

# STUDY ON IMPACT OF INCREASED FEES FOR ENTRY OF NON-IMMIGRANT WORKERS



**Pursuant to the US Law (PL 111-230) Introduced in August  
2010 and Restructured in December 2015 as PL 114-113**

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*A fact-finding study conducted and authored by M/s Zinnov Management Consultancy Pvt. Ltd. (India), to  
assess the business impact and effect of the visa fee hike for non-immigrant workers due to US Law PL  
111-230 on Indian IT companies in the US*

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## EXECUTIVE SUMMARY

India and the US share a strategic partnership over the past many years, with both the economies leveraging each other's expertise, capital and investments to expand businesses and their global market share. Cooperation in technology sector is one of the main pillars of this partnership. By leveraging each other's expertise, technology sector has grown many fold in the recent years. A notable part of success that IT enjoys can be attributed to the successful partnership between the countries so far. Trade in services and IT in particular is expected to further enhance its influence over the global economics in the years to come.

For the IT sector, movement of data, skilled resources, capital and technology across international boundaries are critical for delivery and growth. Computer and related services (CRS) suppliers have access to skills by leveraging global delivery model including onsite, nearshore and offshore model to provide cost effective, around the clock and just-in-time delivery of services to their clients. Hence, these companies are highly dependent on favourable visa policies of various states in the global arena. This also holds true for Indian computer related services suppliers as well.

US is the largest market for Indian IT industry with over 50% of its revenues derived from this region. The market is hence of prime importance to the industry. Indian service suppliers often utilize Indian talent, given the shortage of computer professionals in the US and surplus in India. Moreover, the nature of projects typically follows one-time support (Project Based Services) and/or time bound support (Outsourcing Services) models, which require allocating/re-allocating resources based on project specific requirements and timelines. In this context, 'visas' are the only 'tool' available for transferring skilled resources across international boundaries for short durations. Hence, Indian service suppliers often rely on H-1B and L-1 visas, to serve clients in the US geography. IT sector in the US is the largest user of H-1B and L-1 visa categories due to acute skills shortage. As per statistics from United States Citizenship and Immigration Services (USCIS), sixty-five percent of H-1B petitions approved in FY 2014 were for workers in computer related occupations and majority of these can be attributed to skilled manpower from India.

Since the onset of last global recession triggered by the financial meltdown that pushed US unemployment to record levels, we have seen a slew of both legislative and administrative measures by the US targeted at Indian IT industry or companies wanting to leverage Indian talent. These companies have adopted a proven global delivery model that relies on free movement of temporary highly skilled workers from their global pool of resources. US Public Law 111-230 and Public law 114-113 mandates an additional visa fee for petitioners employing more than 50 employees in the US where 50 percent or more of which are on H-1B and L-1 visas (also known as 50:50 rule). While this law might seem origin neutral for all commercial entities, it has been widely acknowledged time and again by multiple US Senators and Congressmen, American and global institutions, think-tanks and media reports to be targeted at the Indian computer and related services suppliers having operations in the US and hence discriminates against the same.

The focus of this study is to factually prove this widely held perception that these laws are targeted at Indian service suppliers and have been cleverly crafted in a manner that appears to be non-discriminatory on the face of it. To understand the impact of these laws on global computer related services suppliers

(CRS), three group of companies have been formed – Group A, Group B and Group C, representing JPs<sup>1</sup> of India in the US, US JP and JP's of rest of the world, respectively, serving the US CRS market. The applicability of US PL 111-230 law on these companies was established basis the size and composition of their US workforce (total number of employees as well as share of H-1B and L-1 visa holders).

The analysis of the elusive data points clearly establish that all Group A companies are liable to pay the additional fee due to the US PL 111-230 while, the Group B and Group C companies are in effect exempted from the law (except for few Group B companies that have large part of their workforce based in India).

Calculations further show that Group A companies (Indian JP in the US) spent an additional USD 257 million pursuant to the US PL 111-230 from FY10-15 over and above regular cumulative visa fee of USD 245 million; in contrast, Group B (excluding Group B companies majorly having India focus) and C companies did not pay any additional fee on account of this law. This additional monetary cost is impacting the competitiveness of Indian companies in the US and has damaging consequences on their current and potential investments.

It is evident from the analysis that while the law US PL111-230 is origin neutral in theory, its practical implication is discriminatory against Indian service suppliers operating in the US CRS market. What is more worrisome is that the same premise has been used by the US Congress to pile on additional burden on the Indian service suppliers by enacting PL 114-113 as soon as the impact of the earlier law expired but now with double the fee hike and for next ten years. The lack of certainty and predictability on any additional measures based on discriminatory 50:50 rule is making it difficult for Indian companies to plan for their expansion in the US. Considering the intensely competitive market, and shrinking profit margins, the additional monetary burden caused due to the law, hurts competitiveness of Indian service providers operating as a good corporate citizen in the US CRS market. This goes against the principles of free trade and more importantly against the US commitment at the General Agreement on Trade in Services (GATS).

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<sup>1</sup> JP refers to Juridical Person

## 1. STUDY OVERVIEW

### **Strategic Partnership Between India and the US**

There are key economic and strategic reasons for the US and India to strengthen relations as the world's two largest free market democracies. India-US bilateral trade has crossed the USD 100 billion mark and is climbing towards a goal of USD 500 billion<sup>1</sup>. In the last couple of years, India has taken strides towards 'ease of doing business' in India and American businesses have responded with enthusiasm by committing more investments. This sharing of capital, talent, and energy works in both directions. Between 2008-13 Indian FDI in the US grew at an average of 20% annually and totalled around USD 28 billion<sup>2</sup>.

The Indian Information Technology (IT) industry has helped enhance the competitiveness of US companies in the global marketplace, ultimately creating and preserving thousands of American jobs. From a US standpoint, many US companies have their offshore centres in India to leverage Indian talent leading to an increase in their global competitiveness.

Leveraging Indian talent, American companies have been able to bring better, innovative, cost competitive solutions that have helped improve their global market share and bring products with shorter production cycles.

### **Trade in Services**

Trade in services is expected to power the global economics in the years to come. And, IT touching our lives in more ways than one is expected to further interweave itself in every sector possible, including non-services sectors. Movement of data, skilled resources and technology are critical for delivery and growth of IT sector. Hence, any policy instrument that try and curb movement of data, skilled resources and technology should be construed as impeding trade in services.

It is in this context, 'visas' – the only 'tool' available for transferring skilled resources across international boundaries for short durations comes into play. In general scheme of things, it is easy to confuse this discussion as a visa or migration issue than trade in services.

There are several visas used in the US immigration regime to transfer such skilled resources. The two key visa categories utilised by the Indian IT sector are H-1B and L-1 visas.

The exchange of specialized knowledge and human talent is one of the hallmarks for Trade in IT and this is all the more true in the context of India-US relations.

### **Importance of Movement of Skilled Resources**

IT companies utilize global delivery model which rely on free movement of temporary highly skilled workers from their global pool of resources. This model has been majorly responsible for fuelling the growth story of their American clients based on providing innovation at competitive prices.

The two-way flow of investments and intellectual talent is central to the growing commercial and strategic relationships between India and the US. It is not about one nation taking unfair advantage of the

other; it is about moving forward together to improve the economies, opportunities, and quality of life for citizens of both nations. This is a unique partnership between the world's largest democracies.

### **Issues faced by Indian IT Companies**

Since the onset of recession triggered by financial meltdown of 2008, there seems to be a concerted effort by the US Congress as well as the Administration to put various restrictions on the Indian tech sector, some implicitly and others explicitly. While it is understood that the high unemployment levels in the recent past could have been the main trigger. But, even during peak of job loss scenario - a careful look at the US non-farm payroll data suggested that sectors such as construction, retail and manufacturing<sup>3</sup> were the largest contributor towards unemployment/job losses. The technology sector has been adding jobs during and after the recession. Despite this, it appears that the Indian IT sector is bearing the brunt of protectionist measures implemented by the US legislature or the administration. The narrative used by the US side seems to divert the argument raised by Indian industry of curbing inflow of workers for trade in services by putting more restrictions or increasing costs of trade visas used to deliver these services.

IT sector is the biggest user of H-1B and L-1 visa categories. As per the USCIS statistics, sixty-five percent<sup>4</sup> of H-1B petitions approved in FY 2014 were for workers in computer related occupations and majority of these can be attributed to skilled manpower from India.

Whilst the need to reform the US Immigration system is appreciated, but it appears that US laws and policy are discreetly trying to target the Indian IT-BPO players and not allowing them to compete on a level playing field has not gone unnoticed. Each year since 2009, there were more than two dozen bills<sup>5</sup> introduced in the US Congress targeted at the Indian IT industry or companies using Indian talent. While most of the bills could not become a law – few did. This report analyses and tries to prove factually that one such law even though used origin neutral language but in essence used a parameter that ensured only particular set of companies were impacted.

This report focuses on PL 111-230 and its impact on the global service suppliers including from India. This law that was applicable from 2010 till September 2015 was effectively replaced by another law PL 114-113 in late 2015 that uses the same premise but now doubles the financial impact on the qualifying companies and will remain in force for the next ten years i.e. till September 2025.

This report quantifies the financial impact of PL 111-230 and analyses whether it hurts competitiveness of Indian companies.

## ***1.1 Objective of the Study***

The purpose of this study is to evaluate the impact of the increase in visa fees as implemented by PL 111-230 on Indian companies (referred to as Group A companies), US companies (referred to as Group B companies) and Rest of the World companies (referred to as Group C companies) that supply computer and related services (CRS) in the US and to determine whether the law creates a competitive disadvantage towards Indian service suppliers in the US.

Indian service suppliers, provide complex and broad portfolio of computer related services to the US companies, helping them innovate and grow their businesses. To provide such services, it is necessary to use the visas for the movement of highly skilled resources to deliver those services. With US government trying to restrict the movement by introducing visa related laws, the report intends to establish the biasness of the law towards Indian companies which is detrimental to the business conducted by Indian companies in the US.

The upcoming sections cover important aspects relevant to the study by providing details around the law, US CRS market, relevance of movement of skilled resources and quantitative and qualitative approach to establish the end outcome of the study.



## 1.2 Overview of H-1B and L-1 Visa

To provide computer and related services in the US, companies leverage non-immigrant visas (H-1B and L-1) to temporarily send skilled foreign workers to the US.

### **Overview of H-1B Visa**<sup>6</sup>

H-1B visa category applies to people who wish to perform services in a specialty occupation, services of exceptional merit and ability relating to a Department of Defence (DOD) cooperative research and development project, or services as a fashion model of distinguished merit or ability. For filing an H-1B visa petition, the petitioner needs to meet certain criterion, such as completing a US bachelor's or higher degree or an equivalent foreign degree required by the specific specialty occupation from an accredited college or university, etc. Filing a Labour Condition Application (LCA) with the Department of Labour (DOL) is a pre-requisite to filing an H-1B visa petition using form I-129.

*H-1B and L-1 visas are temporary work visas for foreign workers in the US.*

*Whilst, H-1B visa has an annual numerical limit (cap) of 65,000 visas each fiscal year. The first 20,000 petitions filed on behalf of beneficiaries with a US master's degree or higher are also exempt from the cap. L1 visas have no cap on number of visas issued each year.*

Highly skilled people in the computer and related services market witness a temporary movement for the delivery of computer and related services in the US, therefore, H-1B specialty occupations visas are of utmost importance for the purpose of this study.

For H-1B specialty occupations, the job must meet one of the following criteria to qualify as a specialty occupation:

- Bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position
- The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree
- The employer normally requires a degree or its equivalent for the position
- The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree

### **Fees for H-1B Visa Applications**

Total fee paid for H-1B application comprises of various components as mentioned in table-1. The initial fee paid for a fresh H-1B application is USD 2,515, while there is an additional fee of USD 2,000 and USD 4,000 to be paid under PL 111-230 and PL 114-113 respectively. The fee is entirely paid by the US based entity<sup>7</sup>.

