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# Corporate Restructuring: In India and its Impact on the Economy

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SHREYA CHOPRA<sup>1</sup>

## ABSTRACT

*Corporate Restructuring is financial engineering technique for restructuring or rebuild of the corporate entity to modify its existing Corporate capital structure. It helps to underline the Gaps in our ability to deal with the corporate crises, existing market changes, monetary policies. It teaches us what works and what does not, although we need to continue searching for additional practical solutions that were not tried during the crises.*

*The world is changing day by day in terms of customers i.e peoples, thoughts, behaviours, habits, tastes etc. other than that there are rapid changes in technology, competition, products, market geographical area, new business policies, new business tools and standards, changing in political structure, Generation mind setup, Market policies, emerging of new sectors, etc. Restructuring helps the corporates to enhance their performance to beat the market competition and innovate in order to continuously maximize the profit to the existing promoters and shareholders, and help corporates to work into existing markets, grow the customer data, swipe off-market competitors, and implementation of new information and Technology and new software technology to give the training secession to the existing and new appointed staff to update the People and staff. A Corporate going through the tough financial scenario in the very current situation must need to understand the right process of corporate restructuring thoroughly, mostly the corporate associated with the financial troubles due to some significant problem. The Management of the troubled Corporate / company must hire the Financial as well as the legal Expert to assist and advise of the transaction deals and making the controversial and difficult decisions to save or restructure the Corporate and arrange the debt financing, reduction in operational expenses and to increase the sales as per the existing market scenario. And accordingly to the redirection of the firm's activities and deploying surplus cash from one business to finance profitable growth in another and to reduce the market risk and to focus the development of core competencies.*

**Keywords** - corporate, structuring, finance, board, development, market, policies, management.

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<sup>1</sup> Author is a LLM Student at IILM University, India.

## **I. INTRODUCTION**

The need for Corporate Restructuring is to do the different things in as settled unique different ways for restructuring companies and the “single common objective in every restructuring exercise is to eliminate the disadvantages and combine the advantages”. The corporate restructuring includes a number of decisions and actions to improve the efficiency of the company

The needs for Corporate Restructuring for a company exercise are as follows:

- a) To improve the profitability of the company and improve the Balance Sheet to focus on core activity, and maintain operational synergy by allocation of managerial capabilities and infrastructure.
- b) To consolidate the available resources and to scale them by expansion and diversion to exploit the extended domestic and global markets, customers.
- c) To motivate on the highest level and redirect the available staff and to reduce the untrained and unwanted staff means “right man on the right job” method, with the highest production on minimum time method to reduce the cost of production and increase the profit of the company.
- d) To Change corporate management by appointment legal / financials/production experts or by the merger of low-profit units with the profit-making companies to introduce the new mind step up.
- e) To Infusing of promoters equity by way of liquidation of shares or infusing unsecured loans on personal or through corporate companies or by funding from other corporates; government banking financial structures. it must be remembered that the Funding and capital restructuring should be a mixture of appropriate loan and equity funds to reduce the cost of servicing and improve return on capital employed. But the most important to reduce the Interest Cost or Fund Cost. And rescheduling the Debt structure.
- f) To increase the corporate performance/productions/profits by introducing the Informative new Technology to bring it at par with market competitors.
- g) To make new Corporate contracts and add-on new suppliers to acquire and maintain regular/unstable supply of the necessary raw materials and necessary goods and to access the new technological developments. Further to this to include skilled labour and technical staff for the minimum production loss and wastage.
- h) To improve an introduction of new marketing strategies and conduct a public relations campaign at large to reposition the company with its Customers at large.

- i) To Improve the Strategies relating to marketing and sales and minimise the cost of distribution and check that it should reach a large scale of the Customers domain.
- j) To improve the production strategy to reduce the cost of production by introducing the advanced technical know-how and to introduce the new machinery as well as to introduce the skilled labour to deal with the machinery.
- k) To Introduce the new way fo working styles and strategies like amalgamation (M&A) mergers/acquisitions, to do the takeovers of the sike units and companies and make the necessary change and in regard to important aspects and to make the through planning for the inorganic growth for the fast track of corporate restructuring

## **II. FINANCIAL CORPORATE RESTRUCTURING**

The financial Corporate Restructuring should be made on the Current Market- based Scenario and with the available financial instruments including :

### 1. Restructuring of Capital Structure :

- By issue and raising of share capital structure or by issuing corporate Share in the Market
- By infusion of Promoters / Share holders/members fund
- By infusion of Unsecured Loans and advances by the Promoters and their friend and relatives and related companies or by subsidiary Companies
- By way of introducing the long term convertible Bonds and Debentures
- Restructuring/ Rescheduling of Debt Structure.
- By way of debt funds raising.
- By way of obtaining the over draft limits for purchasing of Good materials and for the Capital and revenue nature expences.
- By way of conversion of debts –for- equity swap
- By way restructuring of Existing funding structure by the takeover of rescheduling for increasing the funding credit limits and reduction in the payment of Interest rates
- To restructuring for a reduction in the Debt Costing

### 2. Operational Restructuring

- Changes in corporate Management Team, Hiring of Markets/ sales /production/

financial Experts

- Disposing and changeover of the under-utilised assets, such as Goodwill / Brands / Patent rights.
- Outsourcing its operational and production structuring such as technical Expertise and off roll technical staff, and professional help for more efficiency.
- Shifting and moving Technical, support and manufacturing operations to lower-cost locations.
- Reorganising functions such as marketing, sales, and distribution.
- Re-negotiating the labour contacts to reduce overhead.
- Conducting and re-structuring of Market Strategy and introducing of the new campaign in regards to public relations at large to re-position the company with its consumers
- The utilisation of maximum use of existing sources and staff by motivating on the highest value
- It's also necessary to the organising of the employees training programme for the upgraded knowledge of the workers and same time may appoint the new skilled staff for the higher production with minimum wastage

There are some important aspects that should be considered in Corporate restructuring.

1. We must see or check the legal aspects and procedural issue for the same we must hire Legal Experts

2. We must check the accounting aspect while adjusting and transferring the Accounting entries for the same we must hire some Accounts Experts

3. We must see the human and cultural synergies aspects and the right job allocation method

4. We should be done a fair valuation and functioning of the Existing Corporate policy

5. We must Calculate the taxation part also as well as the calculation of stamp duty in case of Buying and Selling and transfer of Assets

6. We also must check the current market competition aspect and must check the qualitative production chek according to the taste of the Customer.

### **III. SOME IMPORTANT ASPECTS OF CORPORATE RESTRUCTURING**

There are some other aspects that should be considered at the time of Corporate Restructuring

such as :

a) **Employees aspects:** there should not be afeared or scarce between the companies employees because generally it creates the fear in the worker's mindset and builds the fear to lose the existing job. The following employee's aspect to be seen is very important before the go for the Corporate restructuring

- **Understanding of your existing working staff** – In Corporate restructuring it is a must to understand the mindset of the existing staff/workers. Because it's never easy of the sudden layoffs and as result the growing of negative thoughts in the worker's mind and that effect the underutilisation of work force results and fear of losing the job of the other remaining staff. So it's very important, Before deciding which employees have to retain and which has to let go, it is very important that you must first get your strategies right. In the corporate restructuring, you must make the decision of staff rescheduling of reshuffling as per the duties, new tasks, new job roles, capabilities and efficiency of the employees and the work behaviour its is very critical understand and make the choice of the right man on the right job.
- **Existing and proposed Organizational structure** - In Corporate restructuring, the worker's roles, scopes, allocation of responsibilities and authority of the staff and workers/employees should be defined in a very fine tune and actual way. The corporate must have a defined working structure to make the clear understanding and instructions to every employee about the target and work behaviour and the working conditions with the existing restructuring of the company. As well as the corporate must be informed and make them understand the existing organisational structure and planning about the post-restructuring.
- **Redesigning and restructuring the jobs work** – The corporate should very carefully and with understanding manners define the organisational working chart, we should have to redesign/restructure the authority and responsibility and roles of the existing worker/staff/employees as per the introduction of the new strategy. The corporate has to compare the new working job roles/workstations and responsibilities with the old ones. Sometimes have to consider the employees training and development programme and working schedule and method and nature of work and upgrade the know-how and technology of the exiting staff instead of appointing a new skilled expensive staff.
- **Re-deployment and downsizing of the structure** - After all restructuring is also the most important factor for the Employees and the company's management or supervisor and to choose the right employees. While making the planning and decision, we should

have to be very careful and should take the right decision for the success of the restructuring of the firm making process and proceed accordingly

**b) Management aspect:** there might be a possibility and difference of opinion between the Managerial existing or new appoint Personal as the :

- Coordination can become difficult when there is a change /or new appointment of the new Managerial Persons or Expert in existing managerial pattern
- Coordination can also be difficult at the time of the merger of two different cultured and different working environments corporates management. so, it may create a problem misunderstanding and egos clashes between the existing or new managerial personnel.

**c) Shareholders/Members aspects:** There should get the benefit ( as corporate restructuring is for the benefit purposes ) because they are major stakeholders of the corporate amount wise and they know internally the benefits and negative/drawbacks of corporate.

**d) Creditor aspects:** Creditors are the main suppliers of the Corporate and the supply chain of raw materials should not be stopped at any time for smooth production. Their interest is only to get the regular payments according to the terms of the Contract signed with the corporate or by the billing amount according to the supply of the material.

