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Mergers & Acquisitions

The Changing Paradigm in the M&A Landscape in India

Financial Foresights Editorial Team

Jyoti Vij
jyoti.vij@ficci.com

Abha Seth
abha.seth@ficci.com

Anshuman Khanna
anshuman.khanna@ficci.com

Amit Kumar Tripathi
amit.tripathi@ficci.com

Chikku Bose
chikku.bose@ficci.com

About FICCI

FICCI is the voice of India's business and industry. Established in 1927, it is India's oldest and largest apex business organization. FICCI is in the forefront in articulating the views and concerns of industry. It services its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 2,50,0000 companies.

Disclaimer

Contents

Preface

Financial Foresights, the flagship quarterly publication of FICCI's financial sector team, provides a platform to industry, policy makers and other stakeholders to exchange ideas and views on important financial sector developments in the country.

The current issue of the publication focuses on the topic 'The Changing Paradigm in the M&A Landscape in India' and presents insightful write-ups contributed by industry leaders and strategy heads.

Economic integration with the world opened up avenues for India Inc. to expand our global footprint, and at the same time provided foreign corporations an opportunity to reap rich demographic dividends. Over the last few years, the M&A activity in India, both domestic and out-bound, has been positive. There have been many big-ticket announcements that drove total deal value to a very high level. The consistent focus on consolidation continues to be a dominating theme for M&A across sectors. This is being linked to a facilitative regulatory regime as well as increasing growth rate.

The recent developments on the regulatory side have bode well for the business environment and growth aspirations of India Inc. FDI reform measures implemented by the Government allowed India to become one of the world's largest recipients of foreign direct investment. Demonetization and Goods and Services Tax (GST) are some of the major structural reforms that will have a big impact in the years to come. While these policy developments will improve tax compliance and governance and boost investment and growth, they will also improve investor sentiment around India, thereby providing further impetus to the M&A deal flow.

As you go through the pages of this edition, you would see that industry leaders predict that the momentum of M&A activity will continue to stay robust over next few years, especially given the continuous consolidation across sectors and increase in cross-border transactions. Industry experts' have also outlined further reforms that could create a more transparent, efficient and conducive environment to increase the M&A deal flow in India.

We are thankful to all our contributors for sharing their views, insights and perspectives. We hope that you will find it an interesting read and look forward to views and suggestions from the readers to make the publication more relevant and informative.

With best wishes

Dr. A. Didar Singh
Secretary General
FICCI

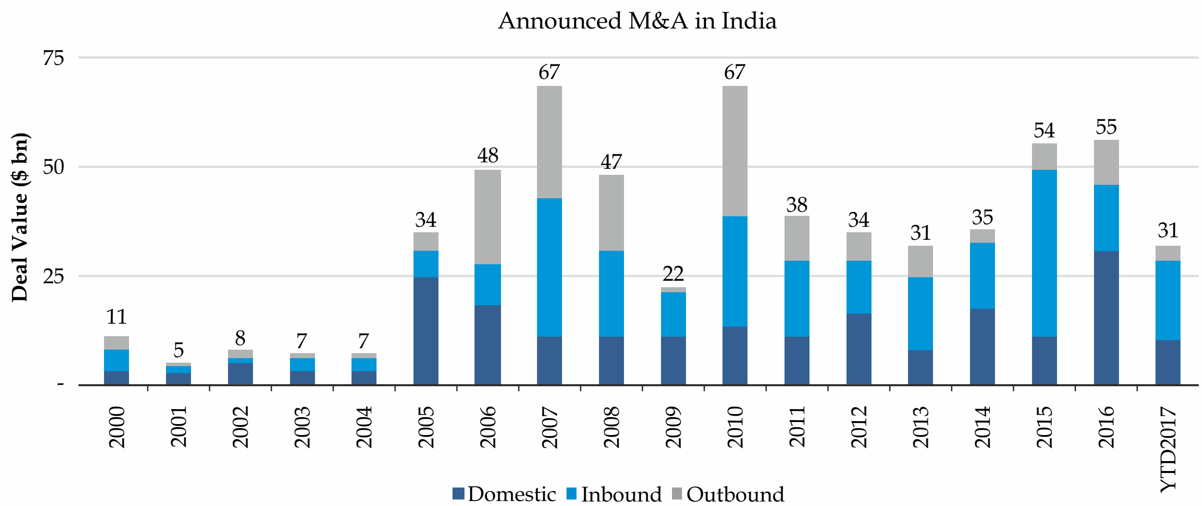
Industry Insights

At the Cusp of Another M&A Supercycle

Ashish Adukia
President and Head, Group Corporate Finance
Aditya Birla Group

After a lull of activities, we are witnessing a comeback in M&A volumes in the Indian market. Earlier around 2007, Indian corporates were oozing with business confidence and the valuations were touching new highs. Armed with this confidence, Indians were out shopping for assets giving them either technological advantage and/or access to newer markets. We were considered the most credible buyers of assets globally. As a result of these factors, cross border transactions dominated the M&A discussions. However, the situation today has changed significantly with corporates focusing on balance sheet repair, the cross border transactions are not ruling the charts anymore. With continuing global uncertainty, domestic consolidation and inbound financial sponsors led M&A are the new M&A theme.

M&A Activity over last 15 years



Domestic	472	394	368	388	439	770	876	815	762	884	791	572	614	586	648	733	824	452
Inbound	350	265	175	236	223	330	375	449	389	287	333	341	342	315	375	423	362	158
Outbound	75	45	45	88	107	166	241	286	291	153	259	190	152	105	132	157	173	65

Source Thomson Reuters Database
Notes
1. Domestic deals - Acquirer ultimate parent - Indian; Target - Indian
2. Inbound deals - Acquirer ultimate parent - Foreign; Target - Indian
3. Outbound deals - Acquirer ultimate parent - Indian; Target - Foreign

In this article, I have identified 5 trends in M&A which will lead to another supercycle in M&A activity. We are witnessing few of these trends taking shape already.

Trend 1- Evolution of distress asset market

There is staggering Rs. 10 lakh crore of borrowings being estimated to be under financial stress. The solution lies in first realizing the fact that the value of these assets is lower than the debt in the balance sheet. The stakeholders need to acknowledge this fact only then appropriate remedial measures can be undertaken.

It is one of the biggest crises faced by India and Government is willing to take bold steps in resolving the issue of the burgeoning poor performing assets. The assets need operational and financial turnaround and in some cases change in management. This provides an opportunity to various class of investors such as special situation, vulture funds and distress funds to set up shops in India and participate in turnarounds. The performance of many such assets could be enhanced through simple solutions like infusion of working capital, change in management focus, while some may need Government intervention.

We are already witnessing proliferation of ARCs which are looking to unlock value from such assets. In addition, SEBI is set to ease rules of acquisition to make it more attractive for investors to buy distressed companies from banks aiding the Government and RBI's resolve to reduce the bad loan burden on the Banks. The regulator has been granting exemptions to banks acquiring the stock of listed distressed companies. This includes relaxing the pricing formula for making an open offer to public shareholders and lock-in requirement.

While the regulator will play a key role in the transformation, the attitudinal change amongst the banks and management will also provide a significant push. Eventually, the alternate asset funds will be a viable class actively playing the game of acquiring these assets, turning them around and selling them. Given the current size of the problem, the M&A potential is enormous.

Trend 2- India offering best returns to financial investors

The geo-political uncertainty globally, has turned out beneficial for the Indian market. Back home, there is tremendous exuberance and increased inflows leading to the current unexpectedly long bull run in the equity markets. Rupee has already appreciated with foreign inflows. The inflows constitute both from portfolio investors and private equity funds. While portfolio money flow can easily reverse its trend, Private equity inflows are here for the longer haul.

At $14 bn, total deal value in India in 2016 was the second highest in the past nine years. The M&A data suggests that private equity deals have gone up by 17% in just 4 years. There has already been $5.4 bn investment made this year till April and this trend is likely to continue. PE led M&A deal in China is dominant at $223 bn in 2016 which has increased from only $34 bn in 2013, but India still getting only a driblet. Encouragingly, most international PE fund heads have admitted that they will be looking to deploy funds in India over the next few years. This coupled with increase in dry powder with India focused funds can lead to a fairly sanguine outlook for the Indian PE industry.

Private equity investors are playing active role in the board room and are involved in strategic discussions. Some had burnt their finger due to governance issues in the past having learnt from those experiences, they are likely to play more active role in decision making giving them confidence to take higher exposure. This has resulted in rise in number of private equity owned assets. As most funds have life of 5-7 years, these assets are expected to constantly exchange hands.

Trend 3- Startups challenging status quo

How long a successful startup remains dominant or even significant, depends on the ability of the startup to continue to fund and remain a disruptor. It's not always easy for a company to keep pace with the rapidly changing consumer trends and the dynamic technological progression happening worldwide.

This space of startups will see the most amount of M&A activity in the coming future. With a change in market dynamics, easy availability of pre-series A and Series A funding has dried up. This will lead to companies in early growth stage with to seek buyers, in order to sustain the businesses.

Larger players are constantly on the prowl for buying out companies which either improve focus on their existing businesses or help them enter new innovative segments. Partnerships are needed to optimize, consolidate and/or become fierce competitors. As an instance, in the fashion and apparels ecommerce, Flipkart has acquired competing startups to ensure market leadership.

Trend 4- Focus on core business

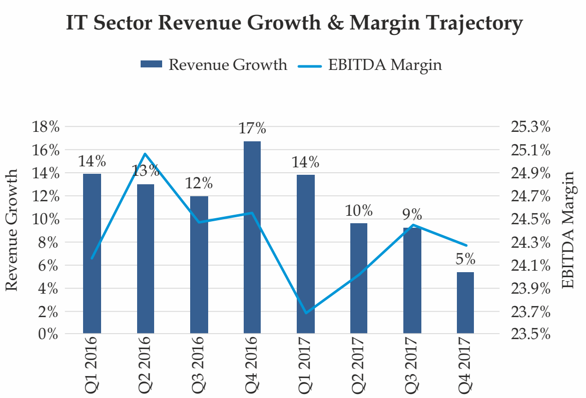
Being a marginal player in any industry is costly today. The ability to compete and be a market leader translates into profits. Having gone through periods of low demand and extended downturn, corporates have learnt the lesson of focusing on their competitive strengths.

Conglomerates with large number of business cannot possibly dedicate time to non-core business that do not generate adequate profits. It becomes a virtuous cycle and lack of focus leads to deterioration of business inspite of possessing the ingredients and potential to do well. While there are others in the same industry for whom the business could be core mainstay business. These businesses have tremendous potential in right hands having a stricter focus and thus, it makes sense for conglomerates to right size and have these inefficiently run capacities sold to more efficient players. Additionally, shareholder's activism may increasingly demand management to explain presence in certain non-core businesses.

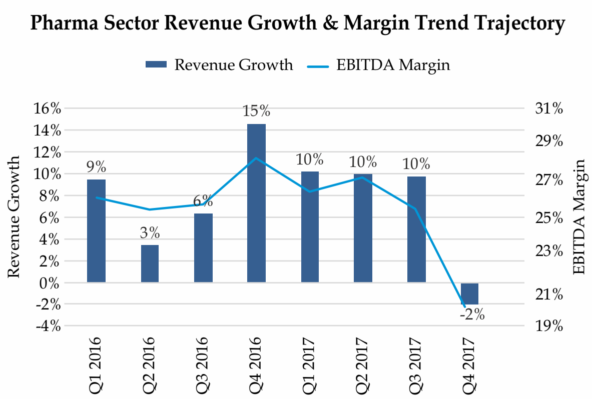
The GDP growth rate has been promising and there is strong business confidence. Capex cycle has not picked up and domestic players are more comfortable resorting to consolidation in the industry through M&A in order to grow.

Trend 5- Stars of yesterday may need to take tough calls

Pharmaceutical and IT sectors have had a great run till the US adopted protectionist approach affecting the sectors. For the first time, the growth in these sectors is decelerating and margins are falling. Over the last couple of quarters, Pharma has seen a setback in its core business with a slowdown in US sales. In addition, cautious outlook on IT spending in some of the key verticals like retail, life sciences and hi tech; renders a bearish view on FY18 as well. Overall, these sectors have seen a dent in profitability and revenue growth falling to lower single digit from high teen growth seen in FY16.



Source: Bloomberg,
Note: Companies considered as a part of sector coverage are Infosys, TCS, Tech Mahindra, Wipro, Mphasis, HCL Tech



Source: Bloomberg,
Note: Companies considered as a part of sector coverage are Sun Pharma, Cipla, Dr Reddy's, Lupin, Aurbindo Pharma, Cadila Healthcare.

With shrinking organic business, they are likely to evaluate options of consolidation. It provides an excellent opportunity to large global generic players to further consolidate their position in India. There could be domestic consolidation in both these sectors in order to grow and strengthen competitive position.

In conclusion, we are entering an M&A supercycle in a growing economy which provides huge consolidation potential. Government is focusing on being enabler, making structural and cultural changes to ensure growth, efficiency and innovation. Many can benefit using M&A as a tool to capitalize on this new potential. ■

Views mentioned in the article are author's personal views.

Ashish Adukia *is responsible for Group's initiatives in the areas of strategic initiatives, M&A, capital raising, group restructuring. He advises Group Chairman and Group Business Heads in formulating a view on Group's business portfolio architecture, meeting growth aspirations ensuring quality of such growth, optimizing capital allocation/rebalancing and cost of capital*

Ashish has over 15 years of corporate finance career. Prior to Aditya Birla Group, Ashish was heading Basic Materials and Infrastructure Group as an Executive Director at Morgan Stanley India Investment Banking

Ashish has extensive experience having advised Indian and Multinational Corporates on numerous capital raising and M&A transactions. Previously, he has also worked with Citigroup and PriceWaterhouseCoopers

Ashish holds Bachelor of Commerce degree from Sydenham College of Commerce and Economics, post which he completed his Chartered Accountancy and a Master's degree in Management Studies from one of the premier management institute of India - Jamnalal Bajaj Institute of Management studies (JBIMS)

He has featured in Fortune India 40 under 40 list in 2016

M&A Roadmap in India

Sandip Biswas
Group Executive Vice President Finance
Tata Steel Limited

India emerged as the fastest growing major economy in the world as per Central Statistics Office (CSO) & IMF. This has largely been possible due to improvement in India's economic fundamentals,strong government reforms, Central bank's focus on inflation, strong consumer confidence and benign global commodity prices. Same was reflected in Moody's BAA3 rating with a positive outlook implying that India will perform better compared to its peers over the medium term. This growth is also likely impact corporate earnings positively.

The growth in economy has also resulted in fuelling inorganic growth ambitions of various companies. Threat of future competition in some sectors has forced consolidation by the serious players. Overall India saw fair amount of corporate activities in recent times.

Mergers & Acquisitions landscape

The past year saw mergers and acquisitions (M&A) activity at its peak. Overall, the announced deal value at $52.6 billion saw a surge in 2016 (as compared to $31.3 billion in 2015) though there was a marginal decline in deal count. Inbound transactions saw a quantum leap from $9.9 billion in 2015 to $20.1 billion in 2016.

Divestments & Strategic Asset Sales-This year has seen quite a lot of activity among PSUs and Government of India which is going to help keep up the momentum. Whether it is SBI & its associates getting consolidated under one umbrella or it is DIPAM (Deptt of Investment and Public Asset Management) coming up with an ambitious divestment (Strategic asset sales) target of INR 72K Crores or it is Finance ministry announcing that it plans to create an integrated Oil & Gas major to match and compete with the global Oil and Gas majors – Government is exploring consolidation in multiple sectors to build economies of scale, optimise returns and help build bigger companies which can have international footprints.

Stressed Assets-There is another factor which cannot be ignored with regards to the expected M&A trend in India. With a cumulative NPA of more than INR 4 trillion and bad loans of ~INR 9.6 trillion in India – a stricter amendment to Banking regulation act pushing speedy recovery from loan defaulters can significantly induce asset selling in Indian corporate space which could be another contributor to increased activity on the M&A front. This will also be aided by the host of tools provided by RBI to banks to tackle stressed assets in form of 5/25 scheme, SDRS and S4A. In addition, Bankruptcy code and new norms allowing foreign ownership of asset reconstruction companies will allow global stressed asset funds as well as established Indian names and strategic players in each industry to stay active in M&A space.

Start-up Scene in India-Quite a number of players in the nascent Indian start-up / e-commerce markets have started to consolidate to achieve size and competitiveness. All of these buyouts - travel Firm Make my Trip buying Goibibo group's travel business, payment interface PayU buying Citrus pay in a $130 million deal, Flipkart owned fashion e-tailer Myntra acquiring Jabong, Ola Cabs buying out and closing Taxi for Sure – are examples of the consolidation which has picked up pace in Indian start up space. Purchase of One Mobikwik systems or $31 million acquisition of Zip Dial Mobile Solution or $16 million acquisition of Local Cube Commerce are all examples to suggest that mid to late stage deals in startup space are going to stay relevant this year.

Demonetization-Last but not the least, the surplus funds with banks as a result of demonetisation could lead to enhanced lending in high-growth sectors and fillip to M&A transactions would be one of the manifold indirect consequences of demonetisation.

Changes in regulations impacting the M&A landscape

RBI regulations coupled with other changes like introduction of GST in 2017 and revamping of Takeover code, delisting guidelines, Companies Act, Accounting, Competition Law, Foreign Exchange Management Act (FEMA) last year will continue to impact both inbound and outbound transactions. In fact, it is imperative to take a holistic look at the regulatory enablers which are going to impact the Indian M&A space.

Bankruptcy code implementation-The Bankruptcy and Insolvency Code, enacted in 2016 can prove to be the biggest catalyst to consolidation activity once enabled. Recent recommendation by RBI to refer few non-performing accounts to IBC (Insolvency and Bankruptcy Court) is a significant step.

GST implementation-Launch of GST will overall boost the ease of doing business in India which has a direct impact on interest in M&A. Although implementation will have its challenges, but over a medium terms this will be positive as more clarity emerges on specialised situations of service Transactions, Slump sale, itemised sales etc. where industry has already sought clarity. The unorganised players will get taken over by the large, serious players in the days to come.

Cross-border M&A-The current laws only permits inbound mergers (foreign companies merging into Indian ones) and not the other way round but the new rules are expected to allow both inbound and outbound cross-border mergers. This would promote inorganic growth through restructuring of shareholding including that of overseas entities. Consideration in the form of Depository Receipts would provide further fillip to overseas M&A.

DTAA Revisions-As a part of the efforts to clamp down on treaty abuse, the governments of India, Mauritius and Singapore have revised their DTAAs last year. These would help reduce uncertainty in the deal execution at the least.

Reformed FDI Policy and abolishment of FIPB - GOI brought in a reformed and attractive FDI policy which placed most sectors under the automatic approval route and creating headroom for the entry of foreign capital, especially in sectors such as real estate, defence and civil aviation which are capital intensive.

RERA-Few sector specific changes like the advent of RERA (Real Estate Regulatory Act) aid at building transparency in the property sector will result in some significant consolidation or Joint agreements to deal with the strict guidelines.

Considerations & the road ahead

Historically high Cash reserve with PE / VC firms-The amount of cash with PE-VC funds stands close to 6 year high of $7.1 billion & some more PE fund houses / first time fund managers are in the market to raise over $5 billion. In addition, Investors are teaming up with sovereign-wealth funds to create multi billion dollars technology-investment fund. It would not be far-fetched to conclude that 2017 should turn out to be a year of M&A resulting in deployment of funds currently with investors.

Consolidation & Buyouts - A significant change both in the mindset of promoters who are now no more wary of selling businesses and also private equity investors leaning towards controlled transactions, has upped the game on consolidations and buyouts. Summarily, consolidation in industrial sector will be aided by stringent regulatory framework coupled with increased availability of capital alongside promoter's willingness to exit. The wave of consolidation has been seen across sectors ranging from telecom, insurance, cement, energy to e-commerce, assisted by interest of foreign multinational as well.

