



Resolving Stress

Recent developments and experience

Nirav K Pujara

13 March 2021

Table of contents

- Impact of Covid on various stakeholders
- Recent trends and experience in IBC
- Resolution options outside IBC
- Recent amendments
- Conclusion

A decorative graphic consisting of a grey horizontal bar across the middle of the page. To the right of the bar, there are several blue squares of varying sizes and opacities. One large, semi-transparent blue square overlaps the right side of the grey bar. Above it, there are two smaller, solid blue squares. To the left of the large square, there is another smaller, solid blue square.

BACKGROUND AND CONTEXT

Covid-19 has changed the way we live - “The New Normal”





Impact of Covid - 19 on various stakeholders

Impact of Covid – 19 on key stakeholders

Key challenges and relief measures

Corporates

- **Stress on cash flow**
 - Cash flows and earnings significantly impacted due to lockdown
 - Working capital cycle impacted
 - Fixed cost

Bankers /financial institutions

- **Fall in collections**
 - RBI's on a base case has estimated ~ 13.5% gross NPA by Sep 2021
 - Impact on Retail/SME portfolio

Strategic and financial investors

- **Delay in investments**
 - Strategic investors will have their primary focus on managing their own liquidity position
 - Slowdown in investment
 - Re-assessment of priority sectors

Measures across sector

RBI Measure

One Time Restructuring for covid related stress*

*for invocation till 31st December 2020

Deferment of Interest on Working Capital Facilities

Lending institutions have been permitted to allow a deferment on payment of interest till 31 August 2020

IBC

Fresh cases suspended for 1 year till 25th March 2021; Threshold increase to INR 1 crore

Reliefs under Direct Tax

25 per cent reduction in TDS and TCS rates

Fiscal relief measures under GST

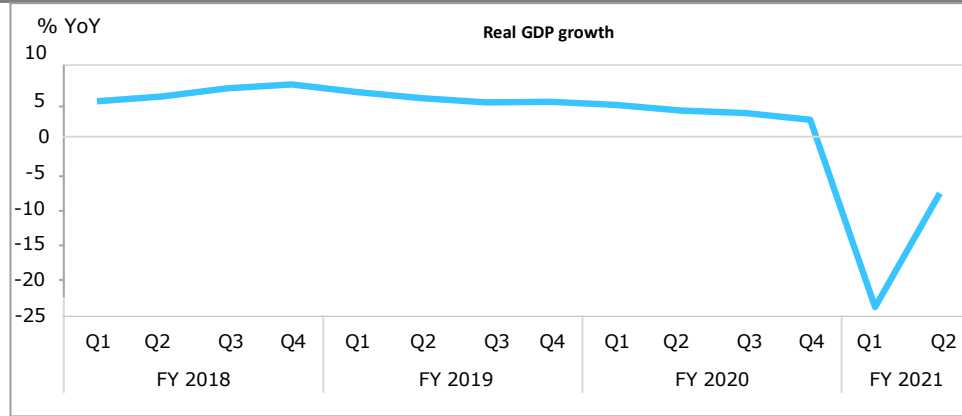
Late fee and interest waiver in respect of GSTR – 3B return due in March, April and May 2020

Impact of Covid – 19

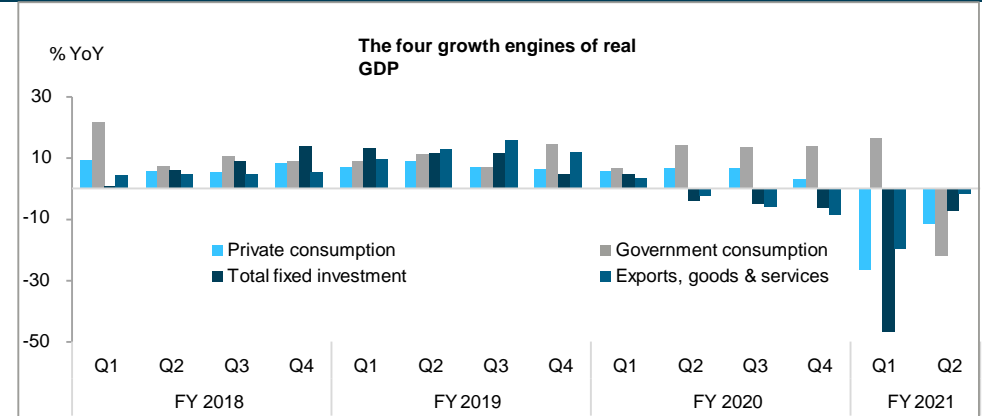
Economy and market trends

COVID-19 has had an unprecedented impact on growth. Inflation eased but weak labour market remains a concern

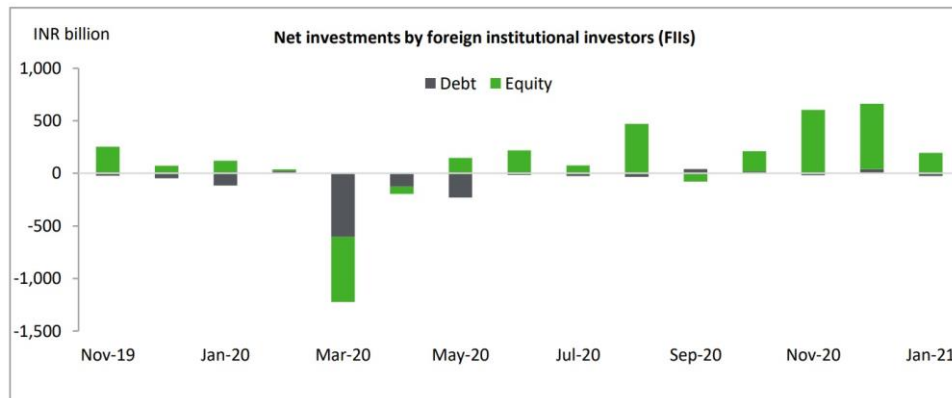
Growth contracted for two consecutive quarters in FY2021 suggesting economy is technically in recession



