







Proposed amendments to impact Indian IT Services companies margins by 285-650 basis points

#### **CREDIT IMPACT: NEGATIVE**

### H-1B visa Interim Final Rule (IFR) amending minimum wages, eligibility and frequency will be credit negative for the sector

- The US administration (Department of Labor and Department of Homeland Security) Interim Final Rule (IFR) issued on October 6, 2020 proposing several changes, including revising definition of occupations and positions qualifying for H-1B visa, increasing minimum wage level and reducing tenure for onsite third-party employee H-1B visa categories from 3 years to 1 year, is credit negative for the sector. India and Indian IT services companies are the largest consumers of H-1B visas (71% in FY2019) and will be directly impacted if the Interim Final Rule (IFR) is implemented in the current form. H-1B workers make up about 10% of the IT labor force in the US with several sub-segments at much higher rates such as Software Developers' applications (approximately 22%); Statisticians (approximately 22 percent); Computer Occupations (others) (approximately 18 percent); and Computer Systems Analysts (approximately 12 percent). As of September 30, 2019, the total H-1B authorised-to-work population was approximately 583,420 with a majority of the visas issued for computer-related occupations and Indian nationals. The IFR has been implemented effectively, though the final rules will be issued 60 days. post comments from the public.
- As per ICRA's assessment of the various provisions, without considering the increase in realisations or other mitigating factors, the gross impact of all the provisions will be in the range of 285-650 basis points. As the proposed changes are prospective (i.e. the same will not impact already issued H-1Bs or where LCA [Labor Condition Application] has been certified), the full impact will be seen over the next one to three years. While larger companies will be better placed to bear the impact because of the cushion both in terms of higher operating margins and stronger balance sheet sizes, few mid-size companies may face deterioration in their credit profiles. However, the same needs to be evaluated, based on the risk mitigation factors and dependence on the H-1B visa by individual companies. In FY2020, the ICRA sample of large-size companies reported operating margins of 23.9% versus mid-size companies at 19.6%. For the same sample set, large-size companies' net cash/OI stood at 34.9%, while for the mid-size companies it stood at 5.2% as on March 2020.

### Proposed changes to H-1B visa

- Minimum entry-level wages for H1-B visa: As per the revised rules, the entry-level prevailing wages have been revised from the 17<sup>th</sup> percentile (based on Occupation Employment Statistics published by the Bureau of Labor Statistics) to the 45<sup>th</sup> percentile. This is expected to increase the entry-level prevailing wages by 30-40%. While several companies are already paying higher salaries than the prevailing wages, nevertheless, the wage hike impact will be in the range of 20-30%. Based on ICRA estimates, the margin impact on full implementation of the same will be in the range of 260-580 basis points, depending upon the onshore H-1B visa. Generally, companies have 20-30% employees onshore with 40-50% employed using the H-1B visas.
- Narrowing the occupations eligible for H-1B visas: To qualify for the H-1B visa, the position must be a specialty occupation, generally requiring a bachelor qualification and applies a body of highly specialised knowledge. The IFR has made amendments and made it compulsory that the occupation requires a bachelor's degree in the specific field of study. This will eliminate the possibility of general engineering degree for the position of Software engineer or computer programmer positions, currently in vogue. Further, a position in an occupation generally requiring bachelor's degree may not qualify if it's not common for the specific position across other similar industries.



Without much scope of increasing margins, companies will resort to increased offshoring, use of automation and artificial intelligence to protect margins

- Reducing the tenure of on-site H-1B worker to 1 year from 3 years: As per the earlier rules, H-1B visas were issued for a tenure of up to three years. As per the IFR, the tenure for H-1B visas issued to a third party onsite worker will be reduced to one year. This is done with a view to monitor the usage of such H-1B visas. Based on ICRA research, the financial impact of the yearly renewals of H-1B visa will be in the range of 25-70 basis points on the operating margins. On an average, companies have 20-30% onsite workers with 40-50% dependent on the H-1B visa. Further, as per ICRA estimates, a majority of the employees (75%) will be onsite, barring the sales and support staff.
- Revised employer-employee definitions: The IFR specifically defines employer-employee relations and the scope for inspection to establish the fact. The new regulation also states that, if the USCIS is unable to verify facts related to an H-1B petition or compliance with H-1B petition requirements due to the failure or refusal of the petitioner or the third-party to cooperate with a site visit, then such failure or refusal may be grounds for denial or revocation of any H-1B petition.

