

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XX of 2021

THE INSURANCE (AMENDMENT) BILL, 2021

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BILL

further to amend the Insurance Act, 1938.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Insurance (Amendment) Act, 2021.

Short title and
commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

4 of 1938.

2. In the Insurance Act, 1938 (hereinafter referred to as the principal Act), in section 2, in clause (7A), for sub-clause (b), the following sub-clause shall be substituted, namely:—

Amendment of
section 2.

10 "(b) in which the aggregate holdings of equity shares by foreign investors including portfolio investors, do not exceed seventy-four per cent. of the paid-up equity capital of such Indian insurance company, and the foreign investment in which shall be subject to such conditions and manner, as may be prescribed;"

Amendment of section 27. **3.** In section 27 of the principal Act, in sub-section (7), the *Explanation* shall be omitted.

Amendment of section 114. **4.** In section 114 of the principal Act, in sub-section (2), for clause (aaa), the following clause shall be substituted, namely:—

"(aaa) the conditions and manner of foreign investment under sub-clause (b) of clause (7A) of section 2;" 5

STATEMENT OF OBJECTS AND REASONS

The Insurance Act, 1938 was enacted to consolidate and amend the law relating to business of insurance in the country. The foreign investment in insurance sector was permitted in the year 2000 by allowing the same up to 26 per cent. in an Indian insurance company. Subsequently, *vide* the Insurance Laws (Amendment) Act, 2015, this limit of foreign investment was raised to 49 per cent. of the paid-up equity capital of such company, which is Indian owned and controlled as per the rules made in this behalf.

2. In order to achieve the objective of Government's Foreign Direct Investment Policy of supplementing domestic long-term capital, technology and skills for the growth of the economy and the insurance sector, and thereby enhance insurance penetration and social protection, it has been decided to raise the limit of foreign investment in Indian insurance companies from the existing 49 per cent. to 74 per cent.

3. Accordingly, the Insurance (Amendment) Bill, 2021, amending the Insurance Act, 1938, seeks, *inter alia*, to provide for—

(i) substitution of sub-clause (b) in the definition of "Indian insurance company" in clause (7A) of section 2 of the Insurance Act, 1938, so as to raise the limit of foreign investment in an Indian insurance company from the existing 49 per cent. to 74 per cent. and to allow foreign ownership and control with safeguards;

(ii) omission of the *Explanation* to sub-section (7) of section 27.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

NIRMALA SITHARAMAN.

The 12th March, 2021.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 114 of the Insurance Act, 1938, which provides that the Central Government make rules for the conditions and manner of foreign investment under sub-clause (b) of clause (7A) of section 2.

2. The matter in respect of which the aforementioned rules may be made are matters of procedure and administrative details, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE INSURANCE ACT, 1938

(4 OF 1938)

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2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

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(7A) "Indian insurance company" means any insurer, being a company which is limited by shares, and,—

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(b) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.

Explanation.—For the purposes of this sub-clause, the expression "control" shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

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INVESTMENT, LOANS AND MANAGEMENT

27. (1) * * * * * Investment of assets.

(7) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation.—This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.

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114. (1) * * * * * Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

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(aaa) the manner of ownership and control of Indian insurance company under sub-clause (b) of clause (7A) of section 2;

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RAJYA SABHA

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BILL

further to amend the Insurance Act, 1938.

(Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs)