT Taxes



INDIRECT TAX UPDATES

GST Updates:

A. Clarifications issued vide Circular No. 137/07/2020 – GST dated April 13, 2020 in respect of certain challenges faced by the registered persons in implementation of provisions of the GST Law:

Sl. No.	Issue	Clarification
1	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	<p>In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.</p>
2	An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.

Sl. No.	Issue	Clarification
		The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category “Refund of excess payment of tax”.
3	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	<p>In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.</p>
4	Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on March 31, 2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST?	<p>Notification No. 37/2017-Central Tax, dated October 04, 2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated April 03, 2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from March 20, 2020 to June 29, 2020 has been extended till June 30, 2020.</p> <p>Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to June 30, 2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before June 30, 2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.</p>
5	While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i.e. Tax	As per notification No. 35/2020-Central Tax dated April 03, 2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from March 20, 2020 to

Sl. No.	Issue	Clarification
	Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification No. 35/2020-Central Tax dated April 03, 2020?	June 29, 2020, the same has been extended till June 30, 2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till June 30, 2020 and no interest under section 50 shall be leviable if tax deducted is deposited by June 30, 2020
6	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on March 31, 2020, can such person make an application for refund before July 29, 2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from March 20, 2020 to June 29, 2020, the same has been extended till June 30, 2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till June 30, 2020.

Custom Updates:

A. Following amendments are made to the TABLE-1, TABLE-2 and TABLE-3 in the notification No. 36/2001-Customs (N.T.), dated the August 3, 2001 vide Notification No. 38/2020–Customs (N.T.) dated April 15, 2020.

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver- Reg.

i. TABLE – 1

Sl. No	Chapter/ heading/ sub-heading/tariff Item	Description of goods	Tariff value (USD Per Metric-Ton)
1	1511 10 00	Crude Palm Oil	614
2	1511 90 10	RBD Palm Oil	630
3	1511 90 90	Others – Palm Oil	622
4	1511 10 00	Crude Palmolein	635
5	1511 90 20	RBD Palmolein	638
6	1511 90 90	Others – Palmolein	637
7	1507 10 00	Crude Soya bean Oil	660
8	7404 00 22	Brass Scrap (all grades)	2883
9	1207 91 00	Poppy seeds	3623

ii. TABLE – 2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (USD)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed.	560 per 10 grams
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	500 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	500 per kilogram
4.	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	560 per 10 grams

iii. TABLE – 3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (USD Per Metric Ton)
1	080280	Areca nuts	3752

B. Exchange Rates Notification No. 39/2020-Customs (N.T.) dated April 16, 2020

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
1.	Australian Dollar	49.30	47.10
2.	Bahraini Dinar	206.20	200.90
3.	Canadian Dollar	55.30	53.45
4.	Chinese Yuan	11.00	10.70
5.	Danish Kroner	11.40	11.00
6.	EURO	85.00	81.95
7.	Hong Kong Dollar	10.10	9.75
8.	Kuwaiti Dinar	254.65	238.80
9.	New Zealand Dollar	46.95	44.75
10.	Norwegian Kroner	7.40	7.15
11.	Pound Sterling	97.40	94.05
12.	Qatari Riyal	21.75	20.45
13.	Saudi Arabian Riyal	21.10	19.80
14.	Singapore Dollar	54.60	52.80
15.	South African Rand	4.25	3.95
16.	Swedish Kroner	7.75	7.50
17.	Swiss Franc	80.85	77.80
18.	Turkish Lira	11.45	10.75
19.	UAE Dirham	21.60	20.25
20.	US Dollar	77.65	75.95
21.	Japanese Yen	72.40	69.80
22.	Korean Won	6.45	6.05

C. Notification No. 07/2020-Customs (ADD) dated April 15, 2020: Extended anti-dumping duty on import of Acetone originating in or exported from Korea RP, Saudi Arabia and Chinese Taipei till October 14, 2020.

D. Circular No. 18/2020 Customs dated April 11, 2020: Clearance of goods under India's Trade Agreements without original Certificate of Origin-Regarding:

1. It seeks to mitigate difficulties being faced by importers in producing the original Certificate of Origin (CoO) on account of disruptions caused by the COVID-19 pandemic. (Ref Trade Notice No 62/2019-2020 issued by DGFT on April 06, 2020).
2. It is accordingly directed that in accordance with the said Trade Notice, the import consignments, where a preferential treatment of goods under a Free Trade Agreement has been claimed but the original hard copy of CoO has not been submitted or only digitally signed copy or unsigned copy of CoO is submitted, may be assessed and cleared provisionally in terms of section 18 of the

Customs Act, 1962. The final assessment may be done subsequently on submission of the original CoO certificate by the importer. The revenue may be secured through undertaking and appropriate security.

