



Clarity needed on takeover-acquisition by neighbouring investor

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Indian companies rely on foreign capital

Clarity is needed in the newly revised Foreign Direct Investment policy which calls for a prior Government approval in case involving investment from neighbouring countries, namely China as only the cash-rich Chinese investors are on acquisition trail.

The FDI policy review, announced 17 Apr 2020, could be best described as India echoing the words of other sovereign nations, noted Nishith Desai Associates in its analysis of the move on 20 Apr 2020.

But Indian companies will greatly rely on foreign capital in the coming days, Nishith Desai pointed out.

However, unless its implementation is carefully thought through and exercised judiciously, this new policy may create some unintended hurdles for investors from other parts of the world who may have received a part of their funding from the Neighbouring Countries,

Further, the Government approval process is also likely to impact the timelines of such investments, noted the Mumbai headquarter legal consultancy with global network.

The Government on 17 April 2020 amended its Foreign Direct Investment Policy to curb the opportunistic takeovers and or acquisitions of Indian companies due to the current Covid-19 pandemic.

With the FDI reviewed, India has taken bold step towards blocking any potential investment threats that may come from its neighbouring countries – Bangladesh, China, Pakistan, Nepal, Myanmar, Bhutan and Afghanistan.

It is imperative that changes to the regulations are clear and do not have unintended consequences of restricting FPI investments in listed securities or undue burden on funds that are broad based, without any ultimate beneficial owner in Neighbouring Countries, as Indian companies will greatly rely on foreign capital in the coming days.

"With that said, we hope that the Government would take into consideration some of the foreseeable regulatory and practical challenges that may arise due to the change introduced through Press Note and accordingly try to address those in the FEMA Notification," said Nishith Desai. fiinews.com