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By saurabh Pandey





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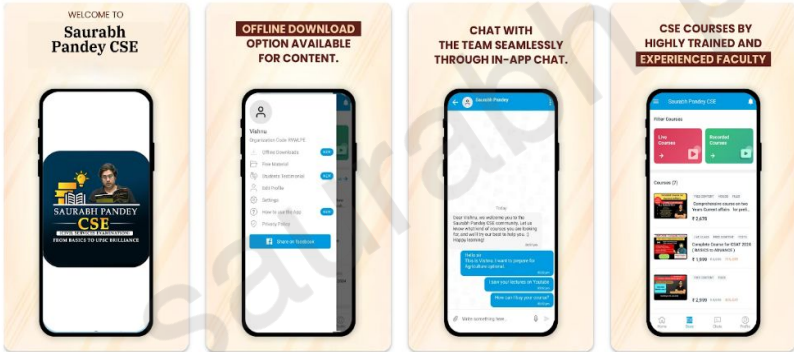
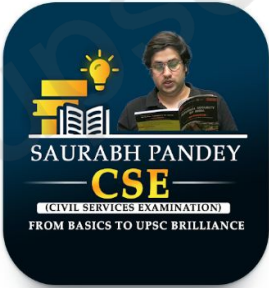
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India growth story has a 'beneficial ownership' hurdle



Foreign investments will play a crucial role in aiding the government's goal of a \$5 trillion economy by the end of the financial year 2025-26. But, in order to attract foreign investment, it is essential to remove all the bottlenecks for the Indian companies receiving this investment, and also foreign investors who are willing to bet on the India growth story.

Amendment conundrum

The amendment to the Indian Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("FEMA NDI") through the press note number 3 of 2020, has posed a significant challenge for Indian companies, especially start-ups and smaller enterprises seeking foreign investments. This amendment stipulates that any investments in Indian companies, whether direct or indirect, originating from entities located in countries that share land borders with India ("Neighbouring Countries"), or where the "beneficial owner" of the said Indian investment is situated in, or is a citizen of any of these Neighbouring Countries would necessitate prior government approval ("PN3 Requirement").

While the aim of the amendment which was promulgated during the COVID-19 pandemic was salutatory – i.e., to curb opportunistic takeovers or acquisitions of Indian companies by Neighbouring Countries during difficult times created by a black swan event – it created vast uncertainty as the term 'beneficial owner' has not been explained or defined, and other laws that have a definition of the term are context-specific. When the PN3 requirement was first introduced, the industry in general was comfortable taking a lenient view, relying on the beneficial ownership thresholds that were legislated in other laws. But since the latter half of 2023, the Reserve Bank of India (RBI) has begun taking a more conservative view concerning issues on which the law was silent, especially under FEMA NDI.

For example, last year, numerous Foreign Owned or Controlled Companies ("FOCCs")



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The amendment to the Indian Foreign Exchange Management (Non-debt Instruments) Rules, 2019 is a challenge

began receiving notices from the RBI regarding their downstream investments. The industry has since taken the view that FOCCs will be placed under the same restrictions as non-residents on the aspects on which the law is silent. However, when this notion was challenged by the RBI recently, investors began to question other industry practices on which the FEMA NDI was silent. Even law firms that were once fine with adopting a lenient view in cases of beneficial ownership thresholds, are now advising clients that they cannot offer assurance by relying on the beneficial ownership thresholds legislated under other laws.

Further, the obstacle of navigating the prior government approval route is exacerbated by its time-consuming nature and high rejection rate. Although consolidated official data on pending or rejected applications is not published by the Government of India, some government officials have stated that proposals worth ₹50,000 crore from the Neighbouring Countries are either pending, withdrawn or rejected; and a staggering 201 applications have been rejected in the past three years.

With the PN3 Requirement, the onus of compliance is on the Indian company that receives foreign investment, with the regulatory authorities having the discretion to impose fines of up to three times the investment received. The inherent vagueness within the legislation, along with severe penalties, can cast doubts on the survivability of these companies.

Many of these start-ups receive investments far beyond their revenue or assets. So, such fines could leave them insolvent, even if they liquidate. Non-compliance would likely trigger legal battles, adding to India's already significant backlog of court cases.