## **Mitigating factors**

- Local hiring and training of entry of mid-level employees: The new wage percentiles will make hiring /training of entry/mid-level workers in the US more cost effective than sending employees on the H-1B visa. As per ICRA estimates, Indian IT companies will speed up investing in training local hires for entry/mid-level positions as in the long run the same will be cost effective. With the visa issuance norms being tightened since 2017 in the US by restricting the entry of entry-level programmers, coupled with increasing compliance and evidence requirements adding to the cost pressures, Indian companies have already ramped up onshore hiring in the US. The USCIS has significantly increased the Request for Evidence (RFE) before issuing H-1B visas, leading to higher compliance costs. The percentage of completed cases with RFE increased from 22.3% in FY2015 (Financial Year refers to October to September period) to 40.2% in FY2019. More restrictive administration policies have increased denials for the H-1B petitions significantly, with the denial rates rising from 6% in FY2015 (October 2014 to September 2015 period) to 21% in FY2019 (October 2018 to September 2019) for new H-1B petitions for initial employment. The top seven India-based companies had only 6,855 H1-B petitions for initial employment approved in FY2019, a decline of 63%.
- <u>Increased pace of outsourcing as an attempt to increase realisations will be countered by pricing pressure:</u> With such high entry level wages, the pace of offshoring is expected to increase. Indian companies will try and pass on the increased cost of service delivery, which are already facing pricing pressure for traditional/legacy services. This will result in increased offshoring as a win-win situation for the clients as well as IT services companies. Further ICRA believes, Covid-19 has led to increased acceptance of offshoring with limited supply-side interruptions at both at onsite and offsite locations.
- Higher adoption of automation, artificial intelligence: There has been an increased use of automation and artificial intelligence in most of the legacy or traditional Indian IT services. This has allowed Indian companies to protect their margins despite the pricing pressure on most of such services. The trend can be seen in a higher share of fixed price contracts which are not dependent on the number of employees deployed on the project. The share of fixed price contracts has increased to 61.1% in FY2020 from 58.0% in FY2019 for ICRA sample companies. With companies under pressure to protect margins without much headroom to increase prices, the share of fixed price contracts is expected to increase.

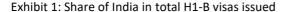


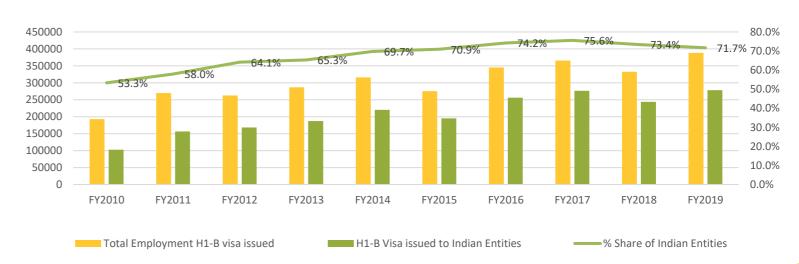
**Provisions of Interim Final Rule on H-1B visa** 



In April 2020, the Trump administration had proposed to review the rules pertaining to issue of H1-B visa in view of the unemployment crisis perpetuated by the Covid-19 pandemic. The same was followed by suspension on H1-B visa and Green Card issuances till December 2020, though injunction was granted by the court in October 2020. Following the April 22, 2020, proclamation, the Department of Labor and Department of Homeland Security has issued an Interim Final Rule (IFR) on October 6, 2020, proposing several changes including revising definition of occupations and positions qualifying for H-1B visa. Increasing minimum wage level and reducing the tenure for onsite third-party employee H-1B visa categories from 3 years to 1 years. India and Indian IT services companies are the largest consumers of H-1B visas (Exhibit 1) and will be directly impacted if the Interim Final Rule (IFR) is implemented in current form. H-1B workers make up about 10 per cent of the IT labor force in the US with several sub-segments at much higher rate such as software developers, applications (approximately 22 per cent); Statisticians (approximately 22 per cent); computer occupations, all other (approximately 18 per cent); and computer systems analysts (approximately 12 per cent).

