FORESIGHT 2025

Traversing the Legal and Regulatory Terrain Amidst Global Headwinds

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FOREWORD

As we enter 2025, India Inc finds itself at the cusp of an era marked by transformation and disruption, where established traditions are being reimagined in response to new challenges and opportunities. The convergence of time-tested legal practices with modern innovations sets the stage for a transformative year.

At Khaitan & Co, we have always believed in looking ahead and preparing for the changes that shape the future. In this spirit, we proudly present the fifth edition of Foresight, a publication that has consistently offered forward looking insights into the trends, challenges, and opportunities that lie ahead. The accuracy of some of our past insights serves as a testament to our ability to stay ahead of the curve and anticipate the needs of our clients.

Each year, we shift our focus to evolving topics, ensuring our insights remain relevant and help our clients stay ahead in a rapidly changing business and legal landscape. In this edition, we deep dive into a wide array of topics that are set to shape 2025 and beyond. We offer a comprehensive perspective, blending both practice-oriented insights and sector-specific developments. From the transformation of family businesses (the backbone of the Indian economy) to the integration of AI in workforce management, green financing, and the growing prominence of transaction liability insurance in dealmaking, we explore how these evolving trends are redefining the landscape. We also highlight the increasing importance of ethics-driven internal investigations and examine key changes in GST, the take-private trend in public markets, data privacy, cybersecurity, insolvency, and competition law.

A key theme in this edition is the rising demand for specialisation. As the business environment becomes more complex and fast-moving, clients are increasingly seeking tailored, sector-specific solutions. In response, we have curated insights for critical sectors such as digital media, fintech, global capability centres, life sciences, and space exploration, sectors that are poised for significant evolution in the coming year.

As always, we remain committed to delivering legal excellence and thought leadership that anticipates the future. We invite you, our esteemed readers (both old and new) to explore the insights within these pages. We do hope this edition inspires thought, discussion, and action as we collectively navigate the complexities of 2025 and beyond.

The future is not something we wait for; it is something we shape together. We look forward to continuing this journey with you.

Rabindra Jhunjhunwala
Partner
Corporate, M&A

Tradition To Transformation: Future-Proofing Family Businesses

Akshika Harikrishnan

Family businesses are undergoing transformative shifts, with a sharp focus on next generation leadership and robust succession planning, while adapting to evolving family dynamics, global influences and cross-border opportunities.

Business Succession

With the impetus on the transition from a 'family business' to a 'business family', aspects like legacy planning, professionalisation and organisational transformation to identify the right talent (whether from within the family or external professionals) are taking Centerstage. This trend is expected to persist through 2025.

Where the next generation members are not interested in the business, there is a growing trend of monetising the business and then channelling resources into the family office to support the aspirations of the next generation, signalling a shift from traditional practices to pragmatic approach to sustaining family legacy.

> **Family businesses are evolving with a focus on next-gen leadership and professionalisation, with succession planning strategies and family offices becoming increasingly vital for transitioning from a 'family business' to a 'business family'.**

Rise in Family Office (Domestic and Overseas)

With value unlocking in vogue through initial public offering rather than a fund-raise, there is a need to have robust structures to manage investments, which more often culminates in family offices. There is also a lot of interest in investing outside India and establishing overseas family offices, with Singapore and UAE being popular destinations.

Estate Planning

Estate planning now goes beyond tax and potential estate duty considerations, to include governance, asset protection and ringfencing against business risks, marital disharmony, etc. Planning considerations are evolving with changing family dynamics and couples having children later in life, being child-free (fashionably known as DINK / SINK, short for 'double / single income no kid'), a single-parent or blended families. Having the right executors to administer wishes towards minor children, extended family members, charities, pets, etc. becomes critical.

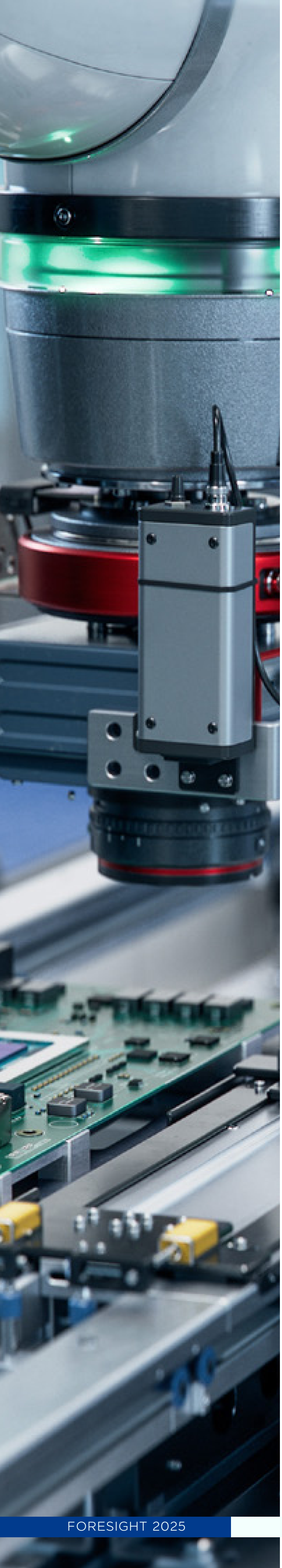
Alternate Residencies and Migration Trends

Lifestyle, ease of travel, education and business opportunities are driving Indians to explore alternate residencies and golden visas (which offer benefits of residency and potential citizenship with attractive returns on investment). A reverse trend is also seen among NRIs returning to India due to ageing parents, retirement, cost of living and remote working possibilities. Both outbound and inbound migrations require meticulous planning to navigate tax and exchange control regulations.