Issues and solutions

First, the indemnity challenge. Indian companies could consider having foreign investors to furnish representations backed by indemnities regarding

their compliance with the PN3 Requirement. However, this may discourage foreign investment due to potential liabilities.

Therefore, there is a pressing need to amend the PN3 Requirement to define "beneficial owners" comprehensively, including ownership thresholds and control tests.

Second, defining 'Beneficial Owners'. The definition of 'beneficial owner' should specify a precise threshold for ascertaining beneficial ownership, potentially ranging from 10% (as provided under the Indian company law) to 25% (as recommended by the Financial Action Task Force). The selection of the specific threshold can be customised to align with the government's objective of scrutinising varying levels of foreign investment across different sectors. For example, sectors such as telecom and defence, which are sensitive in nature, may warrant heightened scrutiny when compared to sectors such as manufacturing and construction, where India requires additional capital.

The definition should also specify control-conferring rights, beyond ownership thresholds, to capture entities with significant influence. For example, rights regarding board meeting quorums or veto powers over operational matters such as incurring any capital expenditure or availing any loan may confer control and should be outlined. However, investor value protection rights, such as veto powers over mergers or right of first offer, should be excluded from the definition, as they do not constitute control.

Third, consultation mechanism. Even with the clarification of control-conferring rights in the definition, some ambiguity may persist due to the skilful drafting of peculiar clauses in the charter documents. To mitigate this issue, FEMA NDI, akin to Indian competition law, could be amended to incorporate a time-bound consultation mechanism with regulatory authorities, to determine whether specific clauses are control-conferring.

Foreign Investment

- **Foreign investments will play a crucial role in aiding the government's goal of a \$5 trillion economy by the end of the financial year 2025-26.**
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What is Foreign Investment?

A: Foreign Direct Investment

A company buying or building a factory in another country



B: Foreign Portfolio Investment

Buying stocks and bonds from another country



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What is PN3??

- On April 17, 2020, the Government of India (“Government”) issued Press Note No. 3 (2020 Series) (“PN3”) with an objective to limit ‘opportunistic’ foreign direct investments (“FDI”) from countries sharing land border with India (“Neighbouring Countries”).
- The PN3 mandated that where an investing entity is situated in a country sharing land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, FDI shall be permitted only with prior Government approval.
- Against the backdrop of the pandemic and concerns of Chinese consolidation of investment in Indian entities, the PN3 aims to protect vulnerable Indian companies from foreign takeovers.

Buddhavanam

- **Buddhavanam is a tourism project in Nagarjuna Sagar, Telangana created by the Telangana State Tourism Development Corporation.**
- **The project was sanctioned by the Government of India viz., Integrated Development of Nagarjunasagar as part of Lower Krishna valley Buddhist circuit with a view to attract large number of domestic and foreign tourists particularly from the South-East Asian countries.**

Nastaliq

- *Nastaliq* also **romanized** as *Nasta‘līq* or *Nastaleeq*, is one of the main **calligraphic hands** used to write the **Perso-Arabic script** and it is used for some **Indo-Iranian languages**, predominantly **Classical Persian, Kashmiri, Punjabi (Shahmukhi)** and **Urdu**.
- It is often used also for **Ottoman Turkish** poetry, but rarely for **Arabic**.
- *Nastaliq* developed in **Iran** from *naskh* beginning in the 13th century and remains widely used in **Iran, Afghanistan, India, Pakistan**, and other countries for written poetry and as a form of art.

May WPI inflation spikes to 15-month high on food prices

Food inflation surges to 10-month peak of 7.4% driven by steeper fruit, vegetable, cereal prices; manufactured products see return of price rise

Vikas Dhoot
NEW DELHI

Inflation in India's wholesale prices accelerated to a 15-month high of 2.61% in May, more than double April's pace, with food inflation surging to a 10-month peak of 7.4% driven by steeper prices for vegetables, fruits, pulses and cereals, and a resurgence of price rise in manufactured products after 14 months of deflation.

Economists said the acceleration in wholesale inflation in May signals there is room for a further surge in consumer prices despite retail inflation easing to a 12-month low of 4.75% last month, especially as food and industrial input prices are spiking globally. May was the seventh month in a row that the WPI rose on a YoY basis after seven straight months of deflation, and wholesale inflation is expected to quicken more than 3% this month.