USCIS issued a total of 3,88,403 H1-B visas during FY2019 (October 2018 to September 2019 period), including fresh and renewals of which the share of India stood at 71.7%. The H-1B non-immigrant visa programme allows US employers to temporarily employ foreign workers in specialty occupations, defined by statute as occupations that require the theoretical and practical application of a body of highly specialised knowledge, and a bachelor's or higher degree in the specific specialty, or its equivalent. Typically, the initial visa is offered for an initial period of up to three years and is renewable for an additional three years. The H-1B is renewed continuously for visa holders who have applied for a Green Card (to obtain a perpetual work authorisation permit, subject to the meeting of certain requirements) through eligible foreign employers and whose application is pending approval. The number of new annual (initial) H-1B visas is capped at 65,000 with an additional 20,000 for highly-skilled labour with a master's or a higher degree from a US university. As of September 30, 2019, the total H-1B authorised-to-work population was approximately 583,420 with majority of the visa issued for computer-related occupation and Indian nationals.







## Key changes made to the H1-B programme and its implications

## A. Minimum entry-level wages for H1-B visa

Existing	Amended Rule	Impact – High
'- Existing wage levels for H1-B visa	'- Revised wage levels for H-1B visa set based	'- This will have significant ramification for the India IT
set based on skill level:	on skill level:	services industry as the wage level for entry level
		employees will move from Level 1 to earlier Level III.
Level I/Entry: 17 <sup>th</sup> Percentile	Entry: 45 <sup>th</sup> Percentile	
Level II/Qualified: 34th Percentile	Qualifies: 62 <sup>nd</sup> Percentile	For example, an entry level software developer salary
Level III/Experienced: 50 <sup>th</sup> Percentile	Experienced: 78 <sup>th</sup> Percentile	at level 1 is US\$73,335 (National Average) which will
Level IV/Fully competent: 67 <sup>th</sup>	Fully competent: 95 <sup>th</sup> Percentile	increase to approximately to US\$104,375 - an increase
Percentile		of 42% (Source: Bureau of Labor statistics, ICRA
		research). However, certain companies may already
		be paying higher than the mandated wages and the
		impact will lesser to that extent (Exhibit 2). Since
		Indian companies have been offering wages at
		prevailing rates, the impact will be significantly higher
		compared to leading US-based H-1B user companies.
		'- Existing Labour Condition Application (LCAs) filed
		and approved or H-1B visas issued will continue to be
		governed as per earlier rules. However, new,
		amended, extension petitions will be governed by new
		rules. Hence the impact will be seen over the next 1-3
		year as the duration of existing H-1Bs are three years.
		year as the unration of existing n-105 are tiffee years.

Exhibit 2: Top 20 H-1B by LCA filed: average rate at which the wage offered exceed the prevailing wage

Top Employers	Total LCAs filed/worker position	Average rate at which the wages	% of workers' positions where
	requested	offered exceeds prevailing wage	wage offered exceeds prevailing
			wage by over 20%
Infosys Limited	7,615/21,627	6.53%	11.08%
Cognizant Technology Solution	20,192 / 20,192	0.24%	0.32%
TCS	8,595/9,388	2.95%	4.90%
Deloitte Consulting	7,316/16,567	61.62%	44.16%
Ernst & Young	8,170/8,170	88.59%	71.79%
Google, LLC	8,669/8,669	71.73%	58.60%

Source: Department of Labour, US. A single LCA can be filed for multiple workers with same designation.



