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INDIAN OUTSOURCING FIRMS CRY FOUL ON BILL

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U.S. immigration reform legislation, touted as an effort to protect American jobs, would stop Indian outsourcing firms from bringing more high-skilled, low-wage Indians into the U.S.

But the very same bill would actually double the number of these workers who can enter the U.S. each year on temporary visas.

The catch: There is the likelihood that only U.S.-based computer-consulting firms – and not their Indian competitors – would be in a position to hire these workers.

The bill that is widely touted as immigration reform is a kind of protectionist trade policy, critics say. Underlying the bill is the turf war that has been heating up between Indian and U.S. companies in the multibillion-dollar outsourcing industry, where companies cut costs by hiring other firms to perform back-office work, often in information technology.

"The bill would give great market opportunities to non-Indian companies, even though they tap into the same pool of skilled labor from India through the visa process," said Som Mittal, president of the National Association of Software and Services Companies, which represents India's outsourcing firms.

Despite being cast as an American job-protection effort, the bill is unlikely to result in the hiring of more Americans, J.P. Morgan said in a recent note.

For one thing, there simply may not be enough Americans qualified to meet the demand for technology jobs.

According to the Bureau of Labor Statistics, the U.S. economy will create approximately 120,000 new jobs in 2013 for people with degrees in computer science. Research conducted by Microsoft Corp., which tracks these figures, estimates that U.S. colleges will produce only 51,474 graduates with these degrees. The gap is filled mostly by foreign workers on temporary visas, known as H-1Bs.

But the immigration bill also makes it easier for U.S. companies to hire more of these same foreign workers on H-1Bs, J.P. Morgan said.

"One of the ironic consequences of the Senate-passed immigration bill is that it allows some U.S.-based firms to avail themselves of H-1B visas even as they keep reducing their employee head count in the U.S.," said J.P. Morgan.

The Senate version of the immigration reform bill increases the number of H-1B visas available each year to 110,000 from 65,000. But it also contains restrictions on the use of those visas that make it all but impossible for Indian companies to bring in more people under those visas, which they say is unfair.

The bill says that if a company has more than 75% of its U.S.-based employees on H-1B visas, it will be unable to apply for new visas. Almost all Indian companies are above that figure, according to industry sources, analysts and others.

But their American competitors, including International Business Machines Corp. and Accenture PLC, which have larger pools of U.S.-based employees, are below that percentage in their hiring, and so can hire more temporary workers.

Infosys Ltd. and Tata Consultancy Services Ltd., among several other Indian companies contacted for this story, referred The Wall Street Journal to Mr. Mittal at Nasscom, saying he speaks on their behalf about the bill.

For Indian firms, the most damaging aspect of the bill is a restriction on the kinds of work that H-1B visa holders can perform. Companies with more than 15% of U.S.-based employees on these visas are barred from sending them to perform hardware and software servicing at the offices of clients, which is the core of the outsourcing business, said Mr. Mittal, head of the Indian information technology group.

Proponents of these provisions say the purpose is to curb what they describe as companies' abuses of H-1B visas. In particular, they say that the restrictions would protect U.S. workers from being displaced by cheaper foreign-born workers.

Critics of the current system said the biggest users of H-1B visas rely on them to bring in foreign workers whom they can pay less than U.S. workers. All of the top 10 biggest users of H-1B visas have significant outsourcing businesses and sponsor only a small fraction of those workers for green cards, according to an analysis by Ron Hira, public policy professor at the Rochester Institute of Technology.

He said the provisions overall would "curb some of the abuse" associated with the visas, but might favor some of U.S.-based companies with broader business models, including IBM and Accenture. "They will get a comparative advantage, even though they're abusing [the system] just as much," Mr. Hira said.

The visa provisions also are expected to constrain growth at U.S.-based companies using business models similar to Indian firms, including New Jersey-based Cognizant Technology Solutions Corp., which received the most H-1B visas in fiscal year 2012, according to government data. The Senate bill contains some positive measures for the industry, "but also includes several clauses, which, if enacted, would be detrimental to our clients and U.S. competitiveness," said Cognizant spokesman John Procter. He noted that the company has been among the top two firms to sponsor workers for green cards for the past five years. In 2012, Cognizant successfully applied for 1,028 green cards, behind Microsoft, which received 2,383. IBM and Infosys received 66 and 15 green cards during the same period. Indian firms have taken an increasingly large share of the $90 billion global outsourcing market, currently holding approximately 10% of the total market, according to the research firm Gartner, Inc.

Indian companies received 445 outsourcing contracts worth nearly $11 billion since 2009, according to data from U.S.-based research firm Information Services Group. That is nearly twice the number of contracts awarded in the preceding four years starting in 2005.
IBM is in strong support of the bill, the company says. A spokesman for Accenture said that the company doesn't comment on draft legislation, but had spoken to lawmakers regarding the bill.

IBM and Accenture have been lobbying for the bill, said spokesmen for the companies. While the companies wouldn't disclose the substance of their lobbying, the legislation now being considered, which they support, would effectively freeze Indian companies out of the U.S. market, Indian companies, analysts and lobbyists told the Journal.

IBM believes that the immigration bill would make Indian companies less competitive, said a person familiar with the company's thinking. Indian companies would be required to hire more Americans, who are much more expensive. The high cost of doing business would likely force Indian firms to raise their prices, making them lose business to American firms, that person said. IBM has already been getting inquiries from large banking customers of Indian outsourcing firms who are concerned that those providers may not be able to continue to serve their needs if the law is passed, said the person.

The legislation, already passed by the U.S. Senate, is currently in limbo in the GOP-controlled House. Republicans, who plan to tackle the issue in pieces, are divided over some issues, including whether to allow some illegal immigrants already in the U.S. to become citizens.

A spokesman for Senator Richard Durbin, D-Illinois, one of the champions of the bill, defended it strongly in an email interview with The Wall Street Journal. It wasn't aimed at hurting Indian outsourcing firms and benefiting their American rivals, the spokesman said. Instead, the bill aimed only to rein in companies, regardless of nationality, that have, "built a business model on taking advantage of loopholes in the current U.S. visa system," the spokesman said.