Sequential easing

On a month-on-month basis, the Wholesale Price Index (WPI) was up 0.2% in May, easing from an upwardly revised 9-month high of 1.06% a month earlier, with food prices rising 1.14% over April levels and manufactured products' prices up 0.64%.

The heatwaves in May

Wholesale worries

WPI inflation accelerated to a 15-month high of 2.61% in May, more than double April's pace

- Manufactured products see a resurgence of inflation after 14 months of deflation
- May was the seventh month in a row that the WPI rose on a year-on-year basis
- Sequentially, the WPI rose 0.2%, easing from April's upwardly revised 9-month high of 1.06%



helped fire up the inflation rate for vegetables to the highest level in nine months at 32.4%, and a six-month high of 5.8% for fruits.

Price rise in cereals sped to 9%, while that for pulses reversed direction to hit a six-month high of 22%.

Within vegetables, tomato prices were up 64.5% in May from 40.6% in April, while inflation in onion and potato eased slightly to a tad over 58% and 64%, respectively.

'Supply shortfalls'

Bank of Baroda chief economist Madan Sabnavis said the spikes in vegetable prices were partly due to supply shortfalls and that the heatwave aggravated the challenge.

"This is a major concern as it will keep up the pressure on the inflation till the next crop comes," Mr. Sabnavis told *The Hindu*.

India Ratings flagged si-

milar concerns about pulses prices remaining elevated in double digits as the new crop would be harvested only in October-November.

'Worrisome for retail'

"Elevated food inflation at the wholesale level is worrisome as this would keep retail food prices firm even going forward," senior director and principal economist Sunil Kumar and senior analyst Paras Jasrai wrote in a note. "Retail food inflation has been above 8% for the past seven months," they added.

India Ratings expects retail food inflation to remain over 8%, with wholesale prices expected to rise further to 3.5%, in June. CareEdge Ratings' chief economist Rajani Sinha also pointed out that industrial metal prices had risen 9.3% since March-end and food prices were increasing globally.

Wholesale price index

- **.Definition:** Wholesale Price Index (WPI) represents the price of goods at a wholesale stage i.e. goods that are sold in bulk and traded between organizations instead of consumers. WPI is used as a measure of inflation in some economies.
- **Description:** WPI is used as an important measure of inflation in India. Fiscal and monetary policy changes are greatly influenced by changes in WPI. In the United States, Producer Price Index (PPI) is used to measure inflation.
- WPI is an easy and convenient method to calculate inflation. Inflation rate is the difference between WPI calculated at the beginning and the end of a year. The percentage increase in WPI over a year gives the rate of inflation for that year

Difference between Wholesale Price Index and Consumer Price Index

Comparative Table: Wholesale Price Index and Consumer Price Index

	Wholesale Price Index (WPI)	Consumer Price Index (CPI)
Meaning	It measures the average change in the price in the sale of goods in bulk quantity by the wholesaler.	CPI measures the change in the price in the sale of goods or services in retail or directly to the consumer.
Area of Focus	It focuses on the goods that are traded only between wholesalers or businesses.	It focuses on the goods that the consumer is purchasing.
Numbers of Items Covered	697	448 for rural and 460 for urban
Reference Year for Calculation	Financial year	Calendar year
Releasing Date	Every week for primary products, fuel, and power for the remaining items in monthly publishing.	Every month.
Prices Bear By	By manufacturer and wholesaler.	By consumer.
Inflation Measurement	WPI measures inflation in the first stage.	WPI measures inflation in the last stage.
Price Measurement	It is restricted to only goods.	It is for both goods and services.

G-7 leaders say they will back Ukraine ‘as long as it takes’

The group will provide financing to Kyiv that will be serviced and repaid by flows of revenues stemming from the immobilisation of Russian sovereign assets held in the EU, says summit draft

Agence France-Presse

BARI

G-7 leaders recommitted Friday to support Ukraine “for as long as it takes”, according to a draft statement from a summit where they agreed a new \$50 billion loan for Kyiv.

“We are standing in solidarity to support Ukraine’s fight for freedom and its reconstruction for as long as it takes,” said the draft from the Italy talks.