**Table-1: Calculation of Fees for H-1B Applications<sup>8</sup>**

H-1B Application							
Fees as per PL 111-230 (in USD)				Fees as per PL 114-113 (in USD)			
	Fresh H-1B	H-1B First Time Extension	H-1B Second Time Extension		Fresh H-1B	H-1B First Time Extension	H-1B Second Time Extension
Standard Fee	325	325	325	Standard Fee	325	325	325
Training Fee *	1,500	1,500	-	Training Fee *	1,500	1,500	-
Fraud Prevention & Detection Fee	500	-	-	Fraud Prevention & Detection Fee	500	-	-
Visa Stamping at the Consulate	190	-	-	Visa Stamping at the Consulate	190	-	-
<b>Initial Fees</b>	<b>2,515</b>	<b>1,825</b>	<b>325</b>	<b>Initial Fees</b>	<b>2,515</b>	<b>1,825</b>	<b>325</b>
Border Security Fee (PL 111-230 Fee)	2,000	0	0	Omnibus Appropriation bill (Bio-metric use)	4,000	4,000	4,000
<b>Fees paid till 30th Sep 2015</b>	<b>4,515</b>	<b>1,825</b>	<b>325</b>	<b>Fees paid after 30th Sep 2015</b>	<b>6,515</b>	<b>5,825</b>	<b>4,325</b>
Others				Others			
Premium Processing (Optional)	1,225	1,225	1,225	Premium Processing (Optional)	1,225	1,225	1,225
Attorney Fees (\$500 - \$4000)	1,000	1,000	1,000	Attorney Fees (\$500 - \$4000)	1,000	1,000	1,000
<b>Total</b>	<b>5,515</b>	<b>2,825</b>	<b>1,325</b>	<b>Total</b>	<b>7,515</b>	<b>6,825</b>	<b>6,325</b>

\* AICWA Fee (American Competitiveness and Workforce Improvement Act of 1998); \$750 (For employers with 1 to 25 full time employees) \$1,500 (For employers with 26 or more full time equivalent employee)

### **Overview of L-1 Visa<sup>9</sup>**

The L-1 visa category consists of L-1A and L-1B visas. L-1A visa classification enables a US employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. L-1B visa enables a US employer to transfer a professional employee with specialized knowledge relating to the organization's interests from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company which does not yet have an affiliated US office to send an executive or manager to the United States with the purpose of establishing one. The employer must file a Form I-129, Petition for a Non-immigrant worker, with fee, on behalf of the employee. The employee for whom the visa is filed must generally have been working for a qualifying organization abroad for one continuous year within the three years immediately preceding his or her admission to the United States; and must be seeking to enter the United States to provide service in an executive or managerial capacity for a branch of the same employer or one of its qualifying organizations. L-1 visa petition can be of 2 types: L-1 individual petition and L-1 blanket petition.

**L-1 individual petition<sup>10</sup>:** The petition is for an individual. Either the US employer or foreign employer may file a petition with the USCIS for L1 visa. A petition is the application process by which the USCIS determines that the employer and/or temporary work meet the basic qualification for a particular visa.

**L-1 blanket petition<sup>11</sup>:** Certain organizations may establish the required intra-company relationship in advance of filing individual L-1 petitions by filing a blanket petition, provided they meet certain criteria as described below:

- The petitioner and each of the qualifying organizations are engaged in commercial trade or services;
- The petitioner has an office in the United States which has been doing business for one year or more;
- The petitioner has three or more domestic and foreign branches, subsidiaries, and affiliates; and
- The petitioner along with the other qualifying organizations, collectively, meet one of the following criteria:
  - Have obtained at least 10 L-1 approvals during the previous 12-month period;
  - Have US subsidiaries or affiliates with combined annual sales of at least USD 25 million; or
  - Have a US work force of at least 1,000 employees

Once approved, L1 blanket petitions considerably reduce the processing time as the employer does not have to prove eligibility every time by filing individual petition. However, there is no guarantee that all employees will be approved L-1 visa. But it provides the employer with the flexibility to transfer eligible employees to the United States quickly and with short notice. L-1 blanket petition is available for both L-1A (manager or executive) and L-1B (specialized knowledge professional) visa types.

#### **Fees for L-1 Visa Applications**

Total fee paid for L-1 application comprises of various components as mentioned in table-2. The initial fee paid for a fresh L-1 application is USD 690, while there is an additional fee of USD 2,250 and USD 4,500 to be paid under PL 111-230 and PL 114-113 respectively.

**Table-2: Calculation of Fees for L-1 Applications<sup>12</sup>**

<b>L-1 Application</b>					
<b>Fees as per PL 111-230 (in US Dollar)</b>			<b>Fees as per PL 114-113 (in US Dollar)</b>		
	<b>Fresh L-1 Blanket</b>	<b>Extensions (First or Subsequent)</b>		<b>Fresh L-1 Blanket</b>	<b>Extensions (First or Subsequent)</b>
Standard Fee	-	325	Standard Fee	-	325
Training Fee *	-	-	Training Fee *	-	-
Fraud Prevention & Detection Fee	500	-	Fraud Prevention & Detection Fee	500	-
Visa Stamping at the Consulate	190	-	Visa Stamping at the Consulate	190	-
<b>Initial Fees</b>	<b>\$690</b>	<b>325</b>	<b>Initial Fees</b>	<b>690</b>	<b>y\$325</b>
Border Security Fee (Public Law 111-230 Fee)	2250	-	Omnibus Appropriation bill (Bio-metric use)	4500	4500
<b>Fees paid till 30th Sep 2015</b>	<b>2,940</b>	<b>325</b>	<b>Fees paid till 30th Sep 2015</b>	<b>5,190</b>	<b>4,825</b>
Others			Others		
Premium Processing (Optional)	1,225	1,225	Premium Processing (Optional)	1,225	1,225

L-1 Application					
Fees as per PL 111-230 (in US Dollar)			Fees as per PL 114-113 (in US Dollar)		
	Fresh L-1 Blanket	Extensions (First or Subsequent)		Fresh L-1 Blanket	Extensions (First or Subsequent)
Attorney Fees (\$500 - \$4000)	1,000	1,000	Attorney Fees (\$500 - \$4000)	1,000	1,000
Total	3,940	1,325	Total	6,190	5,825

L-1 individual petition is filed with the USCIS and hence the fees paid to USCIS is paid by the US entity. However, in the case of L-1 blanket petition, it is filed in India and hence the fee is paid by the Indian entity of the company. As per NASSCOM's estimates, individual petitions form a share of 20 percent of the total L-1 visas and the remaining 80 percent are the L-1 blanket petitions<sup>13</sup>. Any such fee once paid by the Indian entity is subsequently charged back to the visa sponsoring entity in the US. Due to the complex structure of financing within these global multi-national companies, it is difficult to ascertain the monetary impact at a subsidiary level, as for instance, one entity sponsoring the visa and another paying for it is common. As a thumb rule, most of the companies prefer to pay the fees through their entities present in the geographies where the visa is filed. Considering this, it is imperative that the assessment of real impact of the law is done at the parent level rather than at the individual subsidiary level.

### ***1.3 Introduction to US Public Laws Pertaining to Non-Immigrant Workers***

The US government passed laws in order to protect US workers from being adversely affected by the employment of the non-immigrant workers in the US. In this regard, US PL 111-230 was passed in 2010 and was further extended through US PL 111-347. In 2015, the law related to non-immigrant workers was renewed under US PL 114-113, further increasing the H-1B and L-1 visa fee for certain petitions.

#### **US PL 111-230**

Initially introduced as Border Security Bill in the US Congress, on August 13, 2010, President Obama signed this into Public Law 111-230, which contain provisions to increase certain H-1B and L-1 petition fees. Under Public Law 111-230, H-1B and L-1 visas require the submission of an additional fee of USD 2,000 for certain H-1B petitions and USD 2,250 for certain L-1A and L-1B petitions postmarked on or after August 14, 2010. Public Law 111-230 originally made additional fee applicable through September 30, 2014. This additional fee applies only to petitioners who employ 50 or more employees in the United States and if more than 50 per cent of its employees are on H-1B or L (including L-1A and L-1B) non-immigrant status.

#### **US PL 111-347**

The James Zadroga 9/11 Health and Compensation Act of 2010 (Public Law 111-347), was signed into law on January 2, 2011, by President Obama. Title III, Section 302 of Public Law 111-347 extended the applicability of this additional fee enacted under PL 111-230 to September 30, 2015.

#### **US PL 114-113**

The Consolidated Appropriations Act, 2016 (Public Law 114-113), signed into law by President Obama on December 18, 2015, increases fees further for certain H-1B and L-1 petitioners. These petitioners must submit an additional fee of USD 4,000 for certain H-1B petitions and USD 4,500 for certain L-1A and L-1B petitions postmarked on or after December 18, 2015.<sup>14</sup> This law will remain in effect through September 30, 2025.

The additional fee applies only to petitioners who employ 50 or more employees in the United States and if more than 50 per cent of its employees are on H-1B or L (including L-1A and L-1B) non-immigrant status.

This fee is in addition to the base processing fee, Fraud Prevention and Detection Fee, American Competitiveness and Workforce Improvement Act of 1998 fee (when required), as well as the premium processing fee, if applicable.

## ***1.4 Background for Laws Hiking Visa Fee for Non-Immigrant Workers***

US senators have raised concerns over the usage of visas by Indian IT companies to deliver services in the US. They have made multiple proposals in the legislation and publicly maligned Indian IT companies, which makes it evident that the law has been designed to jeopardize Indian companies providing services in the US.

While the PL 111-230 and PL 114-113 are origin neutral for all commercial entities alike, it has been widely acknowledged time and again by multiple US senators and Congressmen, US and global institutions, think tanks and media reports that the law targets Indian computer and related services suppliers having operations in the US.

Following sections substantiate the same.

### **1.4.1 Politically Fuelled Perceptions Around Indian IT Industry**

Since the onset of the financial meltdown in 2008 there have been numerous efforts by the US to target the Indian IT Industry. Number of bills<sup>15</sup> have been introduced in the Congress each year, targeted at the Indian IT industry. Two such bill passed by the Congress that became law were PL 111-230 and PL 114-113 again targeted at large Indian tech companies operating in the US and harming their competitiveness.

Some of the influential politicians and senior ranking members cutting across party lines have hijacked this sensitive topic and portrayed outsourcing in general and Indian IT players in particular as ‘job stealers’ to the audiences at large. These leaders have never minced words in their public utterances in letting know their underlying hatred against the industry. While the stand of some politicians is difficult to be construed as Governments stance but when this rhetoric is channelized into law of the land, it should be a cause of concern.

The use of H-1B and L-1 visas has been debated since long with multiple US senators, often publicly commented on the adverse effect of the same on American jobs. Often, such debates and comments have been around the usage of these visas by computer related services suppliers. Indian computer related services suppliers, serving US clients, have often been targeted in such debates for their substantial visa usage. Just a few examples below are trying to show overall design. Senator Dick Durbin in 2007 in regard to “Comprehensive Immigration Reform Act of 2007” said:<sup>16</sup>

*“There have been exposes across America where these so-called H-1B brokerage houses have been created. These are not high-tech companies looking for people with H-1B visas. These are companies, by and large in India, that try to bring in Indian engineers to fill jobs in the United States. We wish to make sure that only those who are absolutely necessary are brought in, and, first and foremost, that we fill job vacancies with Americans who are out of work and Americans who are graduating from schools and developing the skills that are needed. Our first responsibility, whether it is in guest workers or H-1B visas, is to hire Americans first.”*

Also, it is worth noting that in 2008, Senators Durbin and Grassley conducted systematic data collection by sending emails to top 25 recipients of H-1B and L-1 visa requesting information about their US workforce composition and visa usage patterns of last several years. Details of the questionnaire that was

sent to these companies is attached in the appendix A-6, titled “Letter by US Senators”. The data thus collected and back room political negotiations became the basic premise of the law PL 111-230 and freezing of 50:50 rule<sup>17</sup>.

In the run to enact law fuelling negative perceptions around Indian tech industry continued when in 2009, Senator Chuck Grassley wrote a letter to the USCIS and mentioned that<sup>18</sup>:

*“The agency can take immediate steps to eliminate fraud in the H-1B program, including cracking down on body shops that do not comply with the intent of the law. Employers need to be held accountable so that foreign workers are not flooding the market, depressing wages, and taking jobs from qualified Americans.”*

When the bill actually become law, these leaders clearly claimed victory with the American voters pacifying any reservations that this bill could harm American companies.

During August 2010, when the PL 111-230 law was passed, senator Charles Schumer clearly stated the key Indian companies getting affected by the law<sup>19 20</sup>.

*“Four Indian companies would qualify for the significantly higher fees: Tata, Infosys, Wipro and Mahindra Satyam, all of which operate in the United States and are criticized as “body shops” because they provide outsourcing of Indian professionals to American companies. Large American high-tech corporations, which bring the bulk of the skilled immigrants into the United States, would not be affected since the vast majority of their work forces are made up of Americans.”*

*“The emergency border funds will be paid for by assessing fees on foreign companies known as chop shops that outsource good, high-paying American technology jobs to lower wage, temporary immigrant workers from other countries. These are companies such as Infosys. But it will not affect the high-tech companies such as Intel or Microsoft that play by the rules and*

The tirade against the industry has continued since then after to ensure that the pain endured on Indian companies continues. In 2013, Senator Durbin said<sup>21</sup>:

*“These outsourcing firms like Infosys, Wipro, Tata and others — Americans would be shocked to know that the H-1B visas are not going to Microsoft; they’re going to these firms, largely in India, who are finding workers, engineers, who will work at low wages in the US for three years and pay a fee to Infosys or these companies. I think that is an abuse of what we’re trying to achieve here. Most people would think, well, Microsoft needs these folks, and they’d be shocked to know that most of the H-1B visas are not going to companies like yours; they’re going to these outsourcing companies.”*

Senator Dick Durbin further made the following statement<sup>22</sup> in November 2015:

*"For years, foreign outsourcing companies have used loopholes in the laws to displace qualified American workers and facilitate the outsourcing of American jobs."*

Senator Grassley commented that Americans are losing jobs, due to foreign workers coming in with lower wages in November 2015<sup>23</sup>.