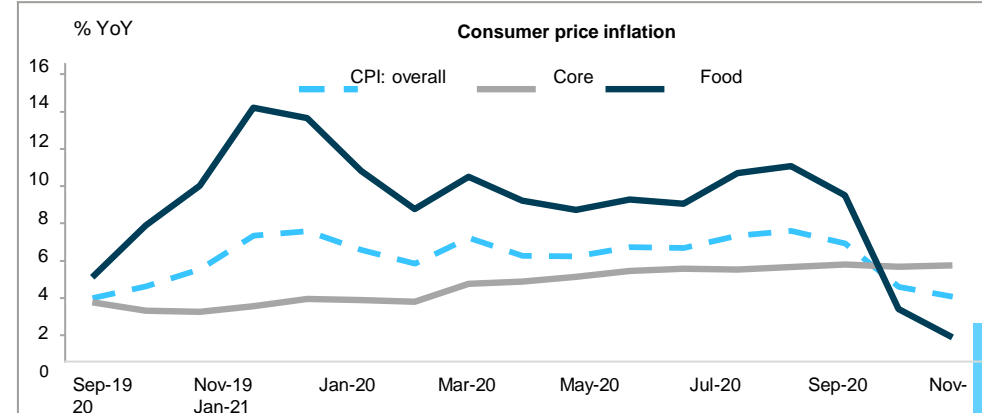
Government spending contracted more than private consumption and investment in Q2 FY 2021



Equity purchase by foreign investors slowed down in January 2021; lowest in the last four months



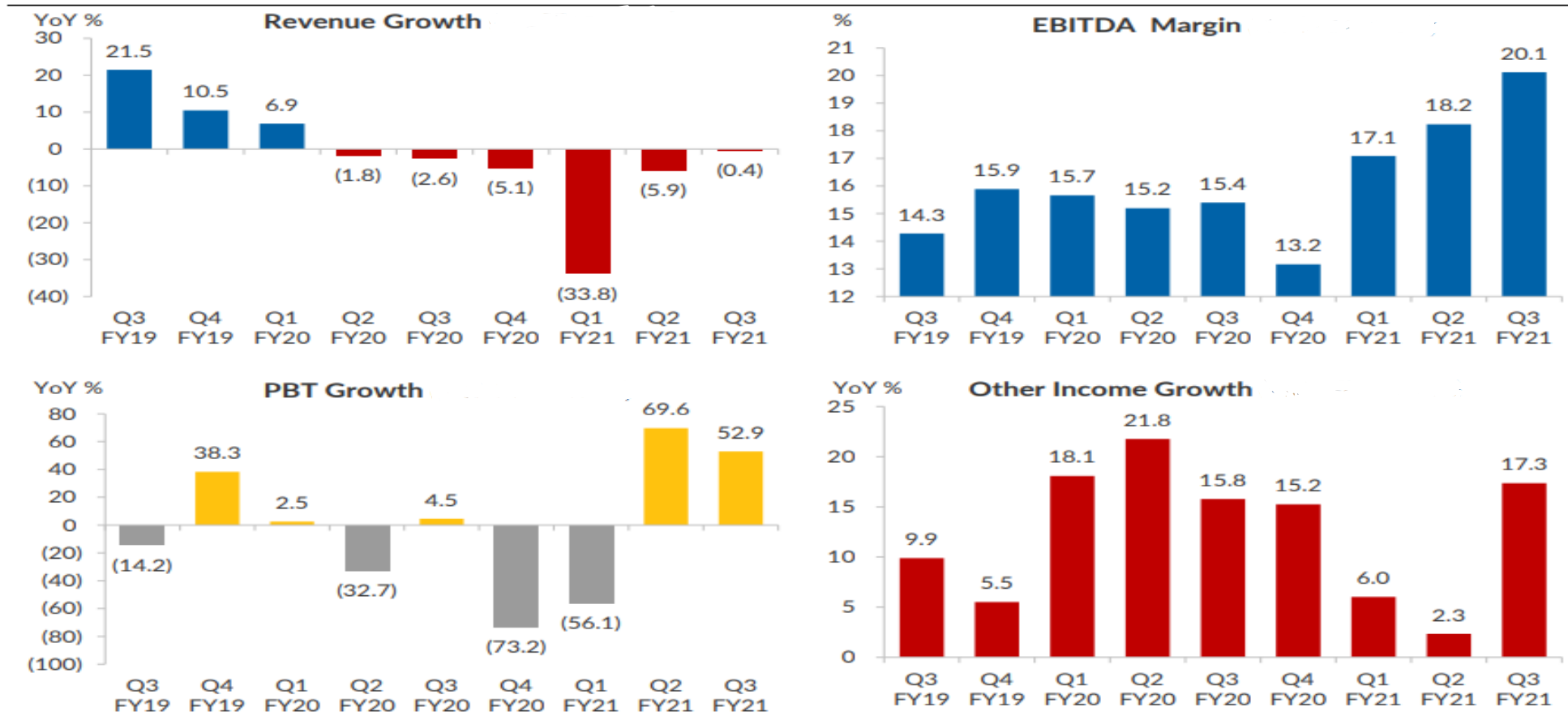
CPI consistently declined post October due to steep fall in food prices; now within RBI's threshold rate