It said the \$50 billion loan – agreed in the presence of Ukraine President Volodymyr Zelenskyy – sent “an unmistakable signal to (Russian) President Vladimir Putin”.



Show of support: G-7 leaders with Volodymyr Zelenskyy during the summit in Fasano, Italy, on Friday. GETTY IMAGES

The loan will be backed by profits from the interest accrued on Russian central bank assets frozen by Western powers after Moscow’s February 2022 invasion of Ukraine.

“The G-7 intends to pro-

vide financing that will be serviced and repaid by future flows of extraordinary revenues stemming from the immobilisation of Russian sovereign assets held in the European Union and other relevant jurisdic-

tions,” the draft statement said. “To enable this, we will work to obtain approval in these jurisdictions to use future flows of these extraordinary revenues to service and repay the loans.”

It said the money would be disbursed through “multiple channels that direct the funds to Ukraine’s military, budget, and reconstruction needs – within the constraints of our respective legal systems and administrative requirements”.

The leaders tasked ministers and officials to start working on the technicalities to start providing the funds to Ukraine before the end of the year.

All about G7

.What is the G7?

- The G7 (Group of Seven) is an organisation of the world's seven largest so-called "advanced" economies, which dominate global trade and the international financial system.
- They are Canada, France, Germany, Italy, Japan, the UK and the United States.
- Russia joined in 1998, creating the G8, but was excluded in 2014 for its takeover of Crimea.

- **China has never been a member, despite its large economy and having the world's second-largest population.**
- **Its relatively low level of wealth per person means it is not seen as an advanced economy in the way the G7 members are.**
- **Both these nations are in the G20 group of developed and developing nations.**
- **The EU is not a member of the G7, but attends the annual summits.**
- **Throughout the year, G7 ministers and officials hold meetings, form agreements and publish joint statements on global event**

What is Italy's agenda for the 2024 summit?

- The 2024 G7 summit will be held from 13 to 15 June in Apulia, in Italy.
- It will be the first major international forum hosted by the Italian prime minister, Giorgia Meloni, since she took office in October 2022.
- As well as the wars in Ukraine and Gaza, Italy says it wants the summit to focus on Africa and migration, economic security, and international co-operation on artificial intelligence (AI).



G7 in numbers

7 member countries

30% of global GDP

1/10 of world's population

2014 Russia suspended for annexing Crimea

Source: BBC research

. How could the G7 work with developing nations?

- Italy says "the relationship with developing nations and emerging economies will be central" to the G7 summit, and that it "will work to build a co-operation model based on mutually beneficial partnerships".
- It has invited leaders from 12 developing countries in Africa, South America and the Indo-Pacific region.
- Under the the Mattei Plan, Italy will give grants and loans worth 5.5bn euros (£4.6bn) to several African countries, to help develop their economies.



- . The scheme would also position Italy as an energy hub, building gas and hydrogen pipelines between Africa and Europe.
- In December 2023, Italy pulled out of the Belt and Road Initiative - a scheme to expand China's ports and transport routes worldwide to boost trade.
- Ms Meloni said that joining had been "a serious mistake". The US has called the initiative "debt-trap diplomacy" on China's part.
- It is thought that the US is keen for G7 leaders to take further action on economic security at the summit in Italy.
- The safety of AI was raised at the 2023 summit in Japan and resulted in the Hiroshima AI Process, intended to promote "safe, secure, and trustworthy AI worldwide".

Does the G7 have any power?

- The G7 cannot pass laws. However, some of its past decisions have had global effects.
- For example, the G7 played a crucial role in setting up a global fund to fight malaria and Aids in 2002.
- Ahead of the 2021 G7 summit in the UK, the group's finance ministers agreed to make multinational companies pay more tax.