**e) Existing credit line Lenders aspects:** The restructuring must take care of the existing Credit lender i.e NBFCs, Private or National Banks, Other Financial Institutions *i*). either secured Lenders or ii). Unsecured Lenders or iii.) Other persons/companies invested in the corporate as Unsecured Loans

“The Bond or Convertible or Non-Convertible Debenture Holder aspects also be secured”

**f) Corporate governance aspect:** The Corporate should do the acts of Restructuring under the framework of rules and regulations, that enables the stakeholders to exercise appropriate return on their holdings. The Corporate should make changes in the fundamental cultural and institutional rules and regulations according to the new corporate governance structure changes *if required*. And it should be established with arm's length, transparent relations between corporations, Government Policies, Taxation Policies, and other related Authorities regulation act, and banks and RBI policies under Negotiable Act changing corporate governance, however, is a long-term process.

**g) Corporate Financial Ratios:** Corporate reconstructing involves the restructuring of all the assets and liabilities of existing/new structural corporations, which includes FACR, Adjusted Debt / Equity ratios, Adjusted Det / Ebidta, Debt Service Coverage Ratio, Current Ratios etc. In Corporate restructuring, the Cash Flow should be in order to:

- Promote efficiency
- Restore growth,
- Minimizing the cost to taxpayers.

*h) Legal and Procedural Aspects:* The corporate restructuring must be within the Legal limits and as per the state and central Govt. Laws and all the mentioned Procedural should be followed

*i) Accounting aspect:* The Restructuring should follow all the Accounting Policies and rules and regulation and taxation policy to complete the restructuring

*j) Valuation aspects:* In the corporate restructuring, the valuation part is the most important at the time of the Merger and Acquisition part. The valuation must take the Value of the Current and Fixed Assets and the Current and Long term Liabilities as well as the Reserve of the corporate also be taken in the valuation. The stock holders of the existing corporate value the current stock valuation on the market value of the share where as the Promoters like to take the maximum valuation on the market assets base value method along with the share value.

*k) Competition aspect:* The Corporate restructuring should give the strength to the corporate to stand in this Competitive World and also be in such manner to make growth in a bull way in the changing world of Information and Technology and the modest equipment and tools and usage of modern technology. As well as to reduce the Cost of Production and to increase the sale volume and production quality to increase the Profits of the Company

#### **IV. TIME TO CHANGE AND FUNDING STRATEGY IN CORPORATE RESTRUCTURING**

Corporate restructuring is basically the tool to fix the Corporate's bad /troubled financial situation. when a corporate holding high debts in its books, unable to payoff the debts on time or feel stressed to pay the debts on time, and when the corporate all profits vanish under the repayment of its financial debt structure repayments not even the Principal either the Interest. so the corporate does

- *Change the strategy:* The corporate management in the financial distressed entity attempts to improve its performance by introducing or forcing on core profit divisions and eliminating certain divisions which do not align.
- *Planning and strategy tool for Lack of Profits* The restructuring is done when there are not enough profits to cover the cost of Capital and resulting in financial losses. The poor performance of the corporate is the result of some wrong decision taken to cause the losses or profitability. In the restructuring, the corporate has to make the planning and to execute the plans on the reality to increase the profitability of the corporate.



- **Principal of reserve synergy** The concept in contrast to the principle of reserve synergy is, where the market value assessed of the merged unit is more than the value of individual units collectively. in Restructuring, the main reason for divesting the total assets of the corporate to a third party can fetch more value rather than owning it.
- **Cash Flow Requirement** The corporate in the restructuring process can dispose of an unproductive undertaking that can provide a considerable cash flow to the company. if a corporate entity is facing some complexity or difficulty in obtaining finance from Internal resources or from any outer sources then disposing of an asset is an approach in order to raise money and to reduce existing debt.

Corporate restructuring significantly changes not only a company's business/model but also the management team and the financial structuring pattern to address the different challenges to reduce the financial cost, to increase sales and production to increase the profits resulting in to increase the shareholder value. In Corporate restructuring, the most important part is the financial part and to understand this it is very necessary to understand the structuring of FUND.

## V. CORPORATES ARRANGE FINANCES BY TWO SOURCES

- 1) First is internal sources from the promoters or the stakeholders by issued Capital of the Company which is called the Equity part ( Own Funds )
- 2) The funds can be arranged from the third parties, in General, called the Debt funds ( Borrowed funds)

You can create it or call it with any name or from the capital structure is of “the two categories – debt or equity”.

**Capital structure ratios of own funds and borrowed funds:** for the Capital structure of any corporate the Internally generated funds play a very important component, for the growth of corporate in the fast pace it would be unusual for a Corporate Internal funding structure or infusion of internal funding by the management. So the Gap between the total funds requires by a corporate for its growth on and above the funds generated/infused of introduced itself/ internally, or by the rise in the capital structure with funding from third parties. The most important part to understand is the Cost of capital Equity. “The internal capital is the permanent working fund of the company where is it not require any internet service. On the other, Dividend paid to the equity shareholders out of the profits earned the return to the equity capital”. The corporates raise funds through the issue of equity capital.

On the other hand, the Debt is essentially an obligation to the Corporate as the “repayment of the principal amount within a specific time of sanction of Debts together with the periodic

payment of interest on its". The Corporates raise the funds forms the Banks/Financial institutions /NBFC etc. This form of loan capital are may be comparatively expensive than equity.

In a Corporate, while calculating a company's taxable profit Dividend is not a deductible expense; as it is an appropriation of profits. Where as, the interest paid on any debt/or credit line finance taken by the corporate from any financial institute is an allowable expense while calculating a company's tax part, thereby reducing its taxable profit.

The funding structure of a corporate comprises with its :

- i. Issued and Paid-up capital or by equity and preference issued and subscribed share capital to the stakeholders
- ii. Various reserves and surpluses from the accumulated years
- iii. Companies' borrowings can be in the form of –
  - a. long and short term borrowings/loans from Banks/NBFCs/ financial institutions
  - b. Working capital /Overdraft Credit line from banks
  - c. Debentures
  - d. Bonds
  - e. Current Liabilities Credits from Suppliers / Trade Deposits
  - f. Public Deposits and Securities monies
  - g. Unsecured deposits/loans from directors, their relatives and business associates/subsidiary companies
  - h. Advance and Deposits from shareholders and members
  - i. Advance on Convertible debentures in Bonds
  - j. funds raised through any other loan instrument.

A corporate may raise or keep any one or more options keeping in view its financial requirements at a particular point in time.

### **The balance between Debts and Equity**

For the Growth of the Corporate, it's very necessary to balance between companies debt and equity fund in its capital structure and the over external funding resulting deficit. When the Corporate in its lifetime sets targets resulting striking this balance and influenced by business conditions, which seldom remain constant. Then, the Board of Directors or management of a company is compelled to decide the corporate restructuring.

- i. Its become essential for infusing more working funds and capital to meet the day to day market demand and supply expenses of the company's products or services

- ii. When the condition of NPA arise and the company feel that now they can't meet its current commitments
- iii. When the company has a huge debt liability to pay to creditors and is not able to obtain any more funding/or credit line from suppliers of raw materials, consumable stores, or bought-out any components etc. and from other parties like those doing job work for the company.
- iv. When there is a lack of liquid funds in the company and the company can't run on its full production capacity

“Financial restructuring of a company involves rearrangement of its financial structure so as to make the company's finances more balanced”

## **VI. OVER AND UNDER CAPITALISATION AND CORPORATE RESTRUCTURING**

### **The meaning of over capitalization and under capitalisation.**

“(A company is said to be over-capitalized if its earnings are not sufficient to justify a fair return on the amount of share capital and debentures that have been issued. Otherwise, it is said to be over capitalized)” when the

Total of internal and borrowed capital > The fixed and current assets i.e. when Corporate shows accumulated losses on the assets side of the balance sheet.

(If the owned capital of the business is much less than the total borrowed capital than it is said to be under capitalization) i.e. Owned Capital < Total Borrowed Capital. Or, we may say it like “that the owned capital of the company is disproportionate to the scale of its operation” and the business is dependent more upon borrowed capital. Under capitalization may be the result of excess volume of trading Over capitalization may be due to insufficient volume of trading.

### **Restructuring of under-capitalized Company**

The Corporate may restructure under-capitalized capital by taking one or more of the following corrective steps

- The corporate may inject more capital whenever required, either, by resorting to rights issue/preferential issue, or, by additional public issue.
- The Corporate may resort the additional borrowings from Banks/NBFC's/Financial institutions/or by private financier etc.
- The Corporate can issue Convertible or non-convertible Debentures, bonds, etc.
- The Corporate and invite and accepting fixed deposits Unsecured Loans or advances from Directors, their Friends and Relatives, Business Associates and from Public.

### **Restructuring of over-capitalized company**

The Corporate may take the following corrective steps if corporate is over-capitalized.

- The Corporate can *Buy-back of own issued shares*.
- The Corporate can pay back surplus share capital to shareholder
- The Corporate and Repay existing loans to financial institutions, banks, etc.
- The Corporate can Repay existing Fixed Deposits to the public, etc.
- The Corporate can Redeem its debentures, bonds, etc

## **VII. CORPORATE RESTRUCTURING: MERGER AND ACQUISITION**

### **Merger and acquisition**

Restructuring of business is an integral part of modern business enterprises and usually involve major organisational changes such as Shifting in Corporate Strategies, changes in financial and organisational structure, changes in research and development of Core Products and process, hiving of non-core units, disinvestment, sale-off, demerger etc. its basically a re-organisation of Existing Business organisation to Create new Synergies to face the competitive environment and to grow in the changed market conditions.

“Restructuring can also take place EXTERNALLY through Merger and Acquisition ( M&A) and by forming Joint-Ventures and having Strategic alliances with other firms”. The term “Mergers,’ ‘Acquisitions’ and ‘takeovers’ are often used interchangeably in common Parlance. However, all are differences.