Sale of non-core assets-With rising debt levels, many corporate houses have been forced to put a 'for sale' tag on several prized assets with some large deals closing over the last one and a half years or so. Be it Jaypee Group's sale of cement plants to Ultratech or Reliance Infrastructure's sale of its cement assets to Birla Corp which are all seemingly undertaken to reduce debt.

Technology driven M&A- Well-established companies are choosing to invest in technology startups for an inorganic move up the technology curve aided by increased corporate risk-appetite and technology changes causing existential threat to established businesses. A case in point is Titan acquiring majority stake in Tiger Global-backed online jewellery start up Carat Lane.

Although the fresh funding activity in Indian start up scene has declined this year – the sector holds potential for consolidation and stake buyouts since the invested PE/VCs would look to exit and the maturing market would lead Strategic investors to fill that void.

Conclusion

Summarily, Make in India and Start-up India coupled with the bettering overall sentiment bolstered by increasing policy certainty and stringent regulatory frameworks being implemented is a good formula for value-accretive M&A activity and would also ensure investor confidence is kept intact in the medium to long term.

All the parties involved in the M&A transaction should value and perform their responsibilities to prevent negative headwinds arising out of failed M&As. However we will have a fair share of failed and hostile M&A transactions which will cause corporate rivalries and further refinements of various regulations in the country. We also need to be prepared for corporate governance abuses resulting in temporary headwinds.

With all the parameters for M&A deal making appearing favourable, M&A space is broadly going to be guided along these two distinct paths in India. First is the trend of big companies/investors leaning towards smaller but nimble start-ups/partners in need for funding through investments and stake buyouts. Second path remains the expected increase in stressed asset sales forced by stricter regulations.■

Sandip Biswas *is responsible for Financial Performance & Reporting, Mergers & Acquisition, Risk Management Treasury, Corporate Finance & Capital Markets, Insurance and Investors Relations of the Company. He holds more than twenty-five years of experience.*

He is an Honours Graduate in Commerce from Calcutta University, a Fellowship Member of The Institute of Chartered Accountants of India and the Fellowship Member of The Institute of Company Secretaries of India. Mr. Biswas had a distinguished academic career, being a National Scholar and National Talent Search Scholar. He was bestowed upon the Risk Manager of the year 2006 award by Asia Risk magazine Hong Kong.

He is Director in several Boards of Tata Steel Group Companies in India and overseas including critical joint ventures. He is also The Chairman of few of the Tata Group companies inclusive of important mining ventures overseas.

The article has been co-authored by Ms. Neha Sachdeva, Senior Manager, Mergers & Acquisitions. Neha is part of Tata Steel Group Mergers and Acquisitions team based in Mumbai. She has a well-rounded experience in finance having worked in the Corporate Finance team and also in financial markets with a global Investment Bank. She has completed P.G.D.M. from IIM Bangalore and has also qualified CFA level 3. She draws energy from interacting with people. She is a technology enthusiast and can be found participating in hackathons in her free time. She likes to indulge in psychology and behavioural economics.

Emergence of Buyout Funds

Himanshu Kaji
Executive Director & Group Chief Operating Officer
Edelweiss Group

Introduction

India is one of the fastest growing countries in the world with continued compounding benefit that will continue to accrue further. This will be driven by a triumvirate of size, rate and time - being the sixth largest economy in the world, growing at a rate of 7-8% every year - a trend which is likely to continue for a sustained period in the near future. However, to maintain this kind of growth, India would also, in parallel, need better infrastructure, clear tax laws, improved business environment and more capital flows by way of foreign investments into the country.

Foreign investments in India have increased significantly with better and more stable returns in both equity and debt markets for investors as compared to other emerging markets. Lower currency depreciation and stable inflation has further improved investment prospects in India. With the government focused on easing out the roadblocks to foreign investment further, with initiatives like abolishing the Foreign Investment Promotion Board (FIPB), it is expected that going forward we will see a rapid increase in foreign investments coming into India.

M&A activities in the country are being significantly driven by the large FDI flowing into the country. In 2016, this has been supported by targeted government policies and an unparalleled interest in the technology driven startup sector. Within the M&A world, PE transactions have increased significantly.

PE industry in India

India is an attractive PE investment destination mainly on account of its entrepreneurial and hard-working culture; large pool of English-speaking talent; a hugely underpenetrated domestic market; and a strong global interest in emerging markets. New asset classes like alternative investment funds (AIFs) have grown in the Indian market, aided by government regulations and tax breaks. Registered AIFs in India have more than doubled over the past two years and stood at approximately 270 in 2016[1].

PE funds have survived the tumultuous Indian markets for a little over a decade and a half and have matured to become bigger and more complex. Marque global names or even smaller domestic funds are proactively seeking to take over companies or assets. Between 2001 and 2016, the private equity industry invested more than $120 billion in India. It boosted infrastructure spending and accelerated job growth, thereby adding to India's high GDP growth. These transactions have doubled in numbers and increased three times as per value in last decade.

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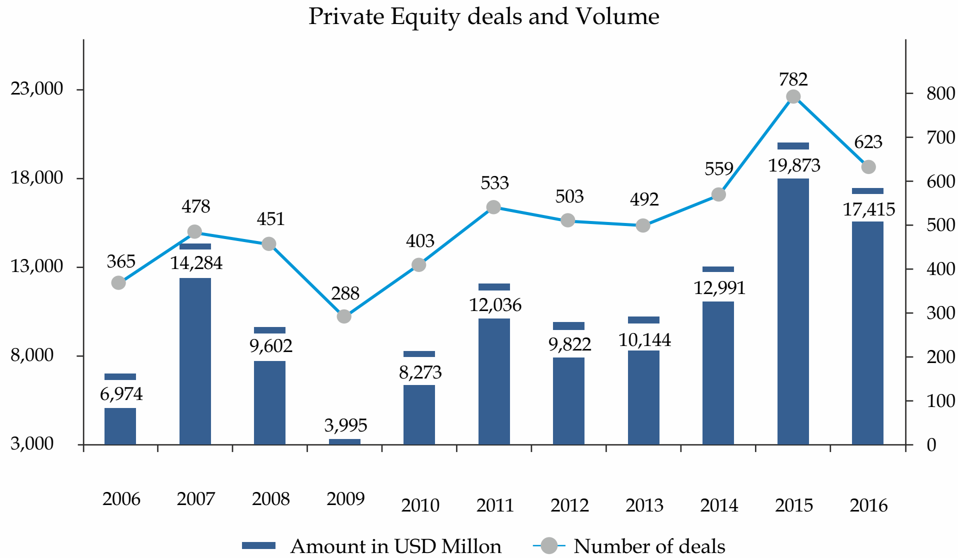
[1] *PE exits rose 2% in value terms in 2016.*
http://www.livemint.com/Companies/s4xXzVUUJ4961VCDUB6HoO/PE-exits-rose-2-in-value-terms-in-2016-Bain-and-Co-report.html



Source: Venture intelligence

Buyout funds

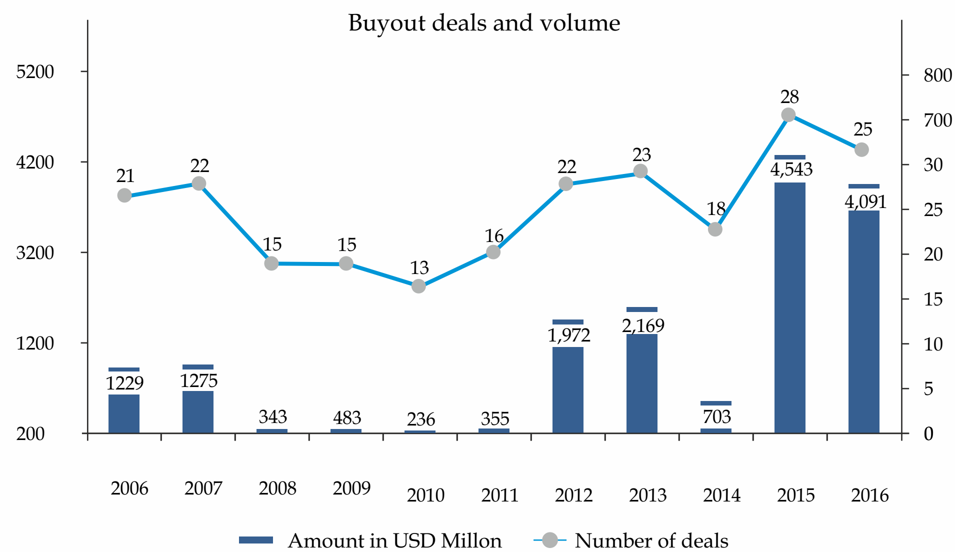
PE funds globally invest in two models:

1. Strategic investments (Non controlling stake)
2. Buyout (Controlling stake)

In Strategic buyout, PE Investor will invest in a large stake in the investee company. In this case, promoter will manage the business and investor will take benefit of improved financials/ valuations of the company.

This option usually has some associated challenges -

1. Promoter might consider this investment as "free lunch" and plan to acquire this stake at a discount at a later date
2. "Agency effect" – PE Investor destiny will depend on the promoter
3. Issues in conducting an effective due diligence



Source: Venture intelligence

A buyout model takes care of all these challenges.

In buyout funds, PE funds take a controlling stake in the target company and actively manage the company instead of being a passive provider of capital. Recently, there has been an increasing trend of more buyout deals.

What is driving this change?

There are several factors that are driving this change in the industry.

1. **Ease of exit timing**-One of the biggest factors for shifting of preference towards buyout deals appears to be the ease of exits. Most PE funds have found it difficult to exit their investments where they have minority stakes and none of the funds is keen on doing secondary deals in those situations. PE funds hope that having majority shareholding in a firm gives them a stronger ability to decide on timing and route for the exit vis-à-vis minority investments.

2. **Entrepreneurs ready to cede control**-Another big change has been that entrepreneurs are ready to cede control of their businesses to Private Equity. There is a realization that the founders cannot be sole capital providers and accelerate the growth. They would, eventually, need third party PE money to scale up the business.

   There are other entrepreneurs who have built good medium-sized companies, but do not have the desire or capability to take it to the next level. They know for a fact that given all the competition, staying still is no longer a choice. So, they will need to partner with a strategic or a private equity investor who can take the business to the next level.

   At other times, family businesses find lot of value in partnering with PE partners. For example, family run businesses often find it hard to get good quality managers or board members as they lack the necessary systems and processes. But the ability to attract professional talent gets amplified under PE ownership.

   At many places there are generational shift that are taking place. In such instances, the second or following generations are either not interested in taking over the business or are interested in other business opportunities. Patni Computers is a prime example where the second generation has started with their own family office after selling their stake in Patni[2].

3. **Divesting of non-core assets**-A lot of large conglomerates are increasingly focusing on their core businesses and divesting noncore assets, making carve-outs possible. This would help them to preserve or redeploy capital.

4. **Distress Sales**-There are many portfolios of asset heavy infrastructure companies which are in stress and they want to monetize those assets to generate value out of it. These companies have lot of pressures to reduce their debt and hence they are ready to sell their crown jewels to stay afloat. For example, NCC selling its Bangalore elevated toll way to IDFC alternatives[3] or Reliance ADAG group selling its tower business to Brookfield[4].

5. **Overall Environment**-PEs have also become more comfortable with the overall political, social and economic and reputations risks of "owning" a business unlike earlier where they were always under a scanner for being a business owner.

   Recently we have seen a lot of exits for PE funds from Buyout deals as well. Japan's Yokohama completed the buyout of KKR-backed tire manufacturer Alliance Tire Group (ATG) for

[2] *Source: How family office kept Patni brothers Arihant & Amit together*
http://economictimes.indiatimes.com/magazines/panache/how-family-office-kept-patni-brothers-arihant-amit together/articleshow/36804604.cms

[3] *Source: IDFC arm buys 76% stake from NCC, Soma in Bengaluru highway*
http://www.livemint.com/Companies/aLz41pgmMOIAmxk8Wz873O/IDFC-Alternatives-fund-buys-76-stake-from-NCC-Soma-in-Beng.html

[4] *Source: Anil Ambani-owned RCom takes another step to reduce debt, sells towers business to Brookfield*
http://www.financialexpress.com/industry/anil-ambani-owned-rcom-takes-another-step-to-reduce-debt-sells-towers-business-to-brookfield/417736/

USD 1.2 billion. This is one of the largest PE exits announced in past decade. In 2013, KKR had acquired a 90% stake in ATG for an estimated value of USD 500 million[5]. This deal has given KKR a more than 2x return in less than three years and is a prime example of the improving exits for PE firms via sale to strategic players.

Challenges

Some of the challenges that buyout funds face include -

1. Inability to get term loans and working capital loans especially in absence of having a "Promoter guarantee”
2. Absence of domestic bank funding for leverage buyouts (LBOs) limits deal volumes and funds have to resort to complex offshore structures that are more expensive. Also, absence of squeeze out provision (compulsory sale of shares of minority shareholders of a company) for publicly listed companies sometimes leads to failures in case promoter is not ready to move out of the business
3. Approval from agencies like CCI leads to further complexities and delays
4. One more challenge for buyout funds while exiting is that if they are looking at listing route then it invariably involves partial exit and a lock-in thereafter, which may not be in sync with the PE/VC's exit strategy
5. Limited success when multiple PE firms own "majority" on cumulative basis. 80% of INX media was held by a multitude of PE firms including Temasek Holdings, New Silk Route Advisors, New Vernon and Kotak Private Equity along with other non-PE investors. The company ran out of the $250 million it had raised in about 18 months. This entire stake was later sold to a single PE Investor New Silk Route[6].
6. Where a buyout fund is managed by an asset manager which is a part of a larger conglomerate group, so long as the asset manager controls the fund and the fund has a majority economic interest in the investee entity and / or controls this investee, there exists a need to consolidate the investee entity with the parent of the asset manager. This will lead to inclusion of unrelated financial results (that of the investee company/ies) in the conglomerate's financial results and tend to change the character of the conglomerate's business as evidenced in the financial statements.

Looking Ahead

The number of buyout transactions is only going to increase as growth in India leads to higher PE investments, especially since current PE investment levels are much lower than developed markets. As multiple exit options beyond the usual IPO route opens up, buyouts will be given a further boost.

SEBI is also looking at relaxing listing norms for PE and VC funds. This may allow companies majority owned by private equity and venture capital firms to list without their majority owners being classified as promoter, a move which frees them from certain obligations such as a lock-in period for shareholding.

Conclusion

We have come a very long way for PE industries from small number of deals in a year to buyout of large sizes in 2017. The size of buyout deals has increased from approximately USD 250 million in 2005 to UDS 4 billion in 2016. Government and regulators' endeavor should be to create a simplified, clear and transparent tax and regulatory architecture which is free from ambiguities and creates confidence amongst investor community which will further FDI and hence PE flows into the country.

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[5] *Source: Yokohama Rubber Co to buy Alliance Tire Group for $1.2 billion. http://economictimes.indiatimes.com/industry/auto/news/tyres/yokohama-rubber-co-to-buy-alliance-tire-group-for-1-2-billion/articleshow/51556169.cms*

[6] *Source: Making their money work on outlook business. http://archive.outlookbusiness.com/article_v3.aspx?artid=102107*

Stable government and macro economic outlook on India, will further aid to further increase in PE investment in India. It would be important that some of the buyout generate good returns while exiting their investment which will generate further interest in the India growth story. This which would help further the cause of buyouts and enable efficiencies in the Indian market. ■

__Himanshu Kaji__ is Executive Director & Group Chief Operating Officer, Edelweiss Group. A Chartered accountant with a post graduate diploma in Securities Law, he brings to table his diverse experience of over two decades in the areas of business strategy, risk, regulatory frameworks, process re-engineering and technology strategy and implementation across the financial services space.

At Edelweiss, Himanshu oversees Finance, Risk, Human Resource, Resources, Operations, Technology, Governance, Administration, Investor relations and Compliance at the Edelweiss Group. In addition to this, he is also in-charge of the Corporate Planning, which will look at Strategy Development and Execution for the group.

Himanshu gave up his investment banking job at ICICI Limited to join his family business of broking. During this period he played a key role in the modernization of the oldest stock exchange in Asia - the Bombay Stock Exchange (BSE). Himanshu was part of a select group which oversaw the corporatization and the de - mutualisation of the BSE. He also served as Honorary Treasurer and Official Spokesperson for The Bombay Stock Exchange (BSE) during the year 2000-2001.

In the year 2004 he branched off as a corporate advisor to eminent Indian and global financial services companies. His areas of expertise in consulting were strategy for the introduction of new products, identifying and leveraging target customer segments, creating and implementing technology solutions and developing compliance and risk frameworks. He also advised many domestic and foreign players on their acquisition of domestic capital market players.

Himanshu is also member of Secondary Market Advisory Committee of SEBI and Risk Management Group of FMC. He has also joined as the member of the Advisory Committee to board of NSE.

Indian M&A: A Burgeoning Landscape

Vishal Kampani
Managing Director
JM Financial Limited

We are passing through very interesting times. I say this as the Indian economic, financial and governance systems are undergoing structural changes, corporates are correcting capital structure mismatches, businesses are getting consolidated, traditional businesses are getting impacted by disruptions, local and foreign investors are investing in Indian equities in a big way. While recent global events have surprised us and kept us on the edge, the Indian domestic consumption and investment story continues to be attractive. With current market capitalization to GDP ratio at ~81% (vs. ~150% during the peak in 2007-2008), there is a strong case for Indian equities to further appreciate. All these factors make the M&A space very exciting.

Global Economy is showing clear signs of improvement

The latest Conference Board Leading Economic Index for the global economy has shown a widespread strengthening of leading indicators around the world, especially in emerging markets. Global GDP is expected to grow at 3.5% in 2017, up from 3.1% last year[1].

Emerging markets and developing economies are showing notably better GDP performance at 4.5% in 2017 over the 2016 level of 4.1%[1]. Strong consumer and business confidence, strengthening stock markets, a turnaround in the global industrial cycle, and a recent rise in the rate of global trade all point towards strengthening cycle dynamics.

Macroeconomic environment in India is extremely positive

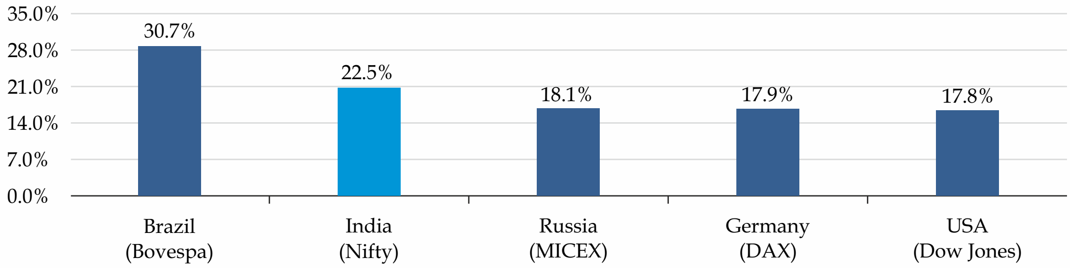
India continues to be one of the fastest growing economies in the world. India's GDP growth is expected to see an uptick at 7.2% this fiscal and further accelerate to 7.8% in FY 2019[1]. India is politically more stable and the BJP led government has initiated a number of economic reforms that are instilling economic confidence and raising India's attractiveness as a destination for Foreign Direct Investment ("FDI").

The Goods & Service Tax ("GST") is one of the biggest fiscal reforms in India and amongst others could lead to increased transparency; make India more competitive and boost investments. As per certain reports, this reform could accelerate GDP by as much as 1%. Softening of crude price ($ 50 / barrel) is a big welcome to India's fiscal deficit. Softer interest rate environment in India is expected to lead to economic growth.

