



## LATEST STATUTORY SNAPSHOT

TUESDAY 21<sup>ST</sup> APRIL 2020



### NEW RESTRICTIONS ON FOREIGN DIRECT INVESTMENT FROM COUNTRIES SHARING LAND BORDER WITH INDIA

The Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India has vide Press Note 3 (2020 Series) dated 17<sup>th</sup> April, 2020, amended the Foreign Direct Investment (FDI) policy to thwart any opportunistic takeovers and acquisitions of companies in India, in view of COVID pandemic related economic vulnerability of Indian companies and resultant fall in their valuation.

Accordingly, entities or citizens from countries with which India shares land border will now require, **prior approval of the Government**, in respect of any foreign direct investment, in sectors where automatic approval is otherwise permitted, subject to specified sectoral caps. Hence, FDI from Afghanistan, Bangladesh, Bhutan, China, Myanmar, Nepal and Pakistan will require prior approval of Government in all sectors where FDI is permissible. Entities and citizens of Pakistan continue to be prohibited from investing in defence, space and atomic energy and other sectors or activities in which FDI is prohibited, as before. The requirement of government approval applies even for indirect acquisitions or investments through beneficial holdings, if the significant beneficial owner (in terms of Section 90 of the Companies Act, 2013) is a citizen of any of the above specified countries. However, it is not clear as to how FDI from special administrative regions of China namely, Hongkong and Macau will be treated.

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Amendment to Foreign Exchange Management (Non-Debt Instruments) Regulations, 2019 is expected to be notified in respect of the aforesaid policy change shortly, whereupon the amendment will become effective. In light of the said policy change, any transfer of equity instruments to any citizen or entity of the above specified countries will also require prior approval of the Government.

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