Corporate Merger & Acquisition is the process of buying, selling two or more different corporations/companies with the mind setup of expansion of the company and to take/try to create the growth. In today’s competitive world, it implies an important part of any dipping business model restructuring which plays a vital role for business growth and to achieve the targets in the changing economy. Corporate mergers and acquisitions play a very important tool to deal with the market scenario. It’s a common tool that helps in every restructuring process of a company/business to prove beneficial to the fast-changing corporate world. As it provides the facility of sharing all types of resources between the different concerns. With corporate merger and acquisition of dipping companies performance, the corporate restructuring makes the opportunity towards the reduction of corporates overall cost, on the other hand, supports the globalization of existing business with wings resulting to increases the goodwill and market value/share of the corporation.

### **A. Merger**

In a Corporate world Merger is the combination of two or more companies that can be merged together either by way of amalgamation or absorption.

The mergers can be structured in multiple different ways, based on the relationship between the two companies involved in the deal. Generally, the merger of two or more companies is by offering the stockholders of one company securities in the acquiring company in exchange for the surrender of their stock. Further Mergers can be explained as :

- i) **Horizontal Merger:** The Merger is Horizontal in nature when there is a merger of two or more companies that compete in the same industry. It is a merger with a direct competitor and hence expands as the firm's operations in the same industry and same product. Its direct impact and result in reducing the number of competitors in the industry and to rise in the sale of a product
- ii) **Vertical Merger:** The merger is vertical in nature when it takes place between the two companies that are operating in the same industry but at different stages of production or distribution or suppliers system. Say there is a merger of a company on one part with its supplier or distributor or raw material on the second part of If the main production company takes over its supplier/producer of the raw material company, then it may result in backward integration of its activities. On the other hand, Forward integration may result if a supplier or distributor of the raw material company decides to take over the retailer or the main Customer Company. The vertical merger provides a way for total integration to those firms which are striving for ownership of all phases of the production schedule together with the marketing network
- iii) **Co generic Merger:** The merger is called a Co-generic merger where the merger happens between two companies that are of the same or related industries but do not offer the same products, here the related products may share similar distribution channels, providing synergies for the merger. In the merger, the potential benefit is high in the real sense because these transactions offer opportunities to diversify around a common case of strategic resources.
- iv) **Conglomerate Merger:** The merger of the Conglomerate merger is where the business of two companies are not related to each other either horizontally or vertically. In a pure conglomerate, there are no important common factors between the companies in production, marketing, research and development and technology. Conglomerate mergers are a merger of different kinds of businesses under one flagship company. The purpose is to remain to utilise the financial resources of both the company's enlarged debt capacity and also the synergy of managerial functions.

## **There are some important few topics related to Merger to Acquisition in corporate restructuring**

- a) **Demerger:** It is a form of corporate restructuring where the Corporates operations are divided/segreated into one or more components. The demerger is a process to help each of the segments operate individually more smoothly than earlier and each separated units focus on a more specific task after the demerger.
- b) **Reverse Merger:** In the merger process the reserve merger is the opportunity for the unlisted companies to become public listed companies, without opting for an Initial Public Offer (IPO). In this reserve merger process, one private company acquires the majority shares holding of a public company, with its own name.
- c) **Disinvestment:** in the process of merger where the Organization or Government sells or liquidates an asset or subsidiary. It is also known as "disinvestiture".

### **B. Takeover/acquisition**

Takeover/Acquisition means when one company acquirer or takes over the control of the other company or target company. Normally this type of acquisition is undertaken to achieve market supremacy. It is of two types it may be friendly nature with both consent or hostile nature takeover.

- i. **Friendly takeover:** In this Acquisition process one company takes over or acquire the management of the other company or of the target company with the permission of the board.
- ii. **Hostile takeover:** In this Acquisition process, one company takes over or acquires the management of the other company or of the target company without its knowledge and against the wish of their management.

### **C. Joint Venture (JV)**

The Corporate restructuring joint venture is also playing an important role its an entity formed by two or more companies to undertake the financial activity together. In joint Ventures bother the jointed companies parties agree to contribute equity to form a new entity and share all the revenues as well as all the expenses and the control of the corporate/company.

The Joint Venture can be:

- i. **Project-based joint venture:** When two companies enter into a joint venture agreement to achieve a specific task is known as project-based Joint Venture
- ii. **Functional based joint venture:** When two companies entered into a joint venture in order to achieve mutual benefit is known as a functional-based joint venture.

- iii. **Strategic Alliance:** in Corporate restructuring when two or more companies entered into an agreement in order to achieve some certain objective while continuing to remain independent organizations is called strategic alliance.
- iv. **Franchising:** The Franchisee arrangement is an arrangement where one company ( Brand/Trade name holder or called Franchiser) party allot the rights to use its name or allow to use its brand or trade name to another company ( called Franchisee.). In the Franchisee arrangement, the First company charged two types of fees.
  - a. One time Agreement charges ( at the time of signing of the franchisee agreement.)
  - b. The Royalty charges on some percentage basis either on the entire sales volume or on some portion. On the other hand, the reality can be charged on the fixed monthly amount.
- v. **Slump sale:** in the Corporate restructuring when the management decided to focus on the core business activity or decide to the sale of one or more undertaking as a result on the basis of the sale of entire unit/project/ or part on the basis of lump-sum consideration without values being assigned to the individual assets and liabilities is called Slump Sale.

## VIII. CORPORATES ADOPT MERGERS OR ACQUISITIONS

The Corporate adopt the Merger and Acquisition path to create a sustainable competitive advantage for the corporate and to an incremental increase in the company's growth. Mergers and amalgamations of the corporate happen for the following purposes:

### Advantages

1. **Synergistic operational advantages:** Where two or more corporate together produce a new or enhanced effect compared to separate effects.
2. **Scaled Economy:** It's an effect of reduction in the average overall corporate cost of the production and the unit costs of the product when we increase the output, hence: a corporate enable to offer products at the more competitive prices and thus to capture a larger market share.
3. **Reduction in expenses:** restructuring done for the reduction in production, administrative, selling, legal and professional expenses of the Corporate.
4. **Benefits of integration:** when two or more companies merge or join hands together under the same control for their mutual benefit resulting from the reduction in competition, saving the costs by reducing overheads expenses, and with large hands capturing a larger market share

and reach the max customers, jointly pooling technical knowhow and financial resources, jointly reduce the cost of on research and development, etc.

5. **Optimum use of resources:** In the Process of Merger, amalgamation or Acquisitions the corporate got the optimise use of capacities and factors of production on both ends

6. **Tax advantages:** The intellectual way of the right restructuring is to Cut off all carried forward losses of a loss-making company on one hand with the set of profits of a profit-making amalgamated company,

7. **Financial constraints for expansion:** A restructured company that has the capacity to expand but cannot do so due to financial constraints may opt for merging into another company that can provide funds for expansion

8. **Strengthening financial position:** In a Corporate restructuring merger, amalgamation or acquisitions when two or more companies merge or join hands together under the same control for their mutual benefit resulting from the strengthen the financial position of the corporate

9. **Diversification:** Diversification in a Corporate restructuring means enlargement of business in both ways in working of a number of industries concurrently (product diversification) or getting into a number of geographic markets or beginning a brand new business in the same industry.

10. **Advantage of brand equity:** In this current market scenario and changing global market environment the customers are willing to pay a premium for a brand they attribute a higher value to the branded things and these higher prices contribute to higher profit margins. The Advantage of brand equity impacts sales positively. It helps to improve retention rates that lead to a higher customer lifetime value and a lower cost of acquisition. In any Corporate, Positive brand equity increases the propensity of customers to forgive negative experiences. Brand equity, on the other, is an intangible asset but has a very strong value to raise the profits of the corporate

11. **Competitive advantage:** For Corporate restructuring, a competitive advantage is an attribute that enables a corporate to outperform its competitors in the competitive market. This allows a company to achieve the maximum profits compared to other competitors and generates a higher value and image for the company and its maximum gain to their shareholders.

12. **Eliminating or weakening competition** Corporate mergers kills competition and this is the only way to think about your business and especially your competition. Most of the corporate do not desire competition in the business but then eliminate it. The right choice is to become a giant by shaking hands with the competitors in a big way. In this economy, you can't afford to give your product and services away today, so you have to figure out the solution to



how not to compete and then to create situations where you eliminate competition not being compared to it.

13. **Revival of a weak or sick company.** The purpose of the Corporate restructuring is to strengthen the company to reduce the production, sales and financial expenses and to increase the price and sales to increase the profit

### **Problems**

The Process of Corporate restructuring In the process of restructuring of various factors like market conditions, variedness in cultures and behaviour of business, cost of acquisition of corporate and new policies, and modifications to the financial power around the corporate. Mergers and Acquisitions in the corporate restructuring should be ascertained through the short-term strategy and long-term strategic outlook of the company for the standing and coming in a new look and way in the market by the new and acquiring companies. In and restructuring of the corporate if the short-term financial benefits are not actualized, then the long-term realizations may be visible as a valid and probable reason for the merger or acquisition.

In any corporate restructuring four parts involved in the process of merger and acquisitions

- i. Managerial Decision making for the Corporate,
- ii. Corporate Operational and financial advantages,
- iii. Costs of the Restructuring and other expenses.
- iv. The drawback of Consumer & shareholder.

In a corporate merger, it is not necessary that all the reasons are of financial nature. Merger and Acquisition decision is within the scope of the Management/Board of Directors which may also be subject to political, social, and personal interests, the decisions also are in favour of the shareholders they should not be get messed up with other additional factors. The reason for the unsuccessful merger and acquisition is the Intent and misleading and over-optimism in respect of the financial results.