Changing Overseas Laws Impacting India Wealth

International tax and inheritance law changes are influencing Indian wealth planning. For instance, the United States' high estate tax exemption limit (set to sunset in 2025) is driving pre-emptive planning among HNIs. Similarly, the UK's proposed shift from domicile-based to residence-based taxation is prompting HNIs to reassess their residency strategies. For global families, these developments necessitate aligning with changing regulations and reporting (such as FATCA and CRS) while protecting Indian assets and business interests.

As businesses professionalise and global influences reshape local strategies, adaptability is the key. Being agile will not only safeguard interests but also unlock new avenues for growth and collaboration.



Shaping Tomorrow: Data Protection, Cybersecurity And AI Trends In India

Harsh Walia
Shobhit Chandra

Data Protection

The enactment of Digital Personal Data Protection Act, 2023 (DPDP Act) in August 2023 set the stage for 2024, which was marked by anticipation of rules under DPDP Act for its enforcement. Draft rules therefrom, which are aimed at clarifying critical areas like privacy notice formats, consent procedures, parental consent for children's data and data breach notifications have been released for public consultation in the first week of 2025, with a final publication anticipated post assimilation of stakeholder feedback. With this process being put into motion by the Government, 2025 will set the stage for the new law to be completely operational once the final rules are published.

Cybersecurity

With more than 1.5 million cybercrime incidents reported in the past few years[1] and emergence of increasingly complex and innovative threats, it is imperative to have a robust legal framework to address cybersecurity challenges. In response, the recent amendment to the Information Technology Act, 2000 significantly increased penalties for non-compliance with directives from Indian Computer Emergency Response Team (CERT-In), underscoring CERT-In's central role in cybersecurity. Recently, CERT-In issued advisory on deepfakes, demonstrating its proactive approach in addressing new-age threats. As cybersecurity risks continue to evolve, heightened vigilance and intervention from CERT-In and other regulators are expected in 2025, signalling the importance for stakeholders to remain proactive in mitigating risks.

> **With the enactment of the Digital Personal Data Protection Act and increased focus on cybersecurity and AI regulation, 2025 will see India enhancing its legal framework to address emerging digital challenges.**

Artificial Intelligence

Artificial Intelligence (AI) and machine learning (ML) are becoming increasingly integrated into daily life, leading to a rise in exposure to cyber threats, misinformation, financial loss, and reputational damage. The proliferation of generative AI tools has only begun to reveal the vast potential of AI, with recent Government interventions harnessing it to reduce bias in elections and mitigate the impact of unreliable AI tools. 2025 is likely to pave the way for additional regulatory oversight, albeit light-touch, to allow the industry to prosper. The Government is also committed to developing a nationwide AI ecosystem, with regulators like Telecom Regulatory Authority of India (TRAI) recommending the use of AI, SEBI considering assigning responsibilities for AI/ML use in client servicing and Reserve Bank of India (RBI) setting up a committee to recommend Framework for Responsible and Ethical Enablement of AI in the financial sector. This points to a burgeoning AI industry. The Digital India Act, if enacted, may also touch upon some AI related issues.

[1] *Moneycontrol, Four cybercrime complaints are filed in India every minute, 29 October 2024, available here: https://www.moneycontrol.com/news/business/economy/four-cybercrime-complaints-are-filed-in-india-every-minute-12854084.html*

AI Integration: Navigating Employment, Ethics, and Privacy in the Age of Automation

Anshul Prakash

As AI continues to transform industries, 2025 is poised to witness organisations increasingly leveraging AI for enhanced efficiency. However, the global legal and regulatory framework governing AI usage remains unclear and challenging. In India, there is currently no exclusive legislation on AI, and it remains largely unregulated.

On the Human Resources (HR) front, AI holds significant potential for automating repetitive tasks, streamlining recruitment and review processes, and improving employee monitoring and surveillance. However, employers must be prepared to address the adverse consequences of AI implementation. A major concern is the potential for large-scale workforce reductions, especially in labour-intensive sectors such as manufacturing, transportation, and customer service, where AI can be highly efficient. As a result, employees may also face pressure to reskill or upskill to retain their jobs.

Two other key issues that require employers’ attention when deploying AI are:

Potential Discrimination in AI-driven Recruitment

AI-driven recruitment processes could inadvertently discriminate against candidates based on gender, race, rural or underprivileged backgrounds, and certain religious or caste minorities. The databases used to train AI systems may contain inherent biases related to caste, religion, gender, region, or even location of residence. AI systems developed with such biased data could perpetuate and reinforce discrimination. Employers must regularly review and monitor AI systems to ensure compliance with labour laws, anti-discrimination laws and privacy laws. Ensuring that AI-driven hiring processes are ethical and free of bias is crucial.

> **As AI transforms workforce, employers must address challenges such as recruitment biases, and privacy concerns to harness its potential while protecting employee rights.**

Privacy Concerns with AI-powered Surveillance

Recent incidents involving deepfakes have highlighted serious privacy concerns associated with AI-powered facial recognition technology used for attendance monitoring and workplace surveillance. Employers must clearly notify employees about prohibited content and the penal consequences of inappropriate use of AI and deepfakes.

Employers should take proactive steps to address these challenges. Regular audits and updates of AI systems can help mitigate biases, ensuring compliance with relevant laws and ethical standards. Transparent communication with employees about AI policies and their implications is also essential. By addressing these issues, employers can harness the transformative power of AI while safeguarding the rights and interests of their workforce.