Exhibit 3: Estimating the financial impact of change in wage level on Indian IT services companies:

				H-1B Onsite	% incr	ease in		
				wages as %	total	wage	% reduc	ction in
			Onsite wages as %	of Total	СС	st:	Opera	ating
	Onsite Employees as %	% of H-1B among	of total salary Bill:	salary bill:	E (D*	Wage	Margins	s - F (E*
	of total employees: A	onsite workers: B	С	D(B*C)	Hi	ke)	55%	<b>6#</b> )
	Salary increase for existing H-1B holders			20%	30%	20%	30%	
Lower	20%	40%	60%	24.0%	4.8%	7.2%	2.6%	4.0%
Upper	30%	50%	70%	35.0%	7.0%	10.5%	3.9%	5.8%

Note: #Approximately 55% of the Operating Income goes as Employee expenditure, ICRA research

The exact impact of the revised wage structure will happen over the medium term as existing H-1B visas with three-year tenure will continue to operate as per previous rules. Over the medium term the impact of the new wage policy in its current form will shave off 260-580 bps from margins. Different companies have different cost structures; hence we have followed broad based analysis found across companies. Generally, companies have between 25-30% employees as onsite employees out of which 40-50% are on H-1B visas. Based on our analysis, the margin impact (without mitigating factors), in case these changes get implemented, could be in the range of 260-580bps.



# B. Amending the definition of Specialty occupation

Existing	Amended Rule	Impact: Moderate
'- 'Specialty Occupation' as an	'- Bachelor's degree should be in the specific	'- Large set of software-related professionals holding
occupation which requires	field (direct relation), suitable for the position	General Engineering degrees will become ineligible
theoretical and practical application	required for meeting the conditions laid down	for the position of H1-B visa. For example, a
of a body of highly specialized	as being specialty occupation. As per the US	requirement of a general engineering degree for a
knowledge in fields of human	administration, if an individual could qualify	position of software developer would not satisfy the
endeavor, and which requires the	for a position based on seemingly unrelated	specific specialty requirement.
attainment of a bachelor's degree or	degree then it cannot be concluded that the	
higher in a specific specialty, or its	position requires the application of a body of	In such an instance, the petitioner would not
equivalent, as a minimum for entry	highly specialised knowledge and a degree in a	satisfactorily demonstrate how a required general
into the occupation in the United	specific specialty because someone with an	engineering degree provides a body of highly
States.	entirely or largely unrelated degree may	specialized knowledge that is directly related to the
	qualify for the job.	duties and responsibilities of a software developer
		position

## C. Amending the criteria for Specialty occupation position

Existing	Amended Rule	Impact: Moderate		
'- Bachelor's degree is normally or commonly required or that the knowledge required for the position is "usually associated" with at least a bachelor's degree or equivalent.	'- Elimination of the words: "normal", "commonly", "usually" for definition.  Companies will have to establish that the bachelor's degree in a specific specialty or its equivalent is a minimum requirement for entry	'- Significantly narrows the definition of Specialty occupation. A position in an occupation generally requiring a bachelor's degree may not qualify if for the position - same is not a general industry practice or it does not require specialized body of knowledge.		
	into the occupation in the USA by showing that this is always the requirement for the occupation as a whole, the occupational requirement within the relevant industry, the petitioner's particularized requirement, or because the position is so specialized, complex, or unique that it is necessarily required to perform the duties of the specific position.	Overall, the documentation required to prove it's a position in specialty occupation will considerably increase with certain positions may not qualify for same		

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Existing	Amended Rule	Impact: Moderate
'-To qualify as a specialty occupation position, the petitioner must meet one of the four criteria's	'- Point 2 and 4 have been merged into one as there is significant overlap.	
1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position 2. The degree requirement is common to the industry in parallel positions among similar organisations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be	Petitioners may now demonstrate eligibility under this criterion if the position is "so specialised, complex, or unique", as opposed to "so complex or unique" Point 2 and "so specialized and complex" under Point 4 merged into Point 2.  '- The Word 'Position' in Point 1 has been replaced with 'Occupation'. This has expanded the scope that all positions in the same occupation require bachelor's degree as	
performed only by an individual with a degree;	minimum requirement.	
3. The employer normally requires a degree or its equivalent for the position; or 4. The nature of the specific duties are so specialised and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.	As per new rules "A proffered position does not meet the definition of specialty occupation unless it also satisfies one of the revised conditions of specialty occupation position."? (Where does the quote end?) In other words, just because if a particular occupation qualifies as "Specialty occupation", all positions in that occupation will not be automatically eligible.	