Economics of scales while doing the corporate restructuring under merger and acquisition we have to see all the aspect because sometimes it the Board of directors and the Management people of the corporate take the poor decisions. This can be represented as a failure of the merger and the purpose of the restructuring of the new corporate got failed due to weak decisions poor planning and strategy and the overestimated valuation of the acquired company. There are some of the reasons, where some corporate mergers fail due to rules and regulations. There may be an ignoring conflict of interest and the behaviour approach of the decision-makers for the net economic advantage and of not estimate the effect of the short-term

financing, and consumer disadvantages.

## **IX. (M&A) MERGERS AND ACQUISITION COST**

The corporate merger includes the legal and mergers expert's expenses, which make some time the mergers and acquisitions over costly. Further to this in the short run, the estimations to get the higher yield profit the cost of acquiring a new company become much higher. That is why restructuring merger or acquisition should be done in a more strategic way rather than a tactical negotiation way. So the approach of mergers and acquisitions should be static as it involved the :

- i. Legal/Expert hiring expenses
- ii. Advisor/ Chartered & Brokerage hiring expenses
- iii. Estimated Short-term expenses
- iv. The takeover of the Material Cost
- v. Reduction in Debt servicing ratios of the corporate
- vi. Devaluation of equity/ capital and the reserve
- vii. Cost of Rebranding and Intangible assets

The merger and Acquisition process had an impact and increased the short term activity cost. Sometimes the management ignores it or overlooks the short term operational cost because of the estimation of long term financial higher benefits.

### **Drawbacks on the part of Consumer and stake holders and other interest parties :**

Sometimes in restructuring cases, mergers acquisitions arise on the grounds of disadvantages to the stakeholders/customers /other interests. When the restructuring happens and in the merger when the larger power of pricing is involved in the merger process the new formed corporate company takes the form of monopoly from the decreased competition, and as result, the consumer has to pay the higher price of the product. There are Some disadvantages as :

- i. increase in Monopoly and Higher cost to consumers
- ii. By no or less competition the quality of the product suffers
- iii. It may cause the Diseconomies sale
- iv. This resulted in a decrease in new innovation
- v. Suppression of competing businesses
- vi. The low choice for the product variation for the customer
- vii. There may be a downfall in funded investment and a decrease in equity pricing

In Restructuring of the Corporate by way of merger, Acquisition then some time by the lack in

corporate Leadership the resulting Stockholders may get equity pricing disadvantages by this. If in merger and acquisition activity procedure the corporates competition and forms an influential and impactful corporate entity, then that company may suffer the static production and sales platform and result in the declined prices of shares. And due to the decrease in prices of shares and equity valuations, it may be a short-term disadvantage to the company.

### **Post Merger Effects on Corporate and Economy**

Post-merger the corporate restructuring or re-organization of the company it has encompasses every aspect of the corporate's key/core/other functional areas to achieve the objectives aimed and planned.

The main parameters/results of post-merger in restructuring can be evaluated by the behaviour impact of the managerial team or Board of Directors of the amalgamating company depending upon its planning and objectives and their corporate policy. In a merger procedure, there is the joining of two different corporate cultures and their procedures and protocols their policies and most importantly their employment environment and prospects who are the bedrock of past successes and the key to future value.

In the post-merger, the corporate integration always needs to take the action on time in regards to the change in systems, applications and data provided by both the entities. The Corporate must do Continuous appraisal and improvement on the basis of elements. It is very much possible that the merger can't be successful and the desired result can't be ascertained if there is a complexity of numerous activities.

In the Corporate restructuring merger scheme, it is not proper to divide all the corporate actions and plans in the internal structuring planning and process in a tenses manner i.e. Past, Present, and Future means it is to ensure that all actions should be covered fully and to be placed in a right direction to ensure to make the strategy and proper planning and budgeting for taking the right action.

In the merger or amalgamation or acquisition structuring, a corporate should check the availability of the following points as per the corporate scenario

- 1) **Change of name and logo-** In the merger scheme of the corporate restructuring where the management decides to make the changes in the name of the newly formed entity post-restructuring, then both the companies have to plan and act accordingly the process of change of name on all name on the company boards, letterheads, all branches or locations, website or internet where the name of the Company has been posted or displayed. As well as the actions

to modify the corporate logo to be taken in a timely. Further to this if the new structuring like to change a new branding strategy or to start the structuring under the new logo in the minds of people then the corporate has to initiate and to start the suitable advertisement campaign as early as possible

2) **Revised organization chart-** The Corporate restructuring merger scheme must look deeply at the changes in the structure or the Organizational chart of Top management and the Board of Directors because it directly reflects the new vision/mission, new thinking and post restructure. In case of takeover of the organization, the change in the chart may not significantly whereas the acquired entity may need to align its organization restructure with the acquiring entity.

3) **Communication-** The merger policy must adopt and provide legal documents and proper and should timely be communicated to the corporate organization about the restructuring of policies to all the existing and new employees, and also to provide the new structured status, and bring clarity on the policies and rules and regulation and the current events happening and the new Goals of the organization to avoid miscommunication. It is a must for the Management to give clear direction and clear communication regarding changes in the company's policies and rules and regulations as well. The new corporate entity must send the appropriate communication to all the Existing and new bankers and lenders and the clear policy and goals to the auditors and advisors, etc.

4) **Employee compensation, benefits and welfare activities-** The corporate merger restructuring must be very friendly and be sensitive in regard to rules and regulations working structure and terms and conditions of the employees and the working conditions, payouts and bonuses as well as the working hours and safety policies. In an acquisition scheme, sometimes the acquired company may want the acquired company should adopt the compensation policy and structure of the Acquired company although the parent company like and think this is the best and easy policy for all the employees.

The corporate must have to think and make the policies very carefully to handle all the sensitive areas in regards to the employees for the to satisfaction and comfort to them, who are the main human resources which play a big role in building the image of the corporate. In Addition to this, the corporate has to consider if there are any prevailing policies or benefits and amenities schemes and policies to provide the employees all the benefits in the new set-up (post restructure). The corporate should also introduce the new insurance policies and the premium on it for employee life/accident/medical Policies depending on the conditions of new

corporates existing policy or depends on the current preferred insurance policies and the current vendor's scheme available

5) **Aligning company policies**- The corporate merger has to see and make the correct alignment and to amend /change its internal policies which reflect directly the organization structure in the post restructure scenario. May be This doesn't apply in all types of corporate restructuring but it is the tool to run the company in a smooth manner Particularly in the case of acquisition/takeover, the acquiring corporate always has to instigate all its rules and policies on the acquired entity to bring consistency and make the alignment in the groups' policies.

The corporate according to see the volume of the size of business, location, applicability, Production should make the changes to group policies level the corporate also should see the check from there experts thee relevant Law and policies of the State and Centre. Implementing changes in the policies are the further challenge e.g. if the acquired company already has an Information and technology policy to use a particular branded laptop/ computers say APPLE or use the relevant software and process and the other company uses the other processing software and brand of laptops/ computers say of Acer than the Board of Directors and the Management of the new structure must take the decision to implement the group policy according to new policies.

The corporate should make the policies with respect to employee uniformity in respect of existing IT technology and Communication devices like mobile phones or any multimedia gadget provided by the company subject to the tie-up with some particular insurance company or any particular agents to provide the insurance cover as per the pre-decided and mentioned terms and conditions acceptable to the parent company, the corporate should check the HR-policies which impact directly on the staffs working timings, leaves and holidays etc.

6) **Align between the internal database management and accounting systems**- The merger corporate entity should check the appropriate passing accounting entries to capture financial structure, Post the Acquisition of Corporate restructuring must adopt the familiar accounting practices and policies.

The acquired corporate must have the knowledge and be understand the process and rules and policies of the reporting procedure and the data and accounts according to the need of acquiring/merged company and to provide the relevant data only to the management of the new entity and to align the parent/ merged entity with the existing systems. This process involves providing a suitable environment for the training to the concerned employee to concerned if any and help to correct the personnel and understanding issues.

7) **Correcting and revisiting internal processes**- Restructured corporate need to align and

correct all their internal and external processes and work field with the merged company/entity. The corporates current accounting system may involve the issue of cash or cheques or reimburse to employees/staff of the company against any expenses claimed later, whereas a bank account to be maintained for the purpose by the merged/ acquiring entity and amount to the credits for its employee claims. According to this, the new identity can make the policy to open the employee's bank account for the reimbursement of expenses rather than it can be used to transfer all the hourly incentives and the salary. The corporate to make the proper records and entry may create the mail id's procedures for employees/staff/workers of merging entity and should ensure the all employees access to their previous data.

8) **Statutory Authorities engagement** - Although all the aspects should see properly in the merger of the corporate process but this one is also an important area, which deals with all the legal areas and departments requirements and responsibilities and is close to the company secretary and internal auditor. It is very essential to identify related government departments and authorities which need to be intimated formally on the prescribed form about the corporate merger/amalgamation/acquisition/takeover like MCA department SEBI department, Stock Exchange etc. Corporate restructuring (M&A) also requires various government and statutory departments permissions, and licenses and approvals granted in the past like labour and industrial laws, Income tax/sales tax departments and service tax/GST registrations, permissions under Special Economic Zone and other departments requirements where a unit of a merging entity now becomes part of the merged entity. A corporate must take the appropriate/right steps, which need to be followed by the company for updating the registration for merging entities before the merger.

9) **Keeping of Records** - Keeping and Maintaining records is very important for merging entities and making each and every entry not only for itself i.e. for internal management and board of directors assessment but also for the other interested investor's shareholders and concerned departments. The corporate must check the deep into to ensure the maintenance of all the past records including statutory and non-statutory entries, capital and non-capital nature entries, and must have recorded the proper original documents and papers of various filled forms/returns/certificates/approvals/litigation and the legal property document and records.