Combined inflow from Foreign Portfolio Investors was USD 8.7 BN in March 2017 is the highest net inflow in a single month since CY 2002. India's ranking in the Global Competitiveness Index for 2016-17, released by the World Economic Forum, improved 16 places to 39, the fastest improvement among 138 countries surveyed. Over 1 year, Indian equity markets gave one of the best returns in USD terms, second only to Brazil.

1.http://www.imf.org/external/datamapper/NGDP_RPCH@WEO/OEMDC/ADVEC/WEOWORLD

Returns in last 1Year (Based on USD returns)



Source: Capital Market Magazine Vol XXXII/ 06

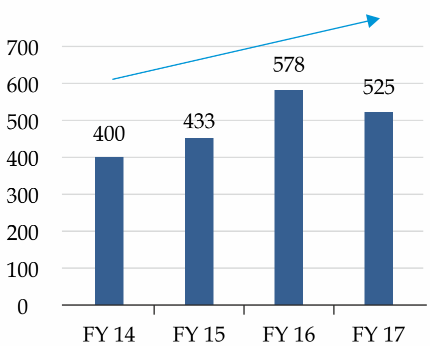
Indian M&A Landscape: Key beneficiary of improving macro environment

Encouraging trend in overall deal flow

Indian M&A space has seen an encouraging growth over the last four years, both in terms of number of deals and the total deal value.

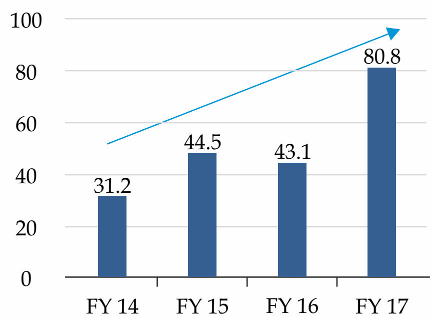
FY 17 saw record breaking deal making with deal value aggregating to USD 80.8 BN. Some marquee transactions included acquisition of Essar Oil by Rosneft and its partners USD 13 BN, merger of Idea Cellular and the Indian operations of Vodafone Group USD 12.7 BN and Motherson Sumi's acquisition of PKC Group USD 731 MN.

Deal Volume (No of deals)



Source: Merger Market

Deal Value ($BN)

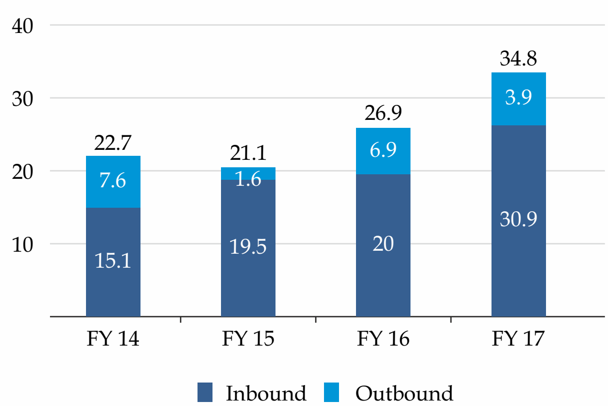


Source: Merger Market

Cross border continues to play an important role

The rise in cross-border deal value can be primarily attributed to a quantum leap in inbound deal value which increased to USD 30.9 BN in FY 17 from USD 20 BN in FY 16. Europe and US continued to be the most active cross-border partners. Acquisition of Essar Oil by Russia's state-controlled petroleum giant Rosneft led consortium, is the largest ever

Cross Border: Inbound vs Outbound Deals ($BN)



Source: Mergermarket

single foreign direct investment. With the opening up of the economy and the government's thrust on various initiatives, such as Make in India, Digital India, inbound M&A activity is only going to be on the uptick.

Reforms are likely to provide further impetus to the M&A deal flow

Government of India ("GoI") has announced a slew of reforms including their 'Make in India' initiative to provide an impetus to the manufacturing sector, favourable regulatory policies, gradually increasing the FDI cap in several sectors to attract foreign investors, implementation of GST, paving the path for real estate investment trusts REITs)/infrastructure investment trusts (InvITs) providing new capital raising avenues to the infrastructure and real estate sector.

For a country of 1.3 billion people, India requires significant improvement in infrastructure. The Honorable Finance Minister in his speech on April 1, 2017 stated that USD 646 BN of investment in infrastructure over the next five years. Infrastructure capex by the government is one of key ways to step up the infrastructure growth. On these lines the GoI allocated Rs 3.96 trillion to the infra sector in the Union Budget 2017. Recent government initiatives like Housing for All, Smart Cities, adding of metro rail lines in metro cities and the revival schemes for DISCOMs are also expected to give a boost to the infrastructure sector. Further, the government seems to be seriously examining the consolidation of public sector bank space and also privatization of public sector enterprises (e.g. Air India).

With the introduction of Real Estate (Regulation and Development) Act ("RERA"), the Government is moving in the right direction in order to make the Real Estate industry more transparent and professional. This will in turn boost investor sentiments and attract foreign investments.

The newly promulgated Insolvency and Bankruptcy Code 2016 (IBC) has created a strong framework conducive for acquisition and disposal of stressed assets. Recent amendment in the Companies Act, allowing Indian Companies to merge into Foreign Company would open a new avenue in facilitating cross border deals. India has also endorsed radical changes in the foreign investment policy and with the recent set of reforms, most sectors are now open to 100% foreign ownership encouraging inbound deals in India. For example, easing of norms for defence, civil aviation and pharmaceuticals have opened up these sectors for greater foreign ownership.

The increase in the monetary threshold for deals that require prior approval of the Competition Commission of India ("CCI") is an important reform that would help in improving visibility on deal closing. The setting up of National Company Law Tribunal ("NCLT") is likely to accelerate deal closure for transactions involving Scheme of Arrangement. The introduction of the new IFRS accounting norms is expected to lead to better disclosures, transparency and robustness of financial reporting, lending more confidence especially while evaluating targets. Thus, all the above reforms are congruent with Government's narrative of "Ease of Doing" business which will bolster the M&A activities in India.

However, in an ever expanding and vibrant economy like India, there is scope for more reforms that could create a more transparent, efficient and conducive environment to increase the M&A deal flow in India. These could include (i) setting up a dedicated window for providing advance ruling / tax clearance certificates (ii) have a consistent stamp duty regime across India to avoid ambiguity and double taxation (iii) empower banks to engage in bilateral discussions with select investors for disposal of assets (iv) amend securities laws (example permitting the execution of underlying transaction on the floor of exchange in case of open offers; permitting issuance of DVR shares in excess of 26% of the total paid-up equity share capital).

I firmly believe that the momentum of M&A activity will continue to stay robust over next few years. With scale expansion becoming a critical element of India Inc's strategy, consolidation is likely to dominate the M&A activity across sectors. Overall, M&A activity in India is expected to increase with a stable rupee, continuing regulatory reforms, benign interest rate environment, capital structure mismatches in corporates, innovations and disruptions affecting traditional businesses and a strong domestic consumption and investment story. Sectors such as infrastructure, pharmaceuticals and healthcare, financial services, technology and ecommerce are expected to gain maximum traction.■

The views expressed by the author in this article are as of June 14, 2017

Vishal Kampani *is the Managing Director of JM Financial Ltd., the group's flagship listed company. He has played stellar role in transforming the JM Financial group into a financial services powerhouse. He launched the Asset Reconstruction business in 2008 and the Real Estate Finance business in 2009.*

He joined the JM Financial group in 1997 as an analyst in the Merchant Banking Division and worked across businesses within the group. In a career spanning over 19 years, he has played a key role in consummating several landmark and complex M&A and restructuring transactions. He has been instrumental in expanding the company's International Operations and building a global profile.

In 1999, he worked with Morgan Stanley Dean Witter & Co. in New York, in the Equity Capital Markets Group, where he was involved in structuring creative products for the firm's clients most of whom were fortune 500 companies.

After returning to India in 2000, he worked as a Senior Banker in the Investment Banking division of JM Morgan Stanley Pvt. Ltd., which was then a joint venture between JM Financial group and Morgan Stanley. He was, then, responsible for building and maintaining key client relationships, procuring and overseeing the execution of business transactions, advising corporate clients in raising capital, acquisition and divestment of companies, re-organisation of corporate groups. He was also the head of the corporate finance division. He is a Master of Commerce from University of Mumbai and has completed his MS (Finance) from London Business School, University of London.

Ever Increasing Potential in India for Distress M&A

Haigreve Khaitan
Partner
Khaitan & Co

Introduction

The Mergers and Acquisitions (M&A) opportunities in India on account of an increasing number of debt laden companies especially across the telecom, power, and infrastructure sectors are gradually increasing. Some of these targets could be solvent and able to service their debts, whereas the others could be actively seeking to restructure their affairs to continue to survive and to not be forced into insolvency or bankruptcy. In such cases, opportunities for M&A, whether by way of mergers, or stock acquisitions, or by way of asset acquisitions are bound to arise. Banks and financial institutions performing the role of lenders have continued to lend large amounts to corporations which are increasingly unable to repay back the amounts, leading to banks having to face the burden of a large number of Non-Preforming Assets (NPA). Gross NPAs have continued to increase through 2016 by 59.3% on top of 49.9% in 2015[1]. According to the Financial Stability Report issued by the Reserve Bank of India (RBI), infrastructure, steel, textiles, power and telecom have contributed to more than 60% of bank stress[2]. This has posed a great challenge for the Government which has sought to push the RBI to facilitate the recovery of loans. As in the case of any developed financial system, the health of its financial sector is critical to maintain sustained growth and for the well-being of the economy as a whole. In a bid to assist banks to recover these loans and to also make it easier for companies to restructure their affairs, the Government through various agencies has taken several steps. This article elucidates some of these steps:

Existing regulatory framework and issues

For lenders, there are multiple recovery processes and lenders choose the one that appears most relevant to their cause. The SARFAESI Act, 2002 (SARFAESI Act) empowers banks to recover loans by acquiring and/or possessing the financial assets pledged or mortgaged as collateral in lieu of the loans provided. In the event of a default by a borrower, the bank must issue a statutory notice to the borrower to discharge his liabilities. On non-compliance with the notice, the provisions of the SARFAESI Act empower the creditor to, *inter alia*, enforce its security interests without seeking any further permission from the court. They are also permitted to engage in securitisation of receivables or asset reconstruction. Securitisation has been the preferred route across lenders as enforcement of security

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[1] *See Performance of Banks: Q3-FY17, Care Ratings, Industry Research, (February 27, 2017), available at http://www.careratings.com/upload/NewsFiles/SplAnalysis/Bank%20Performance%20Q3FY17.pdf.*
[2] *See Financial Stability Report, Issue No. 13, Reserve Bank of India, (June 2016), available at https://rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/0FSR2316BB76DB39BF964542B9D1EBE2CBC273E7.PDF.*

interests has its own challenges with borrowers typically approaching the courts. Asset reconstruction companies that purchase such receivables may be able to indulge in the management of the borrower and create divestment opportunities to try and recover some monies, but this has happened occasionally at best.

The other litigious options for lenders include litigating under the existing insolvency laws (Presidency Towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920,the Companies Act, 2013, and Recovery of Debts Due to Banks and Financial Institutions Act, 1993, etc.), but litigation always was stretched out and ineffective due to delays and procedural hurdles. As recoveries weren't easy for lenders, the disincentive for a borrower to play truant wasn't perceived as harsh or quick enough. Further, if a borrower came with the ambit of the Sick Industrial Companies (Special Provisions) Act, 1985 or was notified as a "relief undertaking" under certain State specific laws, there was an absolute moratorium on any litigations or disputes against borrowers.

In addition to these legislations, the RBI has also provided a number of voluntary tools in this regard over the years, including, Corporate Debt Restructuring, Strategic Debt Restructuring Scheme (SDR), Sustainable Structuring of Stressed Assets (S4A), Flexible Structuring for long term project loans to Infrastructure and Core industries (5/25 Scheme), etc., but very few borrowers have utilised these mechanisms.

Onset of the Insolvency Code and other measures demonstrating Government's resolve

The Banking Law Reforms Committee (BLRC) was set up in order to resolve insolvency with lesser time involved, lesser loss in recovery and higher levels of debt financing across instruments, and this committee recommended the enactment of a code to address this issue. The Insolvency and Bankruptcy Code (IBC) passed in 2016 consolidates the law relating to corporate insolvency in a singular code that (a) empowers creditors to (domestic, international, secured, unsecured, financial or operational) to initiate resolution processes, (b) enables the resolution process to start at the earliest sign of distress, (c) provides for a single forum overseeing all insolvency and liquidation proceedings, (d) provides for replacement of existing management during insolvency proceedings while maintaining the enterprise as a going concern, and (e) lays down a linear liquidation mechanism.

The IBC creates a time-bound process of 180 days for insolvency resolution of companies and individuals, after which the assets of borrowers may be sold to repay creditors. The resolution processes will be conducted by licensed Insolvency Professionals, to take over the management and operations of the borrower during the Corporate Insolvency Resolution Process (CIRP). The Insolvency Professionals are members of insolvency professional agencies, which will also furnish performance bonds equal to the assets of a company under an insolvency resolution. The National Company Law Tribunal (NCLT) and Debt Recovery Tribunal will be the adjudicatory bodies for companies, and individuals and partnership firms respectively, with the National Company Law Appellate Tribunal and Debt Recovery Appellate Tribunal as appellate courts. An Insolvency and Bankruptcy Board of India will be set up to regulate the functioning of the abovementioned bodies. A committee of financial creditors will be set up, who take decisions on matters including evaluation of proposals to continue operations of the entity as a going concern, decisions about the sale of business or units, retiring or restructuring of existing debts, etc. The debtor will be a non-voting member on the committee and decisions will be taken by the creditors' committee by way of a 75% majority calculated on the basis of the value of financial debt owed to them by the debtor.

During the insolvency resolution process, a 180 day moratorium is brought into effect against debt recovery actions and any new cases filed against the debtor, extendable by 90 days in exceptional circumstances. This helps in assuring creditors and the impugned debtor that the assets are protected while negotiation is underway. Thereby, no asset sales or transfer of shares are permitted without approval of 75% of the committee of creditors by value. The code does provide for a small-scale exemption for sale of small-value, unencumbered assets in the ordinary course of business, but that will not assist with larger strategic sales. In case the creditors are unable to reach an agreement about resolving the insolvency within the 180 day period, the NCLT will automatically pass a liquidation order appointing a liquidator recommended by the Insolvency Board, and move the assets into a liquidation trust managed by the liquidator. The code places a responsibility on the liquidator to maximise the value of the assets of the entity in the most efficient manner of disposal, all realisations from the sale of which will be moved to the liquidation trust and distributed to creditors according to the order of preference laid down.

Important initiatives to encourage resolution of distress and creating opportunities for distress M&A

1. **Invitation to foreign capital** - The Government has gradually been reducing controls on foreign direct investment (FDI) since it took power in 2014. In May 2016, it liberalised foreign entry norms in asset reconstruction companies (ARCs) registered with the RBI by allowing 100% FDI under the automatic route in ARCs. Necessary amendments to effect this change in the SARFAESI Act and other relevant regulations are also being pursued. This is meant to encourage more foreign investors to invest in ARCs.

2. **Amendments to Banking Regulation Act, 1949** - In May 2017, the Government had introduced an ordinance to amend the law to authorize the RBI to, *inter alia*, direct banking companies to resolve specific stressed assets by initiating insolvency resolution process where required. Also, historically, public sector banks' officials have been reluctant to resolve NPAs through settlement schemes or sell bad loans with haircuts to ARCs for fear that investigative agencies may raise questions at a later stage. With the amendment, the RBI will be able to provide specific measures to encourage bankers to take such decisions, including, setting up sector related oversight panels.

3. **Strengthening the Joint Lenders' Framework** - The Framework for Revitalising Distressed Assets in the Economy - Guidelines on Joint Lenders' Forum and Corrective Action Plan (JLF Framework) was first introduced in April 2014 to revitalise distressed assets by ensuring early recognition of distress, introducing prompt steps for resolution and facilitating recovery processes for lenders. The framework allows a revival of stressed assets before they are classified as NPAs. Following the ordinance, the RBI has introduced changes to the JLF Framework in an attempt to remove practical challenges. For instance, by lowering the percentage of votes needed to finalise implementation of the plan, the plan can be decided by an affirmative vote of a minimum of 60% of creditors by value and 50% by number in the JLF.

4. **Announcing relaxations to public company takeover** - The SEBI in its board meeting on 21 June 2017 announced various relaxations to ease transactions involving distressed companies. For instance, pricing norms of preferential issues of capital and takeovers would be extended beyond the currently available schemes under the Strategic Debt Restructuring (SDR) mechanism to other restructuring schemes undertaken in accordance with RBI guidelines. Also, such relaxations will now also be available to new investors who acquire shares of such distressed listed entities

pursuant to such restructuring schemes from the financial institutions and/or banks subject to shareholders' approval and other conditions. Furthermore, acquisitions pursuant to resolution plans approved by NCLT under the Insolvency and Bankruptcy Code, 2016 will also be exempt from open offer requirements under the takeover regulations.

5. **Stringent provisions norms on bankers** - It is understood based on press reports that the RBI is implementing significant and stringent provisioning requirements on all bad loans, which provisioning is likely to increase should the 180-day resolution process pass by without the dispute being resolved. This is likely to encourage bankers to take pragmatic views and also be realistic in terms of valuation expectations around sale of distressed assets.

There definitely appears to be a strong will to resolve the health of the financial system in the country. For opportunistic buyers, there is much to harvest and reap. Having said that, a large part of this depends on the success of the new insolvency regime - the Government appears to be sending the right signals however.

__Haigreve Khaitan__ (LL.B.) is a Partner of Khaitan & Co. Haigreve started his career in litigation and over the years has been involved in many M&A and private equity transactions, as well as project finance transactions.
Haigreve has rich experience in all aspects of Mergers & Acquisitions - due diligence, structuring, documentation involving listed companies, cross-border transactions, medium and small businesses etc., in Restructuring - such as advice and documentation involving creditors restructuring, sick companies, de-mergers, spin-offs, sale of assets etc., and in Foreign Investment, Joint Ventures and Foreign Collaborations. He advises a range of large Indian conglomerates and multinational clients in various business sectors including infrastructure, power, telecom, automobiles, steel, software and information technology, retail, etc.
Haigreve has been recommended by Chambers & Partners, Legal 500, IFLR 1000 and Asialaw Leading Lawyers have recommended him as one of the leading lawyers in India.
He is on the board of directors of various public listed companies such as Ambuja Cements Ltd., CEAT Ltd., Harrisons Malayalam Ltd., Inox Leisure Ltd., JSW Steel Ltd., Torrent Pharmaceuticals Ltd., Birla Sun Life Insurance Co Ltd., amongst others.

The article has been co-authored by Sameer Sah. He is an Associate Partner in the Corporate / M&A practice group in the Mumbai office. Sameer specialises in the areas of strategic M&A, foreign investments, private equity, and regulatory approvals for investing in India. Separately, Sameer is also a member of the Pharmaceuticals and Healthcare Practice Group of the firm and advises clients on regulatory and other issues pertaining to healthcare issues.
Chambers Asia Pacific 2012 has noted that sources single him out for being "solution-oriented and pragmatic". AsiaLaw 2013 and 2014 note him as a "Leading Lawyer" in India. Leading publications such as Mint, Express Pharma, DNA, Financial Chronicle, etc., have quoted him.

M&A – An Art or Science?

V.S. Parthasarathy
Group CFO
Group CIO & President (Group Finance & M&A)
Member of the Group Executive Board
Mahindra & Mahindra Ltd.

Mergers and acquisitions are strategic decisions taken for maximization of a company's growth by enhancing its production and marketing operations. They are being used in a wide array of fields such as information technology, telecommunications, and business process outsourcing as well as in traditional businesses in order to gain strength, expand the customer base, cut competition or enter into a new market or product segment.