*"There's a sense of urgency here for Americans who are losing their jobs to lesser skilled workers who are coming in at lower wages on a visa program that has gotten away from its original intent."*

In another occasion in December 2015, Senator Bill Nelson of the Democratic Party, expressed his view that visa reforms being targeted through another bill will benefit US workers<sup>24</sup>.

*"By cutting the number of visas available each year and requiring those visas be given to the highest wage- earners first, this bill directly targets outsourcing companies that rely on lower-wage foreign workers to replace equally-qualified US workers."*

*These statements mention Indian service suppliers such as Infosys, TCS, Wipro explicitly and spotlight US jobs being taken by Indian companies. This indicates background as to the laws being implemented attempt to target Indian service suppliers, making it expensive for them to conduct business in the US.*

#### **1.4.2 Administrative Measures Targeted at the Indian Industry**

It is not just legislative efforts but also the administration that chimed in during the same period. High rejection rate of L-1 visa for Indian origin applicants which is more than double compared to that of other countries. Other administrative steps were taken by centralizing the L-1 visa centre to just once location in India, adding to the cost and time taken to apply for the visa. Past instances, also reflects that Indian tech workers were barred from entering US despite of having all legal documents by US Customs and Border Protection. Also, since years India has been trying to conclude the totalisation treaty with the US, where US Government has just been avoiding serious negotiations citing one reason or the other. These administrative measures are a hindrance for Indian companies to conduct smooth operations in the US.

##### **L-1 Rejections Spike from India**

As per the National Foundation for American Policy (NFAP) report, the denial rate for L-1B petitions to transfer high-skilled employees into the United States increased to an historic high of 35 percent in FY 2014 from just 6 percent in FY2006, according to data obtained from US Citizenship and Immigration Services (USCIS)<sup>25</sup>. Visa rejection rate continued to be as high as 35% in FY14 when no visa laws have been changed in the US in last 2-3 years.



Indian applicants are specifically targeted, where the denial rate was found to be much higher for applicants of Indian origin as compared to the other countries. The NFAP report on “L-1 denial rate

*“Comparing the denial rate for L-1B petitions by countries, employees of India origin have a remarkable 56 percent denial rate between FY 2012 to FY 2014, compared to an average denial rate of 13 percent to transfer employees from all other countries during the same period. Examining the top 8 countries of origin for L-1B petitions reveals no other country had even half the denial rate of employees from India. For British nationals, the denial rate was 16 percent, for Chinese nationals 22 percent, and for Japanese and German nationals 15 percent, while the denial rate was 19 percent for French nationals, 21 percent for Mexican nationals and only 4% for increases again for high skill foreign nationals, 2015” states<sup>26</sup>:*

Also, as per the same report *“The continuing high rate of denials for L-1B petitions has a negative impact on the ability of companies to make products and services in the United States and compete globally.”*

In recent years, high rates of “Requests for Evidence” or RFEs have accompanied the increase in denial rates. RFE for L-1 petitions has increased from 9% in FY06 to 45% in FY14. Employers have noted the RFE can result in months of delays for an application, affecting costs and potentially delaying projects and harming the ability to fulfil terms of a contract. Based on NFAP calculations of USCIS data, between FY 2012 and FY 2014, 65 percent of Indian L-1B petitions experienced a Request for Evidence, compared to 3 percent of cases involving Canadians, 35 percent British, 44 percent Chinese, 33 percent Japanese, 37 percent German, 36 percent French and 40 percent Mexican.<sup>27</sup>

As evident, it has become increasingly difficult for global computer related services suppliers (especially Indian) to access L-1 visas due to a very high rate of denials.

#### **L-1 Visa Adjudication Centralised at Chennai Post**

L1 visas adjudication process was centralised in Chennai citing “This change is to streamline the blanket L visa issuance process, and is part of the US Government's ongoing effort to provide efficient visa services throughout India.<sup>28</sup>” The change has been in force since 2011 and has only added to cost burden of companies leveraging Indian talent. It also defeats the purpose of having multiple missions in large country such as India.

#### **Denial of Entry in to the US by the US Border Patrol**

In 2010, things went overboard where US Customs and Border Protection (CBP) chimed in to grill, arrest and deport some of the Indian tech workers when they landed in the US. This was done to send a strong message to companies leveraging Indian workers. As per a legal newsletter provider<sup>29</sup>:

*“This merely reinforces the already widespread perception within the industry of an increasingly aggressive policy that is distant from the letter of underlying statute and divorced from the intent of Congress. This perception of a policy of unduly burdensome regulation and discriminatory enforcement, begun during the Bush administration, is pushing India-based consulting firms out of the US market.”*

## **Totalisation Treaty Negotiations Stonewalled**

After years of engagement and formal discussions US has yet not concluded the totalisation treaty. Totalisation agreement is the agreement between two countries to avoid double taxation for social security purpose. Indian professionals contribute more than \$1 billion each year to the US social security through federal taxes without getting any benefits in return. India and US has signed similar agreements with other nations but no conclusion of the agreement between India and US gives another signal of denying benefits to Indian tech workers.<sup>30</sup>

### **1.4.3 Media Reports Discussing the Impact of Visa Laws**

Political rhetoric backed with law changes and coupled with visa activism measures adopted by the administration left very little to imagination for anyone that all these measures were targeted at the Indian industry or companies leveraging foreign talent from India.

Just after the law was passed in 2010, Wall street journal article<sup>31</sup> states that while the claim by democrats is this new tax on labour would merely penalize companies that outsource jobs that otherwise would go to Americans. While, the reality is *"The higher visa fees would discourage these Indian firms from 'insourcing' investment into America."*

A recent article<sup>32</sup> in Computerworld media publication talks about the Consolidated Appropriation bill and the impact of the hike in H-1B and L-1 visa fee to firms having at least 50 employees and that have at least 50% of their employees on an H-1B or L-1 visa. It says:

*"This increased fee will likely rile Indian IT services firms, which called the earlier fee discriminatory. These offshore IT services firms are the largest users of H-1B visa workers."*

Multiple CRS industry and enterprise stakeholders have voiced their opinion on impact of the results of PL 111-230 law.

An article in CIO media publication<sup>33</sup> mentioned that:

*"H-1B visa critics and advocates agree that an increase in visa fees that targets Indian IT service suppliers is inequitable. What's more, they say, it will do little to create or maintain American IT jobs, and could in fact lead to increased offshoring."*

An article in computer world<sup>34</sup> says:

*"The fee increase will have the biggest impact on the large Indian offshore firms, such as Infosys Technologies Ltd., Wipro Ltd. and Tata Consultancy Services, which use thousands of H-1B visa holders to service US customers."*

Indian association of business organization named 'The Federation of Indian Chambers of Commerce and

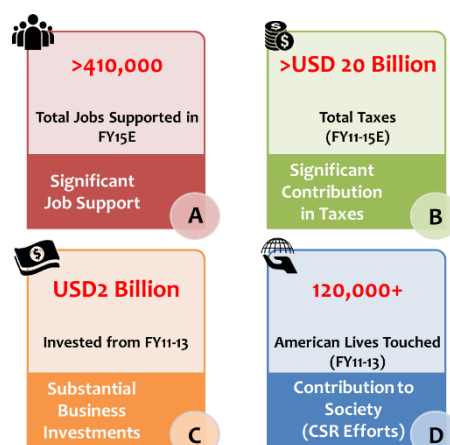
*Such legislation, amending the James Zadroga 9/11 Health and Compensation Act of 2010, will hamper growth of the US economy and will be discriminatory to Indian IT firms."*

*Industry, FICCI' also highlighted the visa fee hike discrimination for Indian IT firms.<sup>35</sup>*

*All of this information when put in context would lead to the outcome that PL 111-230 was designed to hurt competitiveness of the Indian tech companies, generally discourage use of Indian talent and promote 'hire local' in the US.*

## 1.5 Contribution of Indian Tech Industry to the US Economy

Contrary to the perception and political rhetoric, Indian tech industry is contributing to the US economy in multiple ways. Indian tech industry is supporting numerous jobs in the US and boosting the US economy in monetary ways through taxes paid, capital investments, acquisitions etc. These Indian IT companies in the US are also contributing to the US society through Corporate Social Responsibility (CSR) activities such as funding healthcare programs, providing sponsorships and mentoring programs, providing training programs, donating for the welfare of the society. Indian tech industry has multi-fold positive impact on the US economy which includes investment of over USD 2 billion dollars from FY11-13; 410,000 plus jobs supported in America in FY15; more than USD 20 billion dollars in taxes paid between FY11-15; and more than 120,000 American lives touched from FY1-13 through philanthropic initiatives supported by Indian organizations.<sup>36</sup>



There are myths that foreign companies are bringing in cheap labour and are taking away the jobs of local US nationals. These are also reflected from the statements made by US senators as mentioned in section 1.4.1. However, the fact is equivalent wages are paid to foreign workers to that of US nationals. Also, it is seen that the unemployment rate in technology sector is much lower than the overall unemployment rate in the US.

**Myth 1:** Hiring of foreign tech workers is hindering employment of local professionals in United States.

**Fact 1:** Unemployment of tech professionals is half as compared to national average. In 2014, the overall unemployment rate in the US was 6.2% while that in US tech sector was 2.7%.<sup>37</sup>

**Myth 2:** Foreign talent is being hired at lower salaries.

**Fact 2:** Indian tech industry pays equivalent wages to the US nationals and foreign workers in the US. In FY13, average wage of US Nationals was USD 81,447 and the average wage for US visa holders was USD 81,022 along with the additional cost of USD 15,000 which is the fixed cost for each visa holder and includes visa cost, tickets cost, spouse/family expense, etc.<sup>38</sup>

This illustrates that Indian industry is contributing to the US economy in multiple ways. Indian companies are not hampering the employment of local professionals and are not bringing in the professionals at a lower cost as pointed out by various senators in the US.

## 2. IMPORTANCE OF SKILLED RESOURCE MOVEMENT FOR THE CRS MARKET

Indian service suppliers generate significant portion of their revenues from the US computer and related services (CRS) market highlighting the importance of US CRS market for Indian service suppliers. With the evolving role of IT companies as strategic partners and delivery of complex upcoming technologies to their US clients, use of non-immigrant visas become quite critical given the shortage of skill resources in the US and the global delivery business model being adopted by these companies to help their customers grow in the US. The following sections elaborate the CRS market and underline the importance of movement of skilled resources.

### 2.1 *Introduction to CRS Market*

#### 2.1.1 Definition of CRS

The GATS Services Sectoral Classification List includes Computer and Related services (CRS) as a sub-sector of business and professional services. The methodology for scheduling used by WTO Members in the GATS commitments scheduled in 1995, relied on a classification list referred to W-120, which in turn was based on the United Nations Provisional Central Product Classification (CPC), issued by the United Nations Statistical Commission in 1991. The W-120 listing of CRS refers to UN Provisional CPC 84. This comprises of consultancy services related to the installation of computer hardware (CPC 841), software implementation services (CPC 842), data processing services (CPC 843), database services (CPC 844), maintenance and repair services of office machinery (CPC 845) and other computer services (CPC 849)<sup>39</sup>, as described below.

#### **841     Consultancy services related to the installation of computer hardware**

##### **84100     Consultancy services related to the installation of computer hardware**

Assistance services to the clients in the installation of computer hardware (i.e. physical equipment) and computer networks.

#### **842     Software implementation services**

All services involving consultancy services on, development and implementation of software. The term "software" may be defined as the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customized software) or using a combination of the two.

##### **84210     Systems and software consulting services**

Services of a general nature prior to the development of data processing systems and applications. It might be management services, project planning services, etc.

##### **84220     Systems analysis services**

Analysis services include analysis of the clients' needs, defining functional specification, and setting up the team. Also involved are project management, technical coordination and integration and definition of the systems architecture.

##### **84230     Systems design services**

Design services include technical solutions, with respect to methodology, quality-assurance, choice of equipment software packages or new technologies, etc.

8424 84240 Programming services

Programming services include the implementation phase, i.e. writing and debugging programmes, conducting tests, and editing documentation.

8425 84250 Systems maintenance services

Maintenance services include consulting and technical assistance services of software products in use, rewriting or changing existing programmes or systems, and maintaining up-to-date software documentation and manuals. Also included are specialist work, e.g. conversions.

**843 Data processing services**

8431 84310 Input preparation services

Data recording services such as key punching, optical scanning or other methods for data entry.

8432 84320 Data-processing and tabulation services

Services such as data processing and tabulation services, computer calculating services, and rental services of computer time.

