

# 17 ECONOMY

<b>GOLD</b>	<b>RUPEE</b>	<b>OIL</b>	<b>SILVER</b>
₹38,503	71.35	\$63.59	₹45,345

\*Indian basket as on November 26, 2019

SENSEX: 41,020.61 ▲ 199.31 NIFTY: 12,100.70 ▲ 63.00 NIKKEI: 23,437.77 ▲ 64.45 HANG SENG: 26,954.00 ▲ 40.08 FTSE: 7,438.41 ▲ 35.27 DAX: 13,272.91 ▲ 36.49

\*International market data till 1900 IST

## BROKERAGE SEGMENT UNDER WATCH

# Sebi chief on Karvy case: What's never allowed was being done

Firm pledged securities worth over ₹2,000 crore of investors without permission, violating rules

ENSE ECONOMIC BUREAU  
MUMBAI, NOVEMBER 27

COMING DOWN on Karvy Stock Broking (KSBL) for misusing clients' securities, Sebi Chairman Ajay Tyagi on Wednesday said the firm was indulging in activities which were "never allowed" and the regulator had hinted about it through a circular earlier this year.

## EXPLAINED Time for relook at governance norms for brokerages

WITH BROKING firms violating rules, Sebi would need to tighten corporate governance norms for such entities. There should be at least one mandatory independent director on the board of the brokerage, which would bring about transparency and accountability.

Analysts say there has been no change in net worth requirement of brokers in the last 20 years, which needs a relook. Brokers also need to disclose related-party transactions done with any associates, subsidiaries or others.

While the Sebi order said a net amount of Rs 1,096 crore was transferred by KSBL to Karvy Realty, it transpires that the scam would be Rs 2,300 crore. In a report to Sebi, NSE observed that KSBL misused the power of attorney given by its clients and sold client securities in the market in a disguised manner through own controlled entities and used the funds for its own purposes.

In a 12-page ex-parte interim order, Sebi Whole Time Member Ananta Barua said there was a "need for urgent regulatory intervention to prevent further misuse of clients' securities".

Analysts said the regulator should tighten corporate governance norms for stock broking entities, to bring about transparency and accountability. Besides, net worth criteria of several Sebi registered intermediaries have gone up over the years.

## Sebi reviewing related-party norms: Tyagi

Mumbai: Sebi chief Ajay Tyagi has said the regulator is looking at improving the norms governing related-party transactions for firms. It is "impossible" for Sebi to list out what can be "material" information which it should be mandated to share, he said.

He said the prevalence of group companies has brought governance issues to the fore. **ENS**

## 'EY to look into KSBL fund diversion'

Mumbai: Ernst & Young (EY), which is set to conduct a forensic audit of KSBL, is expected to look into the fund diversion from KSBL to its real estate arm, sources said.

It is yet to be revealed how this money was used by its realty division. "The funds diverted could be higher also," said a source. **ENS**

## COMMISSION TO SUBMIT TWO REPORTS BY OCTOBER 30 NEXT YEAR

# Cabinet gives 1-year extension to term of 15th Finance Commission

ENSE ECONOMIC BUREAU  
NEW DELHI, NOVEMBER 27

THE UNION Cabinet Wednesday extended the term of the 15th Finance Commission by one year to October 30, 2020. The Commission will submit two reports — with the first to be for the first fiscal, i.e., 2020-21 and for rest of the financial years, 2021-22 to 2025-26, by October 30 next year.

The term of the Commission, which has to decide on division of tax and other resources between the Centre and the states, was originally set to end in October 2019, but was extended to November 30. The extension of the term will enable the Commission to examine various comparable estimates for financial projections in view of reforms and the new realities to finalise its recommendations for the period 2020-2026, a government release said.

"The Commission, on account of the restrictions imposed by the Model Code of Conduct, completed its visit to states only recently. This has had a bearing on the detailed assessments of states requirements," it said. The terms of reference (ToR) for the commission are wide-ranging in nature, the release said. "Comprehensively examining their implications and aligning them to the requirements of the states and the central government will require additional time," it added.

The proposed increase in coverage of the period for which the Commission's recommendations are applicable will help medium-

## FCI's authorised capital raised to ₹10,000 cr from ₹3,500 cr

New Delhi: The Cabinet Wednesday raised the authorised capital of Food Corporation of India (FCI) to Rs 10,000 crore from the current Rs 3,500 crore. "With the increase of authorised capital, additional equity capital can be infused in the FCI through Union Budget, to fund the foodgrains stock, perpetually held by the FCI," an official statement said.