Some key reasons for Merger and Acquisitions (M&A) are:

- Scaling up the business
- Market share acquisition
- Expanding the global footprint
- Entry into new/adjacent lines of business
- Selling existing products to a wider body of consumers
- Product line extensions, geographic extensions, redeploy brands
- Redeploying technology/patents of one firm to improve the products of the other

There is always a debate whether M&A is an Art or a Science. However, both the Art and the Science are crucial to success in M&A as both are complementary to each other. In case of humans the left brain which is referred to as the digital brain, controls reading and writing, calculation, and logical thinking whereas the right brain or the analog brain controls three-dimensional sense, creativity, and artistic senses. Consequently the brain carefully balances and assigns control of certain functions to each side and it's all nature's way of ensuring that the brain ultimately splits up tasks to maximize efficiency. The same goes for M&A where without a grasp of the science, the art is an unstructured journey.

The science of M&A involves large-scale empirical analyses of all aspects of mergers. Merger historically clearly indicates the importance of the "Valuation" which is a science, but what brings to this valuation in terms of synergies, new ventures or innovations that can be done jointly, is also extremely vital. Also the traditional science doesn't not capture the importance of "People" which is a significant aspect in any M&A. Few points which are very essential are to protect the reason for existence of the people in the acquired company, to make them feel that they are doing a marvelous job and they are part of a great legacy that can be taken forward. It is also equally important to understand what happens when we sack the CEO, what impact it brings within the acquired organization, how does the existing way of working is impacted by introduction of new policies? This involves the art of the M&A transaction.

Moreover, the connecting link between the art and science of M&A involves experience. Nothing is so valuable or as costly as personal experience. Then again as professionals, we need not limit ourselves to only personal experience. Fortunately, there are hundreds of empirical analyses already existing and more being created each day. The evidence of thousands of deals is already available for our understanding. "Learning from your mistake is smart, while learning from others is wise"- this is apt for M&A, as making mistake in an M&A deal is inexcusable. In the world of paintings, one canvas is easily discarded for the next if it fails to meet the desired expectation. On the contrary, it is fatal in the world of M&A, where markets are unforgiving and errors are quickly capitalized into price. Do-over's come at a very high cost when selling one company or buying another. Therefore, a company should leverage all available information to its advantage while proceeding for a deal.

Another key aspect to understand in M&A is how to bring Art & Science together & what if it doesn't exist - does M&A fail? It is widely claimed that 30-70% of M&A fail as there is not much work done on the 'human aspects'. While many acquirers focus on the financials of the deals, they fail to realize the importance of people and culture. An M&A deal is like a marriage between two parties, where unless you have a perfect harmony in the relation it will result into a painful divorce. Likewise in the absence of a carefully designed joint game plan, deliverables can be compromised to the great extent.

To make an M&A deal successful, one should focus on three parameters-

1. Strategy

- Understand the nature of the operating model and stay true to the choice
- When potentially facing acquisition, try to aim for discussion before developing a "burning platform" for change e.g. Reva and SsangYong acquisitions where Mahindra engaged into a prolonged dialogue with key management before contemplating acquisition
- Evolve capabilities deliberately, not opportunistically
- Clearly understand your own organization's capabilities

2. Execution

- Have robust systems and process in place to ensure a seamless flow
- Take time to perform the due diligence prior to signing the LOI
- Leverage the CFOs' leadership and a well-prepared finance department to make sure the deal delivers post-close

3. Tenacity

- When pursuing integration, do not destroy the capabilities system at the core of long-term value creation
- Use appropriate governance model - risk of having separate governance bodies adds to the risk of weakening strategy
- Post-acquisition concentrate on health drivers rather than growth drivers
- Maintain effective communication to all stakeholders throughout the process
- Try to win both hearts and minds
- And the utmost essential point is to integrate the culture of both the organization

Science without art is a rigid mechanical process that can miss the creative opportunities for greater synergies. At its worst it implies rigid adherence to the rules without realizing when they don't apply or can be bent. Define the "after" picture before the close. Have a grounded end state in mind and the path to achieving that end state when the integration process begins! ■

__V S Parthasarathy__ (fondly known as Partha) is a man with multiple thinking hats and a global leader. In his role as Group CFO, Mahindra & Mahindra Limited (M&M) & Group CIO, he facilitates Mahindra Group in accomplishing its vision of 'being amongst the Top 50 most admired brands in the world. He is a member of the think-tank of Mahindra Group's Supervisory board called "Group Executive Board". He is a Chairman of Mahindra eMarket Ltd., and on board of 4 listed companies and 10 other group companies. He is also a member of the Global IT Customer Advisory Board of CISCO.

He is an active member of 'CFO Board'- Think Tank for Finance Ministry & BCCI (Bombay Chamber of Commerce & Industry) Managing Committee. He is also the Chair of FICCI CFO Council.

Partha started his career with Modi Xerox as a Management Trainee and before he joined Mahindra & Mahindra in 2000, he was the Associate Director at Xerox. At M&M, he spearheaded functions like Finance, HR, M&A, IT and International Operations before he was appointed CFO - M&M.

Partha, holds a Bachelor's Degree in Commerce and is a fellow member of the Institute of Chartered Accountants of India. He is Harvard Alumni ofAdvanced Management Program -batch 2011. He has also been part of Mahindra Group's Senior Management team for Group strategy development, facilitated by Harvard Business School.

Partha and his wife, Jayashree live in Mumbai and are blessed with two sons.

M&A Trends in India

Sunil Sanghai

Vice Chairman & Head of Investment Banking

HSBC Securities & Capital Markets, India

Introduction

India has reinforced its position as the fastest growing emerging economy driven by improving macro-economic fundamentals, tremendous growth in the digital economy, favorable investment climate and robust regulatory framework. It remains one of the most attractive investment destinations in the world with a strong foundation for long term sustainable growth. This has set the stage for the dawn of Indian M&A as witnessed by an upsurge in volume and value of transactions and stable foreign inflows. India has witnessed some of the largest M&A transactions over the last few years with deals worth over US$185bn happening since the beginning of 2015 till H1 2017.

Global deal making rose 2% to US$1.55tn in H1 2017 driven by high growth in M&A in Europe. While US continues to be the largest contributor of M&A globally, the M&A activity fell 17% due to high valuation expectations. Asia Pacific, which currently stands at third place in global M&A after US and Europe, continues to remain attractive for investments in light of recent geopolitical headwinds.

India has thus emerged as a preferred investment destination due to structural reforms, improvement in international relations and ease of doing business. Inbound M&A continues to be a strong 41% share by value of the total M&A in H1 2017 led by M&A activity from financial sponsors and VCs. Domestic deals are also contributing significantly with a 56% share by value in the total M&A activity in H1 2017.

Drivers of M&A in India

1. Evolving business models

E-commerce and payment systems

E-commerce has been very active over the last few years. The industry leaders are aggressively buying synergistic competitors to increase their market share and customer base. Flipkart has bought e-Bay, Myntra and Jabong (through Myntra), and has announced its plans to acquire Snapdeal, significantly bringing down the number of players in e-commerce. E-commerce is expected to see significant consolidation deals in the near future.

Digitisation

Digitisation has been given a push by the government's focus on achieving a less-cash economy and on financial inclusion. Budding sectors such as FinTech are seeing increasing activity and have been dominating M&A and fund-raising volumes in the last few years. The competitive intensity of technology-based sectors is increasing at a rapid pace, with big as well as small players coming up with innovative solutions and new value propositions for customers. Increased M&A activity comes from players trying to acquire these new technologies and capabilities. With growing competitive intensity, increasing capex costs and declining margins, we are witnessing consolidation by key players through acquisition of marginal players.

2. Favourable change in regulatory framework

Financial Services

The insurance sector has witnessed heightened M&A activity due to liberalization of FDI cap in insurance sector to 49% from 26% in 2015. The regulatory environment is now conducive for investments as compared to the first half of this decade. The non-life and health insurance sectors have seen increased activity led by sponsors' interest. Religare Health Insurance is being sold to a consortium of investors led by PE firm True North. Fairfax has announced the sale of its 12.18% stake in ICICI Lombard to a group of investors including Warburg Pincus. These deals alone are worth more than half a billion dollars.

Consolidation is expected in the life insurance sector with over 15 players who are struggling for growth. Positive growth prospects in the sector should push players to consolidate to increase their customer base and reach, given the distribution network is an important metric for success in this sector.

The Basel III norms and the new accounting regulations have put pressure on banks to deal with their NPAs and capital requirements. This could be a driver for M&A activity in the insurance sector given that public sector banks have significant exposure in the life insurance sector.

Real estate

Since 2015, real estate has witnessed liberalisation of FDI norms with no requirement of minimum capitalization and built-up area for foreign players. Government has been focusing on 'Housing for all' by 2022 scheme and has taken various initiatives to encourage affordable housing. The recent Real Estate (Regulation and Development) Act (RERA), aims to protect consumer interest, and increase transparency and accountability in the sector. With such positive regulatory changes, the sector has witnessed heightened investment from many players in the last few years.

Power and renewables

Power sector continues to witness important deals. The conventional power sector has been on the path of consolidation for a few years. Plant load factors have reached historic lows. Demand for industrials has been low and some of the discoms have been struggling with payment dues. With the introduction of government schemes such as UDAY, the sector is expected to revive. Sponsors at the end of their investment cycles are expected to exit, while leveraged Indian corporates can also drive significant M&A activity.

Renewables sector has also been a key focus area of government, which has set ambitious targets of solar and wind capacities and has given multiple benefits to the renewables players e.g. tax benefits, generation based incentives, etc. This has resulted in the sector witnessing major deals over the last few years, including the US$1.4bn Tata Power-Welspun Renewables Energy deal and the US$200mn JERA-ReNew Power deal. This sector is very active currently and while many global strategics already have some exposure in the sector, there is also significant inbound interest. A number of players that couldn't raise capital and scale up are looking for ways to exit or restructure.

3. Sector specific trends

Telecom

Telecom sector has seen a huge surge in M&A this year. Data based services at low costs have been a key driver for consolidation and M&A activity in this sector. After Jio's entrance, the telecom sector is witnessing heightened competition. The total value of M&A activity in 6 months of 2017 is already around 3 times the total value of deals in all of 2016. 36% of the total M&A value in India so far in 2017 has been contributed by the proposed Vodafone-Idea deal alone. Players are keen to expand their customer reach and spectrum, and consolidate their market shares. With a number of pan- Indian players, this sector may witness further consolidation.

Infrastructure

Infrastructure continues to witness important deals. Strong trade volumes are driving growth of Indian ports. Given the contribution of the marine channel for the trade volumes of India (over 80% by value), Government is pushing to establish new ports, to improve efficiency at current ports and to improve port connectivity and freight corridors. Costs and time in running ports is bound to go down because of these factors. There is increasing interest in this sector from Indian conglomerates as well as private equities. The capital-intensive sector could also see some consolidation of stressed assets.

The airports' sector is also expected to see considerable activity given the rapidly increasing passenger volumes in the country. Multiple greenfield projects have been announced, and players are looking to streamline their profitable operations and expand to new geographies.

The roads sector is witnessing a new trend where players are looking at options of InvITs after recent transactions. The roads sector is also seeing increasing sponsor interest.

Consolidation is being seen in other infrastructure sectors like cement as well and this is expected to continue.

Pharmaceuticals and Healthcare

Pharmaceuticals and healthcare has largely been driven by outbound deals for India. The sector is under pressure right now, reflected by the weak performance of pharma stocks recently. Increased pricing pressures, regulatory restrictions for pricing and product approval, and a strong currency has proved to be some major headwinds for the sector. The larger companies continue to look abroad for acquisition opportunities to build their portfolio, to diversify and to increase their scale and reach.

Oil & gas

In recent years, the Oil and Gas sector has attracted large inbound investments as seen in the recently announced Rosneft-Essar and Reliance-BP deals.

4. Deleveraging

Capital-intensive sectors are seeing M&A activity driven by distressed promoters looking to exit their non-core businesses. Multiple players are cutting back their capital expenditure and may not have many options but to sell off their assets. Pressure in various sectors is worsening the NPA situation and banks are being pushed by RBI to deal with their NPAs. Banks are facilitating restructuring of distressed companies under the new Insolvency Resolution process. Thus, increased pressure from lenders is likely to drive some distress selling.

Conclusion

The country's dynamics are positive and vibrant. Investors' confidence and activity has been good this year. Though cross-border activity has been a little slow, sentiments have continued to remain positive and can be expected to materialize soon. Structural reforms by the government, an improving ease of business and stability in economic factors like inflation and currency, would help further improve investor sentiment around India. FDI relaxations has opened up new avenues for foreign players. Demonetization has been a positive step towards digitization and though short term disruptions were felt, they are mostly behind us now and this has, in a sense, proved the market and industry's resilience. GST could further act as an enabler. All these factors could very well be the boost needed in the coming years to beat 2015 and 2016 numbers in M&A. ■

Data source: Bloomberg, Financial Times (dated 28 June)

Sunil Sanghai *is the Vice Chairman and heads Investment Banking for HSBC Securities & Capital Markets, India.*
Prior to joining HSBC, he was a Managing Director and Co-Head Investment Banking India at Goldman Sachs.
Sunil, started his investment banking career 1992 and has rich experience in mergers and acquisitions, corporate restructuring, advisory and domestic and global capital markets. He has been involved in many significant and large capital markets and M&A transactions in India.
Sunil chairs the Committee on Capital Markets of FICCI.
Sunil is closely associated with a few philanthropic organizations working towards growth of children.

This article has been co-authored by Ms Archa Jain, Associate, HSBC. She has 4+ years of experience in investment banking. She joined HSBC's investment banking team in 2013 and has since worked across various sectors on M&A and fund raising situations. She has an MBA from the Indian Institute of Management, Ahmedabad (IIM-A) and a Bachelor of Engineering (Honors) degree from Netaji Subhas Institute of Technology.

Abolition Of FIPB: Panacea to the FDI Regime?

Cyril S. Shroff
Managing Partner
Cyril Amarchand Mangaldas

The Government of India has declared that Foreign Direct Investment **("FDI")** is extremely crucial for the growth trajectory in India. Since the current Government has been elected in 2014, it has taken a series of measures to simplify doing business in India. Infact, India currently stands at 130 in the Ease of Doing Business Index out of 190 countries. This has definitely been a marked growth and demonstrates the Indian Government's resolve to demonstrate India as an attractive business and investment destination. It is towards this end, that the Indian Government recently announced the abolishment of the Foreign Investment Promotion Board **("FIPB")** to simplify investment and to accelerate growth.

1. History and background

The FIPB was initially constituted under the Prime Minister's Office in early 1990s in the wake of the New Economic Policy, 1991. It was then transferred to the Department of Industrial Policy & Promotion **("DIPP")** in 1996 and subsequently to the Department of Economic Affairs; Ministry of Finance **("DoEA")** by the Presidential Order dated January 30, 2003. The present-day FIPB is an inter-ministerial body under the purview of DoEA which recommends, in consultation with the concerned ministry, the FDI proposals in India under the government's approval route. It was established to inter alia ensure expeditious clearance of foreign investment proposals and improve the investment climate of the country. Para 3.4.1 of the extant FDI policy 2016 *(as updated from time to time)* **("FDI Policy")**, enables the FIPB to consider the proposals for foreign investment under the approval route in India. However, considering the global competitive environment, in order to attract more foreign investment, FDI regime in India has become liberal and pragmatic over the years by moving several sectors completely or up to a threshold to the automatic route, resulting in reduction of the FIPB's role considerably.

2. Abolition of FIPB

The government through its press release dated May 24, 2017 has approved the proposal of phasing out of the FIPB[1] , pursuant to which DoEA has issued an Office Memorandum dated June 5, 2017, bearing number *F.No.01/01/FC12017-FIPB*[2] **("Office Memorandum")** providing a framework for carrying out the same. As provided in the press release and the Office Memorandum, going forward, approval of FDI under the approval route shall be handled by the concerned ministries/departments in consultation with the DIPP. The

[1]*Copy of the press release available at http://pib.nic.in/newsite/PrintRelease.aspx?relid=162097.*
[2]*Copy of the office memorandum available at http://fipb.gov.in/Forms/OMabolitionFIPB.pdf.*

Office Memorandum provides for the list of notified sectors/activities and the concerned administrative ministry/department responsible for approvals of the FDI proposals under the approval route. It also provides and identifies the applicable administrative ministry/department in relation to various other applications including, but not limited to, applications for foreign investment into a Core Investment Company[3], for issuance of equity shares for import of capital goods/machinery/equipment etc. The Office Memorandum further clarifies that in case of any uncertainty in identification of the concerned administrative ministry/department in relation to a foreign investment proposal, the DIPP shall identify the concerned ministry/department where such application/proposal shall be processed.

Henceforth, all the awaiting approvals, ongoing litigations, applications filed under Right to Information Act, 2005 with the FIPB and appeals pending with the FIPB, shall be transferred to and dealt by the concerned ministry/department.

3. Reasons for abolition of FIPB

Mr. Arun Jaitley, Hon'ble Finance Minister of India in his speech on the Union Budget for the financial year 2017-18 stated "*More than 90% of the total FDI inflows are now through automatic route.*"[4] As on date, in accordance with the FDI Policy, foreign investment in only 8 (eight) sectors[5] is completely prohibited and government approval is required inter alia in sectors like satellite establishment, publication of facsimile edition of foreign newspapers etc. and in some sectors government approval is required if the foreign investment is more than the percentage stipulated under the FDI Policy. Further, the Finance Minister noted that "*The FIPB has successfully implemented e-filing and online processing of FDI applications. We have now reached a stage where FIPB can be phased out.*" In other words, introduction of technology to deal with minimal foreign investment approvals has resulted in a truncated role of the FIPB and made the body almost redundant. Also, the existing process of approval through FIPB was a prolonged and drawn out process as apart from FIPB, approvals were also required from the administrative ministry and the regulator or the licensor concerned, which grants the operating license/approval. It is believed that scraping of FIPB will also result in cutting of red tape in government and facilitate ease of doing business, thereby boosting FDI inflows into the country and making India a more investor-friendly destination.

4. Challenges and concerns

Even though entrusting the responsibility of the FIPB to the ministries may simplify the present procedure of seeking clearance on FDI proposals, the real concern is whether the ministries are equipped and versed with the nuances of the FDI Policy, Foreign Exchange Management Act, 1999 and the regulations issued thereunder, to ensure speedy approvals or disposals of applications for foreign investment.

Further, in terms of evaluation of a proposal, the competence of a department/ministry to evaluate such proposals on the basis of the effect on the entire economy rather than addressing specific concerns of the department/ministry will be a vital concern. As envisaged in the Office Memorandum, concerned departments/ministry will follow the process laid down by the DIPP in the Standard Operating Procedure ("SOP"), for processing of approvals for FDI. However, considering the distinctness in nature of the sectors and the activities that fall under the purview of the approval route under the FDI Policy, it may be a challenge for

[3] *As per Core Investment Companies (Reserve Bank) Directions, 2016, a Core Investment Company is a non-banking financial company carrying on the business of acquisition of shares and securities and which satisfies the conditions mentioned under the directions.*

[4] *Refer to Para 96 of the speech available at http://indiabudget.nic.in/ub2017-1 8/bs/bs.pdf.*

[5] *Referto Para 5.1 of the FDI Policy available at http://dipp.nic.in/sites/default/files/FDI_Circular_2016%282%29.pdf.*

DIPP to lay down SOP which ensures consistency and uniformity in the approval process, across all prohibited/partially prohibited sectors.