8433 84330 Time-sharing services

This seems to be the same type of services as 84320. Computer time only is bought; if it is bought from the customer's premises, telecommunications services are also bought. Data processing or tabulation services may also be bought from a service bureau. In both cases the services might be time sharing processed. Thus, there is no clear distinction between 84320 and 84330.

8439 84390 Other data processing services

Services which manage the full operations of a customer's facilities under contract: computer-room environmental quality control services; management services of in-place computer equipment combinations; and management services of computer work flows and distributions.

**844 Database services**

8440 84400 Database services

All services provided from primarily structured databases through a communication network.

Exclusions: Data and message transmission services (e.g. network operation services, value-added network services) are classified in class 7523 (Data and message transmission services).

Documentation services consisting in information retrieval from databases are classified in subclass 96311 (Library services).

**845 Maintenance and repair services of office machinery and equipment including computers**

8450 84500 Maintenance and repair services of office machinery and equipment including computers

Repair and maintenance services of office machinery, computers and related equipment.

**849 Other computer services**

8491 84910 Data preparation services

Data preparation services for clients not involving data processing services.

8499 84990 Other computer services n.e.c.

Other computer related services, not elsewhere classified, e.g. training services for staff of clients, and other professional computer services.

### 2.1.2 Identification of Reliable Data Source

The overall objective of the study is to evaluate quantitative impact of PL 111-230 on Group A (juridical persons of India in the US), Group B (juridical persons of US) and Group C (juridical persons of rest of the world in the US) companies supplying computer and related services in the US. In order to identify service suppliers within each group forming a substantial share and providing like services, it requires revenue data for all service suppliers operational in the US CRS market classified by their services as per provisional CPC-84 definition. However, the companies involved in the computer and related services market do not provide data as per CPC 84 classifications. There is no listing on either public domain or company filings on the amount of revenue that is generated from each CPC 84 service line. In the absence of such clear source of information for companies' revenues classified by CPC 84, the report relies on the closest data sets substitute that is available.

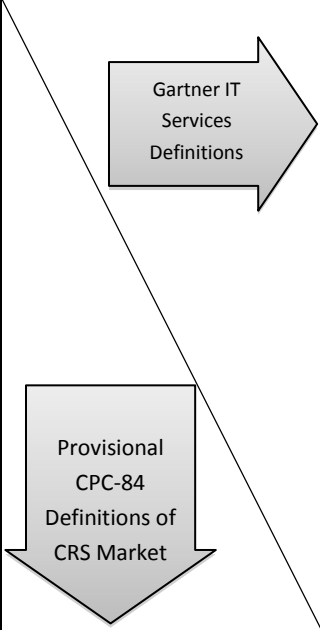
The study is based on the data from report prepared by Gartner Inc. titled "Gartner market share: IT services, 2014"<sup>40</sup>. Gartner Inc. is one of the most reputed and respected US based information technology research and advisory company. It is a public listed company with CY2015 revenue of USD 2.16 billion and is widely recognised as a reliable source of market data across the business research fraternity. Given the credibility attached to the data and research insights published by Gartner, it is often used by CRS industry stakeholders as well as global enterprises. The report under reference details revenue of companies classified by their location of operations and lines of services. It should be noted here that while the study intends to select companies based on provisional CPC 84 definitions, no such report on US CRS market was available in the accessible domain. The Gartner report used in the study does not follow provisional CPC-84 definitions and instead describes the market as that of 'IT services'. To validate that the two definitions refer to the same set of services and that Gartner data can be used in absence of any other reliable report on US CRS market based on WTO's provisional CPC-84 definitions, services falling under Gartner definitions were mapped against the components of CRS market as per provisional CPC definitions. The assessment reveals a substantial overlap between the two, thus justifying the selection of Gartner report as a source of market data.

Additionally, it should be noted that the data available from Gartner pertains to the parent company, including their subsidiaries, both US based and global. This data does not discriminate between delivery of services between Mode 1 or Mode 3. The segregation at the subsidiary level is not available and accordingly the analysis done using the data obtained from Gartner pertains to the parent company, including the subsidiary.

*The study is based on the data from a **Gartner report** titled "Gartner market share: IT services, 2014". Gartner is widely recognised as a reliable source of market data across the business research fraternity. Gartner's service line mapping with CPC 84 services was established to justify the usage of the data provided in the report.*

### 2.1.3 Mapping of CRS Market Under CPC 84

**Table-3: Relationship Between CPC 84 Service Lines with Gartner Service Lines**

		Gartner IT Services Definition				
		Product Support	Business Services – Consulting	Business Services - IT Outsourcing	Business Services - Implementation	Business Services - BPO
		<ul style="list-style-type: none"> <li>Product support services refer to labour-based services for hardware or software, which can be performed by the manufacturer of the product or parties' other than the vendor that created the product</li> <li>Includes both software and hardware support</li> </ul>	<ul style="list-style-type: none"> <li>Consulting services are advisory services that help clients assess different technology and methodology strategies and, in doing so, align their network strategies with their business or process strategies</li> <li>These services support customers' IT initiatives by providing strategic, architectural, and operational and implementation planning related to their networks.</li> </ul>	<ul style="list-style-type: none"> <li>IT outsourcing is the use of external service providers to effectively deliver IT-enabled business process, application service and infrastructure solutions for business outcomes</li> <li>Outsourcing, which also includes utility services, software as a service and cloud-enabled outsourcing, helps clients to develop the right sourcing strategies and vision, select the right IT service suppliers, structure the best possible contracts, and govern deals for sustainable win-win relationships with external providers.</li> </ul>	<ul style="list-style-type: none"> <li>Formerly known as Development and integration services - support the implementation and rollout of new network infrastructure, including consolidation of established network infrastructure. Activities may include hardware or software procurement, configuration, tuning, staging, installation and interoperability testing</li> </ul>	<ul style="list-style-type: none"> <li>Business process outsourcing (BPO) is the delegation of one or more IT-intensive business processes to an external provider that, in turn, owns, administrates and manages the selected processes based on defined and measurable performance metrics</li> </ul>
CPC Code	Description					
841	Consultancy services related to the installation of computer hardware		✓	✓	✓	
842	Software implementation services					
8421	Systems and software consulting services		✓	✓	✓	
8422	Systems analysis services		✓	✓	✓	
8423	Systems design services			✓	✓	
8424	Programming services			✓	✓	
8425	Systems maintenance services	✓		✓		
843	Data processing services					
8431	Input preparation services			✓		✓
8432	Data-processing and tabulation services			✓		✓
8433	Time-sharing services			✓		✓
8439	Other data processing services			✓		✓
844	Database services			✓		✓
845	Maintenance and repair services of office machinery and equipment including computers	✓		✓		
849	Other computer services					
8491	Data preparation services			✓	✓	✓
8499	Other computer services n.e.c.			✓	✓	✓



'✓' indicates a positive mapping of the CPC code to the Gartner IT Service definitions. The mapping has been done on the basis of available information on Gartner's definition of IT services and provisional CPC-84 definition of CRS

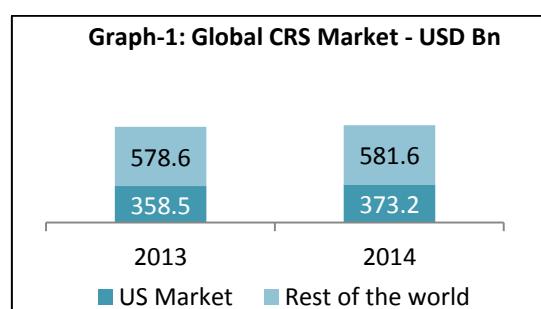
The above table-3 transposes the IT Services defined as per Gartner's report against CRS market definition as per provisional CPC 84 classification. The explanation of overlap of each of Gartner's category of services with provisional CPC-84 definition is as follows:

- a) **Product Support:** As per Gartner, the category includes labour-based services for hardware or software. The same are overlapping with provisional CPC classification 8425 – systems maintenance services (software), and 845 – maintenance and repair services for office machinery and equipment (hardware). Please note that this pertains to services delivered by entities based in and outside the US.
- b) **Business Services – Consulting:** As per Gartner, the category includes advisory services for technology assessment, implementation and strategic alignment of IT to business objectives. The same overlap with provisional CPC classification 841 – assistance services to the clients in the installation of computer hardware and networks, 8421 – Services such as management, and project planning prior to the development of data processing systems and applications, and 8422 – services such as analysis of the clients' needs, defining functional specification, project management, technical coordination and integration and definition of the systems architecture. Please note that this pertains to services delivered by entities based in and outside the US.
- c) **Business Services - IT Outsourcing:** As per Gartner, these include the use of external service suppliers to effectively deliver IT-enabled business process, application service and infrastructure solutions. These external service suppliers can be those based out of the US or other regions and delivering services in the US market. This category overlaps with all the categories of provisional CPC-84 classification, including 841, 842, 843, 844, 845 as all of these can be delivered through external service suppliers. Please note that this pertains to services delivered by entities based in and outside the US.
- d) **Business Services – Implementation:** As per Gartner, these include procurement, configuration, tuning, staging, installation and interoperability testing to support the implementation of new network infrastructure. As this includes services related to both hardware and software, this category overlaps with 841, 842 and 849 of provisional CPC-84 classification. Some of these implementation services also overlap with category 8499 of provisional CPC classification. Please note that this pertains to services delivered by entities based in and outside the US.
- e) **Business Services – BPO:** As per Gartner, these include outsourcing one or more IT-intensive business processes to an external provider. Data processing services and data preparation services, classified within 843 and 849 categories of provisional CPC-84 classification are delivered through external providers. Please note that this pertains to services delivered by entities based in and outside the US.

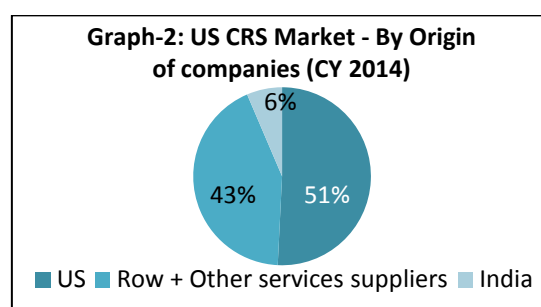
## 2.1.4 CRS Market Size

As per the Gartner report, global CRS<sup>41</sup> market was valued at USD 954.8 billion in CY 2014, grown at a rate of 1.9% from USD 937 billion in CY 2013.

The US CRS market<sup>42</sup> was valued at USD 373.2 billion in CY2014 after exhibiting a growth of 4.1% over the previous year. In CY2014, US comprised of ~39% of the global market for computer and related services valued at USD 954.8 billion, as depicted in Graph 1.



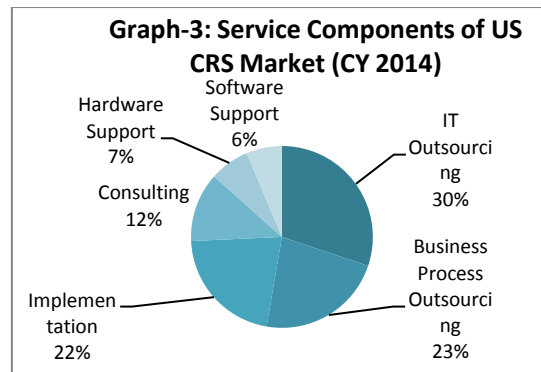
Large size of the market in the US, is characterised by high degree of fragmentation and presence of multiple global and US based companies. These companies' region of origin is based on the parent company origin and generates revenue from US geography through its subsidiaries in the US and elsewhere in the world. Share of US based companies is 51%, while that of India based companies is 6% and the remaining is contributed by rest of the world and other services suppliers<sup>2</sup>, as shown in graph-2.



IT outsourcing, business process outsourcing along with implementation<sup>3</sup> are the largest revenue contributors to the US CRS from a service component standpoint and forms 75% of the US CRS market. These service components are followed by consulting (12%), hardware support (7%) and software support (6%), as depicted in graph-3.

<sup>2</sup> Gartner defines other services suppliers as long tail of service suppliers which are not tracked individually and estimates are made on the basis of company size, extensive statistics on current and past spending, end user survey data, economic and demographic statistics and local analyst expertise

<sup>3</sup> Pertains to services delivered by entities based in and outside the US



Of the total global computer and related services market of USD 954.8 billion, Indian service suppliers generated nearly USD 45 billion of revenues in CY 2014 (based on the top 20 Indian service suppliers which constitute significant portion of the market in 2014). Nearly 53% of the revenue generated by Indian service suppliers, i.e. USD 24 billion of their total revenue is derived from United States geography. United States, hence, is a critical market for Indian Computer related services suppliers.<sup>43</sup>

## 2.2 Relevance of H-1B and L-1 Visas for CRS Suppliers

Computer and related services suppliers have traditionally helped their clients with respect to their initiatives across requirements such as software/ hardware design and development, implementation, consulting and business process management. These services have typically been provided through two broad engagement models including project based support and outsourcing. In addition, service suppliers also leverage a global service delivery model to support engagements across service lines.