This will reduce the borrowings of FCI, save its interest cost and reduce food subsidy, it added. As on October 31, FCI borrowings reached Rs 2.19 lakh crore. The paid-up equity capital as on March 31, 2019, is Rs 3,447.58 crore against the authorised capital of Rs 3,500 crore. In 2018-19, the government had decided to raise the equity capital by Rs 5,000 crore. **FE**

term resource planning for the state governments and the Centre. "Making a five-year coverage available for the commission beyond 1st April 2021, will help both state and central governments design schemes with medium- to long-term financial perspective and provide adequate time for mid-course evaluation and correction," the release said.

It is anticipated that the impact of the economic reforms initiated in the current FY would be manifested in the data by the end of first quarter 2020-21, it added. The Commission's Chairman NK Singh had last week said that it is likely to get an extension since it was still awaiting communication from the President regarding inclusion of Union territory of Jammu and Kashmir in its ToR as defined in the Jammu and Kashmir Reorganisation Act, 2019.

Section 83 of the Act — which came into effect when the state of Jammu & Kashmir bifurcated into union territories of Jammu & Kashmir and Ladakh on October 31 — requires the President to "make a reference to the 15th Finance Commission to include the Union Territory of Jammu and Kashmir in its Terms of Reference and make award for the successor Union territory of Jammu and Kashmir".

As per the Constitution, the Finance Commission is required to recommend the distribution of net proceed of taxes between the Union and states, and no Finance Commission has ever made an award for any union territory. Any special dispensation for the Union Territory of J&K will also have to be done keeping in view similar demands by two other union territories with a legislature, Delhi and Puducherry, to be part of the divisible pool.

## POLICY WATCH INSOLVENCY

# NCLT agrees to hear Air India case; seeks response from carrier by Dec 9

AASHISH ARYAN  
NEW DELHI, NOVEMBER 27

### 3 KEY POINTS

A New Delhi Bench of National Company Law Tribunal (NCLT) Wednesday agreed to hear a case of insolvency against Air India (AI), moved by a pilot of the airline. A two-member Bench of Justice Ina Malhotra and Justice LN Gupta, while agreeing to hear the case, sought AI's response by December 9, when it will next hear the case.

1 In February, the case moved by a serving pilot of the Air India was adjourned sine die by the NCLT after submissions made by AI that a similar case was begun heard by SC

2 After the tribunal's order, the pilot approached the apex court in August this year

3 The NCLT agreed to hear the case, following an October order by Supreme Court Bench of Justice Rohinton Nariman and Justice V Ramasubramanian, which set aside the tribunal's decision to adjourn the case sine die. The apex court had asked NCLT to re-consider the pilot's plea for initiation of insolvency against AI. The two-judge SC Bench had then said though it was aware of case pending with it, the same could not come in the way of the NCLT hearing the insolvency petition filed by the pilot under The Insolvency and Bankruptcy Code (IBC). Under Section 9 of IBC, salaried staff can, acting as operational creditors, initiate insolvency proceedings against a corporate debtor.

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In February, the case moved by a serving pilot of the Air India was adjourned sine die by the NCLT following submissions made by AI that a similar case was begun heard by the apex court as well. The pending case referred to by AI concerns a challenge to a judgment of the Bombay High Court, which had ruled that the airline could not have altered the terms of service of employees who had joined when the erstwhile domestic carrier Indian Airlines was merged with it in 2007. The pilot had approached the NCLT towards the end of last year. After the tribunal's order, he approached the top court in August this year.

A separate but similar plea by another pilot who is now retired, also seeking the initiation of insolvency proceed-

ings against AI for failing to pay his dues, has been pending before the NCLT since the beginning of 2018. It will be next heard by NCLT on December 3. The dues claimed by the serving and former pilots amount to nearly Rs 1 crore and Rs 70 lakh respectively, a person aware of the developments said. These dues are for the period between July 2012 and January 2016.

Cases such as these could create problems for the central government's plan to float an Expression of Interest (EoI) for divestment of its stake in the debt-laden national carrier. The government had planned to float the EoI in November, but it could be delayed — it has been reported that a new proposal could come only by January 2020. The Centre had floated an EoI last year to sell 76 per cent stake in AI, which has a debt of around Rs 57,000 crore. The attempt had failed. In June, the Indian Commercial Pilots Association wrote to AI Chairman and Managing Director Ashwani Lohani, asking him to clear dues worth nearly Rs 1,200 crore, failing which they would take the company to NCLT.