10) **Immoveable Property-** A restructuring process or in the merger there may cause the changes in property records, if the merging company/entity ceases to exist, the merged company have to do the necessary steps to ensure the legal records of the property should be are updated properly and correctly and it should show the name of the newly merged company in the concerned departmental records. If a company is occupying leased premises, the new

corporate entity should check all terms of the leased agreement and take the necessary to complete necessary formalities in regards to the landlord.

The corporate has taken or obtained any credit line or over the draft line from any banks or financial institutes against the mortgage of the primary or secondary property, then the new entity has to inform the financial institute/bank or the NBFCs about the restructuring of the corporate and should check, if any, other formalities and documents required to be completed as per RBI's or Banks Financial policies. In another case, the order of the Hon'ble Court where the merger has already been notified is quite enough to bring legal impact for the merger/amalgamation/acquisition, and in this case, the corporate has to intimate formally in the prescribed form within 7 days or so.

11) **Support for expansion of existing team for a larger organization-** In the process of Corporate restructuring and pressure on support staff it is likely to put which was supporting existing or new appointed staff/employee before amalgamation like the in-house training department it might be possible that the training department function needs to cater the training requirements after the Post amalgamation with another company, for double the staff/employees (with including staff of the acquiring company)

It might be possible that the amalgamating company/entity might have a special and individual training department or had a special training module to do the on/off line training programme, in this case, the new entity has to maintain the alignment post the merger/amalgamation.

12) **ISO certification and other similar certifications-** Post the restructuring process the new corporate entity has to make the changes in terms and conditions of the existing certifications such as ISO or similar to the other certifications. Post the restructuring there might be some changes or addition that should be into locations or in the organization structure, then it is necessary to make the suitable changes to the certificate obtained.

It is very common or obvious that after the post-acquisition the new restructured entity/company may decide to close the bank accounts and a branch of the acquired/new entity located in a particular area. We have to understand that the acquiring company may have a large set-up in the particular area which would require intimation and all the necessary formalities to ensure all locations/ Functions in the new set-up are certified.

13) **Government Approvals and Compliances revisiting of past decisions-** Corporate restructuring is all about the future decisions and future actions to be taken. Sometimes for a corporate entity the company to see and check the past decisions/approvals which were taken earlier and then it become necessary to insist on re-visiting earlier decisions. If a corporate

think and come to a conclusion to change any past resolution or the decision of the management like to change any decision of the Management in regards to the Business policies in regards to the employees/staff or Expenses or for production or sales techniques or the business pattern. In the post-acquisition, the board can pass the board resolution if it thinks fit to change the group policy even for remuneration of salary structure or for addition in bonus scheme or to pay remuneration or salary to non-executive directors or the professional or experts etc.

The Corporate after post-merger can also pass the resolution in regards to the change in the payment of shares portion of profit to the share holders, if the corporate has the foreign shareholder also and the corporate has already taken the permission from the RBI in regards to the payment unto a certain percentage to the foreign shareholder, then also the corporate can pass the resolution to change the percentage of the profit-sharing with the foreign shareholder and should be intimate to the RBI in this regards and has to seek the appropriate permission. There might be a few issues that can disputable or debatable in this case the Court order.

In the Corporate restructuring procedures, it is always recommended for the corporate to take the right steps which may reduce the high cost later on In addition to this in some cases the Post corporate restructuring certain laws of requirement applies subjected to compliance with Operational Challenges like if a listed company acquire the non-listed company than the non-listed company has to go for listing before to become its subsidiary company.

In case of the merger of the SEZ units then the corporate new entity has to ensure that all the compliances and the regulations are applicable to SEZ unit.

14) **Contracts**- In the process of corporate restructuring merger/amalgamation or acquisition the Contract between two companies is an onerous exercise but it's very important to check all terms and conditions and all the provisions in the existing contracts of restructuring. With the order of the Hon'ble Court would prevail that all the contracts/ agreements and other legal documents will be transferred in the name of the new entity. Unless and until the company doesn't re-negotiate the term and conditions of the contracts in its favour the company may lose all the concessions and benefits under an existing contract. It is very important for the merged entity to check all terms and conditions and provisions of the contract which formed for restructuring rather than criticizing it as how badly the contract has been and to check various rights and regulations and all the legal grounds and obligations spelt out in the contracts with third parties.

15) **Miscellaneous**- In a corporate restructure the new entity must make the changes to the information shown on the companies website in each and every case. It should make the



appropriate and adequate changes in regards to the companies information and policy changes sales strategy, marketing and change in material purchase strategy, employee job roles and their visiting cards accordingly as well as the employee identity cards, consolidation of the new banking account and bank securities and guarantees and other miscellaneous items, the company should make a proper layout and make proper plans for restructuring and try to cover all the legal ground and possible for the smooth transition.

## **X. CORPORATE RESTRUCTURE: POST-MERGER SUCCESS AND VALUATION**

In the corporate restructuring, every merger may not be a successful merger. There are some important factors, which are, should require to measure the success of any merger are briefly discussed below.

- i. Return on the total assets and on the total net worth
- ii. Increase in the yields or the higher returns and increase in the net profit than before
- iii. Increase in dividend rate, payout and the capitalization of the merged company
- iv. Whether a newly merged company is creating a larger business organization values, which survives and provides a basis for growth.
- v. Increase in the performance of the new entity compared with a similar-sized company (competitor) in the market.
  - a. Increase in Sales volume,
  - b. Increase in assets base
  - c. Increase in net profit or EBITDA
  - d. Increase in earning per share
  - e. Increase in the market price of the share. In general,
  - f. Increase in the growth area of core profit unit
  - g. Increase in dividend payouts to the shareholders
  - h. Increase in the satisfaction in the employees ground
  - i. Decrease in competitions pressure,
- vi. Fair market value is a tool of the valuation criteria for measuring the success of the company post-merger. Fair market value is understood as the value in the hands between a willing buyer and willing seller,
- vii. Betterment in all the financial ratios and reduction in the debts responsibility and increase in the fund availability

- viii. Amount increase and decrease of dividend/profit share/gains to shareholders of the merged company. However, share prices are influenced by many factors but mergers impact what is the real performance results of a company.
- ix. What impact and increase in the ratio of the sources and resources enable it to optimize its end earnings which make the company more healthy in all senses.
- x. Is there addition in regards to the debtor's realization, and reduction in non-performing assets, as well as is there any available sources relating to finance, labour and materials.
- xi. Impact on the Human resources and Cultural Aspect

In every corporate merger, uncertainty has occurred for the staff/employees of the new entity/organization. The uncertainty arises between the workers and employees relating to job insecurity which leads to fear and resulted in low morale/demoralization loss or energy among the employees. It is very natural for staff/employees of the company to fear for their jobs and the loss of their monthly income/revenue or change in their lifestyle and values and status in the community and within the company. In all the cases of corporate restructuring normally the company the cultural integration and the social integration and the issues related to human behaviour, need to understand thoroughly and sensitively to motivate the existing and new employees and to create coordination between them. For a successful merger strategic planners should be a very sensitive and careful analysis of the human issues ( staff/ employees ) of the new entity. Further to this following checks might be constantly made to ensure that:

- i) It should check the most sensitive and important areas of the new entity and should inform personally in a very carefully monitored manners
- ii) Serious and useful efforts should be made relating the key people of the company
- iii) The corporate should be ready to cope with inevitable personal loss with the replacement policy in
- iv) Records should be kept for all the employees who leave, when, why and to where
- v) The company should inform well in advance and systematically about what is going to employees. Uncertainty between the employees is more dangerous than the clear.
- vi) The HR department of the company should be geared fully to provide short term medium term and long term training strategies for the production line and to the managerial staff
- vii) The company should be assessed in advance the union

- viii) At the very early stage, the company should estimate the cost of redundancy payments and pensions amount.
- ix) The company should maintain comprehensive policies and procedures for the employee's related issues and should be given clear information in regards to the office procedures.
- x) The company should be clearly communicated the new policies to the employees especially employees at the level of managers and supervisors level and to the line managerial level and should be briefed about the new policies rules and regulations as well as the responsibilities of those reporting to them
- xi) The company should organize family gatherings and picnics be for the employees and their families of merging companies during the transition period to allow them to get off their inhibitions and breed familiarity.

**For Post-merger valuation following information must be analyzed:**

- i. The new entity must analyse at least for the last 5 year's year-end balance sheets and income expenditure audited statements, up to the valuation date.
- ii. The new entity must get all the new accounting system and policy relating to the stock and inventory, profit contribution by existing production line and revaluation of the property cost and assets depreciation records since purchased and executives and the managerial compensation records.
- iii. The new entity should get all records of companies' patents, trademark

**XI. RESTRUCTURING PROCEDURE FOR MERGER AND AMALGAMATION RELATED TO THE GOVERNMENT COMPANIES**

**Simplified Procedure for amalgamation of Government Companies U/s 396 of the Companies Act, 1956.**

**The Ministry of Corporate Affairs (MCA)**

**MCA:** is one of the important parts of corporate to get restructured. as a ministry of the corporate affair is the portal which provides 21st-century services to business government and citizens of India. It became functional in the year 2006 and thereafter became fully automated related to its enforcement and compliance with all the legal frameworks of the company. This portal is as per the international standards of dealing with the businesses. all the business-related works are to be done in just one portal, platform medium where it becomes further easier to actually complete the work. the portal further provides with the online registration,

filing of returns, reporting financial results and request and public access to corporate information online through a secured platform of the interactive portal with it a number of innovations are also incorporated, it envisages electronic filling and payments made online, through various stages and ports.

