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Insurance Laws (Amendment) Bill 2015 Passed

The Insurance Laws (Amendment) Bill, 2015 ("Insurance Bill"), which has been pending in various versions for more than 7 years, was passed by the Raj Sabha (upper house of Parliament) on March 12, 2015. It had earlier been passed by the Lok Sabha (lower house of Parliament) on March 4, 2015. The Insurance Bill (which replaced the Insurance Laws (Amendment) Ordinance, 2014 issued last year by the Government) seeks to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act 1972 and the Insurance Regulatory and Development Authority Act, 1999.

Main features of the Insurance Bill

1. The Insurance Bill provides for raising foreign investment ceiling in Indian insurance companies from 26% to 49% (the 49% being a composite cap and could include both foreign direct investment (FDI) and portfolio investment), however, ownership and management control of Indian insurance companies would have to remain in Indian hands. The foreign equity investment cap of 49% also applies to insurance brokers, third party administrators, surveyors and loss assessors and other insurance intermediaries.
2. Indian insurance companies may soon be able to raise capital by using other forms of capital including hybrid capital as may be specified by the regulator. Nothing has been specified till date.
3. The Insurance Bill enlarges the scope of "Indian insurance companies" to include health insurance business, which is inclusive of travel and personal accident cover. Capital requirements for health insurers have been retained at Rs. 1 billion, thereby paving the way for promotion of health insurance business as a separate vertical.
4. Also, an insurer now includes a foreign re-insurance company and foreign re-insurers can set up branches in India. Re-insurance means "the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium", thereby excluding the possibility of 100% ceding of risk to a re-insurer,

which could lead to companies acting as front companies for other insurers. Further, it enables Lloyds (of London) and its members to operate in India through setting up of branches for the purpose of re-insurance business or as investors in an Indian Insurance Company within the 49% cap.

5. The Insurance Bill prohibits the taking out or the continuance of an insurance policy through multi-level marketing schemes.
6. Penalties under the Insurance Bill have been hiked for various contraventions of the Insurance Act, 1938. For example, there is a penalty of up to Rs. 250 million for mis-selling or misrepresentation of insurance policies.
7. Appeals by any insurer or insurance intermediary against the orders of Insurance Regulatory and Development Authority are to be preferred to the Securities Appellate Tribunal.

Pending the passage of the Insurance Bill, the Government had on February 20, 2015, notified the Insurance Companies (Foreign Investment) Rules, 2015, which specifies that FDI proposals up to 26% of the total paid-up equity of an Indian insurance company will be allowed on the automatic route, and FDI proposals above 26% and up to the cap of 49% will require the Foreign Investment Promotion Board's approval. The Department of Industrial Policy and Promotion, Ministry of Commerce ("DIPP") had also, on March 2, 2105 issued Press Note No. 3 (2015 series) to amend the consolidated FDI policy circular of 2014, to give effect to the increased FDI limit.

The passage of the Insurance Bill has been welcomed by the insurance industry and it is expected that foreign joint venture partners will be increasing their shareholding percentages soon.

Feedback