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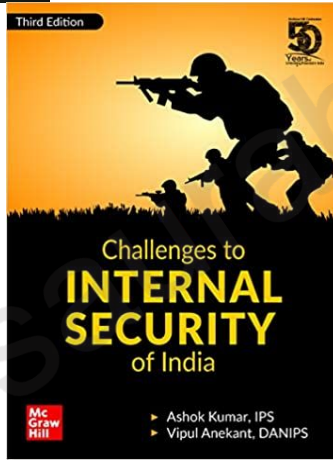
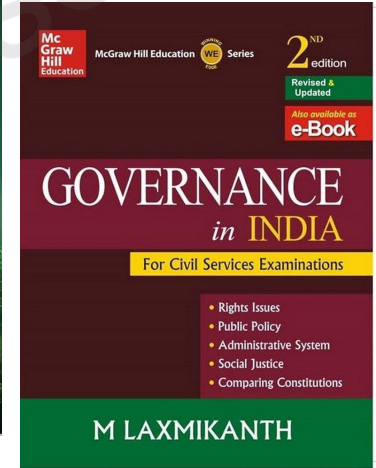
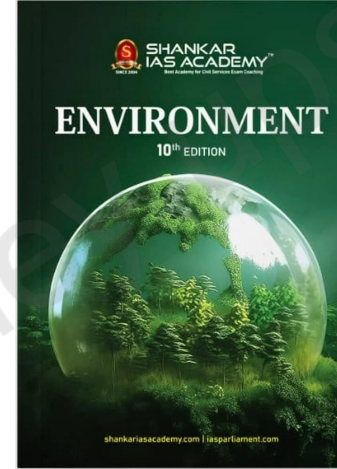
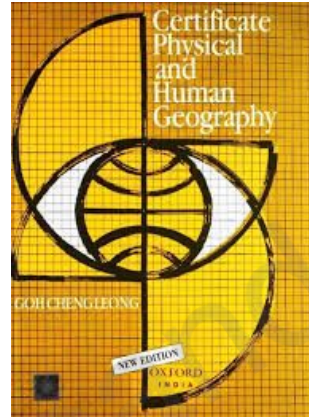
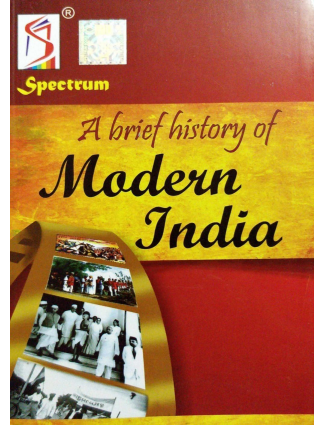
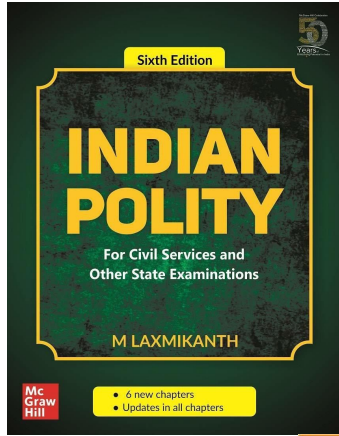
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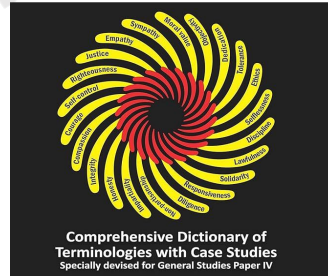


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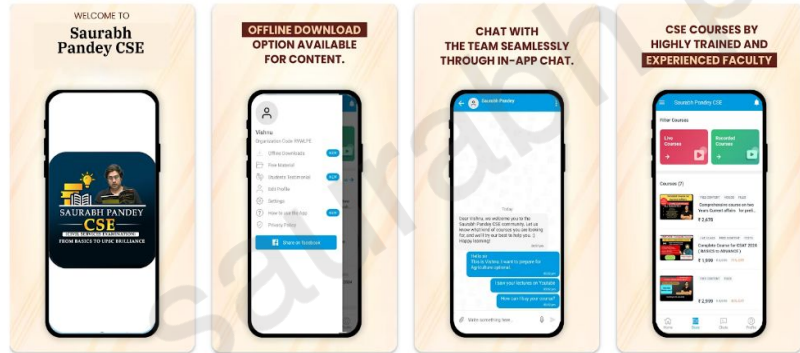
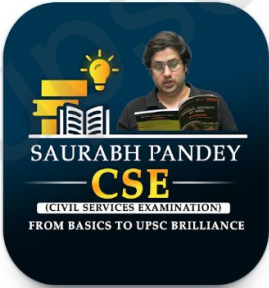
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