MCA benefits all the companies, as well as limited liability partnerships, registered in the country as well as a citizen through **investor education protection funds**. which is a sub-portal for investor awareness and disclosure most importantly it also helps the government to come up with one portal where all the information is provided.it helps the government to exercise control erring corporations today and denied information in order to ensure it is within that one portal; where all the listed entities are present.

It is very important to maintain an official website, containing the basic information about the things the service is dealing with. it should be duly updated for all statutory filings including agreements, entered into with the media companies if there are any In this era century, it is very important to maintain an E - Data, where all the listed entities are present to give away its necessary information.

MCA-21: this project helps to form a strong relationship between the corporate world and the ministry of corporate affairs. A paper-less working, portal-based easy complainants, where the information of the listed entities flows smoothly this project contains 52 E- Forms which directly goes under R.O.C.

In Section 396, it has now been decided that, in appropriate cases, simpler procedures shall be adopted for the amalgamation of Government Companies under section 396 of the Companies Act, 1956 as given below:-

- 1) Every Central Government Company which is applying to the Central Government for amalgamation with any other Government Company or Companies under the simplified prescribed procedure shall obtain approval of the Cabinet i.e. Union Council of Ministers to the effect that the proposed amalgamation is essential in the 'public interest'.In the case of State government companies, the approval of the State Council of Ministers would be required. Where both central and state government companies are involved, approval of both State Cabinet(s) and Central Cabinet shall be necessary.

- 2) A Government Company may, by a resolution passed at its general meeting decide to amalgamate with any other Government Company, which agrees to such transfer by a resolution passed at its general meeting. Any two or more Government Companies may, by a

resolution passed at any general meetings of its Members, decide to amalgamate and with a new Government Company.

3) Every resolution of a Government Company under this section shall be passed at its general meeting by members holding 100% of the voting power and such resolution shall contain all particulars of the assets and liabilities of amalgamating government companies.

4) Before passing a resolution under this section, the Government Company shall give notice thereof of not less than 30 days in writing together with a copy of the proposed resolution to all the Members and creditors.

5) A resolution passed by a Government Company under this section shall not take effect until (i) the assent of all creditors has been obtained, or (ii) the assent of 90% of the creditors by value has been received and the company certifies that there is no objection from any other creditor

6) The resolutions passed by the transferor and transferee companies along with written confirmation of the Cabinet decision shall then be submitted to the Central Government which shall if it is satisfied that all the requirements of Section 396 and the circular issued by MCA on this behalf have been fulfilled, order by notification in the Gazette that the said amalgamation shall take effect.

7) The order of the Central Government shall provide

- a. for the transfer to the transferee company of the whole or any part of the undertaking, property or liabilities of any transferor company
- b. that the amalgamation of companies under the foregoing sub-sections shall not in any manner whatsoever affect the pre-existing rights or obligations and any legal proceedings that might have been continued or commenced by or against any erstwhile company before the amalgamation, may be continued or commenced by, or against, the concerned resulting company, or transferee company, as the case may be.
- c. for such incidental, consequential and supplemental matters as are necessary to secure that the amalgamation shall be fully and effectively carried out

8) The Cabinet decision referred to in para (1) above may precede or follow the passing of the resolution referred to in para (2).

9) When an order has been passed by the Central Government under this section, it shall be a sufficient conveyance to vest the assets and liabilities in the transferee.

10) Where one government company is amalgamated with another government company, under these provisions, the registration of the first-mentioned Company i.e. transferor

company, shall stand cancelled and that Company shall be deemed to have been dissolved and shall cease to exist forthwith as a corporate body.

11) Where two or more Government Companies are amalgamated into a new Government Company in accordance with these provisions and the Government Company so formed is duly registered by the Registrar, the registration of each of the amalgamating companies shall stand cancelled forthwith on such registration and each of the Companies shall thereupon cease to exist as a corporate body.

12) The amalgamation of companies under the foregoing sub-sections shall not in any manner whatsoever affect the pre-existing rights or obligations, and any legal proceedings that might have been continued or commenced by or against any erstwhile company before the amalgamation may be continued or commenced by, or against, the concerned resulting company, or transferee company, as the case may be.

13) The Registrar shall strike off the names of every Government Company deemed to have been dissolved under sub-sections (10) to (11).

14) Government companies are not prevented from applying for amalgamation before the Central Government under Sections 391-394 of the Companies Act.

## **XII. FDI POLICIES – FOREIGN FUNDING MERGER POLICIES**

The FDI (CRITICAL DRIVER OF ECONOMIC GROWTH )

FDI Policy is when the company takes control over the ownership in not only its nation but in the other nation as well. which clearly states that now it will hold its business entity in other nations too.

**FDI** takes places the investor takes up / builds up / establishes foreign relationships.including taking control as well as interest in the foreign company. It is one of the most important tools in economic development. Economic Liberalization led to the rise of FDI policy come in action. Today it's a part of the 100- club on **Ease of Doing Business (EoDB)**.

The Indian company or non- resident company does not require a prior nod of the RESERVE BANK OF INDIA or the government on India. To get the route automated.

But, the approval of the government is mandatory, for the single window clearance the filing is required through the foreign investment facilitation portal, then from there, it goes to the ministry, which may approve or reject it, in consultation with the department for the promotion of industry and internal trade.

**The benefits of FDI are as follows**

1. economic growth in the country
2. trading
3. linkages and spillover to the domestic firm's
4. employment and skill development
5. technology diffusion and the transfer of knowledge.

**FICCI's suggestions to the FDI POLICY in India would be**

1. concrete and a comprehensive plan of action should be made.
2. the policy should aim at incentive maximizing and value addition
3. encourage technology transfer by adopting "SWAP Technology for market policy."
4. cut down the complex regulatory procedures and reduce delays in the approval of the projects.

**XIII. RESTRUCTURING PROCESS AND MINISTRY OF CORPORATE AFFAIRS-  
GOVERNMENT OF INDIA**

The restructuring of the corporate firms does not only involve strategic decision making based on the market study, competitor analysis, forecasting of synergies in various respects, mutual benefits, expected social impact etc, but also the legal and technical aspects such as valuation of the company involved in the company's restructuring, swap ratio of the shares if there are any, procedural and legal aspects with regulators such as Registrar of Companies (R.O.C.), High Court etc., Optimum tax benefits after merger of the company, cultural and human integration, stamp duty cost involved etc. *"It involves a team of professionals including business experts, Company Secretaries, Chartered Accountants, HR professionals, etc.,"* the important people at every hierarchy stage of the company to perform the process. The Company Secretaries plays a vital relationship between the management and the stakeholders who are involved in the restructuring process; through out as co-coordinator and eye- watchers. in addition to their responsibility for regulatory and legal compliances. The restructuring deals are increasing day by day to be in line with business dynamics and international demands. It necessitates the expanded role of professionals in terms of maximum quality in optimum time.

**Companies Act, 2013**

The Companies Act, 2013 has brought many enabling provisions and legal help to the companies with regard to mergers, compromise or arrangements, especially with respect to **cross border mergers**, time-bound and single-window clearances, enhanced disclosures,

disclosures to various regulators, a simplified procedure for smaller companies etc. It may be noted that **Section 230-240 of the Companies Act, 2013** and the rules made thereunder are yet to be notified.

### **Salient Features of Companies Act, 2013 relating to Corporate Restructuring (Section 230-240)**

- National Company Law Tribunal to assume jurisdiction of High Court.
- **Section 230(2)** – Application for compromise or arrangement to be accompanied by an affidavit, disclosing
  - All material facts relating to the company.
  - Reduction of capital if any included in the compromise or arrangement;
  - Any scheme of corporate debt restructuring consented to by not less than 75% of the secured creditors in value along with creditors responsibility statement, report of the auditor as to the fund's requirement after CDR and the conformity to liquidity test etc.
- **Provision to Section 230(3)** – Notice relating to compromise or arrangement and other documents to be placed on the website of the company.
- **Section 230(5)** – Notice of meeting for approval of the scheme of compromise or arrangement be sent to various regulators including:
  - The Central Government;
  - Income-tax Authorities;
  - Reserve Bank of India ('RBI');
  - Securities Exchange Board of India ('SEBI');
  - The Registrar;
  - Respective Stock Exchange;
  - The Competition Commission of India; if necessary; and
  - Other Sectoral regulators could likely be affected by the scheme. Representation, if any, by the above authorities will have to be made within a period of 30 days from receipt of the notice.
- **Proviso to Section 230(4)** – Persons holding not less than 10% of the shareholdings or persons having outstanding debt amounting to not less than 5% of the total outstanding debt as per the latest audited financial statement, entitled to object to the scheme of compromise or arrangement.
- **Proviso to Section 230(7)** – No sanction for Compromise or arrangement if accounting treatment is not AS compliant.



- **Section 234** – Cross border Merger permitted. The 1956 act permits the merger of a foreign company with an Indian company and not vice versa.
- **Section 233 (10)** – Abolishing the practice of companies holding their own shares through a trust (Treasury Stock) in case of merger of holding and subsidiary companies. Ultimately the shares are to be cancelled.
- **Section 233** – Fast track mergers introduced. – The new Act enables fast track merger without the approval of **NCLT**, between:
  - Two or more small companies. A small company is defined under the Act.
  - Holding and wholly-owned subsidiary company
  - Other classes of companies as may be prescribed
- **Section 230(6)** – Approval of scheme by postal ballot thereby involving wider participation;
- **Section 230(11)** – Any compromise or arrangement may also include a takeover offer made in the prescribed manner. In the case of listed companies, the takeover offer shall be as per the regulations framed by SEBI.

