

NEWS FLASH**24 August 2019****Key announcements by the Finance Minister at the Press Conference****Foreign Portfolio Investors**

The Indian Finance Minister ('FM'), in a Press Conference on 23 August 2019, announced a string of measures intended to boost the economy. Subsequently, the Central Board of Direct Taxes ('CBDT') has issued a Press Release dated 24 August 2019 to withdraw the enhanced surcharge on capital gains on certain capital assets arising to Foreign Portfolio Investors ('FPIs') and others. We summarise below the key announcements relating to tax and capital market regulations.

➤ **Removal of enhanced surcharge on certain capital gains:**

- i. The Finance (No. 2) Act, 2019 had levied an enhanced surcharge at the rate of 25% in the case of FPIs categorised as Association of Persons ('AOPs') having aggregate income in the range of INR 20 million (~USD 0.3 million) and INR 50 million (~USD 0.7 million) and at the rate of 37% for those having aggregate income exceeding INR 50 million.

The said enhanced surcharge of 25% / 37% has been decided to be withdrawn from 1 April 2019 for all foreign investors (including FPIs) and domestic investors, in respect of income earned by way of short term and long term capital gains taxable under sections 111A and 112A of the Income-tax Act, 1961 ('the Act') respectively, arising on listed equity shares, units of equity oriented mutual funds and units of business trusts. Sections 111A and 112A of the Act apply to capital gains arising on transfer of listed equity shares, units of equity oriented mutual funds and units of business trust.

The CBDT vide its Press Release dated 24 August 2019 has confirmed the withdrawal of enhanced surcharge on the abovementioned capital gains arising to FPIs and others. Additionally, the said Press Release states that capital gains arising on transfer of derivatives to FPIs taxable under section 115AD of the Act shall also not be subject to enhanced surcharge.

In view of the said Press Release, capital gains arising on the transfer of debt securities, unlisted securities and income from other sources such as interest shall continue to be subject to the enhanced surcharge as introduced vide Finance Act (No.2), 2019.

- ii. This is a welcome announcement which will provide the much-awaited relief for FPIs, and in turn, provide a boost to the capital markets.

- iii. Specific details on the income slabs and manner of calculation of total tax including surcharge shall be notified separately by the Finance Ministry.

➤ **Issue of notices, orders vide centralised computer systems:**

- i. All notices, orders etc., issued on or after 1 October 2019 shall be issued through a centralised system computer system which will bear a computer generated unique Document Identification Number ('DIN').
- ii. Any communication issued without DIN on or after 1 October 2019 will be void in law.
- iii. All existing notices to be either decided by 1 October 2019 or uploaded again through the system.
- iv. From 1 October 2019, all notices to be disposed off within three months from date of reply by the taxpayers.
- v. A specific notification would be issued to implement the above announcements.

➤ **Measures to deepen bond market, increase capital inflows and energise financial markets:**

- Deepening of Bond markets in India:
 - i. To improve access to long-term finance, it is proposed to establish an organisation to provide Credit Enhancement for infrastructure and housing projects; this would enhance debt flow towards such projects.
 - ii. Further action on development of Credit Default Swap markets is expected soon in consultation with Reserve Bank of India ('RBI') and Securities and Exchange Board of India ('SEBI').
 - iii. To improve domestic market for bonds, Ministry of Finance will work with RBI to make it more conducive to investors and bond issuers, as well as facilitate increased trading for price discovery.
 - iv. The Companies (Share capital and Debenture rules) 2014 will be amended to remove the mandatory requirement for creation of Debenture Redemption Reserve of outstanding debentures in respect of listed companies, Non-banking Finance Companies and Housing Finance Companies.
- Depository Receipt Scheme 2014 is expected to be operationalised soon by SEBI to enable Indian companies increased access to foreign funds through American Depository Receipts / Global Depository Receipts.
- A simplified Know Your Client process will be announced to improve access for foreign investors including FPIs.

- The Finance Ministry is working with RBI to bring Offshore Rupee market to domestic stock exchanges and permit trading of USD - INR derivatives in Gujarat International Finance Tec-City International Financial Services Centre

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