Impact of Covid – 19

Earning Trends – Q3 FY 2021

Though Revenue remained flat for NSE 200 companies, stellar rise in EBITDA is quite a story to tell, rising on the back of higher realization on sales and cost optimization



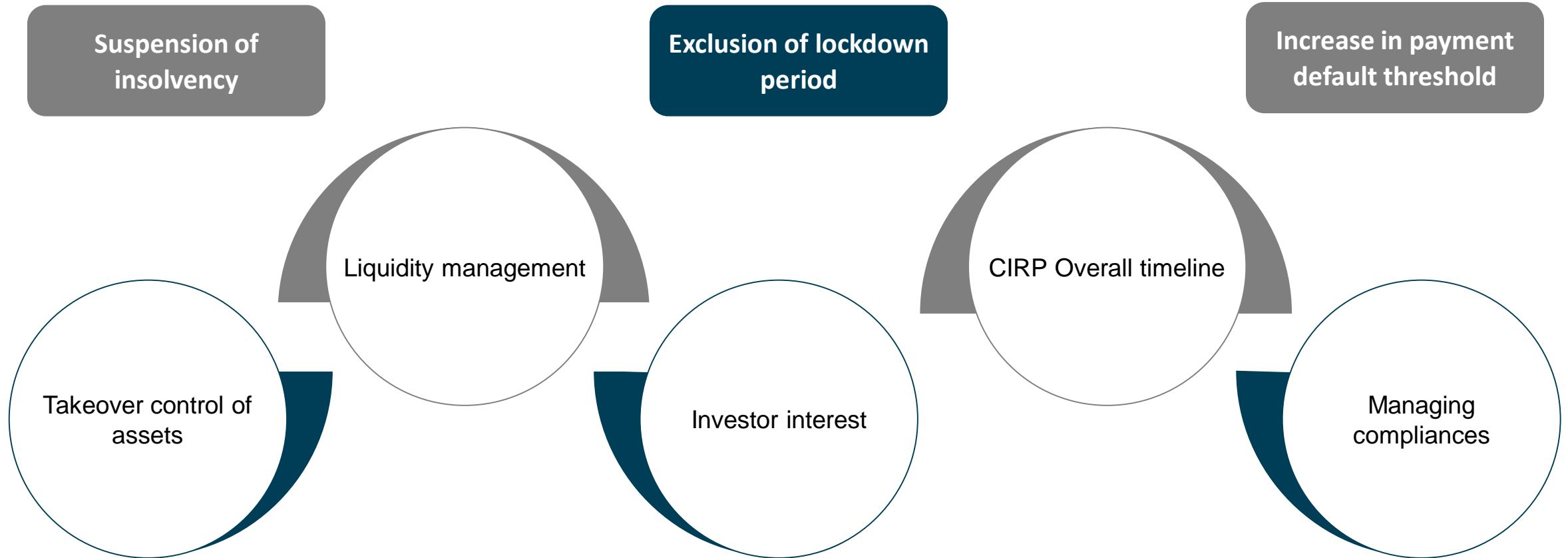
Source: Bloomberg, YES Sec – Research Note: Assesment based on results of 190 companies (out of NSE 200)



Recent trends and experience in IBC

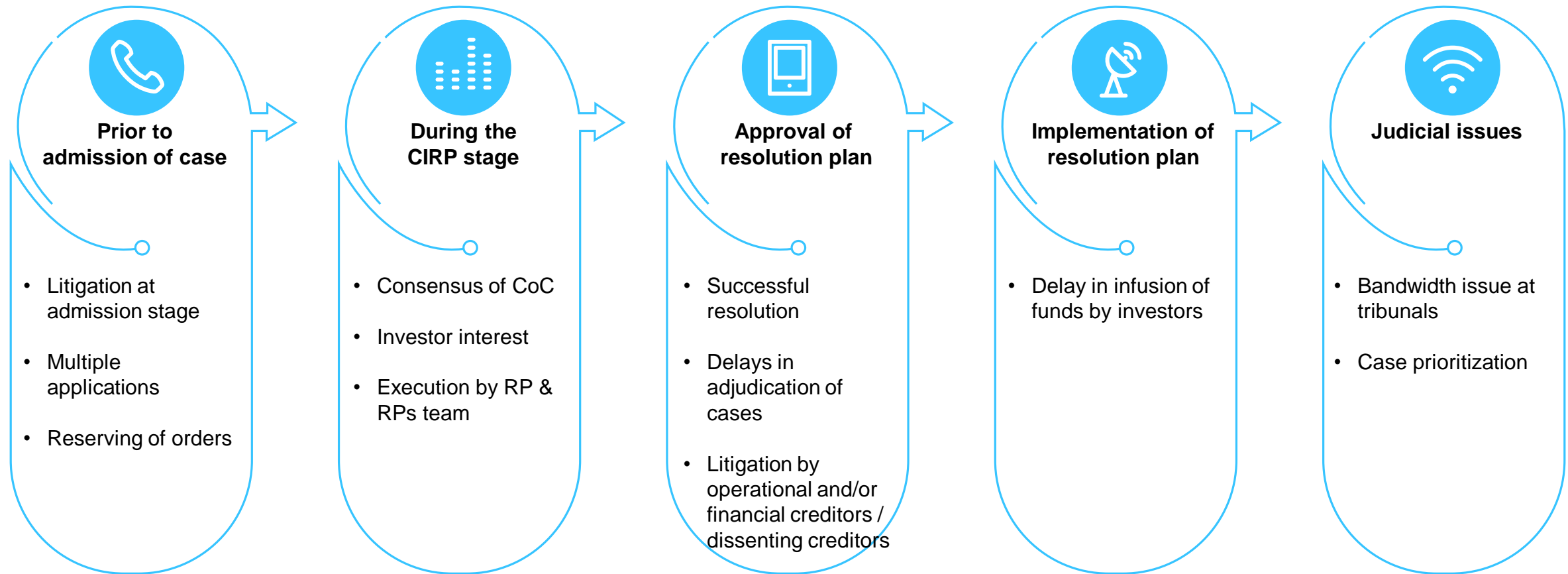
Covid impact on CIRP process

Below are the few of the impact on CIRP process



Recent trends and experience

Experience in IBC for various stakeholders





Resolution options outside IBC

Resolution options outside IBC



Resolution options outside IBC




Restructuring under RBI June 7, 2019

Applicability of this Framework




The provisions of these directions shall apply to the following entities:

- (a) Scheduled Commercial Banks ;
- (b) All India Term Financial Institutions ;
- (c) Small Finance Banks; and,
- (d) NBFC

↔ Pros

-  • **Faster process**
-  • **Better recovery**
-  • **Lender driven**

↔ Cons

-  • **Out of court settlement**
-  • **Lack of consensus among Lenders**
-  • **No immunity to investor**

Framework for Resolution of Stressed Assets

Early Identification & Reporting

- Classification of Stressed assets
- Prima facie review of borrower account in the Review Period (30 days from default).
- For INR 2000 Crore & above
- Exposure above Rs. 100 Crore – 1 No. ICE & above Rs. 500 – 2 Nos. ICE required

Implementation of Resolution Plan (RP)

- Inter-creditor agreement (ICA) between lenders
- any decision taken by lenders supported by 75% by value of outstanding and 60% by numbers shall be binding on all the lenders.
- RP shall be implemented within 180 days from the end of the review period.

Implementation Conditions for RP

- Borrower is not in default on 180th day from end of review period)
- any subsequent default after 180 days to be treated as fresh default triggering to a fresh review

Delayed Implementation of RP

- Delay in implementation of viable RP shall attract additional provisions for the lenders
- Delay of more than 180 days from end of review period – 20%
- Delay of more than 365 days from the commencement of review period – 35%


Resolution options outside IBC




Debt Sale


Selling stressed and NPA accounts to asset reconstruction companies (ARCs). An ARC's primary goal is to manage and to make the asset saleable which have been underperforming or classified as NPA's.




Selling stressed and NPA accounts to ARCs has been increasing since March 2014, because of the regulatory support extended to banks under the Framework to Revitalize the Distressed Assets in the Economy.

Proposal for Development Financial Institution and setting up a bad bank have also been proposed in the budget 2021.

 **Pros**

- **Liquidity**
 Helps in unlocking value to lenders and hence providing required liquidity
- **Future expenses**
 Elimination of future expenditures connected with already existing defaulted profiles
- **Relatively quicker process**


 **Cons**

- **Limited Data Availability**
 Lack of connect from the Company
- **Haircuts**
 There may be deep haircuts basis the health of the asset
- **Not available for fraud accounts**


Resolution options outside IBC

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI”)

This scheme empowers lenders to either take custody of secured assets or sell the loan account to Asset Reconstruction Companies.

- Used by lenders as the last recourse, mainly for willful defaulters.
- The banks can seize the assets without the intervention of the court, only where the NPAs are backed by securities charged to the bank by way of hypothecation or mortgage or assignment.
- If the asset in question is an unsecured asset, the bank would have to move the court to file a civil case against the defaulters.

↔ Pros



- **Empowerment to Banks & FIs**

The Act give powers to banks and financial institutions to take over the immovable property that is hypothecated or charged to enforce the recovery of debt

- **Different approach**



The Act provides three alternative methods for recovery of non-performing assets — securitisation, asset reconstruction and enforcement of security — without the intervention of courts

- **Power to RBI, Amendment Aug 2016**



More regulatory powers to the RBI on the working of ARCs. Also aimed to empower asset reconstruction and the functioning of DRTs in the context of the newly enacted bankruptcy law

↔ Cons



- **Selling the property**

Challenges remain to monetize the property after taking possession



- **Government Claims**

The claim of government prevails, and often the amount realized through the sale is claimed by the Government authorities



- **Intervention by High Court**

Often High Courts are interfering in the SARFAESI Act proceedings by entertaining writ petitions filed by the aggrieved parties.

Key cases under IBC and outside IBC

Outside IBC

- Shappoorji Paloonji
- Hindustan Construction Company
- Hindustan National Glass
- Café Coffee Day
- Few companies of Lanco group
- Future group

Within IBC

- Dighi Port
- Bhushan Power (Approved by COC, pending with NCLT)
- Rcom
- Aircel



Recent Amendments in IBC

Recent amendments

IRP/RP from states with highest number of creditors in class

The amendment provides that the three IPs offered by the IRP must be from the State or Union Territory, which has the highest number of creditors in the class as per records of the CD.

AR to seek preliminary views before meeting

Authorised representative to circulate agenda to creditors in a class and seek their preliminary views on any item in the agenda and provide them atleast 12 hours

Amendment to Liquidation Regulations

- Assignment of not readily realizable assets
- Transfer of debt due to creditors

Recent Amendments

Evaluation of all compliant resolution plans & simultaneously voting

It provides that after evaluation of all compliant resolution plans as per evaluation matrix, the CoC shall vote on all compliant resolution plans simultaneously.