### **News Essentials and Basic Comments on Corporate Restructuring**

All the technology are being at a pause stage, the working in the firms are at a pause stage, the shares being affected, the financial problems are being incurred, the risk is increased, a risk also where the firms are shut down as well as the corporate need to plan the strategy again as well to start up to come in the top again. every firm at some stage of their workings are concentrating on the restructuring of its strategies somewhere in their plans, as every firm is facing some of the other issues, they are in the downslope because of these days and times. but wait a moment, downfall in the firms on the corporate level are not just here with the flow of covid - 19 's lockdowns and effects on the economy as well there have been poor and bad decisions been made by some of the firms and big companies, who have totally ruined the conditions of the firm. somewhere their strategies and plans have lacked behind, somewhere their layouts have been poor, management strategies have been poor, financial decisions have been lacking and laid behind or their overall functioning needs to be brushed up again. So, in all these phrases corporate structuring is playing a very important role. Even if you need to restructure the smallest of the things be, one firm/ company needs a corporate restructuring.

Here are a few of the news regarding firms using corporate restructuring in different ways and different times, even over the past to the present stage for the future development.

#### **XIV. CORPORATE RESTRUCTURING -CURRENT SCENARIO**

##### 1. "Auto Industry playing its role."

AUTO INDUSTRY is the industry for the motor vehicles in the world as we here talk the topic in India, let's talk about an industry where the motor vehicles are being made, processed, manufactured (whether in parts or fully ) and being sold out as well.

One of the news in the INDIAN EXPRESS; a renowned platform for news expressed -

" Auto industry has a major role to play in India's economic growth."

There was a time when the Auto Industry was at a down ground level over the era changed globalization was welcomed with both hands, India " namaste " the AUTO INTERNATIONAL INDUSTRY " i.e. in my words the merging of Indian industry of automobile with the international industry of automobiles. where it got the potential to compete with the global leaders.

study says: The auto industry does a lot good for MSME sectors which is a big employment generator of the country. MSME share the value-addition to car 35% and automotive aftermarket provides economic opportunities to thousands of MSME. No official count is available, the total number of MSMEs in the auto value chain is in the range of 25,000 - 30,000. The change over the era is only possible by the topic of my dissertation.

##### 2. Bankruptcy

One of the important words you will notice in corporate restructuring being failed up would be " bankruptcy " let's take an example of the Indian company " kingfisher" The great founder of VIJAYA MALLYA owning the company kingfisher got bankrupt, the leading news in the year 2011. Which exposed his cheating as a defaulter from SBI and other banks. His insolvency proved the example of his poor corporate restructure / restructuring of the company, the extremely distressed company kingfisher failed to analyse the risks involved and how to estimate its financial fixings. A bad loan restructuring leads to kingfisher being a defaulter and got bankrupt. How that affected the government was extremely negative to the nation, flowing away was not an option, hanging the bank's money on the pendulum. The government was in a false state and has no option, where the creditor are liquidating the company.

Therefore, said, how a poor restructuring of the company / extremely distressed company can stress up the government, economy, as well as the creditors and different people linked to it.

##### 3. Bharti Airtel announces new corporate restructuring

Bharti airtel telecommunication operations provide a hand to all our electronic devices through its wands in the name/technology of 2G, 3G, 4G LTE, 4G+, mobile services. Its new corporate restructuring in its functions are for the betterment of the firm and its new restructuring focuses mainly - on digital, India, international and infrastructure. The table decision was taken on 14 April 2021. It mainly focuses on sharpening the rapidly changing digital opportunities. Basically wants to now be the spine of the telecommunication IT world for the connectivity of one person with another. So, the new corporate restructuring of Bharti airtel aims at folding the DTH business into airtel and spreading all over domestically as well as internationally to move towards the NDCP vision of coverage services amongst its users. It is now studying in-depth to seek clarity from the government on its policy of licensing given to carriage, which is currently being regulated by ministries of communication and managed by I & B. In which airtel payments banks will be dealt separately and directly under Bharti Airtel and will work separately and aim at only financing and other company's in fact business as NXTRA & INDUS will continue to remain again separately with its own regulating functions

#### 4. Indiabulls merging with the Embassy one and NAM

let's get into a real estate relationship with the banks in India also let's talk a bit about corporate restructuring's essential part naming "merging". merging is simply the two things merging together and forming a new one for the betterment. It includes basic important plans, decisions, etc. this latest news talks about Indiabulls leading banks merging with embassy one and NAM, let's get into it a bit. The new trending merging between a company with Embassy one & NAM are into the latest news with the approval by the SEBI and the Competition

#### **Commission of India**

This new merging along with the amalgamation scheme has brought it to the latest news in the eyes of the public. The shaking hands have to lead to **IBREL** Indiabulls real estate ltd. all get listed to **CCI**, Bombay stock exchange, national stock exchange and SEBI and receive regulatory approvals with all corporate related approvals on track. It further encourages more certain entities controlled by **BREP** to contribute to the same in embassy group.

#### **COVID -19 Effect on Corporate Restructuring**

The family of the virus, flowing in the air and our atmosphere not only troubled the household where the common people live their daily day to day life, as well as the firms, industries where they get their daily household essential as well as the income they earn while stepping out the house. It has badly affected the economy, where it disturbs and distresses the firms, companies and the corporates with its different sectors as aviation, tourism, hospitality, education, retails,

production, exportations as well as manufacturing. The economy of the country consists of the companies and firms we people deal in and with. the economic flow in economics tells us about the flow of the economy which tells us that the household is in a cyclic flow with the firms from where they earn the money and make the payments. this flow of economic chart explains to us the flow of money in the economy. This economy is disturbed from where we get the employees to works, where we make out the money, where production is done, exporting and importing is done, as well as where the money is rotated in the circular motion. Also, our dealing with the other country and their economy is disturbed while they get better, the virus is still disturbing our nation INDIA.

The ministry of health and family welfare, and all the other related ministries are on their toles to make it happen again, to gain our strong economy back, but the virus has to lead us to the various waves which make it difficult for the economy to function again. the government had to put down the lockdown situation to somehow control it. The GDP curve is flattening and slowly going down, unemployment is rising, finances are used up for the vaccines and patients, institutes, and schools which in turn helps us uplift the education economic conditions are effected by giving the institutes, schools, colleges and education centres for the patients. In the fourth quarter of the fiscal year 2020, the country's growth went downslope by 3.1% according to the statistics we received from the government and ministry. Even the best and top India's banks and corporates are on the spot as the pandemic lockdown bring it to a halt. The risks in the finances are being increased, the demand for the products and services are gone down., individuals are experiencing a shortage of income, even unemployment. which is a total shock to the financial system in the country's economy in the form of - non-performing loans, insolvency filings, unnecessary liquidation and assets fire- sales. Where our topic CORPORATE RE-STRUCTURING plays the role to safe up the economy.

Corporate restructuring has nowadays been an important key for the economic lock and halt. the rules, procedures and structures are redesigned and being reframed again, and that too in a more efficient and effective way where there are more signs of safeguarding the economy and individual indirectly and directly as well. The government has now tightened the deadlines for restructuring in all the sectors of the economy. may effective laws for stagnant companies are being applied to solve the insolvency, as well as the bankruptcy problem faced.. as the economy in the virtual field, is on the top these pandemics, the e-bankings, the e-commerce is playing an important role where the government is sailing in an electronic boat. the electronic world is also playing a heavy role in the restructuring programme where it gives huge importance to it. Almost all the restructuring layouts started from the e- world. The e-filings, virtual court

hearings and out-of-court solutions in insolvency cases play up, education being online classes, meet meetings at large scales, etc. The restructuring is quite important for uplifting the firm where ever there is a drop of it. the restructuring none other than analysing the areas where the company, firm or the corporates are failing its plans and strategies and making a detailed theory on how to reframe it effectively and efficiently so as to make it work the way the company is planning their outcome.

## **XV. COVID -19 IMPACT 2021 ON RBI AS UNVEILS THE LOANS AND SCHEMES FOR THE INDIVIDUALS, SMALL SCALE BUSINESS BY RESTRUCTURING**

Unveiling restructuring schemes for the small business, small scale industries, small businesses and individuals as well are being affected at the utmost in the world during these times. The effect is on the whole structurization of the business. When big firms and companies are being affected as well as the household ( including the people in the world ), small scale industries and businesses are an obvious part of it. *The RESERVE BANK OF INDIA, which is the " Bankers bank "*, defined to all, is planning its duty well. As this pandemic has created a lot of pressure on every individual it has created a lot of bulk pressure on the small scale business, industries, individuals and small businesses sometimes a problem occurs when these sectors borrow the money for their businesses but the loans are being veiled up heavy on them this pandemic situation these sectors have taken loans which are now being up heavy on them to pay-off. the reserve bank of India has come up by framing its structure again on the loan policies.this one -time loan plan re- structure scheme states that the loans will remain standard but the banks would not have to make additional provisions. Up to Rs. 25 crores can opt for loan restructuring if they had not availed earlier, and in the case who have availed loan under this scheme, RBI would permit the banks and lending institutes to modify plans and increase the period of moratorium. RBI governor Shaktikanta Das has led out its announcing steps to deal with the impact of the second wave of covid - 19.