## Arbitral awards: SC strikes down 'automatic stay'

INDUBHAN  
NEW DELHI, NOVEMBER 27

SEVERAL COMPANIES in the infrastructure, construction and other segments unable to promptly recover disputed amounts from government-sector firms despite having arbitral awards in their favour could soon be laying hands on parts of such funds running into hundreds of crores, with the Supreme Court striking down a recently instituted regime of automatic stay on the bulk of the existing arbitral awards, when challenged.

The relief could also enable some firms in the insolvency arena to get better valuation for themselves and for others to avoid being dragged by their lenders to the bankruptcy courts.

With the apex court invalidating the recently amended Section 87 of the Arbitration and Conciliation Act that provided for an automatic stay of awards in proceeding initiated prior to October 2015,

### The apex court has invalidated the recently amended Section 87 of the Arbitration and Conciliation Act

the companies can move the high courts to seek enforcement of their awards or move applications asking the government, PSUs and statutory bodies to deposit 75 per cent of arbitration award money in the court, in case the orders are challenged already. It will be left to the court's discretion to decide if the award is to be stayed or the monies be asked to be deposited with it or paid to the award holder. Of course, arbitral awards rarely go unchallenged, so there will actually be very few instances of the courts straightforwardly asking any firm to pay up.

While Ajit Gulabchand-led Hindustan Construction Company (HCC) is seeking to recover Rs 6,070 crore from the central

government and other PSUs, including NHAI and NTPC, Gammon Engineers & Contractors wanted its dues of over Rs 837 crore that is stuck with PSUs like NHPC, Gail, DMRC, etc in terms of various arbitration awards.

While opening the window for all firms to seek legal remedy without being constrained by the automatic stay provision, the SC hasn't, however, given any summary or specific relief to these firms. Left with no effective remedy to initiate action against the government, PSUs and other statutory bodies for recovery of thousands of crores of rupees, HCC, Gammon and other construction companies had approached the Supreme Court to bail them out of the financial mess and prevent their lenders from pushing them into insolvency.

A Bench led by Justice RF Nariman while striking down Section 87, as inserted by the 2019 Amendment Act, said that the provision was "manifestly arbitrary". Section 87 provided that for all

arbitral proceedings that commenced prior to October 23, 2015 there shall be an automatic stay of the arbitral awards when challenged under Section 34 of the 1996 Act. The retrospective resurrection of an automatic-stay not only turns the clock backwards contrary to the object of the Arbitration Act, 1996 and the 2015 Amendment Act, but also results in payments already made under the amended Section 36 to award-holders in a situation of no-stay or conditional-stay now being reversed," the SC said.

According to the top court, after the advent of the Insolvency Code on December 1, 2016, the consequence of applying Section 87 was that the award-holder may become insolvent by defaulting on its payment to its suppliers, when such payments would be forthcoming from arbitral awards in cases where there is no stay, or even in cases where conditional stays are granted. **FE**

With inputs from Shubhra Tandon/Mumbai

## 'Investors pump ₹24,000 cr in equity mutual funds in Jul-Sept'

Investors pumped nearly ₹24,000 crore in equity mutual funds during July-September quarter this year, according to a report by Morningstar

**GOVT POLICIES WHICH ENSURED A STEADY STREAM INTO LARGE-CAP FUNDS**

- Rollback of FPI surcharge
- Corporate tax cut
- PSU recapitalisation
- Anticipation of reforms

**₹7.24 lakh crore**  
The inflow pushed the asset base of equity mutual funds (MFs) to ₹7.24 lakh crore by September-end from ₹7.23 lakh crore at the end of June

**₹23,874 crore**  
Flows witnessed by equity category in September quarter as compared to an inflow of ₹17,680 crore in June quarter

**GROWING MFs**  
Mutual fund flows have been growing consecutively for past three quarters. Net inflow was ₹46,578 crore for September quarter

**OVER 25% (more than ₹6,000 crore) of the net flows have been directed toward the large-cap category as investors preferred to put money in the top 100 stocks by market capitalisation because the segment has been the most resilient over the past year**

**EQUITY CATEGORY** witnessed net flows averaging at over ₹25,000 crore between April 2018 and December 2018

**MUTUAL FUNDS** continue to hold fort with the help of a strong systematic investment plan (SIP) book

**BSE SENSEX** experienced a massive run-up and crossed the 40,000 threshold on June 3, 2019, owing to a fall in crude oil prices and expectations of government reforms, such as an interest rate cut

(Source: PTI)

## Will have to shut down AI if not privatised: Puri

ENSE ECONOMIC BUREAU  
NEW DELHI, NOVEMBER 27

AIR INDIA will have to shut down and stop operations if the airline is not privatised, Minister of Civil Aviation Hardeep Singh Puri said in the Rajya Sabha Wednesday.