Amendments to voluntary liquidation process

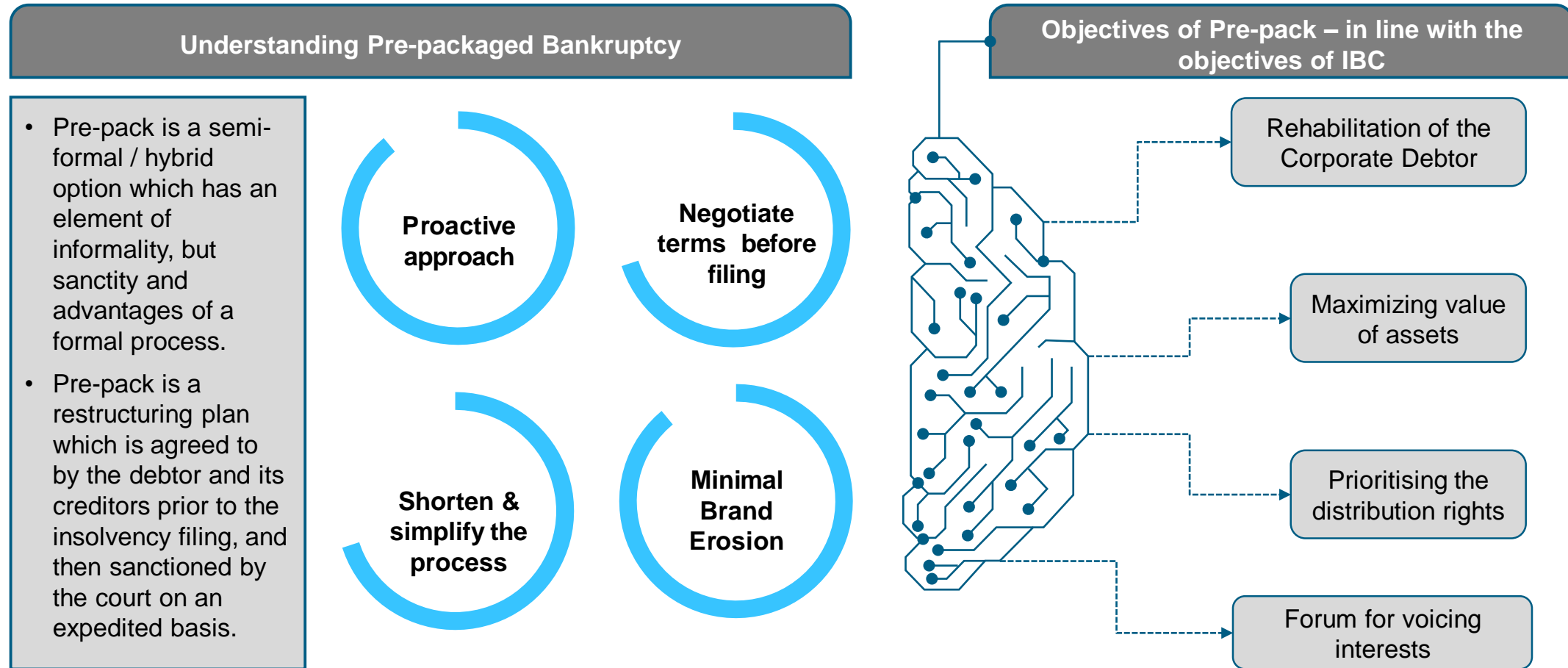
- Liquidator can be changed by corporate person by resolution of members

Expected introduction of pre pack insolvency framework

IBBI has released the discussion paper inviting comments from public on pre packaged insolvency resolution process under IBC

The next big thing.....

The Government of India's outlook for resolving Stressed Assets beyond the IBC: **Pre-packaged Bankruptcy**