3. Customs field formations shall maintain a record of all cases of relaxation allowed by them and will ensure that such provisional assessments are finalized at the earliest and in accordance with the prescribed regulations.

E. Circular No. 19/2020 Customs dated April 13, 2020: Paperless Customs - Electronic Communication of PDF based Gate pass and OOC Copy of Bill of Entry to Custom Brokers/Importers – Reg.

1. In order to mitigate the unprecedented situation due to Covid-19 pandemic, CBIC has taken a number of measures to facilitate & expedite Customs clearance process making it more and more contact-less i.e. automated and online as well as paper-less. These measures include the facility to clear goods on the basis of an undertaking (not bond), acceptance of electronic Country of Origin certificate etc.
2. The aforementioned reforms combine to expedite Customs clearances and reduce the transaction cost. The Board has decided to enable electronic communication of PDF based Final eOoC (electronic Out of Charge) copy of BoE and eGatepass to the importers/Customs Brokers. The Final eOoC copy of BoE and eGatepass copy will be emailed to the concerned Customs Broker and/or importer, if registered, once the Out of Charge is granted. The eGatepass copy will be used by the Gate Officer or the Custodian to allow physical exit of the imported goods from the Customs area.
3. Salient features of the secure electronic communication of the Final eOoC copy of BoE and the eGatepass:

Final Out of Charge (eOoC) Copy of Bill of Entry: As of now, physical signing of the Final OoC copy BOE is insisted upon at many Customs locations. This necessitates the importer/Customs Broker to take a paper printout from the Service Centre to be produced before the Customs officer. It has now been decided to do away with the paper printout of the Final OoC copy of BoE. Instead, DG Systems will enable a functionality to immediately email the PDF version of the Final eOoC copy of BoE generated after OoC to the Customs Broker and/or the importer, if registered with the following salient features.

The PDF version will bear a digitally signed and encrypted QR code which can be scanned to verify authenticity of the document using Mobile App ICETRAK. The QR code is tamper proof, which is digitally signed by CBIC to ensure the authenticity. Key details like BoE No., BoE Date, Duty, Package Details are available in the secured QR Code.

A version number is also embedded in the QR code which can be used to ascertain whether the document is indeed the latest version (in case of reassessment etc.). The same would be verifiable at ICEGATE Enquiry.

eGatepass: Currently, the physically signed Final OoC copy of BoE is being verified both by the Gate officer (Customs) as well as the Custodian before allowing the actual movement of the imported goods out of the Customs premises. This physical printout is now being replaced by the PDF eGatepass generated and electronically communicated to the importer/Customs Brokers with the following salient features:

eGatepass shall contain only the details referred to by the Custodian or the Gate officer to allow actual movement of goods – like details of IGM/Bill of Lading, Containers, packages etc.

There will be two types of QR codes (i) for entire eGatepass document, and (ii) for each container/package covered under the Gate pass. This will ensure that only those containers/package move out which are covered under the Gate pass document.

EDI OoC message shall continue to be sent to the Custodians who are registered on ICEGATE. Since all the Custodians are not connected to ICEGATE, therefore, EDI OoC message is not being transmitted electronically to such Custodians. Field formations are requested to ensure registration of all such custodians in ICEGATE as per the advisory of DG Systems so that the potential benefits of the new measures could be reaped across the entire Customs ecosystem.

4. The electronic communication of the Final eOoC copy of BoE and eGatepass copy is expected to bring immense benefits in terms of time and cost of compliance and reduction in interface for the trade, while providing enhanced security features for verification of authenticity and validity of the electronic documents. This measure would be made effective from April 15, 2020.

Karnataka Sales Tax Act, 1957:

Notification No. FD 26 CSL 2020 dated April 16, 2020: The statement to be submitted by the registered dealers for the month of March 2020 and April 2020 shall be submitted, along with due payment of taxes, within twenty days from the end of the tax period to which it relates by sending the copy of such statement duly signed, to the e-mail id cto.karbn@nic.in and such submission of the statement shall be considered as due submission of the returns for such tax period. The physical copy of the above statement shall be submitted to the assessing authority within sixty days from the end of the tax period to which it relates.

Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976:

Removal of Difficulties Order 01/2020 dated April 16, 2020: Karnataka Tax on Professions, Trades, Callings and Employments (Removal of Difficulties) Order, 2020 by extending the due dates:

1. Returns for the month of March 2020, time allowed for filling on or before 20th day of May 2020.
2. Enrollment for the financial year 2020-21, in respect of a person who stands enrolled before the commencement of the said year, the payment of the amount of tax due shall be paid before the 30th day of May, 2020.

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