Over the years, computer and related services suppliers have transcended to become strategic partners to their clients (as against merely being a third-party vendor) as they have started supporting various strategic endeavours aligned with business objectives such as revenue growth, customer acquisition, operational optimization etc. The global movement towards digital transformation has fuelled this gradual transition of service supplier's relationships with clients. In order to support this increasingly complex scope of engagement, it has become all the more important for service suppliers to leverage global talent to provide such services.

### 2.2.1 CRS Engagement Model

Enterprises, fulfil their IT requirements by engaging with computer and related services suppliers under two broad engagement models<sup>44</sup>:

- **Project Based Services:** In this engagement model, enterprises seek one-time support from CRS suppliers. The Gartner's service segments offered in this engagement model are "Consulting", "Implementation" and "Hardware/ Software Support".
- **Outsourcing Services:** In this engagement model, enterprises outsource the management of their computer and related infrastructure (hardware, applications and business processes) to expert computer and related services suppliers. Many enterprises consider IT as an enabler rather than a mere cost centre which helps them grow their business exponentially. To manage IT, companies work with expert computer and related suppliers rather than doing it in-house. For instance, a retail company, outsources its inventory management, supply chain management, customer management systems to the CRS suppliers. Similarly, other industries such as manufacturing, banking outsource IT related functions, while focusing on their core business processes. The Gartner's service segments included in this engagement model are "IT Outsourcing" and "Business Process Outsourcing". As per Gartner *"IT outsourcing (as a part of an outsourcing definition) is the use of external service suppliers<sup>4</sup> to effectively deliver IT-enabled business process, application service and infrastructure solutions for business outcomes. Outsourcing, which also includes utility services, software as a service and cloud-enabled outsourcing, helps clients to develop the right sourcing strategies and vision, select the right IT service suppliers, structure the best possible contracts, and govern deals for sustainable win-win relationships with external providers. Outsourcing can enable enterprises to reduce costs, accelerate time to market, and take advantage of external expertise, assets and/or intellectual property."*

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<sup>4</sup> Pertains to services delivered by entities based in and outside the US

All the service segments offered through above two engagement models can be delivered by entities based in and outside US.

### 2.2.2 CRS Delivery Model

Indian and most of the global computer and related services suppliers leverage global delivery model to deliver services to their clients (including those in US). Use of global delivery models enable the computer and related services suppliers to provide cost effective, around the clock and timely delivery of services. These aspects of global delivery model are evident from Gartner's definition of Global Delivery Model *"the optimum combination of processes, end-to-end methodologies and quality procedures, with high-quality skills and resources available internally or externally, in requisite quantities, on a global basis, that enables organizations to maximize the quality of their solutions while minimizing the overall cost and delivery time of their IT services."*<sup>45</sup>

One of the major components of such global delivery models is the use of resources on a global basis across locations to provide services to end customers, which is elaborated by Gartner as *"Global delivery is the technical skills, process rigor, tools, methodologies, overall structure and strategies for seamlessly delivering IT-enabled services (IT or business process services) from global locations. Global delivery locations are broadly categorized as being inclusive of four options: onsite, onshore, nearshore and offshore."*<sup>46</sup>

- **Onsite**<sup>47</sup>: Services that are outsourced and delivered at client's location. For example, Indian service suppliers through their US operations, provide services at the client's location in the US.
- **Onshore**<sup>48</sup>: Services that are outsourced to a locally based computer and related service supplier. For example, Indian service supplier through US subsidiary provide services to an enterprise based out the US.
- **Nearshore**<sup>49</sup>: Services that are outsourced to a computer and related services suppliers in a nearby geography, usually within similar time zone. For example, Indian service supplier, through Mexico or Canada operations provides services to an enterprise based out the US.
- **Offshore**<sup>50</sup>: Services that are outsourced to computer and related services suppliers that are based overseas (generally in disparate time zones) in locations such as to India and China, in case of a US client. For example, Indian service suppliers through India operations provides services to an enterprise based out of US.

These global delivery models are leveraged by service suppliers across Group A, Group B and Group C. Below are the illustrations:

- **Tata Consultancy Services** (Group A): Global Delivery Network Model<sup>TM 51</sup> - Through this model, a global team of professionals ensure all round support 24/7 irrespective of the location of client. As an illustration, TCS set up a consolidated multi-shore service delivery model for a US based global professional services firm, helping the firm reduce costs and increase productivity
- **Infosys** (Group A): Global Delivery Model<sup>52</sup> - This model is a framework for distributed project management and multi-location engagement teams. It is based on the principle of taking work where it can be done best and makes the most economic sense, with the least amount of acceptable risk.
- **IBM** (Group B): Integrated Delivery Model<sup>53</sup> - It operates with one set of processes, shared services carried out by a highly skilled global workforce across different geographical locations.
- **Accenture** (Group C): Global Delivery Network<sup>54</sup> - It delivers services from more than 50 delivery centres across the globe. As an illustration, to cater to a multinational energy company mobility

requirement to improve existing business processes, Accenture developed the software with the help of onsite team and subject matter advisors from Korea and India delivery centres. Hence, using a global delivery model having a mix of onsite, offshore teams to build mobility capabilities for the client<sup>55</sup>

Indian computer and related services suppliers also leverage a mix of Onsite, Onshore, Nearshore and Offshore locations to deliver services and hence have established delivery centres in onshore locations as well, including in the US to cater to the local market.

*Computer and related services suppliers leverage global delivery model including onsite, onshore, nearshore and offshore model to provide cost effective, around the clock and timely delivery of services to their clients.*

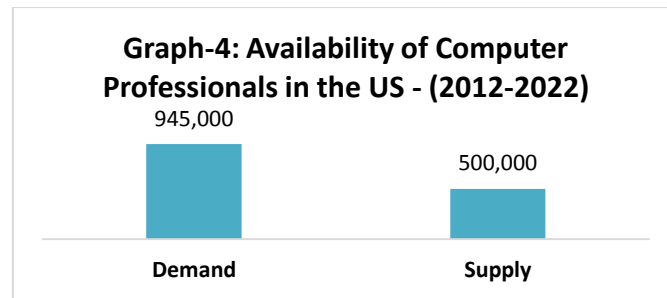
### **2.2.3 Imperatives to Use H-1B and L-1 Visas**

As established above, Indian computer and related services suppliers leverage global delivery centres located in the US to deliver services to their US based customers across business areas. With Indian service suppliers evolving as strategic partners and providing complex and upcoming technologies, it is imperative to utilize global talent having specialised skills to deliver services. Companies cannot find the skills they need in the domestic labour pool and need access to a global pool of Science, Technology, Engineering and Mathematics (STEM)<sup>56</sup> workers. Employers request for H-1B visas for hard to fill STEM jobs. It was found that 43 percent of job vacancies for STEM occupations with H-1B requests are reposted after one month of advertising, implying that they are unfilled<sup>57</sup>. Also, there are reports which says that the students interest in STEM fields decline by the time they graduate. Nearly 28% of high school freshmen declare interest in a STEM-related field. Of these students, over 57% will lose interest in STEM by the time they graduate from high school<sup>58</sup>. This reflects that the STEM talent is in shortage and their interest in STEM drops off by the time they graduate.

To hire human resources for global delivery centres, Indian computer and related services suppliers often rely on Indian talent, given the shortage of computer professionals in the US (as explained below). Also, Indian computer and related services suppliers engage with clients through either one-time support (Project Based Services) and/or time bound support (Outsourcing Services) models, which entails these service suppliers to allocate/re-allocate resources based on project specific requirements for a limited period of time. These factors make it imperative for the Indian IT service suppliers to move resources from outside of the US, based on project requirements and in-turn make their business highly dependent on ease with which they can leverage the H-1B and L-1 visas. The below sections delve a bit deeper into these two aspects clearly bringing out the skill gap in the US as compared to India.

#### **1) Shortage of Skilled Talent in the US**

There is a shortage in availability of computer professionals in the US and this current shortage of skilled talent is expected to continue growing and result in shortfall of 445,000 computer professionals<sup>59</sup> by 2022<sup>60</sup>, as shown in graph 4.



This shortage has often been cited by various think tanks<sup>61</sup> and research groups<sup>62</sup>, such as:

*“Shortage of 230,000 of advanced degree STEM workforce by 2018.” – Partnership for a New American Economy*

*“By 2015, big data will generate 1.9 million IT jobs in the US and only one-third of them will be filled.” – Gartner*

## 2) Time Bound Projects

Analysis of deals signed by the top four Indian IT Service suppliers (TCS, Infosys, Wipro and HCL) in the US over a 5-year time frame (CY 2010-14) highlights that the average deal duration is 3.6 years.<sup>63</sup> For instance, Infosys bagged a five-year IT managed services deal from New York-based wellness company NBTY<sup>64</sup>. As a part of the deal, Infosys will provide development and support services for NBTY's IT systems<sup>65</sup>. Infosys US based, executive vice president and global head for retail and logistics says - “Our goal is to help NBTY achieve productivity improvements and reduce operational costs through automation, while improving the quality of service and driving faster adoption of ERP”<sup>5</sup>.

As these deals are time bound and require IT skillset, service suppliers need to allocate resources based on specific requirements of the projects for a limited period. Once the deal expires, the resources often need to be re-allocated to other projects which may necessitate onsite, onshore, nearshore or offshore delivery models.

Hence, given the nature of the projects which require specialized IT skills and shortage of skilled talent in the US, it becomes important for Indian service suppliers to hire resources from outside the US. Given the high availability of relevant skilled resources in India<sup>6</sup>, resources are temporarily transferred to the US on H-1B and L-1 visa which require specialized skills to perform a task.

As a result, India has consistently figured among the top recipients for US H-1B and L1 visas in the recent years:

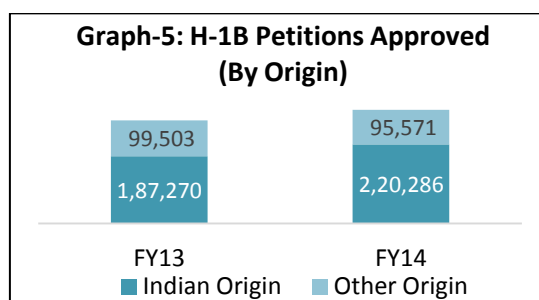
- According to the United States Citizenship and Immigration Services (USCIS) 220,286 H-1B petitions were approved in FY 2014 (Oct 1, 2013 to Sep 30, 2014) for beneficiaries born in India

<sup>5</sup> Global wellness company NBTY selects Infosys to transform its IT landscape, Source, Infosys website, <https://www.infosys.com/newsroom/press-releases/Pages/manufacturer-distributor-retailer-transform-IT.aspx>, (Last accessed on September 19, 2016)

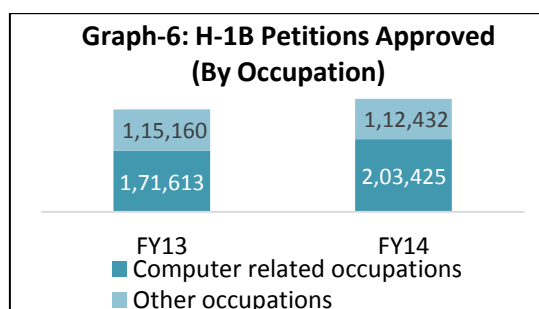
<sup>6</sup> The IT-BPM Sector in India: Strategic Review 2015, Source, NASSCOM, [https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0ahUKEwjHoL\\_14prPAhUH9WMKHariA10QFggvMAM&url=http%3A%2F%2Fwww.nasscom.in%2Fdownload%2Fsummary\\_file%2Ffid%2F110170&usg=AFQjCNHld-7QpNzudZXBQ3AZXUGUC3BmNA&bvm=bv.133178914,d.dGo&cad=rja](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0ahUKEwjHoL_14prPAhUH9WMKHariA10QFggvMAM&url=http%3A%2F%2Fwww.nasscom.in%2Fdownload%2Fsummary_file%2Ffid%2F110170&usg=AFQjCNHld-7QpNzudZXBQ3AZXUGUC3BmNA&bvm=bv.133178914,d.dGo&cad=rja), p.11,12, (Last accessed on September 19, 2016)

out of the total 315,857 H-1B petitions approved globally. India accounts for 69.7 percent of total H-1B petitions approved<sup>66</sup>.

- Indian citizens receive more L1 visas than nationals of any other country. Mission India<sup>67</sup> issued more than 17,200 L1 visas in FY 2014, representing 29.6 percent of the worldwide total<sup>68</sup>.



Graph 5 shows that the more than 65% of the total H-1B petitions approved are given to people of Indian origin each year. In FY14, 220,286 H-1B visas were approved to Indian origin people, forming 69.7% of the total 315,857 H-1B petitions approved.<sup>69</sup>



It is evident from the graph 6, that more than 60% of H-1B petitions approved are for computer related occupations. In FY14, 203,425 H-1B visas were approved for computer related occupations, forming 64.5% of the total 315,857 H-1B petitions approved.<sup>70</sup>

Indian computer related services suppliers are dependent upon H-1B as well as L-1 visas for sustained delivery to their US clients. The cost of filing such visas, thus becomes fundamental to the profitability and feasibility of conducting CRS business in the US.