Conclusion

Conclusion

Multiple resolution options

No one size fits all scheme and needs to be tailored as per need

Proactive resolution by stakeholder is the way forward



**Thank you
Any Questions?**

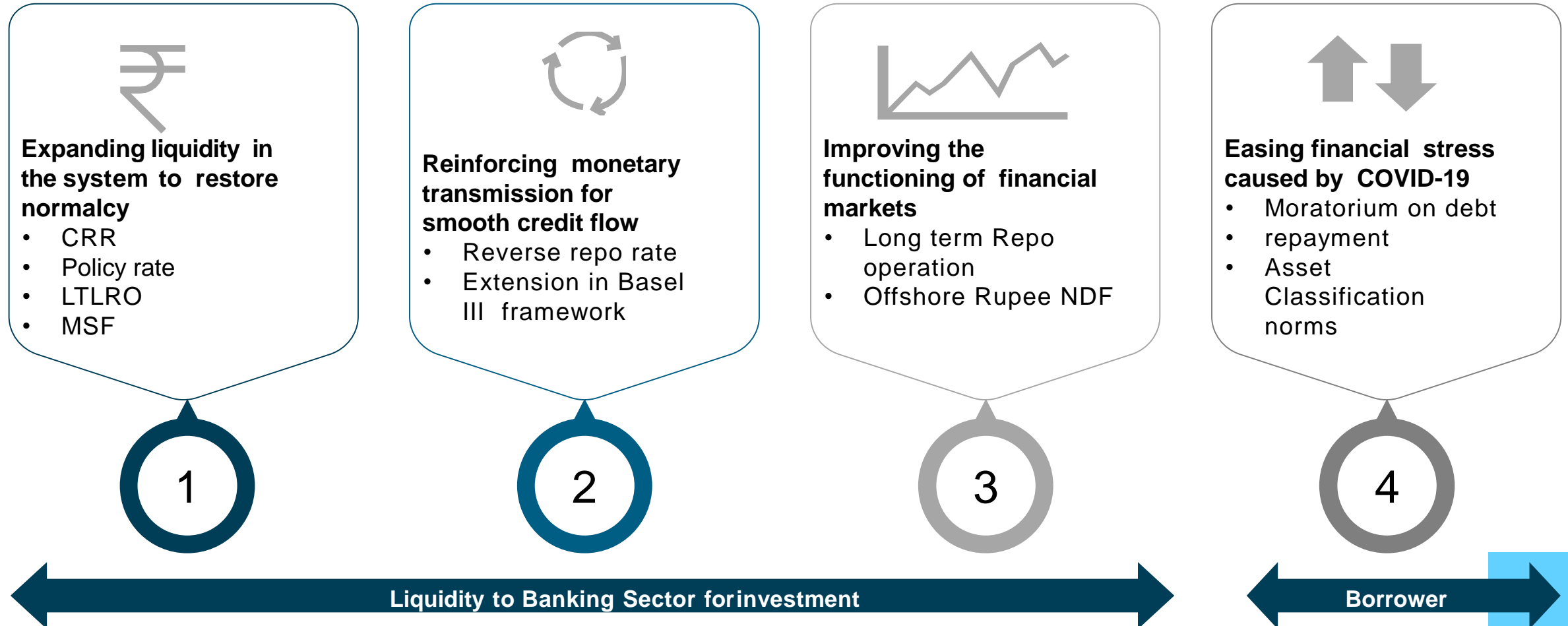


Back up Slides

Impact of Covid – 19 on key stakeholders

Recent RBI and Government Announcements

RBI's comprehensive package to mitigate negative effects of COVID-19, revive growth and preserve financial stability



Impact assessment

Impact during COVID-19

- Piling up of Insolvency and Bankruptcy Code (IBC) cases.
- Interim finance is difficult: Risk averse bankers/lenders.
- Lockdown period is to be excluded from computation of various statutory timelines under IBC.

Stressed Assets

Impact post COVID-19

- Increased number of NPAs once the moratorium provided by RBI ends.
- Delay in closure of IBC cases.
- No new cases to be referred to NCLT for next one year under IBC.
- Banks and promoters are likely to agree on a resolution plan outside of IBC.

- Banks have approached Ministry of Corporate Affairs (MCA) to expedite approval for resolved cases.
- Banks are parking surplus funds with RBI rather than lending due to fear of bad loans.
- Coronavirus-related debt will be excluded from the definition of default.

Banks/ Financial institutions

- Setting up of National Investment Management Company and National Asset Reconstruction Company (NARC) (likely to be capitalized by government to the extent of INR 10,000 crore).
- RBI extension of moratorium period until August 2020 will adversely impact liquidity of Non-Banking Financial Company (NBFC).
- Lower Net Interest Income (NII), higher credit cost may push banking sector in a negative zone.

- Winning bidders will invoke the force majeure or material adverse effect clauses to wriggle out of deals or lower the price they are paying to buy companies.
- Approved resolution plans, face a test as funding for assets committed before COVID-19 may never come through with NBFCs facing liquidity issues.
- Mark downs/impairment on existing portfolio companies.

Potential Investors

- Potential investors with cash on hand will be actively looking for assets at lower prices.
- Investors may lower the bids significantly in anticipation of diminution in value
- **Implication of suspension of new insolvency cases for one year:**
 - Asset Reconstruction Companies (ARCs) would be used as intermediaries to resolve bad loans.
 - ARCs will find it difficult to sell security receipts due to drop in valuation as redemption prospects and timeline stretch at least next three to four years.

Impact of Covid – 19 on key stakeholders

Recent RBI and Government Announcements

Impact of current situation on IBC cases

Regulatory/legal pronouncements

- Finance Minister announced the raising of minimum limit for IBC cases from ₹ 1 lac to ₹ 1 crore
- IBBI vide a notification regarding has declared a blackout period for all accounts in IBC for the lockdown period
- Courts are closed during the Lockdown
- Finance minister has announced a possible temporary suspension of section 7,9 and 10 of the IBC
- Suo moto order from the NCLAT for extension of CIRP by the moratorium period.

IBC cases in pipeline

- Considered view that the 1 crore limit applies only for prospective filings and all filings done prior to the announcement would be at the old limits
- Seeing many situations where factories are either locked down or operating at minimal staff and going through a business continuing planning. Value preservation
- There has been a lack of interest in bidders mainly as they are involved in business continuity planning of their own.

