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COVID-19:
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The COVID19 Tide so Far!

Impact, Measures & Un-Addressed Challenges

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It seems that the world is witnessing a Pandemic on an unprecedented level. The outbreak of the Pandemic is on such a magnanimous scale that the world at large has come to a standstill. The Pandemic in question is Corona Virus Disease 2019 ('COVID-19').

COVID-19 has been declared a Pandemic by the World Health Organization ('WHO') on 11th March 2020[1]. As of 27th March 2020, over 24,000 people have died worldwide and over 5.32 Lac people have tested positive for being infected with the Corona Virus.

It is not out of place to state that lives at large have been affected by the Pandemic. Whether it is a big business house or a small trader, no one seems to be having any respite from the impact. During such dire situations, the Central Government, the Reserve Bank of India ('RBI'), the Banking Sector and various industries are in discussion to decide what best can be done to handle emerging and circumstantial problems. Sectors such as hospitality, tourism, trade, transportation, aviation are being directly impacted due to the Pandemic. Micro, Small and Medium Enterprises (MSMEs) are also impacted because of the shortage of funds and the size of their businesses.

On 19th March 2020, the nation was advised to observe a 'Janta Curfew' on 22nd March 2020 and people of the country were advised to stay at home and not venture out unless essential. While the 'Janta Curfew' was a success and people followed the advice; a bigger challenge awaited. On various occasions before the said fact, State Governments in India took to the imposition of measures to restrain physical interaction and promoted the concept of 'Social Distancing'. However, on 24th March 2020, a nationwide lockdown was announced for 3 weeks/ 21 days commencing on the date of such announcement. While it cannot be denied that the measures being adopted by the Government are necessary to curb the ever-increasing problem; however, the same is likely to give rise to other issues including economic slowdown which was never witnessed before.

In a situation like this, it becomes imperative for the Government to provide detailed schemes to tackle the situation in so far as the banking system is concerned.

To understand the disruption of businesses, it is essential to understand the demand and supply chain. Various businesses require material from nations abroad to produce goods in India. Until, 19th February 2020, the said issue was a source of concern to the government and accordingly, the Ministry of Finance, Department of Expenditure, Procurement Policy Division vide an Office Memorandum dated 19th February 2020 clarified that COVID-19 will be considered a Natural Calamity and the Force Majeure Clause can be invoked in so far as the Manual for Procurement of Goods, 2017 is concerned. This clarification came as a respite to those who procure material from nations abroad. However, as the situation changed, demand and supply chain within the country was disrupted. Now with a nationwide lockdown for 3 weeks, there is no way that any industry will be able to function. The only exceptions[2] continue to be the industries that are producing/ selling essential commodities for day to day living.

Therefore, given the aforementioned situation, the biggest concern that businesses/ traders/ industries at large are faced with is the delays in repayment of their Loan Amounts and the threat of their accounts becoming Non-Performing Assets ('NPAs').

The RBI issued Notification[3] wherein it had urged business entities to assess the impact on their balance sheets, asset quality, liquidity, etc arising out of potential scenarios such as the further

spread of COVID-19 in India and its effect on the economy, etc. The RBI also proposed the creation of Quick Response Teams ('QRTs'), which shall further monitor the situation and hence, evolve a mechanism of creating a single point of contact with regulators/outside institutions/agencies and to offer analyzed response to deal with losses.

The Master Circular of Prudential norms on Income Recognition, Asset Classification and Provisioning about Advances dated 1st July 2015, does not specifically provide for any relaxation in the situation of extraordinary circumstances, including in case of a pandemic.

However, the Guidelines in Clause 5.6 do provide for Principles for the creation of Floating Provisions by Bank in case of "Extraordinary Circumstances" which includes Pandemics.

Floating Provisioning only provides the lenders with the flexibility of setting aside additional amounts against bad loan but the existing guidelines did not provide for any relaxation in the norms of NPA Guidelines in case default for 90 days has occurred due to "Extraordinary Circumstances", including due to Pandemics.