*As discussed, IT companies are engaged in supplying IT or computer related services function in a manner that require transferring of human resources with specialized IT skills to different countries. Therefore, it is imperative for such companies to utilize H-1B and L-1 visas to supply these services and serve clients in the US geography.*



### 3. QUANTITATIVE IMPACT ASSESSMENT OF THE US MEASURES

To establish the discriminatory impact of PL 111-230 on Indian companies, a quantitative approach was taken to understand the applicability of the law on companies with different origin (India, US and rest of the world). An assessment of the proportion of employees that are non-immigrants admitted under the H-1B and L-1 category to that of employees other than non-immigrants admitted under the H-1B and L-1 category will reveal the impact of the law on companies of different origin.

#### 3.1 Quantitative Approach

- The study aims at identifying three key group of companies which are segregated based on whether they qualify as JP of India in the US (Group A) or JP of any other country in the US (Group C) or US JP (Group B) that have a substantial share of revenue in the CRS market in the US i.e. at least 80% of the total US CRS market share. This conveys that these companies have a significant presence in the US CRS Market.
- Based on the workforce composition of each company in these three groups (India, US and rest of the world), this study will assess the impact of the additional fees under PL 111-230.

The outcome of the study is based on three critical tasks:

**Step1: Identification of leading CRS suppliers based on their origin:** The study identifies key companies delivering services in the US CRS market (*as per provisional CPC 84 definitions*) and classifies them into Group A (India juridical persons in the US), Group B (US juridical person) and Group C (RoW juridical persons in the US). Hence, while Group B companies are domestic service suppliers, Group A and Group C are foreign service suppliers delivering services through their commercial presence (as defined under GATS) in the US.

**Step 2: Identification of data on H-1B and L-1 visa filings:** The study requires data on actual visa filings by companies between FY10 to FY14, to understand the applicability of PL 111-230 and the additional fee paid by companies within Group A, B and C.

**Step 3: Identification of data related to workforce composition in the US:** As the US law PL 111-230 mandates payment of additional visa fee only for companies with 50 or more employees in the US with more than 50% of them on H-1B and L-1 Visa. The study evaluates each company identified in Step 1 with respect to their total workforce in the US as well as their visa status, to ascertain the applicability of the law on them.

## 3.2 Identification of Leading CRS Suppliers

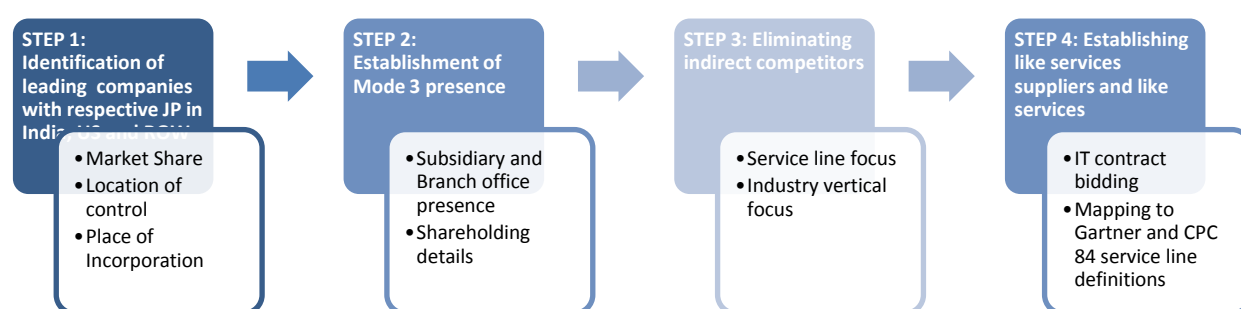
Given the purpose of the study to understand the impact of PL 111-230 across companies of different origin/ groups, it is important to choose an indicative set of companies which collectively comprise the bulk of their respective group's share in the US CRS market. After selecting the indicative list of the companies, this report will compare companies in Group B and Group C which are like service suppliers and provide like services to that of Group A companies, and assess whether companies in each Group are in a competitive relationship with each other.

For the purpose of the study, the threshold of representative share has been set at a minimum of 80% (assumed to be an indicative of significant representation), separately for each of the three groups. The three group of companies are defined below:

1. **Group A companies:** Represents India based parent companies which have subsidiaries/ branches in the US. They provide Mode 1 services from India (and other parts of the world), and Mode 3 from their US presence. The selected companies cumulatively capture at least 80% of the total market share of Indian companies in the US CRS market<sup>7</sup>.
2. **Group B companies:** Represents US based parent companies providing like services as that of Group A companies. The companies provide services in the US either directly through the parent or through other commercial presence for both Mode 3 and Mode 1 type of services, in some cases also serving the US from outside the US. These companies cumulatively capture at least 80% of US companies' market share in the US CRS market.
3. **Group C companies:** Represents Rest of the World (RoW) based parent companies which have subsidiaries/ branches in the US. Rest of the world companies are defined as those not originating from India or the US and offering like services as the Group A companies. They provide Mode 1 services from outside the US and Mode 3 from their US presence. These companies cumulatively capture at least 80% of the total market share of RoW companies in the US CRS market.

The selection of companies within Group A, B and C has been done through the process described below:

### Selection Process of Group A, Group B and Group C Companies



#### STEP 1: Identification of Leading Companies with Respective JP in India, US and ROW:

It is important to establish that Group A companies are JPs of India in the US, Group B companies are JPs of the US and Group C companies are JPs of Rest of the World in the US. To do so, the ownership and control of each of the Group A, Group B and Group C entities was established as per the publicly available data.

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<sup>7</sup> HCL's presence in the US CRS market has been accounted for under Group A even though the parent company for all its US subsidiaries is a Bermudan entity.

**Definition of Juridical Person (JP):** As per General Agreement on Trade in Services (GATS), these terms have been defined in GATS Article XXVIII as follows:

A Juridical Person<sup>71</sup> is:

- (1) "Owned" by persons of a Member if more than 50 per cent of the equity interest in it is beneficially owned by persons of that Member;
- (2) "Controlled" by persons of a Member if such persons have the power to name a majority of its directors or otherwise to legally direct its actions
- (3) "Affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person

CRS companies from the Gartner report were classified on the basis of JP (India, US and RoW) in the US. The Gartner Report has identified all major companies that provide CRS services in the US. From the Gartner Report this study has identified Group A companies that account for more than 80% of the total revenue generated by Indian JPs in the US operating in the US CRS market. A similar exercise was conducted to shortlist companies from Group B and Group C. Following are the lists of companies in Group A, Group B and Group C with their respective market shares:

**Table-4: Identification of Group A Companies (India based parent companies which have subsidiaries/ branches in the US<sup>8</sup>) – Based on Data for 2014**

No.	Group A Companies	Revenue (USD Mn) <sup>72</sup>	Share in revenues amongst Indian JPs in the US	Location of Control	Place of Incorporation	JP
1	Tata Consultancy Services Limited	7,396	30.8%	India <sup>73</sup>	India <sup>74</sup>	India
2	Infosys Limited	4,786	19.9%	India <sup>75</sup>	India <sup>76</sup>	India
3	Wipro Limited	3,626	15.1%	India <sup>77</sup>	India <sup>78</sup>	India
4	HCL Technologies Limited	2,705	11.3%	India <sup>79</sup>	India <sup>80</sup>	India
5	Tech Mahindra Limited	1,435	6.0%	India <sup>81</sup>	India <sup>82</sup>	India
6	Larsen & Toubro Infotech Limited	695	2.9%	India <sup>83</sup>	India <sup>84</sup>	India
	<b>Total</b>	<b>20,643</b>	<b>86%</b>			

Top 6 group A companies constitute 86% share in the total revenues generated by Indian JP companies in the US.

**Table-5: Identification of Group B Companies (US based parent companies providing services in the US either directly through the parent or through other commercial presence) - Based on Data for 2014**

No. #	Group B Companies	Revenue (USD Mn) <sup>85</sup>	Share in revenues of US JPs	Location of Control	Place of Incorporation	JP
1	International Business Machine	16,236	8.6%	New York, US <sup>86</sup>	New York, US <sup>87</sup>	US

<sup>8</sup> HCL's presence in the US CRS market has been accounted for under Group A even though the parent company for all its US subsidiaries is a Bermudan entity

No. #	Group B Companies	Revenue (USD Mn) <sup>85</sup>	Share in revenues of US JPs	Location of Control	Place of Incorporation	JP
	Corporation (IBM)					
2	Hewlett-Packard Co. (HP)	11,741	6.2%	California, US <sup>88</sup>	Delaware, US <sup>89</sup>	US
3	Lockheed Martin Corporation	10,515	5.5%	Maryland, US <sup>90</sup>	Maryland, US <sup>91</sup>	US
4	Deloitte Touche Tohmatsu Limited	10,011	5.3%	New York, US <sup>92</sup>	Not Available	US
5	Automatic Data Processing, Inc.	9,367	4.9%	New Jersey, US <sup>93</sup>	Delaware, US <sup>94</sup>	US
6	Xerox Corporation	8,222	4.3%	Connecticut, US <sup>95</sup>	New York, US <sup>96</sup>	US
7	Computer Science Corporation (CSC)	7,522	4.0%	Virginia, US <sup>97</sup>	Nevada, US <sup>98</sup>	US
8	Cognizant Technology Solutions Corp.	7,345	3.9%	Teaneck, New Jersey, US <sup>99</sup>	Delaware, US <sup>100</sup>	US
9	Cisco Systems, Inc.	6,286	3.3%	San Jose California, US <sup>101</sup>	California, US <sup>102</sup>	US
10	EMC Corporation	5,707	3.0%	Hopkinton, Massachusetts, US <sup>103</sup>	Massachusetts, US <sup>104</sup>	US
11	First Data Corporation	5,643	3.0%	Atlanta, Georgia, US <sup>105</sup>	Delaware, US <sup>106</sup>	US
12	Dell Inc.	5,515	2.9%	Texas, US <sup>107</sup>	Delaware, US <sup>108</sup>	US
13	Oracle Corporation	5,437	2.9%	California, US <sup>109</sup>	Delaware, US <sup>110</sup>	US
14	AT&T Inc.	5,387	2.8%	Texas, US <sup>111</sup>	Delaware, US <sup>112</sup>	US
15	Northrop Grumman Corporation	5,304	2.8%	Virginia, US <sup>113</sup>	Delaware, US <sup>114</sup>	US

No. #	Group B Companies	Revenue (USD Mn) <sup>85</sup>	Share in revenues of US JPs	Location of Control	Place of Incorporation	JP
16	Fidelity National Information Services Inc. (FIS)	5,143	2.7%	Florida, US <sup>115</sup>	Georgia, US <sup>116</sup>	US
17	Price Waterhouse Coopers (PwC)	5,122	2.7%	New York, US <sup>117</sup>	Not Available	US
18	Booz Allen Hamilton Inc.	4,659	2.5%	Virginia, US <sup>118</sup>	Delaware, US <sup>119</sup>	US
19	Fiserv Inc.	3,880	2.0%	Wisconsin, US <sup>120</sup>	Wisconsin, US <sup>121</sup>	US
20	Leidos Inc.	3,686	1.9%	Virginia, US <sup>122</sup>	Delaware, US <sup>123</sup>	US
21	Amazon.com Inc.	3,448	1.8%	Seattle, WA, US <sup>124</sup>	Delaware, US <sup>125</sup>	US
22	Science Application International Corporation (SAIC)	3,010	1.6%	Virginia, US <sup>126</sup>	Delaware, US <sup>127</sup>	US
23	Verizon Communications Inc.	2,682	1.4%	New York, US <sup>128</sup>	Delaware, US <sup>129</sup>	US
24	Paychex Inc.	2,590	1.4%	Rochester, New York, US <sup>130</sup>	Delaware, US <sup>131</sup>	US
25	Convergys Corporation	2,369	1.3%	Cincinnati, Ohio, US <sup>132</sup>	Cincinnati, Ohio, US <sup>133</sup>	US
26	Microsoft Corporation	2,305	1.2%	Washington, US <sup>134</sup>	Washington, US <sup>135</sup>	US
27	Broadridge Financial Solutions Inc.	2,300	1.2%	New York, US <sup>136</sup>	Delaware, US <sup>137</sup>	US
28	West Corporation	2,271	1.2%	Nebraska, US <sup>138</sup>	Delaware, US <sup>139</sup>	US
29	Total System Services Inc. (TSYS)	1,847	1.0%	Columbus, Georgia, US <sup>140</sup>	Georgia, US <sup>141</sup>	US