## D. Reducing the tenure of H1-B visa for on-site workers

Existing	Amended Rule	Impact: Low
H1-B visas are allowed to be issued generally for a period of three years for both third party on-site or own workplace beneficiaries (employees)	Tenure for third part on-site beneficiaries curtailed to one year	As maximum Indian IT Services companies onshore employees are at third party, the filing cost will increase significantly. Approximately the filing cost for H1-B visa is US\$2,655-7,555 per application

Exhibit 4: H-1B filing costs for companies having more than 50 employees

Description	Amount, US\$	Comments
Filing fees	555	Standard for all applications
Other Fees	0-4000	Applicable to Companies having more than 50% employees on H-1B visa / L-1 visa
ACWIA fees	1500	Companies having more than 25 Employees
Lawyer/HR	600-1000	Inhouse Vs. Outsource Lawyers
Fraud detection fees	0-500	Applicable to certain companies
Total	2655-7555	

Source: Icra research

Based on ICRA research, the financial impact of the yearly renewals of H-1B visa the margin impact will be in the range of 0.25-0.70%. On an average, companies have 20-30% onsite workers with 40-50% dependent on H-1B visa. Further, as per ICRA estimates, a majority of the employees (75%) will be on-site barring the sales and support staff.



#### E. Revised employer-employee relations:

#### **Existing** Amended Rule **Impact: Low** Employer-Employee relation '- Specific regulations added to establish '- Approximately 12% of the petitions (sample size of should exist between petitioner and Employer-Employee relation. Scope of 30,786) filed with USCIS from June 2016 to March beneficiary, including third-party inspections - particularly on-site inspections -2019 were found to be non-compliant. However, onsite workers though specific and the consequence of a petitioner's or thirdthe proportion as significantly higher for on-site provisions not enumerated in detail. party's refusal or failure to comply with these workers with non-compliance ration of 21.7% versus 9.9% for off-site workers. inspections clarified. The new regulations make clear that Overall, the compliance burden for Indian IT companies will increase significantly as under the inspections may include, but are not limited new rule, USCIS will rescind the issued H1-B visa if to, an on-site visit of the petitioning organisation's facilities, interviews with its the third-party worksite does not fully cooperate. officials, review of its records related to compliance with immigration laws and '- However, the same is not applicable retrospectively i.e. petition approved before the regulations, and interviews with any other individuals or review of any other records that new rule will continue to be govern as per earlier USCIS may lawfully obtain and that it considers laws. pertinent to verify facts related to the adjudication of the H-1B petition, such as facts relating to the petitioner's and beneficiary's H-1B eligibility and compliance. The new regulation also state that, if USCIS is unable to verify facts related to an H-1B petition or to compliance with H-1B petition requirements due to the failure or refusal of the petitioner or third-party to cooperate with a site visit, then such failure or refusal may be grounds for denial or revocation of any H-1B petition for H-1B workers performing services at the location or locations which are a subject of inspection,

including any third-party worksites.



# **Mitigation Factors**



• Accelerating pace of local hiring for entry as well as training local hires for mid-level positions: The new wage percentiles will make hiring /training of entry/mid-level workers in the US more cost effective than sending employees on H-1B visa. The new rule will significantly diminish the cost arbitrage working in favour of the H-1B visa-dependent companies. The entry level wage set at the 45<sup>th</sup> percentile versus the 17<sup>th</sup> percentile has widened the gap by 30-40%, as per ICRA estimates. IT services companies will benefit from investing in training of local hires rather than sending employees on H-1B visa. As per ICRA estimates, Indian IT companies will speed up investing in training local hires for entry/mid-level positions as in the long run the same will not be effective.