5. Conclusion

India was ranked 130th among the 190 countries in the recently released World Bank's ease of doing business index for the year 2017.[6] The extinguishment of the FIPB is a welcome step in improving the ease of doing business in India and increasing investor confidence. However, a great deal will depend on the implementation of the steps envisaged in the Office Memorandum in days to come. Necessary changes also need to be undertaken with respect to the FDI Policy so that the cumbersome rules which pose as deterrent for the foreign investors are done away with and all the reforms collectively lead to development of more investment opportunities. ■

[6] *http://www.doingbusiness.org/data/exploreeconomies/india.*

Cyril Shroff *is the Managing Partner of Cyril Amarchand Mangaldas ("The Firm") and previously was the Managing Partner of Amarchand & Mangaldas & Suresh A. Shroff & Co., India's largest and foremost law firm. The Firm has nearly 625 lawyers with offices in Mumbai, New Delhi, Bengaluru, Hyderabad, Chennai and Ahmedabad.*

With over 34 years of experience in a range of areas, including corporate laws, securities markets, banking, infrastructure and others, Mr. Shroff is regarded and has been consistently rated as India's top corporate, banking and project finance lawyer by several international surveys, including those conducted by International Financial Law Review (IFLR), Euromoney, Chambers Global, Asia Legal 500, Asia Law and others. He has won numerous awards from Legal Publications.

Mr. Shroff featured in recent issue of Asian Legal Business (ALB) - Dealmakers of the Year 2016, as the only individual from India. He was also awarded with "Emerging Markets Firm Leader of the Year - Independent" at the Asian Lawyer Emerging Markets Awards 2016 organized by American Legal Media. He has been recognized as a "legendary figure in the Indian legal community" and is consistently ranked as "star practitioner" in India by Chambers Global. Mr. Shroff is often regarded as the "M&A King of India".

He is member of the first Apex Advisory Committee of IMC International ADR Centre (IIAC) and also an advisory member of the Finance Planning Standard Board of India (FPSB India) and Macquarie. He was recently appointed as a task force member of Society of Insolvency Practitioners of India (SIPI).

He is a member of the Media Legal Defence Initiative (MLDI) International Advisory Board. Mr. Shroff is also member of the FICCI Committee on Capital Markets.

He has authored several publications on legal topics. He is a member of the Advisory Board of the Centre for Study of the Legal Profession established by the Harvard Law School, a member of the Advisory Board of the National Institute of Securities Markets (NISM) and on Board of IIM, Trichy.

Mr. Shroff was admitted to the Bar in 1982 after receiving his B.A., LLB degree from the Government Law College in Mumbai. He is a Solicitor, High Court of Bombay, since 1983.

Outbound Mergers: The Way Forward

Bahram N. Vakil
Founding Partner
AZB & Partners

Background

Earlier under the Companies Act, 1956 only inbound mergers were permitted. This limited the scope of transactions to only a foreign company merging into an Indian company. In its report dated May 31, 2005, the Expert Committee headed by Dr. Jamshed J. Irani had recommended that company law needs to recognize both contract based as well as court based mergers of an Indian company into a foreign company or outbound mergers.

By its notification dated April 13, 2017, the Ministry of Corporate Affairs ("MCA") notified the enabling provision of Section 234 of the Companies Act, 2013. Pursuant to the notification, an Indian company can merge into a foreign company in certain specified jurisdictions. This expands the landscape of mergers and acquisition in India by leaps and bounds. Outbound mergers will allow Indian companies to tap into new markets and enable listing of Indian securities on overseas stock exchanges. It will open the floodgates to various cross-border structuring possibilities.

Outbound mergers under Section 234 of Companies Act, 2013

Section 234 of the Companies Act, 2013 provides that an Indian company may merge into a foreign company with the prior approval of the Reserve Bank of India ("RBI"). It further specifies that the consideration for such cross border mergers may be either cash, or depository receipts. Pursuant to notification of this provision, MCA also notified amendments to the Companies (Compromises, Arrangements Amalgamations) Rules, 2016. They introduced Rule 25A (which is effective on and from April 13, 2017).

Section 234 and Rule 25A lay down the following requirements for outbound mergers:

- Indian companies can only merge into foreign companies which have been incorporated in the following jurisdictions:

(i) whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to bilateral Memorandum of Understanding with SEBI; or

(ii) whose central bank is a member of Bank for International Settlements (BIS); and

(iii) a jurisdiction, which is not identified in the public statement of Financial Action Task Force (FATF) as:

❖ a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

❖ a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

Singapore, Mauritius, Japan, France, United Kingdom, United States of America, among others, will meet the criterion under the above mentioned Rules;

- Prior approval of the RBI is required;
- The transferee company should ensure that valuation is conducted by valuers who are members of a recognized professional body in the jurisdiction of the transferee company; and
- Such valuation should be in accordance with internationally accepted principles on accounting and valuation.

Draft Foreign Exchange Management (Cross Border Merger) Regulations, 2017

Pursuant to the notification of Section 234 of Companies Act, 2013, on April 26, 2017, RBI released a draft of the Foreign Exchange Management (Cross Border Merger) Regulations, 2017. The Regulations propose to regulate and address the issues that may arise when an Indian company and a foreign company enter into scheme of merger, demerger, amalgamation, or rearrangement. These Regulations stipulate the conditions that need to be observed by the companies involved in such schemes. For outbound mergers, the draft regulations lay down the following requirements:

- A person resident in India may acquire or hold securities of the resultant company in accordance with the Foreign Exchange Management (Transfer or issue of Foreign Security) Regulations, 2000 or the provisions of the Liberalized Remittance Scheme, as applicable;
- The transferee/amalgamated company may acquire and hold any asset in India which a foreign company is permitted to acquire under the provisions of the Foreign Exchange Management Act, 1999 **("FEMA")**, rules or regulations framed thereunder; and
- Where the asset or security is not permitted to be acquired or held by the resultant company under FEMA, rules or regulations made thereunder, the resultant company shall sell such asset or security within a period of 180 days from the date of sanction of the scheme of cross border merger and the sale proceeds shall be repatriated outside India immediately through banking channels.

An outbound merger which fulfils the conditions specified in these regulations will be deemed to have been approved by RBI under Rule 25A of Companies (Compromises, Arrangements Amalgamations) Rules, 2016.

These draft regulations mandate that all outbound mergers need to comply with Foreign Exchange Management (Transfer or issue of Foreign Security) Regulations, 2000 and the provisions of the Liberalized Remittance Scheme. These regulations include various restrictions including limits on remittance and restrictions on direct investment outside India which reduces the feasibility and viability of undertaking outbound mergers.

Reconciliation with other laws

The notification of Section 234 is certainly a step in the right direction. This will allow for expansion of Indian companies to new markets. However, to ensure that the goal envisaged under Section 234 is actually realized, the government will need to ensure that various related laws (such as taxation and corporate law) are also amended or modified to ensure that outbound mergers become a practical reality.

Currently, under the Income Tax Act, 1961, transfer of capital assets under a scheme of amalgamation is given a tax neutral treatment. However, this benefit is limited to transactions where the transferee or the amalgamated company is an Indian company. Therefore, under the current tax regime, the Indian company and the shareholders will be liable to pay capital gains tax for an outbound merger. This tax neutral treatment should also be extended to outbound mergers.

Other than RBI and the National Company Law Tribunal, the merger of an Indian company into a foreign company may also invite the jurisdiction of certain sector specific regulators. For example, approval of the Insurance Regulatory and Development Authority may be required in case of insurance companies. The involvement of multiple regulators might make this process time consuming.

There are various other practical and regulatory challenges that will be faced in the implementation of outbound mergers. There are other issues that have not yet been addressed by the government. A potential inconsistency between the law governing the amalgamated foreign company and the Indian law governing such outbound mergers may also exist and require review.

The notification of outbound mergers no doubt brings good news to the Indian market. It is an opportunity to expand operations and grow on a global scale for Indian companies. To facilitate a smooth transition, it is extremely important that the legal and regulatory regime that may govern outbound mergers is harmonized. Suitable amendments are necessary to ensure that there are no inconsistencies or practical issues in the implementation of such mergers.

The notification of outbound mergers will most definitely stir up the market. It presents a great opportunity for organizations, both large and small to expand their horizons. Whilst the Government should work to harmonize the legal framework, the market will wait with baited breath. It definitely will be interesting to see which companies use this avenue to gain the most advantage in the international arena and leave a global footprint. ■

***Bahram N. Vakil** is a founding partner of AZB & Partners. He was a member of the Bankruptcy Law Reforms Committee as well as part of several government committees constituted by the Ministry of Corporate Affairs and the Insolvency and Bankruptcy Board of India for drafting and implementation of the Bankruptcy Code. Bahram is recognized by Chambers and Partners, Legal 500 and others as a leading lawyer for banking & finance in India. He is a member of the Bar Council of India and New York State Bar. Bahram has also served as a member of various high-level government committees on financial reform, FDI and securities market reform*

The article has been co-authored by Urmika Tripathi and Dishti Kaji. Urmika is an Associate with AZB & Partners. She has completed her B.A. LL.B. from NALSAR, Hyderabad in 2016. Dishti is a student at Government Law College

Mergers and Acquisition - The Indian Market

Rudra Pandey
Partner
Shardul Amarchand Mangaldas & Co

The Indian landscape for mergers and acquisitions **(M&A)** has seen an unparalleled evolution. Several factors have contributed to this development. While the number of deals has not risen dramatically, the deal values have grown exponentially, placing India as a top contender across the Asia- Pacific Region in terms of its M&A transactions, with deal values reaching numbers as high as US $ 65 Billion.[1] Through this article, we map how, when, and why these changes have happened, and what can be expected in the future from this segment of the Indian market.

Rise in M&A in India

The field of M&A picked up considerable pace after the liberalization reforms in 1991. The reforms were followed by critical structural changes, with businesses beginning to focus on 'size and competence'. This involved the largest corporate houses and companies selling their non-core businesses, to focus instead on their core strengths, and to create a stronger presence in the market through these arms. The twenty first century saw the M&A market grow from traditional family business to IT, telecom and the financial sectors. Some of the large deals played a pivotal role in leading to the increased values, with media, financial services, cement, pharmaceuticals, power and the oil & gas sector driving significant movement, and seeing transactions upwards of US $ 1 Billion.

Inbound transactions saw a significant rise from US $9.9 Billion in 2015 to US $20.1 Billion in 2016.[2] Domestic M&A space was dominated by startups engaging in consolidation with a view to strengthen their market positions in an increasingly competitive market, such consolidations accounting for a quarter of the total M&A volumes. Even mature industries such as manufacturing witnessed consolidation, for example, the Ultratech-Jaypee (US $2.4 Billion) and Birla-Reliance Cement (US $0.7 Billion) transactions.[3] On the other hand, a merger between insurance behemoths HDFC Life and Max Life that was touted to be a game changer in the industry, has been put on the backburner due to an order of the Insurance and Regulatory Development Authority of India stating that an insurance company cannot merge with a non-insurance company. As a result, the shareholders of HDFC may consider HDFC Life's listing options, in which case, the merger will be put on the backburner for at least a year.[4] This development is a critical reflection of how the

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[1] *Pankaj Dave, "India: India's M&A Market Expected To Perform Very Strongly In 2017" (June 7, 2017), available at http://www.mondaq.com/india/x/599906/M+A+Private+equity/Indias+MA+Market+Expected+To+Perform+Very+Strongly+In+2017*

[2] *Amit Khandelwal, "2017 looks like a promising year for M&As", Livemint (January 5, 2017), available at http://www.livemint.com/Opinion/dJA9poCgdRS3NWBXmIVmsM/2017-looks-like-a-promising-year-for-MAs.html*

[3] *Press Trust of India, "India Inc M&A deals up 12% at $15.7 bn in first half of 2016", The Financial Express (July 19, 2016), available at http://www.financialexpress.com/economy/india-inc-ma-deals-12-15-7-bn-first-half-2016/321678/*

[4] *Paramita Chatterjee, "HDFC Life-Max Life merger decision likely on July 17", Forbes India (July 14, 2017), available at http://www.forbesindia.com/article/special/hdfc-lifesmax-lifes-merger-decision-likely-on-july-17/47567/1*

commercial world is impacted continually by the legal and regulatory framework within which it operates. At the same time, with the proposed Vodafone and Idea merger, which has received the approval of the Competition Commission of India **("CCI")**, the merged entity will become India's largest telecom company. The proposed merger talks between IDFC Bank and Shriram Group (Shriram Transport and Shriram Insurance companies) are also on the litmus test as of now.

Past Patterns of Growth

The number of mergers has seen a steady rise through the past two and a half decades. The growth of the M&A market can be tracked through the details provided below:

1991- 2005 - The number of mergers was significant low at just 15 in the year 1988. These numbers grew to 144 in 1993, and have since been spiralling rapidly to cross the 2000 mark in the year 2005, leading to a fourteen fold rise in the number of mergers over the past twelve years. The Indian market experienced a 'moderate intensity' wave during the years 1996-2005 in respect of its mergers and acquisitions. These growth patterns were witnessed particularly in the pharmaceutical sector, the financial services sector and the IT services sector, with the foothold of each being 15%, 10% and 11% respectively.[5]

2005- 2012 - Similarly, the time period from 2005-2009 saw a 'high intensity' wave. The M&A activity remained consistent for various sectors like manufacturing and the service sectors. Even during this period, it was the pharmaceutical and financial services sectors that dominated the M&A field, with the pharmaceutical sector holding a share as high as 12.8%, and the financial services sector holding an even higher share of 14.8%.[6] Within the manufacturing sector, mergers were centred on the chemicals, machinery, food products, pharmaceutical and basic metals industries. The value of M&A deals involving India rose by 12% in 2012, reaching an aggregate value of US $43.4 Billion.

2012-2014 - Affectedby the slowedeconomic trends, M&A activities of Indian companies lost pacefrom 598 deals in 2012 to a total of 500 deals in 2013, with the value of such deals having reduced from US $35 Billion in 2012 to around US$ 28 Billion in 2013. The level of activity in 2013 saw an upward movement in the last few days due to a few key deals of large values. The bulk of domestic activity continued to focus on the pharmaceutical sector, with the sector reaching a cumulative value of US $ 934 Million.[7]

2014-2015 - The year 2015 saw an increase in the number of transactions to 930, whereas the total disclosed deal value dropped by around 40 % to US $20 Billion. This slowdown resulted from a decline in domestic deal activity, which in turn, were caused, in part, by the absence of mega deals like the ones seen in 2014.[8] On the other hand, outbound activity saw an increase, with total deal value going up to US $5.2 Billion in 2015 from US $1.6 Billion in 2014. In 2015, the key sectors which contributed to M&A activity were once againthe pharmaceutical, e-commerce, banking and financial services, IT and IT-enabled services, healthcare and energy. The technology sector witnessed a total of 121 deals with a cumulative disclosed deal value of US $1.4 Billion, mostly aided by the growing dominance of social, mobile, analytics and cloud solutions. The financial services sector recorded an increase in deal volume of 47 % from 2014.

Year 2016 - In 2016, the overall M&A activity was vigorous due to a resilience of the domestic economy and stabilization of the capital markets. The deal value during the year reached a record high at US $56.2 Billion since 2010. This increase in deal value was noticeable across all transactions - domestic, inbound and outbound transactions. Interestingly, the year saw 60 restructuring deals worth US $7.7 Billion. Mega-deals contributed to about 63% of the total cross-border deal value. However, a decline was recorded in

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[5] *PriyaBhalla, "Mergers & Acquisitions in India: A sectoral analysis", International Journal of Business and Economic Development (July 2014), available at http://ijbed.org/admin/content/pdf/i-5_c-58.pdf.*

[6] *Id.*

[7] *Grant Thornton India LLP, "Dealtracker, 9th Annual Edition" (2013), p. 8*

[8] *Ernst and Young LLP, "PE and outbound drive M & A: Transactions 2016", (2016) p. 5*

the total number of deals to 362 in 2016 from 404 in 2015. The oil and gas sector led in terms of the deal value, followed by the financial services sector. The deal that pushed the oil and gas sector to this leading position in terms of value was the acquisition of Essar Oil Limited and Vadinar port by Russia's state-controlled petroleum giant Rosneft Oil Company led consortium. From a volume perspective, the technology, infrastructure and financial services sectors dominated the charts, accounting for nearly one-third of the total announced deals in 2016.[9]

Regulatory Challenges and Opportunities

Challenges

There are certain regulatory / legislative changes that may adversely impact the M&A sector:

*General Anti-Avoidance Rules **(GAAR)**-* Finance Act 2013, with a view to check tax evasion and avoidance, introduced anti-avoidance provisions in the form of GAAR in the Income-tax Act, 1961 ***(IT Act)***. The implementation of GAAR was repeatedly postponed amidst foreign investors' apprehensions but has finally been made effective from April 1, 2017. GAAR empower the Income Tax Authorities to determine the tax consequences for a taxpayer, after disregarding or re-characterizing an arrangement or transaction, including any step therein, if such arrangement or transaction or a step therein, has been entered into by the taxpayer for the main purpose of obtaining tax benefit and it lacks commercial substance. GAAR provisions will apply to both domestic and cross-border transactions and have an overriding effect on all the other provisions of the IT Act. In case of an abuse of a tax treaty, GAAR provisions will also override the provisions of the tax treaty. It is important to note that the investments which have been made up to April 1, 2017, have been grandfathered under GAAR and thus are prevented from the application of GAAR. To illustrate, any sale of shares, which were acquired before April 1, 2017, will be outside the ambit of GAAR.

Amendment to India-Mauritius/Singapore Tax Treaty- After protracted negotiations between the governments of India and Mauritius, the India-Mauritius Tax Treaty was finally amended in 2016. The most significant amendment in the Treaty is phasing out of the capital gains exemptions on transfer of shares of Indian companies held by Mauritian residents. These amendments are likely to shift the focus away from Mauritius being a favourite destination in terms of M&A transactions. A similar effect is expected to take place post the amendment to the India-Singapore Tax Treaty, with the imposition of capital gains tax on investments routed through Singapore.

Positive regulatory changes

A slew of beneficial regulatory changes have taken place in India in the recent past. These changes are likely to positively impact activity in the M&A sector. A few of the aforementioned changes have been highlighted below:

*Companies Act, 2013**(Act)**-* The recent notification of provisions of the Act with respect to compromise, arrangements, and reconstruction allowing fast track mergers, especially with respect to those taking place between a holding company and its wholly owned subsidiary, will enable deals to take place faster, by virtue of fewer compliance hurdles. Provisions relating to mergers of a foreign and an Indian company have also been notified, which will unlock opportunities for Indian M&A on a global scale. Additionally, the National Company Law Tribunal **(NCLT)** has been constituted to subsume the extant functionalities of the Company Law Board, High Court and Board of Industrial and Financial Reconstruction, thereby creating a simpler, and uniform process for M&A transactions.

*Insolvency and Bankruptcy Code, 2016 **(IB Code)**-* The IB Code also provides for the acquisition of stressed assets. This has been furthered by the recent notification of Section 59 of the IB Code along with the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, which is expected to facilitate the business environment in India for foreign investors.

*Foreign Direct Investment **(FDI)**-* The Government has eased norms for sectors like pharmaceuticals, defence and civil aviation with respect to increased permissible

[9] *Ernst and Young LLP, "Inbound M & A takes center stage: Transactions 2017", (2017) p. 4.*

levels of foreign ownership. These changes have made such sectors attractive for M&A.