### Air India, which has a debt of nearly Rs 54,000 crore, will not be given "any further financial support", said Minister of Civil Aviation Hardeep Singh Puri

In a written reply to questions by members, Puri said preparation of a Preliminary Information Memorandum for inviting Expression of Interest (EoI) for 100 per cent divestment of government stake was underway. "The bid document for strategic disinvestment of Air India would also include the matters related to treatment of debt of Air India and its employees" matters, the con-

financial resources" of the central government, Puri told the Upper House in his reply.

The strategic divestment of Air India has been a cause of concern for the government. Last year, the government tried to sell 76 per cent stake in the airline without any success.

This year, a group of officials, including Home Minister Amit Shah and Finance Minister Nirmala Sitharaman, have met several times and are in the process of finalising the EoI to sell the airline. In his answer on Wednesday, Puri brushed aside the concerns of job loss due to privatisation, and said that "the government would secure a fair deal for all of its employees" in this

round of bidding. Post divestment, Air India would have "a status at par with other designated carriers of India", the minister said.

The concerns of the employees will also be considered by the government while finalising the EoI, he said, adding reports of resignation of Air India due to non-payment of salaries was also unfounded as he had "not heard of any single case where anybody has resigned".

To a separate question by Rajya Sabha MP Rakesh Sinha on the employee strength of Air India, Puri said Air India has permanent employee strength of 9,428 and contractual strength of 4,201, out of which 1,551 were employed during the last three years.

## Industrial Relations Code Bill to be tabled in Lok Sabha today

ENSE ECONOMIC BUREAU  
NEW DELHI, NOVEMBER 27

PROVIDING SOME degree of flexibility on government permission for retrenchment and according a legal framework for fixed-term employment, the Industrial Relations Code Bill, 2019 is scheduled to be introduced by the Centre in the Lok Sabha Thursday.

Labour and Employment Minister Santosh Kumar Gangwar will introduce the Bill to consolidate and amend laws relating to trade unions, conditions of employment in industrial establishments, investigation and settlement of industrial disputes, the list of business for the Lower House stated.

The Bill — which proposes to amalgamate The Trade Unions Act, 1926, The Industrial Employment (Standing Orders) Act, 1946, and The Industrial Disputes Act, 1947 — is the third Code in the government's proposed codification of central labour laws into four Codes.

The Bill has retained the threshold required for government permission for retrenchment at 100 employees, as against the proposal for 300 employees in an earlier draft of the Bill which was opposed by trade unions.

Instead, the government has now provided flexibility for changing the threshold through notification, which some experts

### 'Mandatory 14-day notice before strike'

New Delhi: The government has proposed to make a 14-day notice mandatory for employees to go on strike under new labour laws, Union Labour Minister Santosh Kumar Gangwar told the Rajya Sabha on Wednesday. **PTI**

say will make the law ambiguous and offer uncertainty.

The rigidity of labour laws about laying off labour has often been cited by industry as the main reason limiting scalability and employment generation.

At present, any company with 100 workers or more has to seek government approval for retrenchment.

The Bill also proposes that a union will be recognised as the negotiating union only if it has the support of 75 per cent or more of the workers in an establishment as against 66 per cent threshold in the earlier version of the Bill.

Further, the Bill proposes to reduce the compensation to retrenched workers to 15 days of average pay for every year of completed service as against 45 days proposed earlier.

## '2 ZEEL directors quit citing concerns over corporate governance'

ENSE ECONOMIC BUREAU  
MUMBAI, NOVEMBER 27

TWO OF the three independent directors who resigned from the board of Zee Entertainment Enterprises (ZEEL) last week have cited corporate governance concerns for their departure from the company. Subodh Kumar and Neharika Vohra, who tendered their resignations on November 22, listed out seven reasons for their resignations, most of which pertain to governance practices of the management, chiefly related-party transactions (RPTs).

of CSR amounts given to a related party foundation/trust.

The management of Zee has also seemingly not acted on a large outstanding from Dish TV and Siticable for the content supplied by Zee. The independent directors also raised concerns over a letter written by a portfolio management services entity over build up of related party balances and advances for content acquisition.

Questions were also raised on film advances given in 2018-19 to the tune of Rs 2,200 crore. The management of Zee has also been accused of not taking legal action when a scheduled bank appropriated Rs 200 crore of Zee's fixed deposits towards promoter loans, and non implementation of certain decisions of the Board meeting held on October 17, relating to treasury operations. **FE**