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Indian insurance industry poised for significant change

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The Indian government recently liberalised foreign direct investment (FDI) schemes in the insurance sector. In a decision widely anticipated by foreign investors in India's insurance sector, the permitted FDI is set to be increased to 49% pending approval by the Indian parliament.

This is the latest in a chain of events dating back more than 20 years.

- 1991: The government's industrial policy began the liberalisation of the Indian economy and paved the way for private participation in the insurance sector;
- 1993 to 1994: Malhotra Committee is set up by the government to review the structure of the regulation and supervision of the insurance industry, and to suggest reforms. The committee recommends, among other things, the private sector be permitted to enter the insurance industry and foreign insurers be allowed to enter the Indian market by forming joint venture companies with Indian partners.
- 1999: The Insurance Regulatory & Development Authority (IRDA) is established as an autonomous body to regulate the insurance industry and develop the insurance market.
- 2000: Private competition was permitted with a temporary, foreign ownership cap of 26%.
- 2004: The government raises cap from 26% to 49%, but with strong opposition from a number of political parties, the coalition government found it difficult to push through the increase.
- 2008: The Amendment Bill is finally introduced, seeking to "raise the foreign equity in Indian insurance companies from 26% to 49%", while keeping the FDI cap at 26% for insurance co-operative societies.

Press reports indicate, while Indian business houses and foreign investors largely welcome this amendment, the opposition parties may not support the government's proposal in parliament. The Indian government has therefore been trying to forge a consensus with the opposition parties to ensure the passage of the bill.

The Amendment Bill is presently pending before parliament and will require the approval of both Houses of Parliament before it comes into effect. Reports suggest the bill may be introduced as early as the next session of parliament.

Foreign investors, joint venture partners and affected local companies should consider the impact of the proposed change on their rights and obligations under their FDI and joint venture agreements including:

- Notice provisions affecting interested parties;
- Share ownership changes and mechanisms;
- Corporate governance changes including the potential impact on directors, board committees and management;
- The need for additional agreements; and
- Regulatory notifications, consents and approvals that may be necessary.

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