New Frontier of Ethics: Evolving Internal Investigations in a Digital World

Avik Biswas

The landscape of internal investigations in India has undergone a metamorphosis in the recent past. What was once perhaps something that corporate India did as a mere check in a box exercise has slowly, but surely, turned into a process that most businesses today realise is the most effective way of defence, with or without statutory levers. Multiple factors have contributed to this transformation such as alignment with global standards, tougher questions asked by regulators, heightened awareness among the workforce and management, and last but certainly not the least, the acknowledgment that ethics and business go hand in hand and their marriage is the sacrosanct edifice on which successful and sustainable operations rely.

Role of External Counsel in Internal Investigations

The role of external counsel in internal investigations has also grown manifold over the years. While the seriousness of allegations and its legal ramifications, if any, play a critical role in selection of external counsels. Given that in-house counsels in India do not enjoy the same legal privilege as external counsels, general counsels and senior management often proactively decide to have external counsel lead high-stakes investigations.

In any critical internal investigation, beyond legal issues, there are implications that organisations are compelled to consider – reputational damage, public relations discourse, root-cause analysis and stakeholder (internal and external) management. While this trend is already taking concrete shape, the near future will inevitably have external counsel play a more pivotal role in these issues which are beyond traditional legal mandates.

> **Internal investigations in India are no longer just a compliance check but a cornerstone of defense strategy, shaped by global standards, evolving ethics, and the influence of technology.**

Technological Advancements in Internal Investigations

The other obvious development already being witnessed is the increasing use of technology in investigations. Each passing year sees a remarkable change in the levels of technology that are at our disposal. There are tools today that can analyse large volumes of structured and unstructured data including documents in over 95 languages. Other features include checking for duplicate and irrelevant documents and culling them out, summarisation of policies and information, generation of timeline of events and even assistance in drafting of investigation reports. While the jury is still out on whether jurisprudence will permit overt reliance on such tools at all times, what is undeniable is that while the human leadership in an investigation can never be replaced, there is a time on the horizon where technology will help investigation teams conduct exercises in a far more swift and efficient fashion than today. This development will have multiple benefits including equipping investigation teams with the means to conduct many more investigations at any given point of time.

Transaction Liability Insurance: Future of Risk Management in M&A Dealmaking

Harsh Khemka

The Indian mergers and acquisitions (M&A) market has gained global prominence, with a growing number of deals being driven by private equity / venture capital exits and strategic investments from domestic and overseas investors. Many of these deals are conducted through a bid process, with sellers, often funds nearing the end of their fund life, seeking non-recourse or limited recourse deals. An effective tool to achieve this is Warranty and Indemnity (W&I) insurance and tax insurance (collectively known as Transactional Liability Insurance).

We expect Transactional Liability Insurance to continue to form an intrinsic part of bid transactions, with both sellers expecting and bidders offering to rely solely on Transactional Liability Insurance as the only monetary recourse. We also expect to see an increase in the use of stapled insurance policies from sellers, wherein an insurer provides preliminary policy outlining the potential coverage for the deal, with the winning bidder expected to engage with the insurer to finalise the policy.

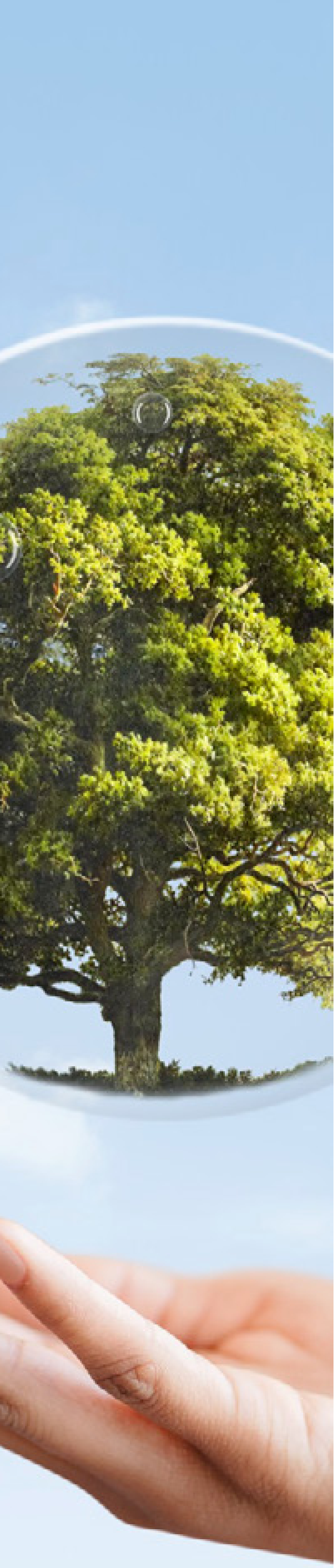
Lowering Premiums and Increasing Coverage

Four years ago, there were a select few insurers underwriting Indian Transactional Liability Insurance risks and there was a shortage of capacity, with premiums reaching record highs. The sustained growth of the Indian M&A market over the past few years, despite global uncertainties, has attracted several insurers which has led to increased competition, thereby forcing insurers to reduce premiums and increase coverage. While coverage terms on Transactional Liability Insurance are likely to continue to improve with fewer exclusions and broader scope of underwriting, we expect the fall in premiums to stabilise and plateau. The emerging claims notices and payout experience on Indian Transactional Liability Insurance is also likely to influence the trajectory of premiums in certain sectors and for specific types of risk.

> **With premiums lowering and coverage expanding, transactional liability insurance is fast becoming a critical risk mitigant and deal facilitator in India's growing M&A landscape.**

Increase in Adoption

The lowering of cost and increasing of coverage is making Transactional Liability Insurance an attractive risk mitigant and deal facilitator in M&A transactions and we expect an increase in the adoption of Transactional Liability Insurance in Indian deal making. With advisors becoming increasingly familiar with Transactional Liability Insurance, we expect them to start introducing these products at an earlier stage during the deal cycle and it is likely that the underwriting process will be further streamlined and synchronised with the deal timelines.



