

## RECENT AMENDMENTS TO THE INDIAN FDI REGIME: ARE THE CHANGES ENOUGH TO BOOST FDI AMIDST GLOBAL TURMOIL?

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On May 2, 2026, the Indian government notified two (2) amendments to the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (the “**NDI Rules**”) to align the NDI Rules with the below listed changes introduced in India’s Foreign Direct Investment (“**FDI**”) policy through Press Notes issued earlier this year:

- Press Note 1 of 2026, which liberalized the foreign direct investment (“**FDI**”) norms applicable to the insurance sector (“**PN1**”); and
- Press Note 2 of 2026 (“**PN2**”), which defined beneficial ownership for the first time under India’s FDI norms and carved out investments coming in from countries sharing a land border with India (“**LBCs**”) into investments that will require prior government approval and those that will only be subject to a prior intimation requirement.

Subsequently, on May 4, 2026, the Indian government notified a new standard operating procedure to process FDI proposals (the “**2026 SOP**”), which replaced the previously applicable procedure issued in 2023 (the “**2023 SOP**”).

This update analyzes these recent changes to India’s FDI regime and discusses their practical impact on cross-border transactions involving India.

### Liberalization of FDI norms in the insurance sector

As the insurance sector in India has matured over the years, the need for capital and technical expertise has also increased. The Indian government has liberalized FDI norms in the sector from time-to-time in an effort to meet these needs with the FDI cap being enhanced to 49% in 2015 and 74% in 2021.

Removal of the cap in its entirety has been in the works for some time now. As discussed in our update [here](#) and as clarified by the Indian government in parliament, many foreign players continue to hold stakes well below 74%, with control in the hands of their Indian partners. As foreign investment in the sector was, historically, been tied to the joint venture model, this had become a major roadblock for fresh investment. Therefore, the government was keen to remove the cap entirely in a bid to attract new entrants who could invest without having to partner with any domestic entity.

After prolonged consideration, the liberalization of the sector was enacted through the Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025 (the “**Insurance Amendment Act**”), which, among other changes, increased the foreign investment limit prescribed under the Insurance Act, 1938 to 100%. Subsequently, the Indian government issued the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2025 (the “**Insurance Amendment Rules**”), which specified the conditions applicable to any foreign

investment in the sector under the automatic route. We have analyzed the key changes introduced by the Insurance Amendment Act and the Insurance Amendment Rules in our client update [here](#).

By issuing PN1 and the Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2026, the Indian government has now amended the FDI Policy and the NDI Rules to ensure that India's FDI regime aligns with the changes introduced by the Insurance Amendment Act and the Insurance Amendment Rules.

Now that the liberalization of the insurance sector is fully implemented across all applicable laws, the belief is that there will be a significant rise in FDI in the insurance sector, especially as foreign investors will now be able to exercise full strategic and operational control on their companies. Without the need of a joint venture partner, foreign investors will be able to operate independently and deploy capital as required. However, the joker in the pack is the IRDAI, India's insurance regulator. Armed with an agenda of safeguarding the interests of Indian policyholders, the IRDAI imposes stringent solvency norms, restricts commission payments to intermediaries, and retains significant regulatory oversight. Given this, it will have to be seen whether the FDI liberalization and other changes introduced by the Insurance Amendment Act to ease the conduct of business in the sector will provide sufficient impetus for deployment of additional foreign capital. Insurance is a long term game, and the regulatory environment has to be conducive for the growth of the sector.

## **Norms governing investments from LBCs**

At the beginning of the COVID-19 pandemic, in early 2020, the Indian government issued Press Note 3 of 2020 ("PN3") under which mandatory government approval is required for all investments coming into India from entities or individuals in LBCs. This move was primarily aimed at curbing opportunistic takeovers of Indian business during a fragile economic period. However, as discussed in our client update [here](#), there was a lack of clarity on various issues at the time, including the definition of beneficial ownership and the process and timelines for entities or individuals from LBCs to obtain the necessary government approvals.

As the post-pandemic economy boomed and FDI surged, the lack of clarity arising from the PN3 notification came to the fore. Even a minimal, indirect exposure of an investor from an LBC triggered prior government approval, resulting in delays and increased transaction costs. Tracing ultimate beneficial ownership became a mammoth fact-finding exercise, especially for investments involving listed companies and multiple holding companies, and pooled investment vehicles. This resulted in passive and non-controlling investments being subjected to the same level of scrutiny as strategic investments.

Over time, these issues were somewhat ironed out through practical steps taken by industry participants (such as authorized dealer banks). For instance, to address the lack of clarity on the definition of beneficial ownership, industry participants informally adopted the threshold of 10% for beneficial ownership in line with similar requirements under Indian company and anti-money laundering laws. Further, in the context of global deals, especially

when relating to FDI in sectors not otherwise requiring government approval (such as IT or manufacturing), reliance was placed on self-declarations and contractual representations.

The Indian government's cabinet ministry finally approved certain changes to formally address these issues through legislation earlier this year. These approvals have now been implemented through the introduction of PN2, the Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2026 and the 2026 SOP.