Competition laws- The (Indian) Competition Act, 2002 ***(Competition Act)*** requires combinations (acquisitions, mergers, and amalgamations) to be notified in advance to the CCI where the parties or their groups exceed the prescribed jurisdictional thresholds. In 2016, the Government of India brought into effect a target based exemption wherein transactions have been exempted from the notification requirement if the assets or turnover of the target enterprise fall below the specified limits. This exemption had been interpreted in a narrow manner by the CCI, and its benefit was extended only to acquisitions. However, the Ministry of Corporate Affairs, Government of India released a notification revising the prescribed target exemption and addressing these difficulties for future transactions. The revised target exemption, which will apply for five years, contains a number of important changes:

- First, the exemption will be applicable to parties to all forms of transactions, i.e., acquisitions, mergers, and amalgamations, where the assets being acquired, taken control of, merged or amalgamated are not more than INR 3.5 Billion (approximately US $52 Million) in India or where the turnover is not more than INR 10 Billion (approximately US $148 Million) in India.
- Second, for the purposes of assessing revised thresholds, as well as the jurisdictional thresholds specified in Section 5 of the Competition Act, only the value of assets of, and turnover attributable to, the portion, division or business being transferred will be counted as regards the target, and not the entire assets or turnover of the selling entity.

More recently, in a welcome move, to ease doing business in India, the Ministry of Corporate Affairs, Government of India has removed the requirement on parties to notify transactions to the CCI within 30 calendar days of the relevant trigger event. With this change, CCI approval will still be applicable for the notifiable transactions prior to closing and remain subject to penalties for gun-jumping, removal of the filing deadline will definitely remove timing pressures and facilitate the coordination of multi-jurisdictional merger reviews.

Future Trends

Certain factors are operating in tandem to bolster India's M&A prospects in the coming times- these include the aforementioned government reforms, a stable currency, an increasingly downward trending interest rate curve, and a relatively young demographic coupled with high quality entrepreneurs. At the Economic Survey placedin the Parliament by the Government of India on January 31, 2017, it was asserted that India had emerged as one of the world's largest recipients of FDI and that in 2016-17, FDI was running at an annual rate of US $ 75 Billion.[10]

M&A activity in India in 2017 began with a positive start, with deal values doubling to US $ 17.9 Billion, as compared a deal value of US $ 9.2 Billion in the corresponding three months of 2016. This growth has taken place in spite of the fact that the number of transactions declined to 76 in January-March, 2017, as opposed to a higher number of 110 in January- March of 2016.[11]

The positive trend highlighted above can be argued to have resulted, at least in part, from some of the above regulatory changes, and is expected to continue in 2017. Sectors like life sciences, financial services, technology, real estate and consumer are expected to attract significant investor attention in the year.

Conclusion

The field of M&A has grown by leaps and bounds in the recent past. Several other factors (as pointed above) are set to act as catalysts to ensure this trend. It is expected that major themes in the time to come will be centred on consolidation and fund raising, with sectors like

[10]*KPMG, "Investments in 2017: Sunrise or Sunset?", VCC Circle (March 6, 2017), available at https://www.vccircle.com/sponsor-news/what-expect-2017-india/*

[11]*Amit Khandelwal, "2017 likely to be promising for M&As" (January 2016), available at http://www.ey.com/in/en/newsroom/news-releases/ey-pe-2017-likely-to-be-promising-for-mas.*

financial services, infrastructure and the life sciences playing pivotal roles. With the IB Code coming into effect, India will witness a surge in M&A activity as large number of lucrative assets will be up for sale at a discount and also be well within the reach of Indian and foreign buyers. At the same time, the implementation of the Goods and Services Tax regime will increase consolidation in several sectors, including logistics and warehousing. The telecom sector is another hotspot for M&A this year as several players are battling high competition and low profit margins. In the last few months, the government and the regulators have eased out certain regulatory processes, paving the way for an increase in M&A activity. M&A has become a major contributor to economic growth in the past two decades. Transactions are expected to burgeon and grow, and will set the pace for M&A activities in India in the times to come. ■

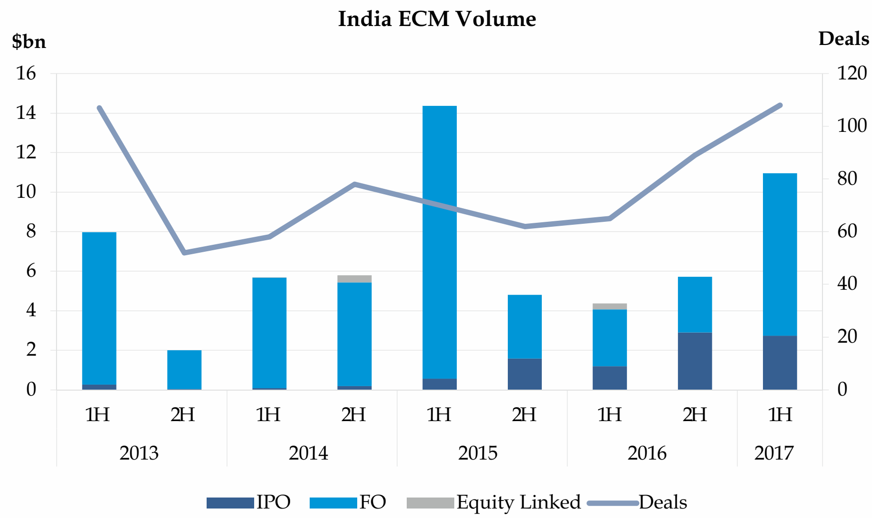
Rudra Pandey *is a Partner at Shardul Amarchand Mangaldas & Co. He has almost 15 years' experience inCorporate Commercial transactions, General Corporate advisory and advising on Corporate Governance matters. Mr. Pandey has been very actively involved in many national and international deals and has been a part of many success stories.*
His areas of expertise includecorporate structuring, mergers & acquisitions, takeovers, delisting's, private equity investments, joint ventures, real estate, banking and finance, project finance, establishment and management of funds(onshore and offshore)..
Mr. Pandey is the lead member of the Japan and China Practice of the Firm, and has advised leading Japanese and Chinese corporations on setting up and expanding their India operations. While working with the erstwhile Amarchand & Mangaldas & Suresh A. Shroff & Co., Mr. Pandey has also worked in Tokyo with a leading Japanese law firm, and with multi-national banks on secondment.
Mr. Pandey'swidth of experience encompasses key industry sectors that include manufacturing, automobile, media & entertainment, telecommunications, banking, NBFCs, IT, SEZs, trading, cement, coal, pharmaceuticals, real estate, industrial parks,retail and insurance.
Mr. Pandey has been actively working (andrepresenting the Firm) with FICCIand with government and non-government organisations on various policy issues including the Companies Act, 2013, FDI Policy issues, and other regulatory / legal enactments. His recent engagements include working with the Expert Committee constituted by the Ministry of Corporate Affairs, Government of India on the cost audit scenario in India, and on the recent proposed amendments to the Companies Act, 2013. He has also been a member of the committees constituted by FICCI on corporate law, policy and regulatory issues. Mr. Pandey has been actively involved with the Ministry of Commerce, Government of India in discussing and actively takinguptrade issues under CEPA and other bilateral arrangements with Asian countries including Japan. Under the aegis of FICCI, he interacted with the committee constitutedon ease of doing business in India and to review the existing regime on labour laws, licenses and approvals and related law reforms, by DIPP, Government of India, under chairmanship of Mr. Ajay Shankar. Mr. Pandey is part of working group constituted by DIPP in relation to new Industrial Policy of the Government of India.
Mr. Pandey has been a guest faculty at the Indian Business School, Hyderabad. He has contributed several publications on investment &trade, topics on business laws and other related issues. Mr. Pandey has also been part of several industry and government delegation to different countries.

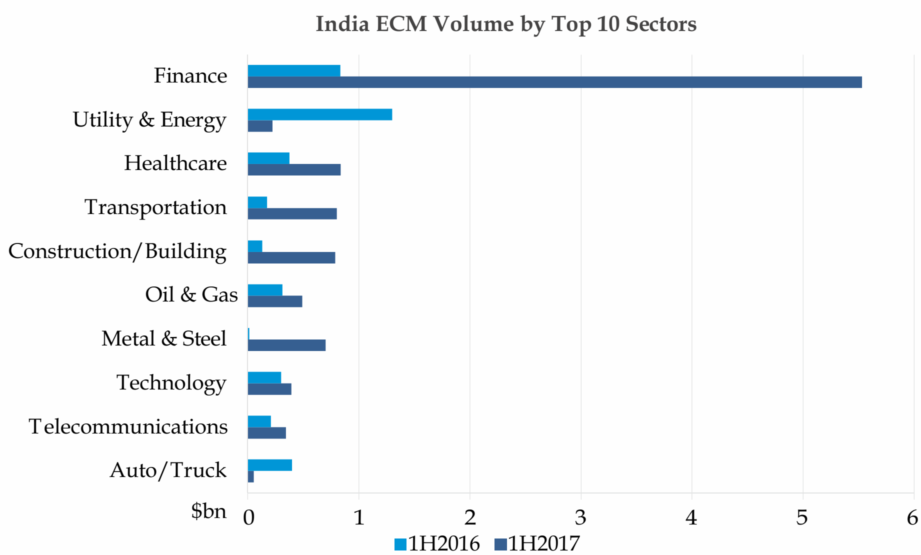
FICCI – Data Centre

Equity Capital Markets

In association with

- **Indian ECM** volume stood at $11.0bn (via 108 deals) for 1H 2017, up more than two times on the $4.4bn (via 65 deals) raised in 1H 2016
- **IPO** volume increased to $2.7bn (via 69 deals) for 1H 2017, compared to $1.2bn (via 41 deals) for 1H 2016. There were no convertibles issued for 2017 versus 2 deals ($310m) for the first half of 2016
- **Follow-on** volume for 1H 2017 increased more than twice to $8.2bn (via 39 deals) from the $2.9bn (via 22 deals) for 1H 2016
- **SBI's** $2.3bn follow on via book runners **Kotak, BAML, DB, IIFL Holdings, JM Financial and itself** is the largest ECM transaction for 1H 2017





Top 10 ECM Deals - 1H 2017					
Pos.	issuer	Sector	Deal Type	Deal Value($m)	Bookrunners
8-Jun	State Bank of India	Finance	FO	2,329	Kotak, SBI, BAML, DB, IIFL Holdings, JM Financial
16-May	Kotak	Finance	FO	905	BAML, Kotak, MS
7-May	IRB InvIT Fund	Transportation	IPO	783	IDFC, CS, ICICI, IIFL Holdings
29-Mar	Yes Bank Ltd	Finance	FO	754	CITIC Sec., BAML, IIFL Holdings, Motilal Oswal
21-Jun	L&T Ltd	Construction /Building	FO	641	MS, CITI, ICICI
3-Mar	Hindalco Industries	Metal & Steel	FO	502	BAML, AXIS, CITI, JM Financial, SBI
8-Jun	Petronet LNG Ltd	Oil & Gas	FO	490	CITI, JPM
22-Jun	Federal Bank Ltd	Finance	FO	387	CITI, DB, IIFL Holdings, Kotak
22-May	India Grid Trust	Finance	IPO	349	MS, CITI, Edelweiss
14-Mar	Avenue Supermarts	Retail	IPO	281	Kotak, AXIS, Edelweiss, HDFC, ICICI, FFSI, JM Financial, Motilal Oswal, SBI

Asia Pacific ECM Volume by Nation 1H 2017				
Pos.	Nationality	Deal Value ($m)	No.	% Share
1	China	77,260	477	56.5
2	Japan	18,926	109	13.9
3	India	10,953	108	8.0
4	South Korea	8,268	77	6.1
5	Australia	6,661	311	4.9
6	Hong Kong	4,687	138	3.4
7	Taiwan	3,579	66	2.6
8	Philippines	1,445	6	1.1
9	Malaysia	1,181	51	0.9
10	Thailand	1,091	14	0.8

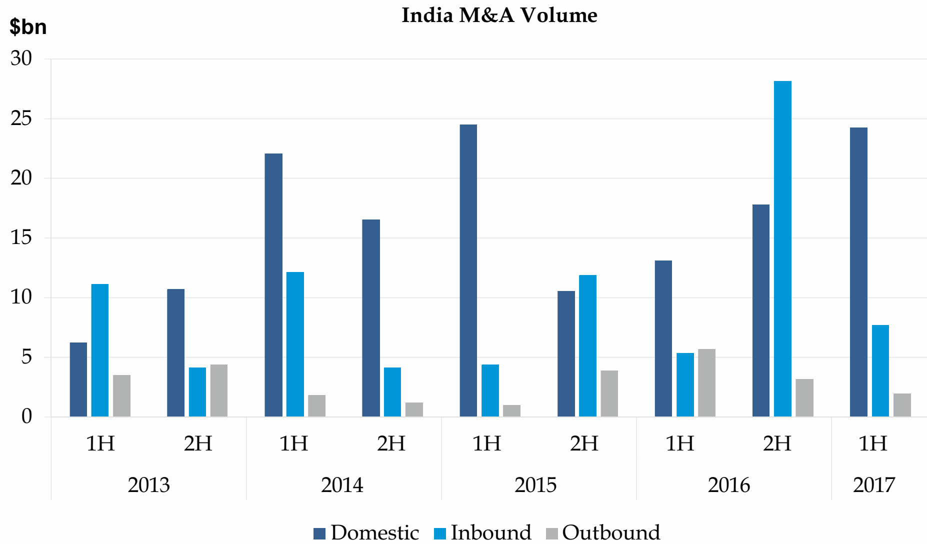
India ECM Volume 1H 2017				
Pos.	Bookrunner Parent	Deal Value ($m)	No.	% Share
1	Citi	1,334	10	12.2
2	Bank of America Merrill Lynch	979	4	8.9
3	State Bank of India	897	11	8.2
4	Kotak Mahindra Bank Ltd	893	6	8.2
5	Deutsche Bank	884	6	8.1
6	IIFL Holdings Ltd	869	4	7.9
7	ICICI Bank	717	8	6.6
8	Morgan Stanley	632	3	5.8
9	JM Financial Ltd	576	5	5.3
10	Edelweiss Financial Services Ltd	457	9	4.2

India IPO Volume 1H 2017				
Pos.	Bookrunner Parent	Deal Value ($m)	No.	% Share
1	ICICI Bank	348	4	12.7
2	Credit Suisse	323	3	11.8
3	Citi	236	3	8.6
4	Axis Bank	227	6	8.3
5	Edelweiss Financial Services Ltd	215	5	7.9
6	IDFC Bank Ltd	213	2	7.8
7	IIFL Holdings Ltd	196	1	7.1
8	State Bank of India	116	4	4.2
9	Morgan Stanley	116	1	4.2
10	Nomura	115	4	4.2

India FO and Conv. Volume 1H 2017				
Pos.	Bookrunner Parent	Deal Value ($m)	No.	% Share
1	Citi	1,097	7	13.4
2	Bank of America Merrill Lynch	979	4	11.9
3	Deutsche Bank	884	6	10.8
4	Kotak Mahindra Bank Ltd	826	4	10.1
5	State Bank of India	781	7	9.5
6	IIFL Holdings Ltd	673	3	8.2
7	Morgan Stanley	515	2	6.3
8	JM Financial Ltd	489	2	6.0
9	ICICI Bank	369	4	4.5
10	Motilal Oswal Financial Services	284	3	3.5

Mergers & Acquisitions

- **India** ranked as the fifth targeted nation in **Asia Pacific region** for 1H 2017 with $32.0bn, up considerably on the $18.4bn announced for 1H 2016
- India **Outbound M&A** volume down 65% to $2.0bn for 1H 2017 compared to $5.7bn for 1H 2016
- India **Inbound M&A** volume increased 44% to $7.7bn for 1H 2017 from the $5.4bn for 1H 2016
- **Domestic M&A** volume increased 85% to $24.3bn for 1H 2017, compared with $13.1bn for 1H 2016
- **Vodafone India Ltd.'s** merger with **Idea Cellular Ltd.** in a $14.4bn valued transaction is the largest announced M&A transaction for 1H 2017

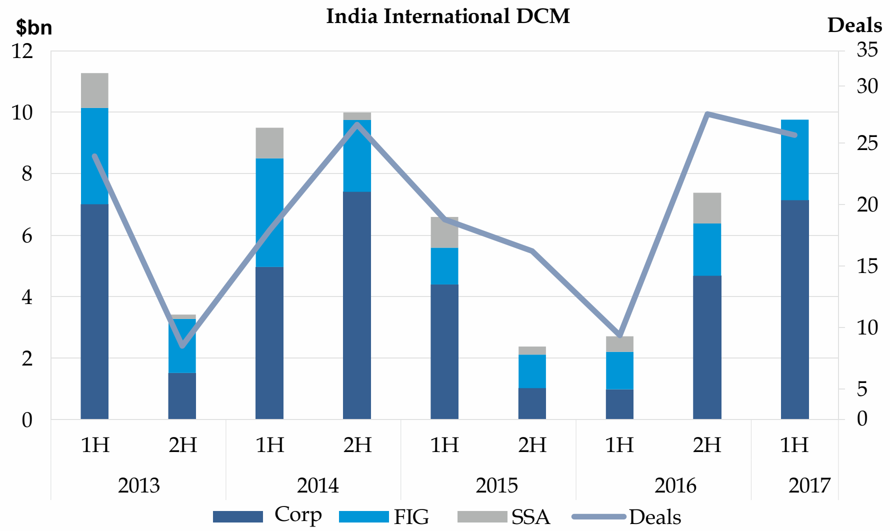


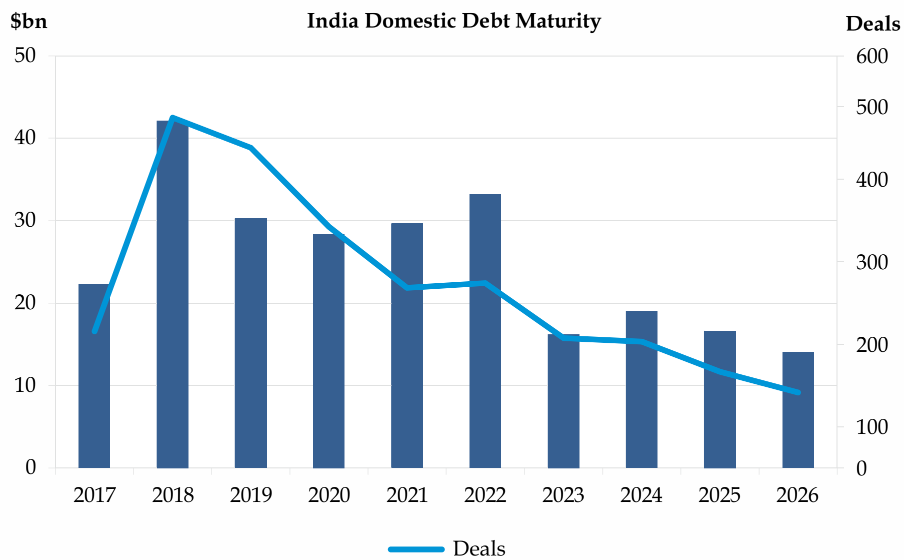
India Announced M&A Advisory Ranking 1H 2017				
Pos.	Advisor	Value $m	# Deals	% Share
1	Rothschild & Co	15,406	5	48.2
2	Morgan Stanley	15,243	3	47.7
3	Kotak Mahindra Bank Ltd	15,206	4	47.6
4	Axis Bank	15,033	4	47.1
5	UBS	14,993	3	46.9
5	Robey Warshaw LLP	14,993	2	46.9
5	Goldman Sachs	14,993	2	46.9
5	Bank of America Merrill Lynch	14,993	2	46.9
9	JP Morgan	3,052	2	9.6
10	Citi	2,437	4	7.6