Green Financing: Bridging the Last Mile to a Net-Zero Emission Goal

Vidushi Gupta

India, at the 26th session of the United Nations Framework Convention on Climate Change, set a goal to achieve net-zero emissions by 2070. Achieving this target will require scaling up renewable energy, modernising infrastructure, and significantly improving energy efficiency across sectors. To meet this target, India needs significant capital investment in clean energy technologies such as solar, wind, hydro, and more, funded through green financing.

Sustainable financing is vital for India's transition to a green economy. India's green financing ecosystem draws from a variety of sources, each taking steps to enhance green financing.

Public and Private Banks

Indian banks are expected to increasingly integrate green bonds and sustainable finance into their portfolios, providing loans for renewable energy projects and environmentally friendly technologies. These financial products will help redirect capital towards sustainability-focused initiatives.

Non-Banking Financial Companies (NBFCs)

NBFCs are vital in financing sectors like solar energy, electric vehicles, and green technologies. More number of NBFCs have started focussing on financing businesses that reduce their carbon footprint, which enables micro, small, and medium enterprises (MSMEs) focussed on sustainable development to access growth capital.

Private Equity and Venture Capital

Private equity and venture capital firms are vital in supporting innovative green tech startups. We also foresee introduction of many more climate impact funds. Investments by these funds would help scale businesses working on clean energy, waste management, and carbon capture, contributing to both environmental sustainability and economic growth.

> **With a target of net-zero emissions by 2070, India's green financing ecosystem is poised to drive sustainable growth, with critical contributions from banks, NBFCs, and venture capital.**

Government Initiatives Driving Green Financing

The Government and regulatory bodies have also introduced initiatives to support green financing, such as SIDBI offering low-interest loans to MSMEs adopting low-carbon technologies, RBI's guidelines for banks and NBFCs on 'green deposits,' and SEBI enhancing environmental, social, and governance disclosures. These actions will build investor trust in sustainable businesses, boosting investment in environmentally responsible companies committed to sustainable development.

Looking ahead, the outlook for green financing in India is increasingly positive. With India building its green finance ecosystem, the opportunities for growth are substantial. The demand for green finance will spur the development of innovative financing solutions, attracting both domestic and international investment. M&A activity in the green sector will provide substantial investment opportunities as companies scale their sustainable operations. With Government support, increasing investor confidence, and a growing focus on sustainable practices, India is poised to become a global leader in green finance.

Competition Law 2.0: Reshaping the Indian Antitrust Landscape

Pranjal Prateek

2025 is expected to be an exciting year for the Indian antitrust regime, following significant changes to the Competition Act, 2002 and its allied rules and regulations (Competition Act) in 2024. Going into 2025, the Competition Commission of India (CCI) will be equipped with enhanced powers for both enforcement and merger control.

Higher Merger Filings Likely on account of the Deal Value Threshold (DVT)

With the introduction of DVT, parties involved in global deals exceeding INR 2,000 crore (USD 240 million) will need to notify the CCI, even if the transaction does not meet other prescribed thresholds, based on the size of the parties. As a result, CCI is expected to receive more filings compared to pre-DVT era, especially for global deals with limited size of India businesses. However, on account of the change in definition of turnover to exclude any amounts generated from customers or assets outside India, it is also likely that certain notifiable transactions could become non-notifiable, such as M&As involving export-oriented businesses.

Complexities in Filings for Financial Sponsor Deals

Changes to the merger control regime could effectively narrow the scope of Green Channel Route (GCR). The amendments now stipulate access to Commercially Sensitive Information (CSI) as an additional criterion for determining the entities in respect of whom overlaps need to be mapped. This will likely make filings more complex and time-consuming for financial sponsors (since they are likely to have CSI in many of their portfolio entities). Further, as CCI continues to closely scrutinise GCR filings, trends indicate a shift towards a cautious approach - filings under the normal route to avoid risks associated with incorrectly availing the GCR.

> **2025 promises to be a pivotal year for India's antitrust regime. With enhanced powers for CCI and significant changes to the Competition Act, this year is set to reshape merger control and enforcement.**

Commitments / Settlements on the Horizon

The recently introduced Commitments and Settlements regime (C&S Regime) offers entities facing CCI scrutiny for anti-competitive vertical agreements or abuse of dominant position, option to offer commitments or apply for settlements. This is likely to provide faster resolutions and potentially reduce litigation costs. However, there are significant trade-offs for availing the C&S Regime, such as restriction on appeals and limited settlement discounts. 2025 will be true litmus test of C&S Regime's success.

Higher Penalties and Recoveries in 2025

Following significant industry clamour, CCI released guidelines outlining the methodology for calculating penalties for infringements. Relatedly, CCI is also refining its recovery penalty mechanism. With these changes, penalties are less likely to be challenged, and the revamped recovery mechanism will add greater deterrence, encouraging parties to carefully weigh appeal decisions.

Additionally, 2025 may also witness a separate digital competition legislation, on the lines of (but not mirroring) the EU Digital Markets Act, in a bid to balance regulations and the growth of India's thriving digital ecosystem.

India’s Space Odyssey: Legal and Regulatory Horizons in 2025

Sanchit Agarwal

In 2024, India witnessed major reforms in the space sector, all gearing towards India’s vision to capture 9% of the global space economy by 2030.[2] These reforms are expected to fuel rapid growth and momentum in 2025.

New Space Activities Bill

The Government had, earlier in 2024, released norms, guidelines and procedures for implementation of the Indian Space Policy 2023, designating Indian National Space Promotion and Authorisation Centre (IN-SPACe) as the single-window agency for authorisations pertaining to space activities.