It is because of the said provision that the Indian Bankers' Association ('IBA') has approached the RBI with a list of 5 issues for its consideration.[4]

The major concerns listed by the IBA besides others are as follows - (a) The Term Loan Installments may be deferred for six-months, (b) the time frame for classification of an account to NPA should be increased from the present period of 90 days to 180 days given the Pandemic. The said request is for Short Term Loan Accounts like Cash Credit and Overdraft facilities along with Guarantees in the form of Letters of Credit ('LC'), (c) Banks should be able to decide on the deferment of term loans according to the severity of the impact on the borrower, (d) the IBA has also requested a 1% cut in the Cash Reserve Ratio ('CRR'), (e) the amount as deposited by banks to be kept with RBI without earning any interest, to ensure liquidity.[5]

Besides the aforementioned points, the IBA has also recommended an extension of cases undergoing the Corporate Insolvency Resolution Process ('CIRP') for at least six months.

Globally, some state-operated banks have extended relief in maintaining additional capital buffers while many banks in other countries are proposing relaxation in certain elements of bank capital.

We may also take this opportunity to point out that the total economic impact caused by COVID-19 globally is yet to be ascertained, especially in light of the uncertainty towards life, business and economy. However, what appears certain is that there is a steep downfall in profit margins for all industries alike including Banks and Financial Institutions who will not be in a position to recover payments promptly.

The Finance Minister while addressing the Nation on two occasions i.e., 24th March 2020 and 26th March 2020 announced reliefs to individuals and companies in areas of compliance and statutory regulations and further has allocated funds for the benefit of the poor; however, no reliefs were extended to the banking industry. However, with the notification issued by the RBI on 27th March 2020[6], there seems certain relief to the banks and financial institutions along with a category of borrowers.

The primary concerns which have been addressed by the Notification dated 27th March 2020 in so far as a Borrower/ Trader is concerned to relate to permitting Banks/ Financial Institutions/ NBFCs to provide a moratorium of 3 months on payment of installments of Term Loans. In so far as Working Capital Facilities are concerned, the RBI permits the lending institutions to allow a deferment of 3 months on payment of interests by the borrowers. In so far as cash credit/overdraft facilities are concerned, lending institutions are permitted to recalculate drawing power by reducing margins and/or by reassessing the working capital cycle for the borrowers. Thus, it can be said that some reliefs to traders/ businesses have been granted by the Government. However, by way of a clarificatory cicular dated 27.03.2020[7], it has been clarified that the interest shall continue to accrue on the outstanding portion of the terms loans during the period of moratorium. Meaning thereby that though the moratorium may assist for 3 months; however, a borrower will be liable to pay interest for the said period.

It has been clarified that installments wil include the following payments falling dues as on March1, 2020 to May 31,2020; (1) principal and/or interest components; (2) bullet payments; (3) equated monthly installments; and(4) credit card dues, thereby including home loans, car loans, consumer durable loans, education loans, personal loans and credit card dues.

Another noteworthy announcement by the Ministry of Finance was about hiking the minimum default limit from Rs.1 Lac to Rs.1 Crore for triggering the Insolvency & Bankruptcy Code (IBC). In these difficult times, Rs.1 Lac default by a corporate to its suppliers or even workmen is easily possible because of the complete lockdown and supply chain disruptions. The banks will be saved from an operational creditor (s) taking the company to the IBC, which in turn triggers the entire process.

Thus, it will not be out of place to mention that the Pandemic has caused an economic upheaval for which timely and clear response(s) on all pending aspects from RBI and the Government of India including the concerned Ministries is of paramount importance.

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[1]https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020
[2]Annexure to Ministry of Home Affairs order No.40/3-2020- D dated 24.03.2020 (Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ Union Territory Governments, and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country
[3]Notification bearing no. DoS.CO.PPGBC.01/11.01.005/2019-20 dated 16.03.2020
[4]https://economictimes.indiatimes.com/industry/banking/finance/banking/indian-banks-seek-more-time-over-bad-loan -classification/articleshow/74737205.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
[5]https://insubcontinent.com/stock/268572-indian-banks-seek-easier-loan-repayment-npa-classification-due-to-covid-19
[6]Press Release 2019-2020/ 2130 – Statement on Development and Regulatory Policies, dated 27.03.2020 by the Reserve Bank of India
[7]RBI/2019-2020/186