With the visa issuance norms being tightened in the US by restricting the entry of entry-level programmers coupled with increasing compliance and evidence requirements adding to cost pressures, Indian companies have already ramped up onshore hiring in the US. The USCIS has significantly increased the Request for Evidence (RFE) before issuing the H-1B visas, leading to higher compliance costs. The percentage of completed cases with an RFE increased from 22.3% in FY2015 (Financial Year refers to October to September period) to 40.2% in FY2019. An RFE is generally issued for want of more information before granting the final H-1B visa and adds to compliance costs for IT Services companies. More restrictive administration policies have increased denials for H-1B petitions significantly, with denial rates rising from 6% in FY2015 (October 2014 to September 2015 period) to 21% in FY2019 (October 2018 to September 2019) for new H-1B petitions for initial employment. The top seven India-based companies had only 6,855 H1-B petitions for initial employment approved in FY2019, a decline of 63% (Exhibit 5). The top three reasons for denials of H-1B applications, according to the USCIS, are inability by the sponsor employer to establish that the position is a specialty occupation, inability to substantiate a valid employer-employee relationship (including the right to control) and lack of evidence of specific assignment at third party sites for the entire visa durations requested. Apart from visa denials, companies are already relying less on such visas and building up domestic workforce in the US. Moreover, IT services companies are using more digital services, such as cloud computing, "bots" and artificial intelligence, which require fewer workers.

Exhibit 5: Approved H-1B petitions and denial rates for Initial employment: FY 2015 vs. FY 2019

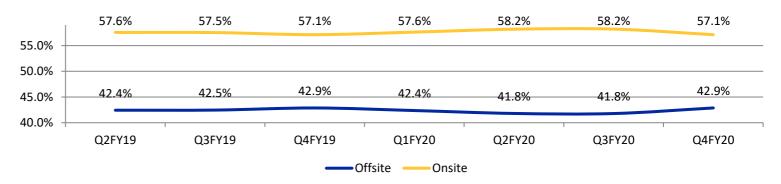
Employer	FY 2019 Approved Petitions Initial Employment	FY 2015 Approved Petitions Initial Employment	FY 2019 Denial Rate Initial Employment	FY 2015 Denial Rate Initial Employment	Change in Denial Rate in %
TCS	1,742	4,771	31%	6%	25
Cognizant	1,598	3,849	56%	8%	48
Tech Mahindra	954	1,571	37%	4%	33
Larsen & Toubro	773	861	14%	2%	12
Infosys	767	2,765	35%	2%	33
Wipro	609	3,185	47%	7%	40
HCL America	412	1,318	33%	2%	31
Total	6,855	18,320	36%*	4%*	32

Source: NFAP, USCIS. \* Simple average



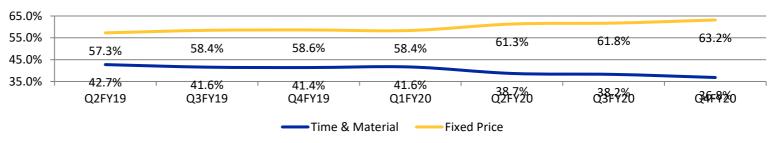
• Increased pace of outsourcing as attempt to increase realisations will be countered by pricing pressure: With such high entry level wages, the pace of offshoring is expected to increase. Indian companies will try and pass on the increased cost of service delivery which is already facing pricing pressure for traditional/legacy services. This will result in increased offshoring as a win-win situation for the clients as well as IT services companies. Further ICRA believes, Covid-19 has led to increased acceptance of offshoring with limited supply-side interruptions, both at onsite and offsite locations.

Exhibit 6: Trend in share of offsite and onshore revenues for ICRA sample companies



• Higher adoption of automation, artificial intelligence: There has been an increased use of automation and artificial intelligence in most of the legacy or traditional Indian IT services. This has allowed Indian companies to protect their margins despite the pricing pressure on most of such services. The trend can be seen in the higher share of fixed price contracts, which are not dependent on the number of employees deployed on the project. The share of fixed price contracts has increased to 61.1% in FY2020 from 58.0% in FY2019 for ICRA sample companies. With companies under pressure to protect margins without much headroom to increase prices, the share of fixed price contracts is expected to increase.