Indian Space Activities Bill, first introduced in 2017, is set to be revamped and released by March 2025 for stakeholder consultations. The revised bill is expected to provide statutory powers to IN-SPACe, as the apex regulator in the space sector, bringing greater regulatory certainty and fostering a conducive environment for domestic and foreign investments, growth and innovation.

Government Financial Incentives

Following the announcement to create the INR 1000 crore venture capital fund, the operational framework for fund allocation and startup selection is scheduled for 2025. About 40 startups across different growth stages are expected to receive financial support. Further, IN-SPACe has also announced its intention to open up this fund for private sector participation, spurring greater confidence in the market with incentivising high-risk high-reward space-tech ventures.

Administrative Spectrum Allocation

On the satellite communications (satcom) front, the Government’s recent decision to administratively allocate spectrum for satellite broadband services decision instead of auctioning is likely to attract global traction. While it has been received well by global private players, there has been considerable push back from few domestic telecom giants, advocating for a more favourable approach toward local players and arguing that an auction would provide a more level playing field. How this competitive dynamic unfolds out in 2025 will be interesting to watch, but it is certain that the satcom landscape in India is poised for a transformation. Additionally, spectrum allocation is expected to generate significant opportunities for India’s rising telecom sector.

> **India’s space sector is primed for exponential growth, with government-backed financial incentives and a restructured regulatory framework creating an ideal environment for innovation and investment.**

Funding Activity

In 2025, substantial interest from strategic and financial investors is expected to drive funding across growth stages, leading to supercharged growth in operations of space-tech companies. Further, the recent liberalisation of the space sector is anticipated to attract foreign investors. While the space sector has primarily been funded by venture capital so far, private equity players are expected to enter the market in 2025, as evidenced from Pixxel’s recent fundraise from global private growth equity funds. This shift could signal a new phase of investment in the sector.

[2] *Invest India, The Next Frontier: Analyzing India’s Focus on Space Technology, 23 April 2024, available here: https://www.investindia.gov.in/blogs/next-frontier-analyzing-indias-focus-space-technology#:~:text=Several%20Non%2DGovernment%20Entities%20(NGEs,and%20research%20under%20the%20policy*

India as the Global Nerve Centre: The Evolving Landscape of GCCs and Emerging Trends

Swathy Ramanath
Ayush Nanda

Global Capacity Centres (GCCs) which centralise services like R&D and innovation, finance, HR and information technology, are thriving in India due to the availability of a skilled talent pool, cost efficiencies, and technological advancements. Initially serving as back-office support, GCCs have evolved into major tech hubs integrated with the parent companies. India, in particular, has become a prominent hub for GCCs, comprising a hefty market share of over 50% of GCCs across the globe,[3,4] with about 1700 GCCs and 2975 GCC units, valued at USD 64.6 billion, employing over 1.9 million professionals.[5] This number is set to touch 1900 GCCs by next year.

State Level Competition to Attract GCC Investment

India's quest to be the top global destination for GCC, has spurred its states in a battle to attract a larger share of investment. Several states such as Karnataka, Telangana, Andhra Pradesh, Uttar Pradesh, Tamil Nadu and Gujarat, have either released or are due to release dedicated policies to boost the growth of GCCs. This competition is expected to only intensify through 2025 as states strive to create more attractive business environments. A key focus of these initiatives is to grow GCCs beyond established locations such as Bengaluru and Hyderabad to tier-II and tier-III cities such as Coimbatore, Kochi, Visakhapatnam, Bhubaneswar and Ahmedabad to leverage lower operational costs and increased feasibility of hybrid work models, which these locations offer. This trend could reshape India's GCC landscape with diversification and balanced regional development.

> **With over 50% of global GCCs, India is leading the way, and state-level competition, combined with federal policies, is positioning the country as the top global destination for GCCs.**

Government Policies Enhancing GCC Growth

Additionally, federal policies such as 'Digital India' initiative, the 'Skill India' mission and the 'Make in India' program, although not specific to GCCs, continue to enhance India's appeal as a supportive ecosystem for doing business. These policy initiatives are also focussing on innovation as a driving factor for GCC growth, aiming to upskill and develop talent in emerging and advanced technologies such as artificial intelligence, medical electronics, space-tech, aerospace and defence by establishing 'Centres of Excellence'. There is also a growing emphasis on reskilling and upskilling existing talent, with companies increasingly partnering with universities to build skilled talent pools to have a GCC-ready workforce available from the get-go.

Sustainability and the Future of GCCs in India

With India's ambitious target to achieve net-zero emissions by 2070 and the global emphasis on sustainability, there is a discernible trend of GCCs aligning their growth with sustainability objective. This is expected to result in specialised hiring to foster these goals, sustainable procurement, green manufacturing practices and eco-friendly buildings to house GCCs.[6]

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[3] https://community.nasscom.in/communities/global-capability-centers/indias-success-bolstered-global-capability-centers
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[5] Karnataka Global Capability Centre Policy 2024-2029, available here: https://eitbt.karnataka.gov.in/111/draft-global-capability-centres-%28gcc%29-policy-2024-2029/en.
[6] Nasscom-Zinnov, 'Salary Increase, Attrition & Hiring Trends: An India GCC View', November 2024, available here: https://zinnov.com/global-talent/salary-increase-attrition-and-hiring-trends-an-india-gcc-view-2024-report/.