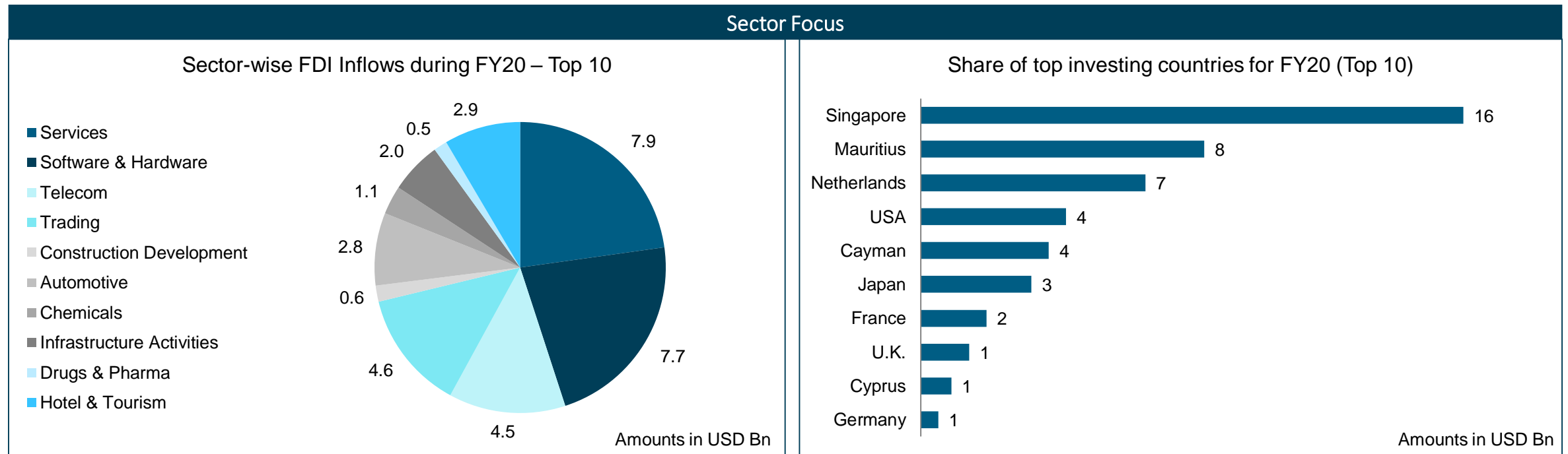


Investor outlook

Foreign Direct Investment

India received around USD 50 Bn as FDI inflows during FY20 which was a robust 13% higher than FY19. Services continue to account for around 15.8% of the FDI inflows

RBI's comprehensive package to mitigate negative effects of COVID-19, revive growth and preserve financial stability



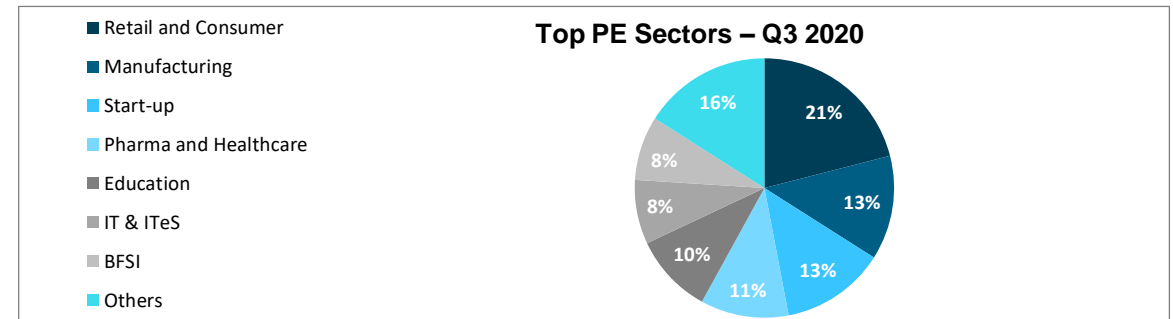
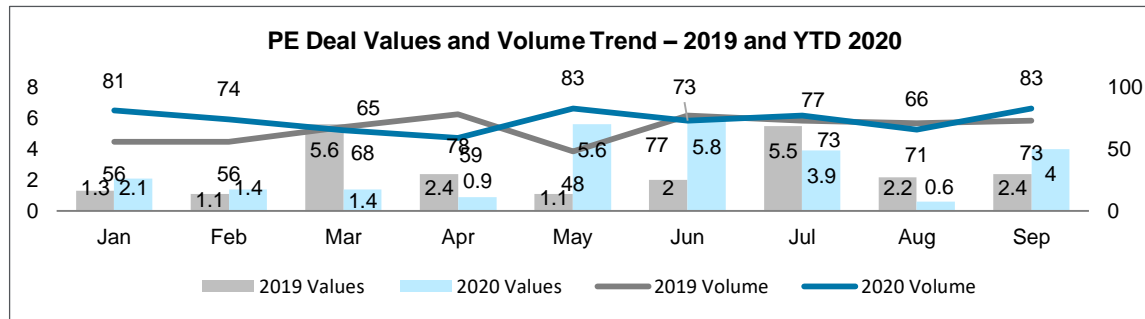
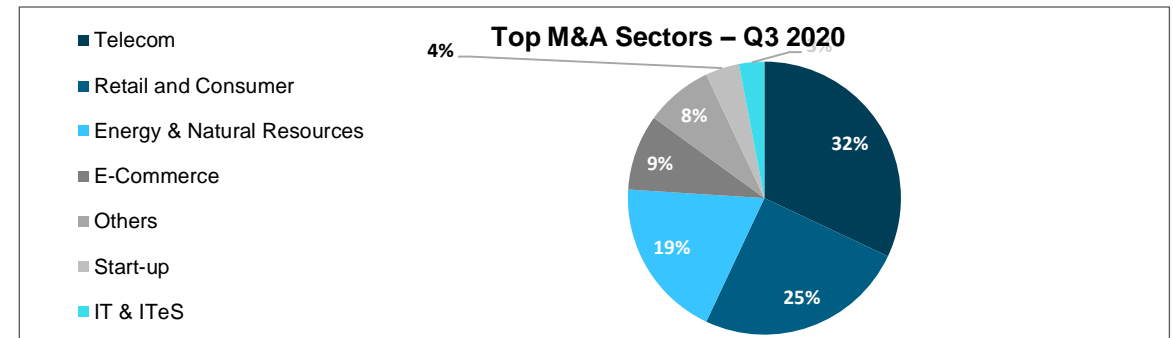
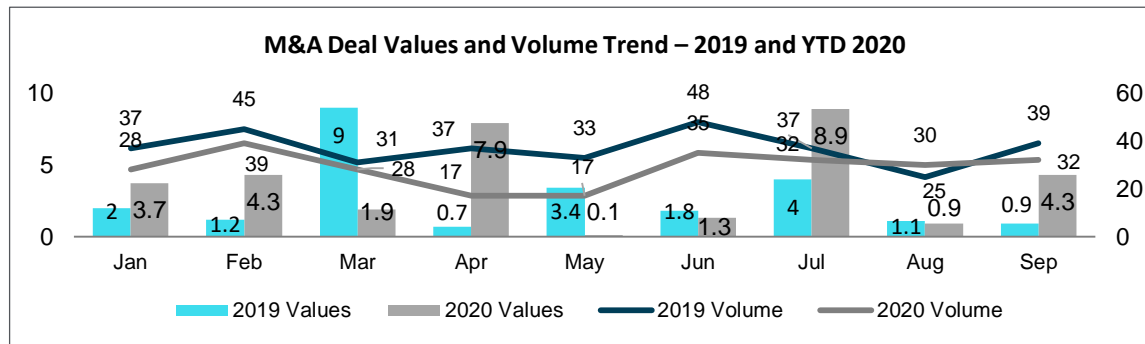
India is poised to become one of the most attractive emerging markets for investments in the coming 12 months as per a recent market attractiveness survey conducted by Emerging Market Private Equity Association (EMPEA)