Recently on Wednesday, 1st week of may, RBI came up with Framework Resolution 2.0 for individual and small scale businesses with exposure to 25 crores can opt loan restructuring. In which RBI permitted banks and lending institutes to get into it. lending institutes permitted one time measures, so as to get in touch with the capital reassessment. Its impact on the economy has affected as growth and helped the public in large as there are large no. of small scale industries and because of this helping hand there is a ray of hope in the form of helping hand to them

## **XVI. COVID 19 HITTING THE FUTURE RETAIL COMPANY**

Recently how the covid -19 is hitting the economy is known by all. further how bad impact it has caused on the economic mindset and economically distressed the economy is very depressing where the companies are planning for corporate restructuring and this restructuring is being a great help in this pandemic to come up with great plans to resolve the issues and drawbacks that the companies are facing

Future Retail has announced that its board of directors will soon land upon an extremely amazing corporate restructuring plan of secured debentures to resolve its debts issues due to covid -19. under this scheme plan of the restructuring, the small businesses will get more time and easier repayment term relief in a customised manner. this restructuring has announced only accounts which are classified as standards so far to be restructured. Its resolution framework plan during the covid 19 has been sanctioned by RBI.

Where Kishore biyani - further added that its non-convertible debentures (NCD) are also a part of the resolution. Company is now waiting for K.V. KAMATH committee approvals

## **XVII. IMPACT OF RESTRUCTURING ON ECL COMPUTATION**

The disruption throughout the globe due to the COVID-19 pandemic has hit the Indian economy as well significantly. The financial sector is the impact of the pandemic on the creditworthiness and repayment capacity of the overall general public. RBI has responded through various measures including allowing a moratorium period, providing a resolution framework for stressed accounts due to COVID-19 and numerous other measures. The retail borrower segment of several banks and NBFCs has also been adversely affected by the disruption and hence, the lenders are contemplating ways to extend certain benefits to such borrowers under the various circulars issued by the RBI and government. In this regard, restructuring or modification in terms of a loan is being done for economic or legal reasons, relating to the borrower's financial difficulty. such restructuring may also have implications on the books of accounts, especially for IndAS compliant entities. The following note discusses the meaning of 'restructuring' and its impact on the credit risk of the borrower

As per RBI norms on Restructuring of Advances by NBFC, A restructured account is one where the NBFC, for economic or legal reasons relating to the borrower's financial difficulty, grants to the borrower concessions that the NBFC would not otherwise consider.

As per the Basel guidelines on the prudential treatment of problem assets –definitions of non-performing exposures and forbearance, the definition of forbearance is as follows:

### 1. Identification of forbearance

**Forbearance occurs when:** a counterparty experiences a financial difficulty as meeting its financial commitments; also when a bank grants a concession (that it would not otherwise consider) irrespective of whether the concession is at the discretion of the bank and/or the counterparty.

A concession is at the discretion of the counterparty when the initial contract allows the counterparty to change the terms of the contract in their favour due to financial difficulty.

The meaning of restructuring is a modification in terms of a loan, which is done for economic or legal reasons, relating to the borrower's financial difficulty. Usually, restructuring may be of various types. A credit weakness related restructuring is one that is done to assist the borrower to continue to service the facility. If such restructuring was not done, potentially, the borrower may not have been able to service the facility. Therefore, this is done with a view to averting a default. Yet another type of restructuring is a preponement of payments or early clearance of a loan. A third example has been given in the definition itself – for example, passing on the benefit of any interest rate increase or decrease in the case of floating rate loans.

### 2. Change in credit risk

Under Indian Accounting Standard (Ind AS) 109 Financial Instruments ('IndAS 109'), Expected Credit Loss (ECL) provision is computed for the loan accounts and it is important to determine whether restructuring should be considered as a factor in determining a change in the credit risk characteristic of the borrower.

A Significant Increase in Credit Risk (SICR), in the context of IFRS 9, is a significant change in the estimated Default Risk. The provisions of para 5.5.12 of IndAS 109 are self-explanatory on the point that if there has been a modification of the contractual terms of a loan, in order to see whether there has been a SICR, the entity shall compare the credit risk before the modification, and the credit risk after the modification.

While SICR indicators usually suffice during normal circumstances, adjusting to the 'new normal' would require 'new' ways to consider SICR. The most important question that arises is whether a modification in the loan terms to avoid a credit default due to COVID-19 disruption would lead to SICR.

### 3. International Guidance

As per the International Monetary Fund Report on The Treatment of Restructured Loans for FSI Compilation,

The BCBS (2017) defines loan forbearance as a situation in which :

(1) a counterparty is experiencing financial difficulty in meeting its financial commitments, and

(2) a bank grants a concession that it would not otherwise consider, whether or not the concession is at the discretion of the bank and/or the counterparty. The Guide defines restructured loans as loans arising from rescheduling and refinancing of the original loan.

Therefore, all forbearance measures are loan restructuring, but not all loan restructurings are forbearance measures.

Recently, in response to COVID-19 shock, the BCBS (2020) has clarified that when borrowers accept the terms of a payment moratorium (public or granted by banks on a voluntary basis) or have access to other relief measures such as public guarantees, these developments may not automatically lead to the loan being categorized as forborne. At the same time, banks would still need to assess the likelihood of the borrower's rescheduled payments after the moratorium period ends.

The Indian Accounting Standard Board also released a clarification under 'IFRS 9 and Covid-19 stating that Entities should not continue to apply their existing ECL methodology mechanically. For example, the extension of payment holidays to all borrowers in particular classes of financial instruments should not automatically result in all those instruments being considered to have suffered a SICR.

According to the European Banking Authority's Final Report on 'Guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis,

More precisely, moratoria on loan payments that are in accordance with the EBA Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis do not trigger forbearance classification and the assessment of distressed structuring of loans and advances benefiting from these moratoria and they do not automatically lead to default classification. For example, if a performing loan is subject to a moratorium compliant with the GL on moratoria, which brings contractual changes to the terms of the loan, in the existing supervisory reporting this loan will continue to be reported under the category of performing exposures with no specific indication of the measures applied. However, it is also emphasised that the credit institutions should continue the monitoring and where necessary the unlikeliness pay assessment of loans and advances that fall under the scope of these moratoria.



The Prudential Regulatory Authority of the Bank of England sent a letter to CEOs of various Banks guiding the following –

Our expectation is that eligibility for, and use of, the UK Government’s policy on the extension of payment holidays should not automatically, other things being equal, result in the loans involved being moved into Stage 2 or Stage 3 for the purposes of calculating ECL or trigger a default under the EU Capital Requirements Regulation (CRR). This expectation extends to similar schemes to respond to the adverse economic impact of the virus.

Firms should continue to assess borrowers for other indicators of unlikeliness to pay, taking into consideration the underlying cause of any financial difficulty and whether it is likely to be temporary as a result of Covid-19 or longer-term

Our expectation is that a covenant breach or waiver of a covenant relating to a modification of the audit report attached to audited financial statements because of the Covid-19 pandemic should not automatically, other things being equal, trigger a default under CRR or result in a move of the loans involved into Stage 2 or Stage 3 for the purposes of calculating ECL.

The Accounting Standards Board of Canada also took note of the guidance provided by IASB on guidance on applying IFRS 9 Financial Instrument. Further, it also took note of the guidance provided by the Office of the Superintendent of Financial Institutions (OSFI) in Canada and specified that the guidance is consistent with the requirements in IFRS 9 and should thus be considered along with the guidance provided by the IASB. The OSFI, through its guidance, provided the following in relation to applying IFRS in extraordinary circumstances

IFRS 9 is principles-based and requires the use of experienced credit judgement. Consistent with OSFI’s IFRS 9 Financial Instruments and Disclosures guideline, OSFI is providing guidance on three specific aspects of the accounting for Expected Credit Losses (ECLs) due to the exceptional circumstances arising from COVID-19. Deposit-taking Institutions (DTIs) should also consider any additional guidance provided by the International Accounting Standards Board on the application of IFRS 9 in relation to COVID-19.

#### **4. Under the IFRS 9 ECL accounting framework**

DTIs should consider both quantitative and qualitative information, including experienced credit judgment, in assessing for a significant increase in credit risk. In OSFI’s view, the utilization of a payment deferral program should not result in an automatic trigger, all things being equal, for a significant increase in credit risk.

The International Public Sector Accounting Standards Board (IPSASB) released QnA\_to

provide insight into the financial reporting issues associated with COVID-19 government responses, and the relevant International Public Sector Accounting Standards (IPSAS). According to the same, However, if the restructuring is granted as a generalized option to all customers without any attention paid to reasons for such credit weakness, then the same is done to merely avoid credit difficulty or default of such borrowers which may not necessarily be caused by COVID-19.

Further, something like a moratorium, which is granted for a systemic disruption such as a crisis of payment and settlements, natural calamities, etc. is for non-economic reasons, and therefore, may not be likened with a credit-weakness-related restructuring. In the current scenario, the general assumption may be that the credit default is directly associated with the COVID-19 pandemic in most cases.

### **5. Restructuring to all borrowers at a class level**

A financial institution may also intend to modify the terms of the loan for the entire class against a particular individual. If the underlying reason for such modification is the financial difficulty faced by the entire class due to Covid disruption, such that the modification is to tide over such difficulty and continue to service the loan, in our view, this will amount to restructuring and lead to a downgrade of asset classification. The underlying rationale is that a loan is a credit decision that is made by looking at the prevailing situation at the time of extension of the credit. If the payment schedule is adjusted to take into consideration any change in situations that have happened subsequent to the grant of the credit, the same should be a case of deterioration in the credit quality of the loan. While going by the language of the regulation it seems to refer to only individual cases of restructuring, however, the fact that the entire class of borrowers is facing financial difficulty cannot be overlooked. Merely because the restructuring has been done for a class of borrowers does not mean the restructuring is not to avert a potential default.

Usually, the need for restructuring is identified at the individual exposure level to which concessions are granted due to the financial difficulties of the respective borrower. Taking a decision to provide relief to an entire class of borrowers instead of considering an individual restructuring of each borrower account is a matter of prudence, which must be taken without compromising the interest of the Company, that is the lender.

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