Exhibit 7: Trend in hare of Fixed price and Time & material for ICRA sample companies

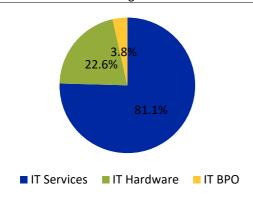


Source: ICRA research



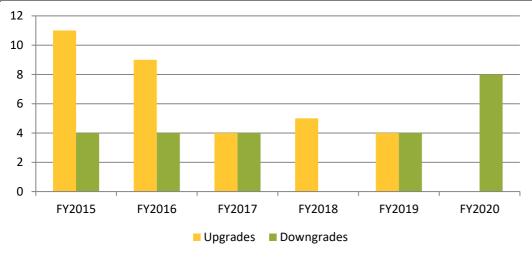
# Annexure: Majority of the entities under IT services with investment grade ratings

Exhibit 8: Distribution of ratings across IT & BPO sector



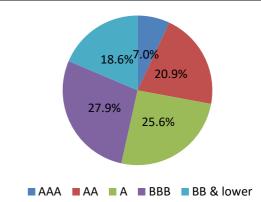
Source: ICRA research

Exhibit 10: Rating upgrade/downgrade – IT Services Sector



Source: ICRA research

Exhibit 9: Distribution of ratings for IT services sector



Source: ICRA research

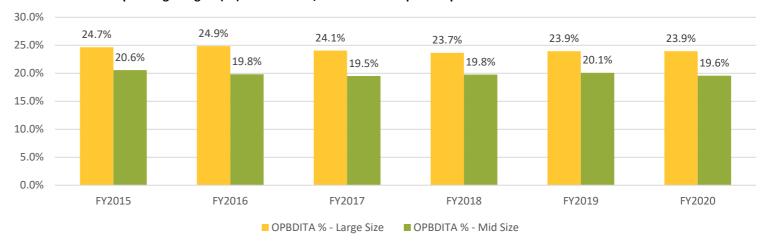
#### **Key Comments:**

- ICRA has a total of 53 entities rated under IT and BPO sector distributed across IT Services (74%), IT Hardware (23%) and IT BPO (3%).
- Approximately 82% of the rated entities are in the investment grade category for the IT services sector. This is a reflection of healthy operating healthy cash flow generation, led by higher margins and low working capital requirements. Further, with low capex requirements, entities in the sector have been generating free cash flows leading to net cash position and liquid investments.
- With continued strengthening of business and financial profile, the sector has seen a larger number of upgrades compared to downgrades. The downgrades have been primarily for entities which derive a large portion of their revenues from the domestic segment with elongated payment cycles.



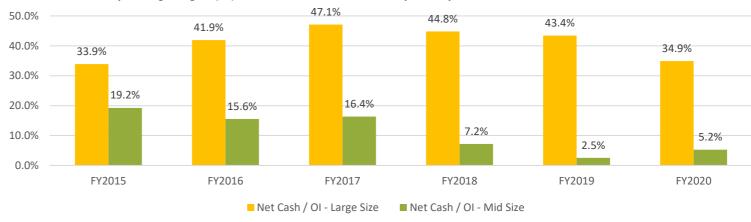
#### Annexure:

Exhibit 11: Trend in operating margins (OI) and net cash/OI for ICRA sample companies



Source: ICRA research. ICRA sample includes six large size and seven mid-size companies

Exhibit 12: Trend in operating margins (OI) and net cash/ OI for ICRA sample companies



Source: ICRA research. ICRA sample includes six large and seven mid-size companies



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1809-1811, Shapath V, Opposite Karnavati Club S.G. Highway, Ahmedabad - 380015 Tel: +91 79 4027 1500/01

## Hyderabad 1

No. 7-1-58, 301, 3rd Floor, 'CONCOURSE', Above SBI-HPS Branch, Ameerpet, Hyderabad - 500 016 Tel: +91 40 4920 0200

#### Pune

5A, 5th Floor, Symphony, S. No. 210 CTS 3202 Range Hills Road, Shivajinagar, Pune - 411 020 Tel: +91 20 2556 0194, 020 6606 9999

## Bengaluru 1

'The Millenia', Tower- B, Unit No. 1004, 10th Floor,1 & 2 Murphy Road, Bengaluru - 560 008 Tel: +91 80 4332 6400

## Hyderabad 2

4A, 4th Floor, SHOBHAN, 6-3-927, A&B Somajiguda, Raj Bhavan Road, Hyderabad – 500082 Tel: +91 40 40676500

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