No. #	Group B Companies	Revenue (USD Mn) <sup>85</sup>	Share in revenues of US JPs	Location of Control	Place of Incorporation	JP
30	SunGard Data Systems Inc.	1,614	0.9%	Pennsylvania, US <sup>142</sup>	Delaware, US <sup>143</sup>	US
31	Rackspace Hosting, Inc.	1,233	0.7%	San Antonio, TX, US <sup>144</sup>	Delaware, US <sup>145</sup>	US
32	Avaya Inc.	1,194	0.6%	California, US <sup>146</sup>	Delaware, US <sup>147</sup>	US
33	Unisys Corporation	1,164	0.6%	Pennsylvania, US <sup>148</sup>	Delaware, US <sup>149</sup>	US
34	CenturyLink Inc.	1,092	0.6%	Monroe, Louisiana, US <sup>150</sup>	Louisiana, US <sup>151</sup>	US
35	CDK Global Inc.	1,037	0.5%	Illinois, US <sup>152</sup>	Delaware, US <sup>153</sup>	US
36	CompuCom Systems Inc.	1,035	0.5%	Dallas, TX, US <sup>154</sup>	Delaware, US <sup>155</sup>	US
37	NetApp Inc.	910	0.5%	Sunnyvale, CA, US <sup>156</sup>	Delaware, US <sup>157</sup>	US
38	McKinsey & Co.	903	0.5%	New York, US <sup>158</sup>	Not Available	US
39	Acxiom Corporation	903	0.5%	Little Rock, Arkansas, US <sup>159</sup>	Delaware, US <sup>160</sup>	US
40	Sapient Corporation	885	0.5%	Boston, MA, US <sup>161</sup>	Delaware, US <sup>162</sup>	US
41	iGate Corporation	875	0.5%	California, US <sup>163</sup>	Pennsylvania, US <sup>164</sup>	US
42	Syntel Inc.	827	0.4%	Troy, Michigan, US <sup>165</sup>	Michigan, US <sup>166</sup>	US
	<b>Total</b>	<b>1,79,222</b>	<b>94.6%</b>			

Top 42 group B companies constitute 95% share in the total revenues generated from US JP companies in the US.

**Table-6: – Identification of Group C Companies (Rest of the World (RoW) based parent companies which have subsidiaries/ branches in the U.S) – based on data for 2014**

No. #	Group C Companies	Revenue (USD Mn) <sup>167</sup>	Share in total revenues amongst ROW JPs in the US	Location of Control	Place of Incorporation	JP
1	Accenture Plc	10,393	22.9%	Dublin, Ireland <sup>168</sup>	Ireland <sup>169</sup>	Ireland
2	Ernst & Young Global Ltd.	4,531	10.0%	UK <sup>170</sup>	Multiple Locations including London	UK
3	KPMG International	2,640	5.8%	Multiple Locations <sup>171</sup>	Multiple Locations	RoW
4	Capgemini	2,570	5.7%	Paris, France <sup>172</sup>	Paris, France <sup>173</sup>	France
5	CGI Group Inc.	2,459	5.4%	Quebec, Canada <sup>174</sup>	Quebec, Canada <sup>175</sup>	Canada
6	Systems, Applications and products (SAP)	2,412	5.3%	Waldorf, Germany <sup>176</sup>	Germany <sup>177</sup>	Germany
7	Aon Corporation	2,010	4.4%	London, UK <sup>178</sup>	London, UK <sup>179</sup>	UK
8	NTT Data, Inc.	1,749	3.9%	Tokyo, Japan <sup>180</sup>	Japan <sup>181</sup>	Japan
9	Ricoh Co. Ltd.	1,450	3.2%	Tokyo, Japan <sup>182</sup>	Multiple locations including Japan <sup>183</sup>	Japan
10	Hitachi Ltd.	1,394	3.1%	Tokyo, Japan <sup>184</sup>	Multiple locations including Japan	Japan
11	Genpact Ltd.	1,354	3.0%	New York, US <sup>185</sup>	Hamilton, Bermuda <sup>186</sup>	RoW
12	BT Group Plc.	1,290	2.8%	UK <sup>187</sup>	UK <sup>188</sup>	UK
13	Teleperformance	1,026	2.3%	Paris, France <sup>189</sup>	Paris, France <sup>190</sup>	France
14	Samsung SDS	928	2.0%	Republic of	Republic of	Republic of

No. #	Group C Companies	Revenue (USD Mn) <sup>167</sup>	Share in total revenues amongst ROW JPs in the US	Location of Control	Place of Incorporation	JP
				Korea <sup>191</sup>	Korea <sup>192</sup>	Korea
15	Canon Inc.	799	1.8%	Tokyo, Japan <sup>193</sup>	Multiple locations including Japan <sup>194</sup>	Japan
	<b>Total</b>	<b>37,005</b>	<b>81.6%</b>			

Top 15 group C companies constitutes ~82% share in the total revenues generated from RoW JP companies in the US.

From this exercise, CRS suppliers that are juridical persons of India, US and ROW were identified and shortlisted that had significant share in the US CRS market. The identified service suppliers from India account for 86% share, US companies form 95% share and ROW companies account for 82% of the share in their respective groups. This exercise eliminated long tail of companies from each group.

*Group A, Group B and Group C companies were identified based on the JP and their market share in their respective groups.*

## **STEP 2: Establishment of Commercial Presence of Group A and Group C Companies in the US**

Commercial presence of Group A and Group C companies in the US, was established by understanding company's commercial presence in the US either through a branch office or through its majority owned subsidiaries. In relation to ownership and control, the shareholding structure of the companies was evaluated based on publicly available sources.

**Table-7: Group A Companies in the US**

Company	US Subsidiaries (including step down subsidiaries) and Branches	Source
<b>Tata Consultancy Services Limited</b>	CMC eBiz Inc. (owned by CMC America), MS CJV Investments Corp (Owned by Tata America International Inc), TCS e-Serve America Inc, CMC Americas Inc, Tata America International Inc; Tata Consultancy Service US Branch	Annual Report <sup>195</sup> and information directly obtained through company
<b>Infosys Limited</b>	Infosys Limited US; Loadstone Management Consultants Inc.; Infosys Public Services, Inc.; Infosys Americas, Inc.; Infosys McCamish Systems,	Annual Report <sup>196</sup> and



Company	US Subsidiaries (including step down subsidiaries) and Branches	Source
	LLC.; Infosys Nova Holdings LLC; Panaya Inc.; Kallidus Inc. d/b/a Skava; Noah Consulting LLC; EdgeVerve Systems Ltd. Infosys BPO Limited; Infosys BPO Americas LLC; DW Nova LLC	information directly obtained through company
<b>Wipro Limited</b>	Wipro LLC; Infocrossing Inc; Wipro Data Centre and Cloud Services, Inc.; Opus Capital Markets Consultants LLC; Wipro Gallagher Solutions Inc; Healthplan Services Insurance Agency, Inc; Healthplan Services, Inc; Wipro Promax Analytics Solutions LLC; Healthplan Holdings, Inc; Harrington Health Services Inc; Wipro Insurance Solutions LLC; Wipro IT Services, Inc	Annual Report <sup>197</sup> and information directly obtained through company
<b>HCL Technologies Limited</b>	HCL America Inc (Parent companies – HCL Bermuda and Axon group UK); HCL Expense Management Services Inc (Parent company – HCL Bermuda Ltd.); Axon Solutions Inc (Parent company – HCL America Inc.); HCL Latin America Holding LLC (Parent company – HCL Bermuda Ltd.); HCL America Solutions Inc (Parent company – HCL America Inc.)	Annual Report <sup>198</sup> and information directly obtained through company
<b>Tech Mahindra Limited</b>	Tech Mahindra (Americas) Inc, USA, Tech Talenta Inc. , USA (Parent company: Tech Mahindra (Americas) Inc.), Comviva Technologies Inc. (Parent company - Comviva Technologies Limited), Tech Mahindra Technologies, Inc, Citisoft Inc., FixStream Networks Inc, Tech Mahindra IPR Inc, Mahindra Technologies Services Inc, Tapio Inc (Parent company: Tech Mahindra (Americas) Inc.), Sofgen Americas Inc. (Parent company: Sofgen Holdings Limited), Light Bridge Communication Corporation (Parent company: Tech Mahindra (Americas) Inc.), Lightbridge North America Holdings, Inc. (Parent company: Light Bridge Communication Corporation), LCC Deployment Services Inc, (Parent company: Light Bridge Communication Corporation), LCC International, Inc. (Parent company: Lightbridge North America Holdings, Inc.), LCC Wireless Services, Inc. (Parent company: LCC International Inc.), LCC Design Services, Inc. (parent company: LCC International Inc.), Lightbridge Middle East Holdings, Inc. (Parent company: Light Bridge Communication Corporation), Pininfarina of America Corp. (Parent company: Pininfarina Extra S.r.l.), TechM BPO Ltd; . Mahindra Engg Services; Avion Networks Inc, (30% subsidiary of Tech Mahindra (Americas) Inc.), Mahindra Engineering Services	Annual Report <sup>199</sup> and information directly obtained through company
<b>Larsen &amp; Toubro</b>	Larsen & Toubro Infotech LLC; Larsen & Toubro Infotech Limited	Annual

Company	US Subsidiaries (including step down subsidiaries) and Branches	Source
<b>Infotech Limited</b>		Report <sup>200</sup> and information directly obtained through company

**Table-8: Group C Companies in the US – (Subsidiary details are as per the information available in public domain and may not be 100% accurate)**

Company	US Subsidiaries and Branches	Source
<b>Accenture Plc</b>	Accenture LLP; Accenture Newco, Inc.; Accenture Sub Inc.; Accenture 2, Inc.; BPM Technical Resources LLC; Digital Asset Management Co.; Epylon Corporation; Indeliq, Inc.; Navitaire Inc.; BABCN LLC; TekraM LLC; Utiligent LLC; VIA World Network LLC; Accenture Financial Corporation; Willow Investment, Inc.; Willow Investment Properties, Inc.; Proquire LLC	SEC Filings <sup>201</sup>
<b>Capgemini</b>	Capgemini US LLC; Capgemini Financial Services USA, Inc.; Capgemini America, Inc.; Sogeti USA LLC	Annual Financial Report <sup>202</sup>
<b>CGI Group Inc.</b>	CGI Technologies and Solutions, Inc.; CGI Federal Inc.	Annual Report <sup>203</sup>
<b>Aon Corporation</b>	181 Subsidiaries like Aon Service Corporation; Aon US Holdings, Inc.; ARMRISK Corp.; K2 Technologies Inc. etc.	Annual Financial Report <sup>204</sup>
<b>NTT Data, Inc.</b>	Raging Wire Data Centres, Inc.; RW Holdco Inc.; RW Midco Inc.; Dimension Data (US) II Inc.; Dimension Data (US) Inc.; Dimension Data North America, Inc.; Solutionary, Inc.; NTT Innovation Institute, Inc.; DOCOMO GuamHoldings, Inc.; MCV Guam Holding Corp.; DOCOMO Capital, Inc.; NTT Data International L.L.C.; NTT Data Inc.; NTT Data Enterprise Services Holding, Inc.	SEC Filings <sup>205</sup>
<b>Ricoh Co. Ltd.</b>	Ricoh Electronics, Inc.; Ricoh Americas Holdings, Inc.; Ricoh Americas Corporation; Ricoh USA, Inc.; Ricoh Printing Systems America, Inc.; Ricoh Production Print Solutions, LLC; mindSHIFT Technologies, Inc.; Ricoh Imaging Americas Corporation	Annual Securities Report <sup>206</sup>
<b>Hitachi Ltd.</b>	Deere Hitachi Construction Machinery Corp.; Hitachi Construction	Corporate