As part of the changes, the Indian government has introduced a threshold-based system. Investments with beneficial ownership from LBCs up to 10% without any element of control will now be allowed under the automatic route. However, such investments will need to be reported to the Department for Promotion of Industry and Internal Trade through a standalone reporting form prescribed under the 2026 SOP. At the same time, a carve-out also prescribes that all investments from Pakistan will continue to require prior government approval. By contrast, investments beyond the 10% threshold or involving any kind of control from citizens or entities of other LBCs will continue to require prior government approval. Further, the definition of beneficial ownership has been aligned with the definition already adopted under the Prevention of Money Laundering Act, 2002, which considers both, direct and indirect holdings, and elements of control and influence.

The move away from blanket approval requirements to a more calibrated and threshold-based screening mechanism signals the government's acknowledgment of the change in economic realities in the past five (5) years. While protecting the economy against undervalued takeovers appeared to be need of the hour in 2020, rising valuations followed by a significant drop in FDI inflows into India in the past couple of years has necessitated the changes to provide more procedural and timing certainty. The formal acknowledgment of a beneficial ownership threshold and allowing passive investments to be made without the need for regulatory approval has addressed the concerns of private equity and venture capital investors. Further, alignment of the definition of beneficial ownership with existing laws will ensure consistency and certainty in investor understanding. That said, from an ease of business standpoint, this change merely provides formal recognition to the practice and thresholds already adopted by the industry. Separately, the scope of information required to be traced has been expanded significantly, and the requirement is to now go beyond the objective ownership threshold and also identify other elements of control. While tracing such information may be important to prevent circumvention of the threshold, the change is unlikely to reduce deal friction or improve deal timelines.

## **Changes introduced by the 2026 SOP**

In the immediate aftermath of the introduction of PN3, government approval applications for investments where beneficial ownership from LBCs was identified remained pending for several months. In fact, in 2024, press reports had noted that almost 40% of the 500-odd approval applications filed since the introduction of PN3 remained pending while the Indian government had, at the time, only approved about 125 proposals and rejected 200 others. In recent times, the inter-ministerial committee responsible for evaluating PN3 applications attempted to convene more frequently to try and expedite the approval process. However,

formal overhaul of the approval procedure remained pending, which continued to impact deal certainty and timelines.

The 2026 SOP implicitly acknowledges the need to evaluate approvals for investments from LBCs in a timebound manner. For instance, the 2026 SOP expressly requires the Ministry of External Affairs (“MEA”) to provide their comments/ clearance in respect of the specific fact that an investment originates from an LBC within the same stipulated timelines as are applicable for submission of all other comments from the MEA on the proposal, i.e., within eight (8) weeks from submission of the application. In addition, the provision permitting competent ministries to escalate delayed FDI proposals and other FDI proposals, including those relating to investments from LBCs, to an inter-ministerial committee for inputs and comments has also been deleted. These changes suggest that while proposals involving investments from LBCs will continue to be scrutinized, they will need to be cleared through the same procedures and within the same timelines as are applicable to other FDI proposals.

The 2026 SOP also introduces detailed guidelines on reporting of LBC investments falling below the approval threshold of 10%. To comply with the reporting requirements introduced under the threshold-based system of PN2, parties will now need to provide detailed information even where approval is not specifically required but some beneficial ownership or control can be traced back to LBCs, including, details of shareholding, beneficial ownership and control rights at the investor level (including, director appointment, veto and other voting rights vested or proposed to be vested with any citizen or entity from an LBC).

Separately, the 2026 SOP now provides for expedited evaluation of investments from LBCs in certain key sectors, including, rare earth minerals processing and manufacturing of advanced battery components, electronic capital goods, other capital goods, electronic component manufacturing and rare earth permanent magnets. Proposals relating to these sectors will be evaluated by the relevant ministry within sixty (60) days. However, such expedited evaluation will only be available in transactions where the investment from the LBC investor is capped at 49%, and majority shareholding and control of the Indian investee entity remains, directly and indirectly, with resident Indian citizens.

Lastly, the 2026 SOP introduces several other procedural changes to streamline the approval process for FDI proposals into India, including: (i) introducing specific timelines for the government to conduct its initial scrutiny, raise requests for clarifications and close applications due to insufficient information/ clarifications; (ii) permitting applicants to apply for correction of errors other than grammatical or typographical errors in the FDI approval so long as such errors are apparent from the record; and (iii) deleting the requirement to disclose details of past proposals that were closed, withdrawn or rejected in subsequent applications.

The introduction of explicit processes and timelines for proposals involving LBC investments within the 2026 SOP is a welcome change. However, the overall approval timelines for all FDI proposals remains at twelve (12) weeks, which is significantly higher than other jurisdictions in the region competing for global FDI such as Vietnam, Malaysia and Thailand,

who, typically, resolve their investment review processes within fifteen (15) to sixty (60) days. Moreover, the introduction of the new reporting requirements for LBC investments falling below the prescribed threshold may prove to be counterproductive from an ease of business standpoint given the nature and extent of details sought as part of the reporting requirements. Ultimately, it seems that entities and individuals investing from LBCs will have to assess India's market size and whether there is a compelling investment opportunity for them in India.