Life Sciences 2025: Pioneering a Regulatory Evolution in India

Sameer Sah

In the year 2024, the Indian life sciences sector has witnessed several regulatory reforms, including, implementation of amendments to the New Drugs and Clinical Trials Rules, 2019 permitting quicker launch of breakthrough drugs in India, enactment of consolidated and comprehensive codes governing the marketing practices in pharmaceutical and medical devices sectors, respectively, and release of Pharmacovigilance Guidance Document for Pharmaceutical Products.

It is expected that 2025 will also witness some major regulatory reforms in life sciences space, set out below are a some of the expected reforms:

Enactment of Drugs, Medical Devices and Cosmetics Bill, 2022

It is expected that this year, the Government may enact the long-awaited Drugs, Medical Devices and Cosmetics Bill, 2022 (Bill) which was first released in the year 2022. The Bill proposes to revamp the current archaic Drugs and Cosmetics Act 1940 to establish a consolidated and comprehensive legislation for regulation of all drugs, medical devices, indigenous drugs and devices, clinical trials and marketing approvals, cosmetics and e-pharmacy in India. The enactment of the Bill is a welcome step as it eliminates the anonymity and ambivalence existing under the current regime.

Notification of New NMC Code

The National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023 (NMC Code) which also introduced Guideline 11: Guidelines for Practice of Telemedicine in India notified by National Medical Council in August 2023 to replace the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 were put in abeyance with effect from 24 August 2023. The NMC Code was notified with the objective of strengthening the restrictions around the conduct of registered medical practitioners (RMPs) and imposed higher penalties on RMPs for non-compliance with the NMC code. There is an expectation of notification of the final version of this much awaited NMC Code in the near future.

> **2025 is set to shake up India's life sciences scene with bold new reforms! From cutting-edge rules on biosimilars to the long-awaited Drugs, Medical Devices, and Cosmetics Bill, the sector is gearing up for a transformative leap.**

New Drugs and Medical Devices (Control) Order

Earlier in 2024, the government constituted a committee to usher in reforms within the pricing policies of drugs, and to supervise the drafting of a new Drugs and Medical Devices (Control) Order. While the Committee is yet to submit its report, the upcoming pricing overhaul, expected this year, would require manufacturers, importers and exporters to navigate novel challenges in regulatory compliance with pricing frameworks.

New Rules on Biosimilars

It is expected that this year may mark the entry of a binding law on biosimilar drugs, addressing issues on manufacturing process and safety, efficacy and quality aspects for biosimilar drugs. Currently, the guidance document on biosimilar drugs is Guidelines on Similar Biologics: Regulatory Requirements for Marketing Authorisation in India, 2016, which is not binding in nature.

Fintech 2025: RBI's Vision for a Resilient, Inclusive, and Tech-Driven Future

Prashanth Ramdas

As we look ahead to 2025, the RBI stands at the forefront of India's promising FinTech ecosystem. With its increased emphasis on technology driven initiatives, the RBI is poised to address critical challenges, systemic risks and ensure the resilience and inclusivity in the FinTech ecosystem in India. Below are the key trends and developments to keep an eye on going forward for FinTech.

PRAVAAH Portal for Regulatory Licensing

The recent launch and operationalisation of the PRAVAAH (Platform for Regulatory Application, Validation and Authorisation) portal for RBI licenses has enabled applicants to directly interact with the RBI and track their applications digitally. This increased transparency in the regulatory approval process will significantly improve ease of doing business in India going forward.

Increased Emphasis on Cybersecurity

RBI's commitment to cybersecurity will remain a cornerstone of its vision throughout 2025. As financial institutions increasingly adopt digital and blockchain-based solutions, RBI is expected to strengthen its cybersecurity frameworks to address emerging threats. In line with RBI's vision of providing safe, secure, fast, convenient, accessible and affordable e-payment options to Indian stakeholders, we expect to see further expansion of cybersecurity protocols to protect consumers from evolving threats.

Cloud Infrastructure

A key area of focus for the RBI would be the operationalisation of an indigenous cloud infrastructure designed specifically for the Indian financial sector to be managed by its subsidiary IFTAS. This approach will reinforce India's commitment to data localisation and sovereignty, ensuring that sensitive financial data remains within the country's jurisdiction. It will be interesting to see how existing cloud infrastructure providers will adapt to this.

> **RBI's initiatives like PRAVAAH and emphasis on cybersecurity and cloud infrastructure will be key to shaping India's FinTech landscape, ensuring safe, efficient, and sovereign financial systems.**

AI in Focus

The RBI has been keeping a close watch on the use of AI and similar new-age technologies by financial institutions. Right from setting up a committee to create an ethical framework for the use of AI in the financial sector to development of AI/ML tools such as MuleHunter.ai to tackle the rampant usage of mule accounts by fraudsters to channel proceeds of fraud, the regulator has displayed a positive outlook towards adoption of AI.

Collaborative Approach and the Path Ahead

While 2024 has witnessed increased by Indian regulators on FinTech players, the RBI has also emphasised that increased collaboration is the only way to move forward through its recognition of the first FinTech Self-Regulatory Organisation (SRO). We expect the RBI to increase its outreach to FinTechs and other stakeholders through various SROs while developing and implementing regulatory policy approaches involving AI and technology-based frameworks. The RBI is also increasingly adopting an 'innovate with care' approach and encouraging businesses to incorporate sufficient guardrails at all times after taking into account relevant risk management and compliance related considerations.

Navigating the AI Revolution: Emerging Trends and Regulatory Pathways in India's Digital Media Sector

Tanu Banerjee

With increased penetration of the internet and technology in India, the digital media sector is a key aspect of India's growth story, and not surprisingly, is expected to grow to USD 37.2 billion in value by 2026. From social interactions to entertainment, news and knowledge to commerce and financial services, digital platforms are integrated across every consumer activity, resulting in significant opportunities for growth.