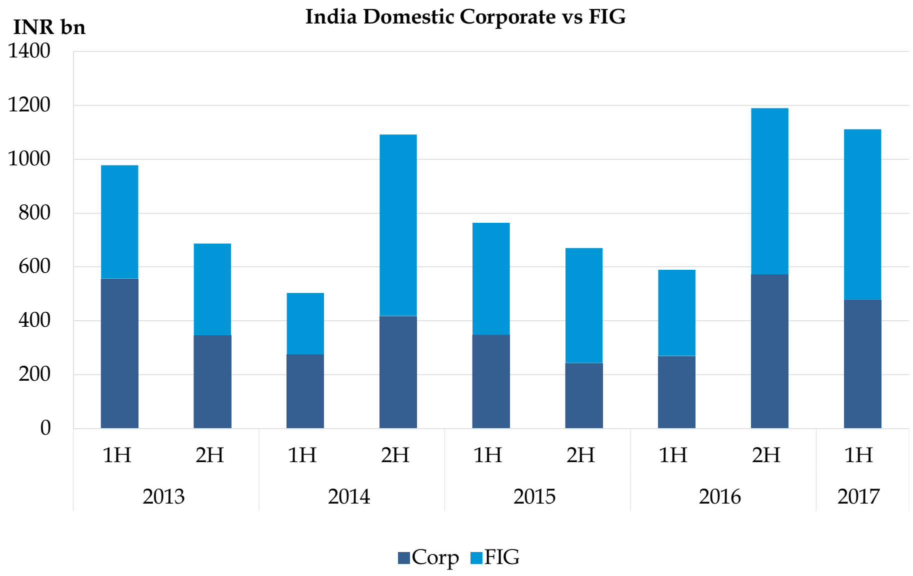
India Announced M&A Attorney Ranking 1H 2017				
Pos.	Attorney	Value $m	# Deals	% Share
1	AZB & Partners	18,989	26	59.4
2	Vaish Associates Advocates	14,993	2	46.9
2	Slaughter and May	14,993	2	46.9
2	S&R Associates	14,993	2	46.9
2	Bharucha & Partners	14,993	2	46.9
6	Luthra & Luthra	376	3	1.2
7	Shardul Amarchand Mangaldas & Co	218	5	0.7
8	Cyril Amarchand Mangaldas	201	1	0.6
9	Allen & Overy LLP	200	1	0.6
10	J Sagar Associates	116	10	0.4

Debt Capital Markets

- **India DCM** issuance for 1H 2017 reached $34.3bn (via 251 deals), up considerably on the $14.8bn (via 211 deals) raised in 1H 2016
- **Corporate IG** and **Agency** bonds accounted for 64% and 22% of the total DCM volume with $21.9bn and $7.5bn, respectively for 1H 2017
- **SBI** led the offshore issuer table for 1H 2017 with a 11.8% share, while **Power Finance Corp** topped the domestic issuer ranking with a 15.2% share
- India **Domestic DCM** volume reached INR 1.61tr for 1H 2017, up considerably on the INR 808.3bn raised in 1H 2016. Activity increased to 225 deals during 1H 2017 from the 203 recorded for 1H 2016
- **International** issuance for 1H 2017 reached $9.8bn, compared with 1H 2016 volume of $2.7bn. Activity increased to 27 deals versus 8 deals for 1H 2016

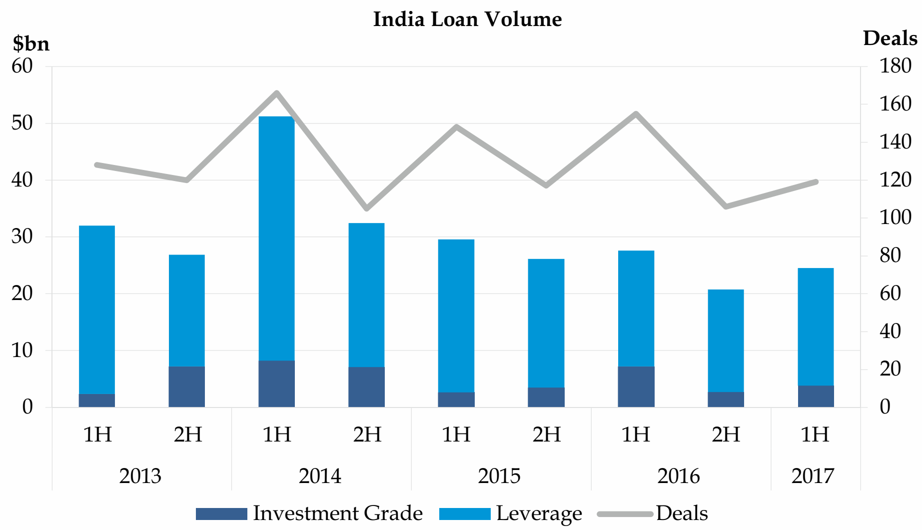


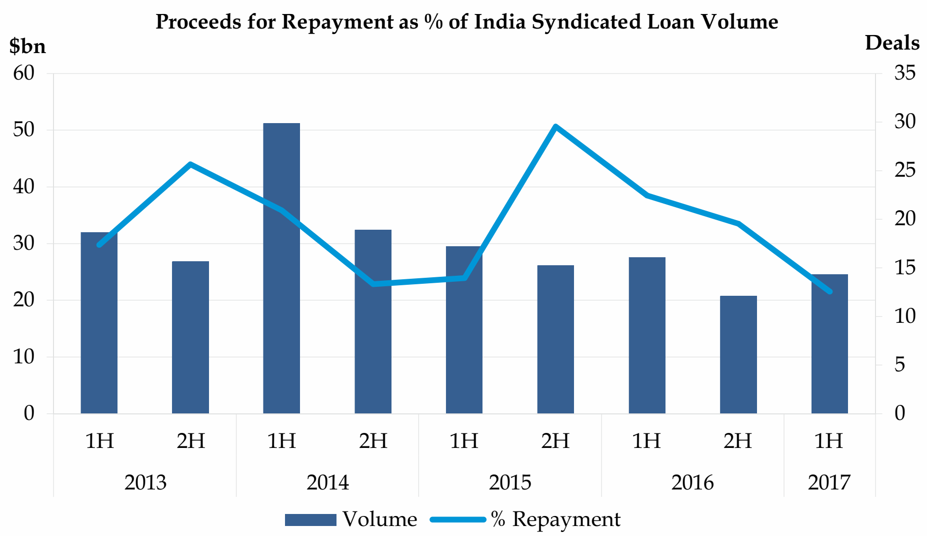


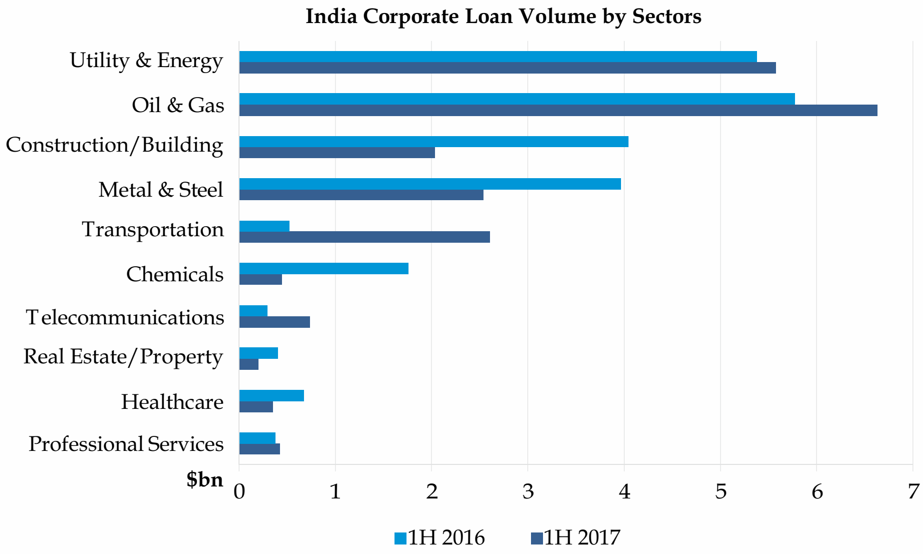

India Domestic Corporate vs FIG
INR bn
1400
1200
1000
800
600
400
200
0
1H
2H
1H
2H
1H
2H
1H
2H
1H
2013
2014
2015
2016
2017
Corp
FIG

Loan Markets

- **India loan** volume reached $24.5bn (via 119 deals) for 1H 2017, down 11% on the $27.6bn (via 155 deals) for 1H 2016
  - **Leveraged** loan increased slightly to $20.7bn via 110 deals, compared to $20.4bn (via 141 deals) for 1H 2016
  - **Investment grade** loan volume was down 47% to $3.8bn (via 9 deals) versus $7.2bn (via 14 deals) for 1H 2016
- Among the corporate borrowers, **Oil & Gas** sector topped the industry ranking for 1H 2017 ($6.6bn) with a 28.4% share
- **HPCL-Mittal Energy Ltd.'s** $2.1bn leveraged deal arranged by **SBI Capital Markets** is the largest transaction for 1H 2017






India Corporate Loan Volume by Sectors
Utility & Energy
Oil & Gas
Construction/Building
Metal & Steel
Transportation
Chemicals
Telecommunications
Real Estate/Property
Healthcare
Professional Services
$bn
0
1
2
3
4
5
6
7
1H 2016
1H 2017

Project Finance

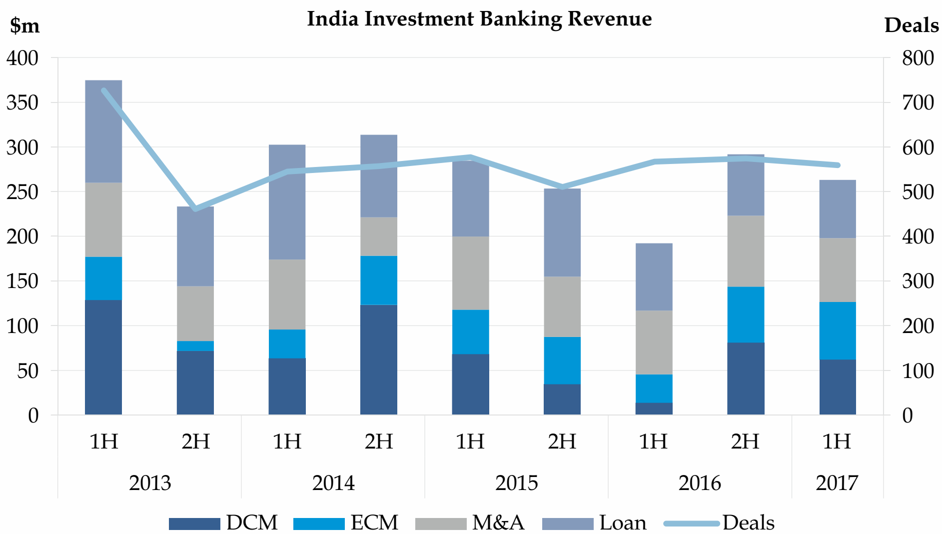
India Project Finance Loans Ranking 1H 2017				
Pos.	Mandated Lead Arranger	Value $m	# Deals	% Share
1	State Bank of India	7,566	28	65.6
2	Axis Bank Ltd	2,494	10	21.6
3	ICICI Bank Ltd	436	4	3.8
4	Yes Bank Ltd	216	4	1.9
5	IDFC Bank Ltd	142	2	1.2
6	Bank of Baroda	141	1	1.2
7	Power Finance Corp Ltd	130	2	1.1
8	Larsen & Toubro Ltd	101	4	0.9
9	HDFC Bank Ltd	72	1	0.6
10	Andhra Bank	59	1	0.5

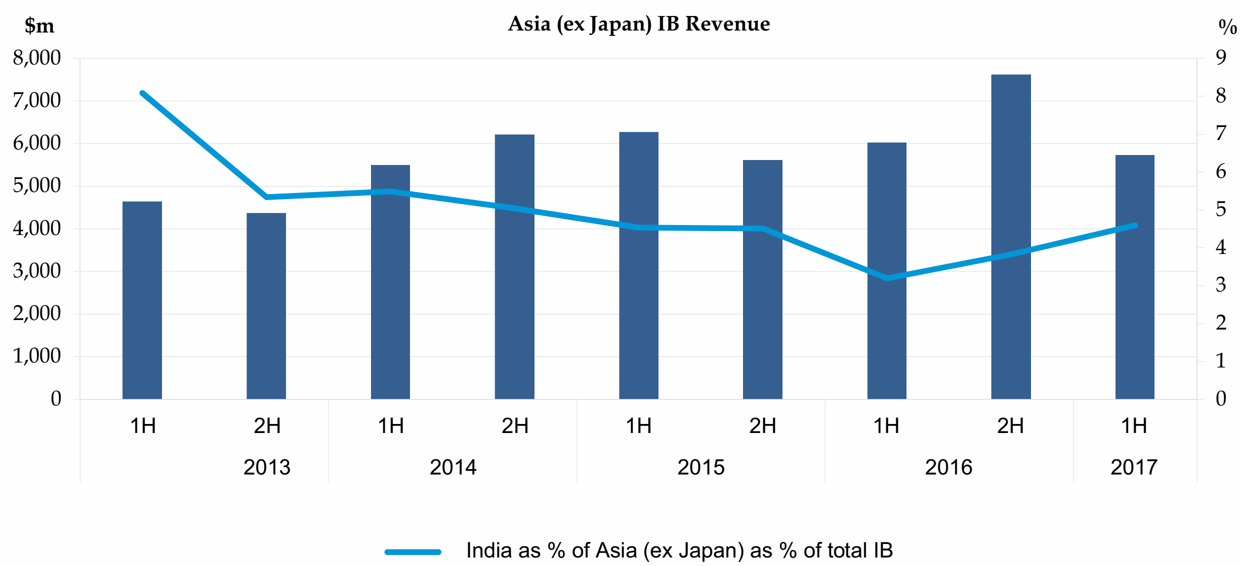
India Sponsor Ranking for Project Finance 1H 2017				
Pos.	Sponsor	Value $m	# Deals	% Share
1	Hindustan Petroleum Corp Ltd	1,740	2	7.7
2	Mittal Energy Investment Pvt Ltd	1,562	1	6.9
3	Jindal Steel & Power Ltd	1,137	1	5.0
4	GMR Infrastructure Ltd	1,064	2	4.7
5	Adani Group	1,026	8	4.5
6	Indian Oil Corp Ltd	824	2	3.6
7	Sembawang Capital Pte Ltd	591	5	2.6
8	Jindal United Steel Ltd	578	1	2.6
9	GVK Power & Infrastructure Ltd	570	1	2.5
10	Shapoorji Pallonji & Corp Ltd	558	1	2.5

Top 10 Indian Project Finance Deals 1H 2017				
Financial Close Date	Borrower	Project Name	Sector	Value $m
26-May	HPCL-Mittal Energy Ltd	HPCL Mittal Refinery Additional Financing	Oil Refinery/LNG and LPG Plants	3,123
31-May	Mumbai International Airport Pvt Ltd	Mumbai International Airport Modernization PPP Refinancing	Airport	1,413
29-Mar	Jindal Steel & Power Ltd	Angul 1.8MTPA Direct Reduced ` Iron Project Cost Overrun Financing	Steel mill	1,137
23-Feb	GMR Chhattisgarh Energy Ltd	GMR Chhattisgarh Power Plant Project Additional Financing	Power	874
24-Mar	GSPL India Gasnet Ltd	Mehsana Bhatinda Jammu Srinagar Pipeline Project Refinancing	Gas pipeline	713
10-Feb	IndianOil LNG Pvt Ltd	Kamarajar LNG Terminal Project	Oil Refinery/LNG and LPG Plants	646
24-Mar	Jindal United Steel Ltd	Odisha 1.13MTPA Carbon Steel Plant Project	Steel mill	578
30-Mar	Alaknanda Hydro Power Co Ltd	Alaknanda Hydropower PPP Project Restructuring	Renewable fuel	570
5-May	Simar Port Pvt Ltd	Chhara Port Project	Port	558
28-Mar	RSPL Ltd	Kuranaga Soda Ash Plant Project	Petrochemical/ Chemical Plant	537

Investment Banking Revenue

- **India IB revenue** reached $263m for 1H 2017, up 37% on 1H 2016 ($192m). Revenue was down 10% compared to the second half of 2016($292m)
- **Syndicated Loan fees** accounted for 25% of total India IB revenue for 1H 2017 with $65m which is down by 14% on the $75m for 1 H 2016
- **DCM revenue** accounted for 24% of total India IB revenue for 1H 2017 with $62m which is up considerably on the $14m for 1H 2016
- **M&A fees** accounted for 27% of the total India IB revenue for 1H 2017 with $72m which is up a percent on $71m for 1H 2016
- **ECM fees** accounting for 25% of the total India IB revenue, increased more than 100% to $65m in 1H 2017 from the $32m for 1H 2016





Financial Sector Engagements

FICCI CEOs Delegation accompanying Hon'ble Finance Minister, Shri Arun Jaitley to US

A high-powered FICCI business delegation led by Mr Pankaj R Patel, President, FICCI & Chairman and Managing Director, Zydus Cadila - Cadila Healthcare Ltd accompanied Finance Minister Shri Arun Jaitley to United States from 20th - 24th April, 2017 to enhance the bilateral economic engagement between the two major democracies and further boost cooperation between Indian and US businesses. This FICCI initiative was timed suitably as the new administration under the leadership of President Trump was formulating new policies with particular focus on bilateral treaties and gave the visiting delegation a chance to share with officials from the new US administration perspective on the robust business ties between India and US.

Finance Minister in conversation with institutional investors and long term investors at a meeting co-organized by FICCI & Citibank at New York Palace Hotel on April 24,2017.

FICCI CEOs Delegation accompanying Hon'ble Finance Minister, Shri Arun Jaitley to Republic of Korea

A high-powered FICCI business delegation accompanied Finance Minister, Shri Arun Jaitely to Republic of Korea from 14th - 18th June, 2017. The delegation was opportunely timed as the Government in India had recently completed three years. During the last three years, Indian government under the leadership of Prime Minister Shri Narendra Modi has made significant progress and undertaken various structural reforms, the latest being the Goods and Services Tax. The main objective of the delegation was to enhance the bilateral economic engagement and business co-operation between the two countries. Indo-Korean relations have been growing over the past few years and this visit shall further strengthen mutually beneficial trade and investment relations between the two countries. India is today one of the most attractive investment destinations for global investors and there is a potential for much greater investments from various countries, inluding South Korea. ■

Mr Arun Jaitely, Hon'ble Finance Minister of India addressing the Korea India Business meeting organized by FICCI in partnership with the Korea Chamber of Commerce & Industry (KCCI) and the Embassy of India in Seoul.

Panel Discussion on the theme "Opportunities for Economic Cooperation between India and Republic of Korea" during India-Korea Business Meeting organized by FICCI in partnership with the Korea Chamber of Commerce & Industry (KCCI) and the Embassy of India in Seoul.

FICCI - NITI Aayog Seminar on Digital Payments - Trends, Issues & Challenges

Mr. Sudhakar Ramasubramanian, Co-Chairman, FICCI Committee on Fintech & MD and CEO, Aditya Birla Idea Payments Bank Ltd., Mr. A.P. Hota, Managing Director & CEO, National Payments Corporation of India, Mr. Ratan P Watal, Principal Advisor, NITI Aayog and Former Finance Secretary, Mr. Virat Bhatia, Chairman, FICIC Committee on ICT & Digital Economy and President-IEA, South Asia, AT&T Communication Services India Pvt Ltd and Ms Jyoti Vij, Deputy Secretary General, FICCI

FICCI along with NITI Aayog organised a Seminar on 'Digital Payments - Trends, Issues & Challenges' on 3rd July, 2017, at New Delhi.

Mr. Virat Bhatia, Chairman, FICCI Committee on ICT & Digital Economy and President-IEA, South Asia, AT&T Communication Services India Pvt Ltd. said that India's digital payment system has been evolving robustly, spurred by developments in information and communication technology. There are three trends that are shaping the future of the digital payment space in India. First, is the rapid growth of the more nimble Fintech players that are working to deliver services in a manner never seen before. Second, the experience of customers in other industries be it e-commerce, healthcare, education or transportation is improving at such a fast pace that they are now expecting similar delivery and interface even in the payment industry. Third, is the push government is giving to digital economy in the country and which itself is inducing a change in consumer behavior and making customers ask for more convenience for their payments.

