CLIENT UPDATE

INDIAN GOVERNMENT PROPOSES FURTHER LIBERALIZATION OF INSURANCE AND PENSION SECTORS

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Announcing the second significant economic reforms in as many months, on October 4, 2012, the Indian federal cabinet approved putting forward two bills to the Indian parliament that would allow foreign companies to hold up to 49 per cent in Indian insurance firms and pension funds. The current regime bars foreign investors from buying any equity in pension management companies, and the cap for foreign investment in Indian insurers is currently 26 per cent. However, unlike last month's changes to the foreign direct investment ("FDI"), policy allowing FDI in multi-brand retail and civil aviation[1] that did not require further approvals, both these measures will require the passage of legislation through the Indian parliament. This may prove challenging as the coalition government is in a minority after its largest partner withdrew support due to last month's reforms.

THE CHANGING INSURANCE REGIME IN INDIA

Liberalization of the Indian insurance market came about in 1999[2] with the passage of the Insurance Regulatory and Development Authority Act, which opened up the insurance industry to private investment and created the Insurance Regulatory and Development Authority ("IRDA").

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1 India Announces 'Big Bang' Economic Reforms - Allows FDI in Multi-Brand Retail and Aviation http://www.debevoise.com/clientupdate20120924a/ .

2 For a general overview of the insurance industry in India, see "History of Insurance" on the website of the IRDA, last updated 12 July 2007, http://www.irda.gov.in/.

Up until then, the insurance sector had been a public sector monopoly. This limited liberalization only permitted up to 26 per cent foreign investment in Indian insurance companies. Foreign insurers were also allowed to open a liaison branch in India with the permission of IRDA. However, such liaison branches are prohibited from engaging in commercial activity and must limit themselves to activities such as market research and facilitating communication between the branch's foreign parent company and Indian insurance companies.

In December 2011, the IRDA issued the IRDA (Issuance of Capital by Life Insurance Companies) Regulations, 2011 (the "Regulations"), which permit certain life insurance companies in India to go public[3] subject to regulation by both the IRDA and the Securities and Exchange Board of India. The Regulations only allow life insurers that have completed ten years of operations in India to go public. These Regulations were seen as a significant step forward in India's nascent private life insurance sector, which had, up until that point, seen little growth. Recently, the IRDA announced that it will soon be issuing final IPO guidelines for general insurance companies as well.

CONCLUSION

While the Indian government's approval of the insurance and pension reform bills has been well received by the public markets, it would be premature to celebrate just yet. Any change in the law will require approval from both houses of parliament and the government currently does not have a majority in the upper house. In fact, it is worth remembering that the previous government (headed by the same party and prime minister) had introduced similar legislation in 2008 in the form of the Insurance Laws (Amendment) Bill but it never passed. Nevertheless, with the announcement of this round of economic reforms, the Indian government has signaled a clear policy shift towards liberalization. With the recent issuance of the Regulations and the forthcoming publication of the IPO guidelines for general insurers, the Indian insurance market is one for foreign investors to watch.

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Please do not hesitate to contact us with any questions.

October 9, 2012

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3 Maturity a Must - Indian Insurance Regulator Approves Regulations For Public Offerings By Life Insurance Companies http://www.debevoise.com/clientupdate20120510b/