Adopting of AI in Digital Media

The digital media sector has also seen the highest adoption of AI, in comparison to other industries. For example, OTT platforms and social media have deployed AI for personalised recommendations, targeted advertising, analytics, user support and content production. Social media platforms have integrated AI as chatbots, image generators and for content moderation. Though, concerns such as deepfakes, misinformation, AI driven bias, user privacy etc continue to be unresolved and will require greater focus going forward.

Government's Role in Digital Media Regulation

The Government has taken a proactive approach on content regulation on digital platforms. Specifically for AI-driven concerns, on 15 March 2024, the MeitY advised platforms against harmful AI-generated content, ensure that AI-bias is not permitted, metadata labelling, and disclosure of unreliability of AI. MeitY has indicated that it is considering a standalone legislation to regulate AI, aimed at safeguarding the interests of news publishers, content creators, and other stakeholders.

Anticipated Regulatory Development

The foreseeable regulatory developments are likely to be focussed implementing more robust policies and frameworks to govern the digital ecosystem, including OTT platforms, news platforms, social media and platforms allowing user generated content.

> **With AI adoption transforming digital media, India's sector is poised for growth, but regulatory frameworks will need to address concerns around misinformation, privacy, and harmful content to ensure sustainable development.**

In the e-commerce and fin-tech sectors, AI is being used to recommend products / services, analytics, content generation, AI powered chat bots for customer support etc. With an uptake in deployment of AI in these sectors, some notable concerns are around deceptive / fake reviews, nudging, and misleading AI-generated content, fraud and impersonation which could lead to discriminatory lending practices.

The Government's approach on AI appears to be one of fostering innovation and capacity building. We foresee Government initiatives encouraging indigenous AI services and regulation of AI to focus on balancing freedom of expression with curbing amplification of harmful content. As with the regulation of broadcasters, digital and gaming platforms, we expect that the Government will look to implement an

overarching regulatory framework and encourage establishment of self-regulatory bodies for enforcing compliance. Differentiated responsibilities may be imposed on AI-driven digital platforms and AI-service providers for, tracing originators of harmful content, ensuring take-down within shorter timelines, algorithmic audits to reduce AI-bias, and prohibition of use of AI to nudge harmful behaviours.

Given that digital media hinges on interactions between users, content-creators and business owners, we foresee the overall regulatory horizon for the sector to be focused on convergence of content regulation, AI regulation, data protection, and intellectual property framework.

GST: Key Areas to Watch Out For

Sudipta Bhattacharjee

In 2025, we foresee a significant amount of tax disputes on the following GST aspects, and also hope for certainty of tax position emerging on at least a couple of these areas by the end of 2025.

GST Exposure on Corporate Guarantees

Corporate guarantees are very common in a wide range of corporate transactions, but the applicability of GST on such guarantees has been a debate which has intensified with amendments in the law in October 2023 and July 2024.

It is expected that some clarity will emerge in 2025 on applicability of GST pre as well as post the aforementioned amendments.

GST Issues vis-à-vis ‘Real Money’ Based Online Gaming Sector

The online real money gaming sector in India has been in the eye of a GST storm with close to 100 notices having been issued for a cumulative GST demand of close to USD 20 billion for the period prior to October 2023 – an amount which is several times higher than the cumulative revenue earned by the entire Indian online real money gaming sector. Almost the entire industry is currently before the Supreme Court of India having challenged the aforementioned GST demands on several legal and constitutional grounds.

Clarity on this is expected to emerge in 2025 through a comprehensive decision by the Supreme Court of India in the batch of matters before it.

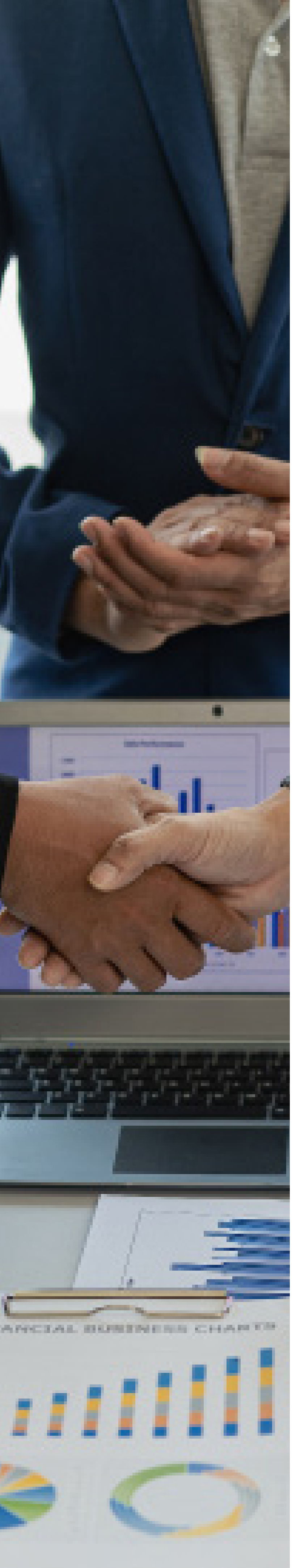
> **Corporate guarantees and real money gaming are expected to remain focal points for GST disputes, with clarity anticipated following recent legal amendments.**

Other Key Points from a GST Perspective

As per the recommendations of the 50th GST Council and subsequent amendments in the law, the mechanism to distribute common input GST credit through the Input Service Distributor (ISD) mechanism would become mandatory with effect from 1 April 2025. While it has been clarified that companies have the option to continue with the currently prevalent practice of cross-charging between GST registered branches for common input services till that time,[7] once the ISD mechanism is made mandatory, the heightened compliance requirements, transitional hiccups and potential input credit leakages is likely to lead to several tax disputes especially for entities with multiple GST registered branches across the country.