Mr. Ratan P Watal, Principal Advisor, NITI Aayog and Former Finance Secretary said that as per the RBI data the volume of digital payments has recorded a CAGR of 28 per cent during the five year period ending 2015-16. In contrast, the increase has been a whopping 55 per cent in 2016-17, according to an analysis and evaluation of the current digital payments landscape in the country as captured by NITI Aayog. Further, Mr. Watal stated that the value of overall payments was around 13 to 14 times of GDP during the five-year period. In contrast, the outstanding stock of currency in circulation, which hovered around 12% of GDP during 2011-12 to 2015-16, declined to 8.8% during 2016-17, reflecting the impact of demonetisation partially offset by the ongoing re-monetisation process.

Mr. Watal said that the retail payments segment accounted for as much as 98 to 99% of total volumes. Of this, the share of paper clearing which formed over half the total volume in 2011-12, steadily dropped to 16% in 2015 -16 and further to 11% in 2016-17 with a corresponding increase in the combined share of electronic clearing and cards.

He said that these figures are truly reflective of the fact that India today stands at the cusp of a digital payments revolution through rapid penetration of digital payments infrastructure across the length and breadth of the country. Due to innovations in digital payment technologies and increasing consumer satisfaction, the growth trends in digital payments are positive and will continue to dominate the payments landscape in India. He further added that NITI Aayog's analysis dispels all doubts in the mind of keen observers of Digital Payments that the growth trajectory of Digital payments in the country continues unabated. Demonetization helped to push the graph of Digital mode of transactions upwards. The substance of this initiative of the Government is that technology will ultimately drive consumer behavior in switching from "cash to card." And now the new GST code will add to this momentum too.

Mr. A.P. Hota, Managing Director & CEO, National Payments Corporation of India, said that in order to achieve the government's target of 25 billion digital transactions by March 2018, a few steps are necessary such as issuance by banks of debit cards to their un-carded customers; enhancement of acceptance infrastructure i.e. deployment of POS, mPOS, Aadhaar Pay, QR code, Micro ATM; all customers to be enabled for internet banking; all customers to be enabled for mobile banking; Aadhaar seeding should be mandatory; dis-incentivize cash transactions and incentivize electronic transactions and creating awareness about digital payments.

Mr. Sudhakar Ramasubramanian, Co-Chairman, FICCI Committee on Fintech & MD and CEO, Aditya Birla Idea Payments Bank Ltd. said that though people had bank accounts, they still engaged in cash transactions but demonetization accelerated the pace of digital payments. The government, industry and stakeholders for the first time had come together for the same cause. With some standardization in the systems, he added that technology and available solutions could help in creating the last mile connectivity and bringing customers on board digital payments.

Other eminent speakers at the conference included: Dr Saurabh Garg, Joint Secretary (I&C), DEA, Ministry of Finance; Mr Pratik Datta, Consultant, NIPFP; Dr B. N. Satpathy, Senior Consultant, National Institute for Smart Government, MEITY; Mr Porush Singh, Country Corporate Officer, India & Division President, South Asia, Mastercard; Ms Upasana Taku, Co- Founder, MobiKwik; Mr Sriram Jagannathan, Vice President, Payments (India), Amazon ; Mr Mohit Narula, Head - Digital Channels, Citi India and Mr Rishikesh Tinaikar, Director-Payments Markets, India & Sub-Continent, SWIFT

Mr. Ratan P Watal unveiled the booklet on 'Measurement of Digital Payments - Trends, Issues and Challenges' prepared by NITI Aayog. The report provides valuable information on the trends in Digital Payments in the country and also captures the impact of demonetisation on the growth of the same across various segments. In times ahead this will be a critical input for policy-makers for drawing up suitable interventions to promote Digital Payments.

The seminar was well received by bankers, financial institutions, IT companies, FinTech companies and representatives from academia & was also well received by the media and extensively covered in different newspapers. ■

FICCI - PFRDA
Workshops on National Pension System

The government introduced a National Pension System (NPS) in 2004 based on the defined contribution philosophy. The objective was to create a professionally managed system with a large base of pension account holders across all sectors of the economy and centralized record-keeping. The system has been designed to provide wide range of choices to employers and fair market-linked returns to the account holders, thereby ensuring fair competition among professional fund managers.

Keeping in view the importance of the National Pension System, FICCI has endeavored to organize awareness workshops across India as a concentrated outreach program for NPS promotion. These workshops were conducted to increase awareness on various aspects of the National Pension System (NPS) and encourage corporates to consider NPS as a key benefit that could be offered to their employees. While bringing out the beneficial aspects of the scheme, these workshops also showcased the experience of other organizations which have successfully adopted the scheme in their organization.

FICCI had partnered with its regional member chambers like Calcutta Chamber of Commerce (CCC), The Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI) , Federation of Madhya Pradesh Chambers of Commerce and Industry (FMPCCI), The Southern Gujarat Chamber of Commerce & Industry (SGCCI), The Vizagapatam Chamber of Commerce & Industry (VCCI), Andhra Chamber of Commerce and Andhra Pradesh Chambers of Commerce & Industry Federation to organize some of these workshops.

The cities where the workshops have been conducted till now are Kochi, Kolkata, Hyderabad, Bhopal, Surat, Chennai, Mumbai, Vishakhapatnam, Ahmedabad and Bhubaneshwar.

Glimpses of two recent workshops

Workshop on National Pension System

9th June 2017, Ahmedabad

L to R : Mr Kumar Sharadindu, Managing Director & CEO, SBI Pension Fund Management Co Ltd ; Dr Param Shah, Head, FICCI Gujarat State Council ; MrAkhilesh Kumar, Deputy General Manager, Pension Fund Regulatory and Development Authority (PFRDA) ; CA Yogesh Shah, Partner, Deloitte Haskins & Sells LLP ; Mr M Ismail Salam, Manager, Pension Fund Regulatory and Development Authority (PFRDA)

Workshop on National Pension System

23rd June 2017, Bhubaneshwar

L to R : Mr Sanjeev Kumar Mohanty, Head – Odisha State Council, FICCI ; Mr Ananta Gopal Das, Chief General Manager, Pension Fund Regulatory and Development Authority (PFRDA) ; Mr Akhilesh Kumar, Deputy General Manager, Pension Fund Regulatory and Development Authority (PFRDA)

FICCI-CIBIL Workshop on
Driving access to finance: Role of credit report and score

FICCI along with CIBIL organised a workshop on " Driving access to finance: Role of credit report and score. on 16th June 2017 at Bhopal. The workshop was organized to apprise officials in the MSME sector about the importance of credit score and the important role of credit report and score in accessing smooth finance from financial institutions. Ms Sneha Valentine, Transunion CIBIL conducted the workshop. There were around 50 representatives from the MSME sector who attended the workshop and the feedback was extremely positive. The event was also captured by the local newspapers.

A similar such workshop was held in Coimbatore in the month of April,2017.

Financial Sector Policy Recommendations

- **FICCI submitted a representation to the RBI on the Draft master directions for Pre-paid Payment Instruments (PPIs)**

  RBI released draft guidelines on 20th March, 2017 in its "Master Directions on Issuance and Operation of Pre-paid Payment Instruments (PPIs) in India" and opened it for comments and suggestions from concerned players.

  FICCI appreciates the government's vision to migrate citizens to digital payment mode and sustain a long term behavioral change in favour of digital payments, there needs to be a widespread penetration of digital payments instruments. PPIs are amongst the most effective mode of digitizing low ticket payments and if they succeed in changing the mind set of people for lower value transactions, it will inevitably lead to a snowballing effect in favour of higher value transactions as well that are well secured by payment banks and universal banks. PPIs need to be treated as special instruments while they are working towards creating a largely inclusive digital payments ecosystem and should be made subject to a different set of regulations that make it feasible for them to capture the humongous volume of low value, low risk and high frequency transactions and drive consumer behaviour in favour of digital payments.

- **FICCI submission on RBI Commercial Paper Directions, 2017**

  Revised draft directions on Commercial Paper were put out by Reserve of Bank of India for public comments.

  The guidelines for Commercial Paper were last revised in October 2012 and the current review attempts to strengthen the disclosure requirements by issuers of CPs, broaden the access, review the role of issuing and paying agents (IPAs) and put in place a strong information dissemination mechanism. FICCI collected inputs on the subject from industry and shared the same with RBI for its consideration.

- **FICCI Submission on RBI's Discussion paper on 'Wholesale & Long-term Finance Banks'**

  Reserve Bank of India had recently released a discussion paper on 'Wholesale & Long-Term Finance Banks'. The function of Wholesale and Long-Term Finance (WLTF) banks will be to lend to infrastructure sector and small, medium corporate businesses. The primary sources of funds for these banks could be a combination of wholesale and long term deposits (above a large threshold), debt/equity capital raised from primary market issues or private placement, and term borrowings from banks and other financial institutions.

  The paper was put for feedback/comments from the public on issues such as whether there is a need for licensing Wholesale & Long-Term Finance Banks, whether the time is opportune for the same, what would be the net impact of such players on the financial system and whether the proposed regulatory framework is appropriate.

  FICCI had circulated the discussion paper amongst members of FICCI Infrastructure Committee, FICCI Capital Market Committee and select Non-Bank Financing Companies for their views and comments. Most members find merit in having in place such a specialised bank. The inputs and feedback received from industry were shared with RBI.

CAPAM2017

14th Annual Capital Market Conference

ENVISIONING THE NEXT PHASE OF CAPITAL MARKET

Wednesday, September 6, 2017, Trident, Nariman Point, Mumbai

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CHIEF GUEST

Mr. Ajay Tyagi
Chairman SEBI

ABOUT THE CONFERENCE

CAPAM is a leading event in the Indian capital markets space and provides an excellent platform to discuss and debate key issues pertaining to this sector.

Organized under the aegis of FICCI's Capital Markets Committee, the 14th edition of this Conference promises to be a high profile knowledge-sharing and networking platform. Senior policy makers, regulators and who's who of the financial services sector are expected to participate at the forum.

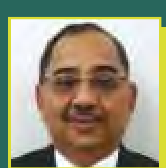
SESSIONS

- Increasing Market Depth
- Digitisation: What does the future look like?
- Easing Regulatory Barriers to Investment
- Growth, Expansion & Remediation
- Financing Infrastructure

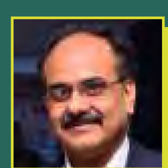
EMINENT SPEAKERS-2017

Ms. Smita Jhingran
Secretary, CCI

Mr Sanjeev Sanyal
Principal Economic Adviser
Ministry of Finance



Mr. Neeraj Kumar Gupta
Secretary
Department of Investment
and Public Asset Management,
Ministry of Finance*



Dr Ajay Bhushan Pandey
CEO, UIDAI*

Dr Viral V. Acharya
Deputy Governor, RBI*

Mr Subash C Garg
Secretary,
Department of Economic Affairs,
Ministry of Finance*

**invited*

For Sponsorship queries, please contact:

Mr. Gunjan Aggarwal
Mobile: +91-9899870002
E-mail: gunjan.aggarwal@ficci.com

For further queries on registration, please contact:

Ms. Deboshree Deysarkar: +91-11-23487279
Ms. Beena Mulani: +91-11-23487562
E-mail: capam@ficci.com

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Indian Banks' Association

FIBAC 2017

"Finance in Digital Era: Navigating the knowns and unknowns"

Date: 06th - 07th November, 2017
Venue: Hotel Trident, Nariman Point, Mumbai

#FIBAC2017

Inaugural Address

Shri N.S. Vishwanathan
Deputy Governor, Reserve Bank of India

About the Conference

This annual flagship conference has become the marquee event in the calendar of members of the entire banking and financial sector fraternity in the country and even draws participation from different parts of the world. The conference has truly positioned itself as a leading platform in terms of knowledge dissemination and relationship building.

Why Attend?

- One of the leading banking conferences in Asia
- Backed by India's most important financial institutions
- Advocacy of policy agenda
- Hear from renowned speakers from across the globe on the theme of the conference
- Obtain compendium of articles on contemporary issues by financial luminaries
- Network and develop key contacts

Target Audience

- Executives of the Banking and Financial Services Sector
- CEOs and CFOs of corporate sector
- International Banking and Financial Services companies foraying into India
- Private Equity and Venture Capitalists
- Policy makers and regulators
- IT companies and Technology providers
- FINTECH and e-commerce companies
- Educational Institutes

Key Sessions

- Cyber security in the digital era - Secure banking
- Managing change: Creating new habits - the power of digital nudges
- Breaking bureaucracy: The powerful appeal of Agile@scale models of organization
- Customer journeys: The new building blocks
- Pricing scientifically - The unexploited potential
- GST: A possible paradigm shift in digital corporate banking
- Infrastructure 2.0: The new dawn or old wine
- Robotics and AI - Improving or cutting down on customer delight
- Consolidation: Strategic fit and Post Merger Integrations

Key Sponsors FIBAC 2016

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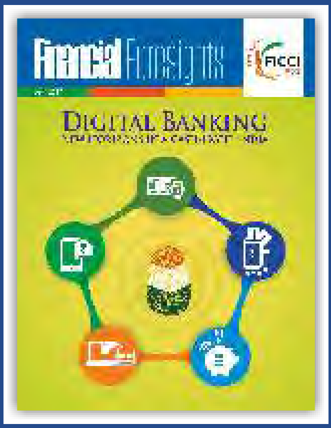
For more details on sponsorship, please contact
Ms Supriya Bagrawat, Financial Sector
FICCI Federation House, 1, Tansen Marg, New Delhi-110001
Ph: 91-11-23487525 (D)/23487424
Email: supriya.bagrawat@ficci.com

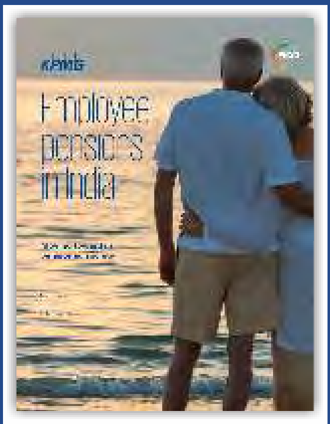
For more details regarding participation, please contact
Ms Rosy Jose, Financial Sector
FICCI Federation House, 1, Tansen Marg, New Delhi-110001
Ph: 91-11-23487424
Email: rosy.jose@ficci.com

Economic Affairs & Financial Sector Publications



Financial Foresights : Digital Banking
New horizons in a Cash - Light India
April 2017

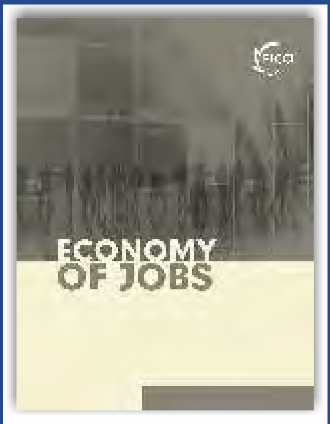
Economy Watch
April 2017



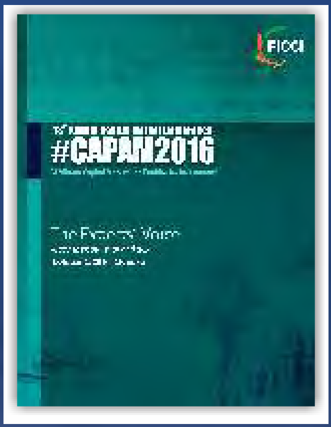
Employee pensions in India
Moving towards a pensioned society
March 2017

18th Annual Insurance Conference
FINCON 2017 proceedings
"The Changing Face of Indian Insurance"
March 2017

Financial Foresights :
Leveraging the FinTech
Opportunities in India
January 2017



Economy of Jobs
December 2016



CAPAM Knowledge Paper:
The Experts' Voice - A compendium of articles
October 2016

Productivity in Indian Banking 2016
Digital and Beyond:
New Horizons in Indian Banking
August 2016

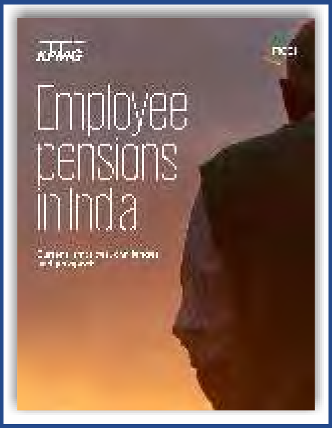
FIBAC 2016- New Horizons
in Indian Banking
A compendium of articles
August 2016

Economic Affairs & Financial Sector Publications

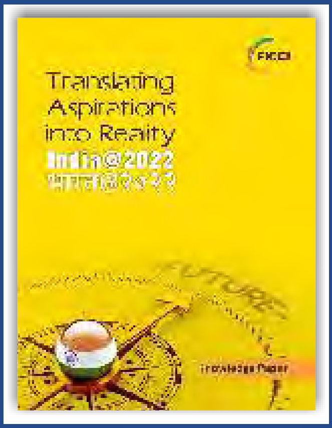
Indian Insurance and
Sustainable Development
April 2016

The Changing Face
of Indian Insurance
January 2016

17 Annual Insurance Conference
FINCON 2016 proceedings
"The Changing Face of Indian Insurance"
January 2016



Employee Pensions in India
Current practices,
Challenges and Prospects
December 2015



Translating Aspirations into
reality – India @2022
December 2015

Report on Life Insurance
A consumer's perspective
October 2015

CAPAM 2015 "Recent
Innovations in Capital Market" :
The Experts' Voice A compendium
of articles
October 2015

FIBAC 2015 Proceedings
Inclusive Growth with
Disruptive Innovations
August 2015

Productivity in Indian Banking 2015
Inclusive Growth with Disruptive Innovations
Gearing up for Digital Disruptions
August 2015

NOTES

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Financial Foresights Distribution & Readership

The publication is presently disseminated online to a large set of audience of over 5000 people.

The readership mainly comprises:

- FICCI members across the country
- Economists & academicians
- Senior government officials
- Members of the diplomatic community (India and abroad)
- Policy experts

The electronic version of the publication is also disseminated globally through FICCI's international offices.

Partnership Opportunities

There are various options available for partnering with FICCI's quarterly publication Financial Foresights

Principal Partner (6 Lakh INR) - Benefits

- Inside front cover page advertisement in each issue
- 5 complementary delegate passes in any three of the financial sector conferences (Banking, Fintech, Capital Markets, Insurance & Pensions)

Co-Partner (3 Lakh INR) - Benefits

- 1 full page advertisement in each issue
- 3 complementary delegate passes in any three of the financial sector conferences (Banking, Fintech, Capital Markets, Insurance & Pensions)

Advertisement in Financial Foresights

Advertisements for print & online version per issue of the publication

Special positions - colour advertisement	Rate (Rs)
Inside front cover/inside back cover	1,50,000
Full page (other than inside front/ inside back cover)	1,00,000
Half page (other than inside front/ inside back cover)	60,000

Partnership Benefits

1. **Strong brand image**

   FICCI is the largest and oldest apex business organisation in India with a strong brand image. Association with FICCI would therefore help in creating a stronger brand image for the partner.

2. **Large reach**

   FICCI has an extensive membership base across the country including various regional chambers of commerce in India. This would enable the sponsor to increase its brand reach manifolds and target the key decision makers in the field of business, finance and economy.

3. **Activity throughout the year**

   As the publications are circulated every three months, the partner would be able to enjoy repeated visibility through the year.

For further details, please contact

Mr Amit Tripathi

at 91-11-23487424

email: amit.tripathi@ficci.com

FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY

Industry's Voice for Policy Change

Financial Sector Division
Federation House, 1 Tansen Marg, New Delhi - 110 001
Ph: 011-23487424, 524; Fax: 011-23320714; Email: finance@ficci.com
(CIN): U99999DL1956NPL002635
www.ficci.in