Source(s): InvestIndia, IBEF, Industry News

Deals – M&A and PE Landscape

Overall M&A and PE deal flows have been showcasing resilience and there has been an emerging buoyancy in the Indian economy

RBI's comprehensive package to mitigate negative effects of COVID-19, revive growth and preserve financial stability



Of the total M&A transactions during 9M FY20, around 55% represented domestic deals and the balance 45% of deal values represented cross border transactions

The cross-border deals were broadly equally split between inbound and outbound M&A transactions

Source(s): GT Review on PE activity; *Absolute value implies inflows and outflows taken together as absolutes

Recent Deals – Summarized till Q3 CY2020

M&A Deals

Acquirer	Target	Sector	Value (in USD Mn)	Deal Type	% Stake	Domestic/Cross-Border
Facebook Inc.	Jio Platforms Ltd.	Telecom	5,700	Minority stake	10%	Inbound
Groupe Aeroports de Paris SA (ADP)	GMR Airports Holding Ltd.	Infrastructure Management	1,518	Strategic stake	49%	Inbound
Adani Ports and Special Economic Zone L imited	Krishnapatnam Port Company Ltd.	Transport and Logistics	1,434	Majority stake	75%	Domestic
NTPC Ltd.	THDC India Limited	Energy and natural resources	1,014	Majority stake	74%	Domestic
Adani Ports and Special Economic Zone Limited	Dighi Port Ltd.	Infrastructure management	87	Acquisition	100%	Domestic
Tube Investments of India Limited	CG Power & Industrial Solutions Ltd.	Manufacturing	93	Controlling stake	56%	Domestic
Think & Learn Pvt. Ltd.- BYJU'S	WhiteHat Education Technology Pvt. Ltd.- WhiteHat Jr.	Start-up (Edtech)	300	Acquisition	100%	Domestic

PE Deals

Investor	Investee	Sector	Stake %	Value (in USD Mn)
Vista Equity Partners	Jio Platforms Ltd.	Telecom	2.3%	1,496
KKR	Jio Platforms Ltd.	Telecom	2.3%	1,496
Softbank and RA Hospitality Holdings	Oravel Stays Pvt Ltd.- OYORooms.com	E-Commerce	N.A.	807
Baring PE Asia, ICICI Prudential Life Insurance Co. Ltd., Gaja Capital and CDC Group	RBL Bank Ltd.	Banking and financial services	N.A.	2,100
Foundation Holdings, Kaizen Management Advisors Pvt. Ltd. and existing investors	Toppr Technologies Pvt. Ltd.- Toppr	E-Commerce	N.A.	46

Major IBC deals

The IBC has ushered in a change in mindset among promoters and investors and fostered a more cohesive approach to tackling debt.

Seven of the cases within the infamous dirty dozen and amounting to around USD 45 billion have already been resolved, further driving a sense of confidence in this law and, more importantly, instilling a sense of credit discipline.

Sr. no.	Company	Resolution applicant	Debt (USD Billion)	Recovery %
1	Bhushan Steel	Tata Steel	8	62
2	Electrosteel steels ltd	Vedanta	2	40
3	Monnet Ispat and Energy	Consortium of JSW and AION	1	34
4	Jyoti Structures	Group of HNIs headed by Sharad Singhi	1	54
5	Alok Industries	RIL and JM Financial ARC	4	17
6	Bhushan Power & Steel	JSW*	7	NA
7	Essar Steel	Arcelor Mittal	7	65
8	Jaypee Infratech	NA	1	NA
9	Era Infra Engineering	NA	1	NA
10	Amtek Auto	NA	2	NA
11	Lanco Infratech	NA	7	NA
12	ABG Shipyard	NA	3	NA

Resolution options outside IBC

One Time Restructuring as per Aug 2020 RBI Circular

While exiting the moratorium, the RBI proposed a structured and long-term resolution approach for the benefit of retail borrowers and lenders. The resolution framework for COVID-19-related stress provides an unprecedented framework for restructuring retail exposure.

Time bound process

Risk of aggressive restructuring

Only for those impacted by Covid-19

Risk of conservative or simplified restructuring

Option for borrowers under the scheme

Rescheduling of payments

Conversion of accrued or to be accrued interest into another credit facility

Moratorium, maximum upto two years

Commensurate modification in loan tenure and granting of additional facility

The framework, however, needs quick and robust implementation

- Resolutions under this framework must be invoked **by 31 December 2020**
- Board-approved policy needs to effect the framework
- It requires clear visibility on cash flows from customers and coherent plan(s) to prevent further slippages
- Only for those impacted by COVID-19
- Risks of aggressive restructuring