The GST Appellate Tribunal is finally expected to be operational from February or March 2025. To that extent, necessary amendments in GST laws have been introduced and notifications have been issued for operationalising the same in each State. However, one has to be mindful of the fact that there is already a huge backlog of appeals which would be filed once the tribunal is operationalised. Therefore, to expect early and smooth resolution of pending GST appeals may be unrealistic and it will take a couple of years for the GST appellate tribunal to commence functioning effectively post its operationalisation in 2025.

[7] Circular No. 199 / 11 / 2023- GST dated 17 July 2023



Public M&A: Recent Changes to take Private Norms

Abhishek Dadoo
Gaurav Malhotra

Public M&A activity in India is expected to increase in the coming year due to regulatory reforms, increased investor confidence, and ease of doing business. In 2025, we anticipate a surge in take private transactions.

Take private norms provide a detailed process for controlling shareholder (acquirer) to delist companies while ensuring a fair exit for public shareholders. Previously, the exit price was determined via Reverse Book Building process (RBB) based on the public shareholders' bids. However, the deal announcement often led to market price volatility, share accumulation, and inflated bids, making many deals commercial unviable leading to their failure. To address these concerns, the Indian securities regulator has recently introduced several changes, including:

New Fixed Price Mechanism

This mechanism has been introduced for frequently traded companies as an alternative to the existing RBB. The fixed price must include a 15% premium over the floor price. Public shareholders can either accept and tender their shares or reject the offer. The deal succeeds if the acquirer's holding reaches 90% or more. It offers a clear 'yes' or 'no' choice, eliminating RBB risks and ensuring price certainty. This option is expected to provide greater flexibility to the acquirer.

> **India's new take-private norms, including a fixed price mechanism and enhanced counter-offer options, are set to boost Public M&A activity and deal certainty in 2025.**

Floor Price Determination

The floor price, crucial in both fixed price and RBB mechanisms, was traditionally based on historical prices or valuations. Now, the 'adjusted book value' concept (which amongst others considers the book value of assets and fair market value of securities held by the target) has been introduced for both frequently and infrequently traded companies. This concept is likely to enhance the accuracy of the floor price as it would reflect true value of the target's assets and liabilities. This is expected to potentially address concerns around fair value raised by public shareholders' thereby increasing deal certainty.

Counter-offer Mechanism

In RBB based offers, acquirer can make a counter-offer if the exit price is not acceptable (which is not available for fixed priced offers). Earlier, counter-offer was permitted if the acquirer's reached 90% through RBB. Such threshold has now been reduced to 75% provided at least 50% of public shares are tendered. Additionally, the minimum price is now linked to the volume-weighted average price of tendered shares, among other factors, instead of just the target's book value. These changes are expected to provide a meaningful opportunity to the acquirer to re-evaluate and potentially offer an attractive price (aligned with public shareholders' expectations) to salvage deals.

With the above changes already notified, and the willingness of the market regulator to hear the streets – we expect public M&A to contribute substantially to the India story in the coming year.

Insolvency in Transition: Navigating IBC Delays and SARFAESI's Rising Prominence

Rahul Chakraborti

The Insolvency and Bankruptcy Code, 2016 (IBC) was enacted to help creditors transfer distressed companies from unsuitable management to capable, interested bidders, and maximising recovery. While IBC has seen successful turnarounds, extended insolvency resolution periods have eroded value, and diminished investor interest. The average resolution time has risen to 582 days, as per the Insolvency and Bankruptcy Board of India's (IBBI) Quarterly Newsletter (July–September 2024). Delays often result from prolonged litigation involving various stakeholders, including competing investors.

Judicial Ambiguity and Legal Costs

The one-size-fits-all approach adopted by the IBBI has unfortunately fostered judicial ambiguity, increasing legal costs and creating uncertainty for investors. For instance, in the Supreme Court, in the case of State Tax Officer (1) v. Rainbow Papers Limited,[8] ruled that resolution plans must account for statutory dues, even unfiled ones, and treat such dues as equal to secured financial creditors. Principles like the 'clean slate' post-acquisition continue to face litigations. Despite expectations for amendments to clarify the treatment of statutory security interests, the law remains unchanged. Legislative intervention is necessary to restore clarity, align with IBC's original intent, and rebuild lender and investor confidence.

Rise of SARFAESI as an Alternative Acquisition Route

Against IBC's mixed outcomes, acquisitions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) have gained traction. With shorter timelines and lower costs, SARFAESI has become a preferred route for acquiring distressed assets. The real estate sector, in particular, has seen significant acquisitions through SARFAESI auctions. Banks favour SARFAESI for its streamlined enforcement process and quicker resolutions. Although acquisitions under SARFAESI lack the "clean slate" protection, post-acquisition litigations are typically summary in nature, with courts often favouring auction purchasers holding valid sale certificates.

> "
> **While IBC's lengthy resolution periods erode value, SARFAESI's quicker, more predictable process is emerging the preferred route for distressed asset acquisitions.**

Benefits of SARFAESI in Distressed Asset Acquisition

Another advantage of SARFAESI is the ability to cherry-pick assets. While courts occasionally attach unpaid dues to auctioned assets, well-negotiated buyouts with clear representations, warranties, and indemnities against liabilities—both known and unknown—mitigate risks. For many investors, SARFAESI presents an attractive alternative to IBC, offering simplicity, reduced costs, and greater predictability.

Amidst IBC's challenges, SARFAESI continues to demonstrate steady growth as a practical and efficient mechanism for asset acquisition, underscoring its appeal in an otherwise uncertain landscape.

[8] 2022 SCC OnLine SC 1162

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