Company	US Subsidiaries and Branches	Source
	Machinery Holding USA Corp	Information <sup>207</sup>
<b>Genpact Ltd.</b>	Creditek Corporation; Genpact International, Inc.; Genpact LLC; Genpact (Mexico) I LLC; Genpact (Mexico) II LLC; Genpact Mobility Services, Inc.; Genpact Mortgage Services, Inc.; Genpact Onsite Services Inc.; Genpact Registered Agent, Inc.; Genpact Services LLC; Genpact US LLC;	SEC Filings <sup>208</sup>
<b>BT Group Plc.</b>	Infonet Services Corporation; Infonet Broadband Services Corporation; IINS, Inc.; BTGS USVI Limited; BT United States L.L.C; BT Newgate LLC; BT Moorgate LLC; BT LatAm, Inc.; BT LatAm Services, Inc.; BT LatAm Holdings Two, Inc; BT LatAm Holdings Three, Inc; BT LatAm Holdings One, Inc; BT LatAm (Nevada) Corp.; BT Federal Inc; BT Conferencing Video Inc; BT Communications Sales of Virginia LLC; BT Communications Sales LLC; BT Commerce L.L.C.; BT Americas Inc.; BT Americas Holdings Inc	Annual Report <sup>209</sup>
<b>Teleperformance</b>	Teleperformance Group Inc	Annual Financial Report <sup>210</sup>
<b>Samsung SDS</b>	Samsung Electronics America (SEA); NexusDX (Nexus); NeuroLogica; Samsung Semiconductor (SSI); PrinterOn America; Quietside; RT SV CO-INVEST; SEMES America; Samsung Telecommunications America; Samsung International; Grandis; Samsung Research America; Samsung Semiconductor (SSI)	Annual Report <sup>211</sup>
<b>Canon Inc.</b>	Canon Information Technology Services, Inc; Canon Solutions America, Inc; Canon Financial Services, Inc.; Canon Information and Imaging Solutions, Inc.; Canon Business Process Services, Inc.; Canon BioMedical, Inc.; Canon US Life Sciences, Inc.; Canon Healthcare Optics Research Laboratory Boston; Imaging System Research Division; Canon Virginia, Inc.; Canon Environmental Technologies, Inc.; Canon Virginia Oakland; Virtual Imaging, Inc.; Canon USA. Latin America Group;	Website <sup>212</sup>
<b>Ernst &amp; Young Global Ltd.</b>	Ernst & Young CertifyPoint LLC; EYUS Canada Services LLC; Capital City Technologies LLC; Ernst & Young Capital Advisors, LLC; EY Infrastructure Advisors LLC; EY Investment Advisors LLP; EY LLP; EY Product Sales LLC; EY Puerto Rico LLC; EY Real Estate Services Company LLC; ISA Consulting, LLC; Mitchell and Titus, LLP	Audit Regulation <sup>213</sup>
<b>Systems, Applications and products (SAP)</b>	Ariba, Inc.; Concur Technologies, Inc; SAP America, Inc.; SAP Industries, Inc; SAP Labs, LLC; SuccessFactors, Inc.; Sybase, Inc.,110405, Inc.; Ariba International, Inc.; Ariba International Holdings, Inc.; Business Objects Option LLC; Concur Holdings (US) LLC; Inxight Federal Systems Group,	Annual Report <sup>214</sup>

Company	US Subsidiaries and Branches	Source
	Inc.; H-G Intermediate Holdings, Inc.; H-G Holdings, Inc.; Gelco Information Network, Inc.; Financial Fusion, Inc.; Extended Systems, Inc.; Plateau Systems LLC; SAP National Security Services, Inc; SAP International, Inc.; SAP Global Marketing, Inc.; SAP Public Services, Inc.; SAP Technologies Inc.; Sybase International Holdings Corporation, LLC; Sybase 365, LLC; Sapphire Ventures Fund II, L.P.; TRX, Inc; TRX Technology Services, L.P.; TRX Fulfillment Services; TRX Data Service, Inc.; Travel Technology; TomorrowNow, Inc.; Technology Licensing Company, LLC	
<b>KPMG International</b>	Barents Group LLC; Global Consulting Delaware LLC; i2Midlantic, LLC; i2Northwest, LLC; KCA Holdings LLC; KCI Funding Corporation; KPMG Consulting Americas, Inc.; KPMG Consulting LLC; Metrius Inc.; OAD Acquisition Corporation; OAD Group Inc.; PeatMarwick, Inc.; Peloton Holdings, LLC; Softline Acquisition Corp; Softline Consulting and Integrators, Inc.	SEC Filings <sup>215</sup>

The shareholding pattern of the subsidiaries (wherever available) is provided in the appendix A-5 titled “List of Group A and Group C companies in the US”.

The above data suggests that each of the identified companies in Group A and Group C has its commercial presence in the US. While, it is obvious for Group B companies being JP of US to have commercial presence in the US.

*Commercial presence of Group A and Group C companies was established by checking their ownership and control pattern to conclusively determine that they are juridical persons of India and RoW.*

### **STEP 3: Eliminating Indirect Competitors**

While the companies included in Group B and Group C, provide services in sync with the CRS market, some of these companies do not directly compete with Group A companies.

To ensure that companies under reference are comparable with each other, it is important to establish that they compete to offer the same set of services as well as draw majority of their revenues from same industry verticals.

It can be observed from table-9, that majority of revenues (87.4%<sup>216</sup>) of Indian JP companies in the US, can be attributed to three services categories, namely, IT outsourcing (CPC 841 | 8421-25 | 8431-39 | 844 | 845 | 8491-99), Implementation (CPC 841 | 8421-24 | 8491-99) and Business Process Outsourcing (CPC 841 | 8421-24) | 8491-99).

Further, the right-side of the table-9 helps to conclude the industry vertical share of revenues of Indian JP companies in the US, generate 95.1%<sup>217</sup> revenue from seven verticals, namely, Banking & Securities, Manufacturing & Natural Resources, Communications Media & Services, Retail, Insurance, Utilities and Healthcare Providers.

**Table-9: Segmentation of US CRS Revenue of Indian JP Companies by Services & Industry Verticals**

Computer and Related Services Segments	Revenue Proportion	Verticals	Revenue Proportion
IT Outsourcing (CPC 841   8421-25   8431-39   844   845   8491-99)	40%	Banking & Securities	24%
Implementation (CPC 841   8421-24   8491-99)	32%	Manufacturing & Natural Resources	21%
Business Process Outsourcing (CPC 841   8421-24)   8491-99)	15%	Communications, Media & Services	18%
Consulting (CPC 841   8421   8422)	6%	Retail	11%
Software Support (CPC 8425)	6%	Insurance	10%
Hardware Support (CPC 845)	1%	Utilities	5%
		Healthcare Providers	5%
		Transportation	3%
		Government	1%
		Wholesale Trade	0.07%
		Education	0.02%

To identify Group B and Group C companies which compete directly with Group A companies, it is important to identify companies which generate significant portion of their revenue from the CRS segments and verticals from which Group A companies derive major revenues. For this analysis, the following two criteria were established to further refine the list of Group B and Group C companies to identify and eliminate in-direct competitors that do not compete directly with Group A companies:

1. **Major CRS Service Line Segments:** Direct competitors to Group A companies will be those Group B and Group C companies having more than 29% of US CRS revenue (1/3 of Indian Services companies) from three computer and related services segments, which are IT outsourcing, Implementation and Business process outsourcing. The sum of these three CRS segments is 87.4% for Group A companies (which is the average proportion of revenue derived from three CRS segments for Indian JPs in the US).
2. **Major Verticals:** Direct competitors to Group A companies will be those Group B and Group C companies having more than 32% of US CRS revenue (1/3 of Indian Services companies) from seven major verticals. The sum of seven major verticals is 95.1% for Group A companies (which is the average proportion of revenue derived from seven industry verticals for Indian JPs in the US).

Based on the above criterion, in-direct competitors in Group B and Group C were identified in table-10,11,12. These are the companies having less than 29% US CRS revenue from three CRS segments (IT outsourcing, Implementation and Business process outsourcing) or having less than 32% US CRS revenue from seven industry verticals (Banking & Securities, Manufacturing & Natural Resources, Communications, Media & Services, Retail, Insurance, Utilities and Healthcare Providers).

**Table-10: Group B In-direct Competitors: Companies having less than 29% revenue from three<sup>9</sup> CRS segments<sup>218</sup>**

No. #	Company	2014 Revenue from US CRS Market (USD Mn)	2014 US CRS Revenue Proportion from Major three CRS Segments
1	Cisco Systems Inc	6,286	15%
2	Oracle Corporation	5,437	26%
3	PriceWaterHouse Coopers (PwC)	5,122	9%
4	Microsoft Corporation	2,305	4%
5	Avaya Inc.	1,194	22%
6	NetApp Inc.	910	11%
7	Mckinsey & Co.	903	0%

Since the revenue (from three major CRS segments) for companies mentioned in table-10, does not meet 1/3<sup>rd</sup> threshold, the above list of companies was eliminated from further analysis.

**Table-11: Group B In-direct Competitors: Companies having less than 32% revenue from seven<sup>10</sup> industry verticals<sup>219</sup>**

No. #	Company	2014 Revenue from US CRS Market (USD Mn)	2014 US CRS Revenue Proportion from Major seven Verticals
1	Lockheed Martin Corporation	10,515	1%
2	Northrop Grumman Corporation	5,304	3%
3	Booz Allen Hamilton Inc.	4,659	2%
4	Leidos, Inc.	3,688	9%
5	Science Applications International Corporation (SAIC)	3,010	0%

Since the revenue (from seven major verticals) for companies mentioned in table-11, does not meet 1/3<sup>rd</sup> threshold, the above list of companies was eliminated from further analysis.

Similar criteria of revenue share generated from three major CRS segments and seven major verticals was applied on Group C companies. Table-12, lists the in-direct competitors in Group C which does not meet any of two criteria's (companies having less than 29% revenue from three CRS segments or companies

<sup>9</sup> Three CRS segments include IT outsourcing, Implementation and Business Process Outsourcing

<sup>10</sup> Seven verticals include Banking & Securities, Manufacturing & Natural Resources, Communications, Media & Services, Retail, Insurance, Utilities and Healthcare Providers

having less than 32% revenue from seven industry verticals). These companies were eliminated from further analysis.

**Table-12: Group C In-direct Competitors: Companies having less than 29% revenue from three CRS segments<sup>220</sup>**

No. #	Company	2014 Revenue from US CRS Market (USD Mn)	2014 US CRS Revenue Proportion from Major CRS Segments
1	Ernst & Young Global Ltd.	4,531	3%
2	KPMG International	2,640	6%

Based on the above assessment (revenue from specific service lines and verticals), in-direct competitors were identified across Group B and Group C and were excluded from further analysis, since they were not directly competing with Indian services suppliers in their area of offerings across service lines and verticals.

*In-direct competitors were identified based on the revenue share from specific service lines and verticals, where Indian services suppliers derive majority of their revenue.*

#### **STEP 4: Establishing Like Services**

After applying criteria mentioned in Step 3, in-direct competitors in Group B and Group C were eliminated. Table-13 below lists direct competitors to Group A companies, deriving more than 29% of revenue from three major CRS segments (where Indian JP companies draw 87% of revenue) and deriving more than 32% of revenue from seven major verticals (where Indian JP companies draw 95% of revenue). Major CRS segments where these companies play role are IT outsourcing, implementation and business process outsourcing. Therefore, companies listed in table-13 are like services suppliers providing “like” services thereby are direct competitors to each other.

**Table-13: Direct Competitors in Group B and Group C to Group A Companies**

No. #	Group	Company Name	Hereafter referred as
1	<b>Group A Companies</b>	Tata Consultancy Services Limited	Tata Consultancy Services
2		Infosys Limited	Infosys
3		Wipro Limited	Wipro
4		HCL Technologies Limited	HCL Technologies
5		Tech Mahindra Limited	Tech Mahindra
6		Larsen & Toubro Infotech Limited	Larsen & Toubro Infotech
1	<b>Group B Companies – Direct Competitors</b>	International Business Machine Corporation	International Business Machine (IBM)
2		Hewlett-Packard Co.	Hewlett-Packard (HP)
3		Deloitte Touche Tohmatsu Limited	Deloitte
4		Automatic Data Processing, Inc.	Automatic Data Processing
5		Xerox Corporation	Xerox

No. #	Group	Company Name	Hereafter referred as
6		Computer Science Corporation	Computer Science Corporation (CSC)
7		EMC Corporation	EMC
8		First Data Corporation	First Data
9		Dell Inc.	Dell
10		AT&T Inc.	AT&T
11		Fidelity National Information Services Inc. (FIS)	Fidelity National Information Services (FIS)
12		Fiserv Inc.	Fiserv
13		Amazon.com, Inc.	Amazon
14		Verizon Communications Inc.	Verizon
15		Paychex, Inc.	Paychex
16		Convergys Corporation	Convergys
17		Broadridge Financial Solutions, Inc	Broadridge Financial Solutions
18		West Corporation	West
19		Total System Services Inc.	Total System Services (TSYS)
20		SunGard Data Systems Inc.	SunGard Data Systems
21		Rackspace Hosting, Inc.	Rackspace Hosting
22		Unisys Corporation	Unisys
23		CenturyLink, Inc.	CenturyLink
24		CDK Global, Inc.	CDK Global
25		CompuCom Systems Inc.	CompuCom
26		Acxiom Corporation	Acxiom
27		Sapient Corporation	Sapient
28		Cognizant Technology Solutions Corp.	Cognizant
29		iGate Corporation	iGate Corporation
30		Syntel Inc.	Syntel
1	<b>Group C Companies – Direct Competitors</b>	Accenture Plc	Accenture
2		Capgemini	Capgemini
3		CGI Group Inc.	CGI
4		Systems, Applications and products (SAP)	SAP
5		AON Corporation	Aon
6		NTT Data, Inc.	NTT Data
7		Ricoh Co. Ltd.	Ricoh
8		Hitachi Ltd.	Hitachi
9		Genpact Ltd.	Genpact
10		BT Group Plc.	British Telecom (BT)
11		Teleperformance	Teleperformance
12		Samsung SDS	Samsung SDS
13		Canon Inc.	Canon

Within Group B direct competitors, there are few companies that have very strong operations in India and these companies typically face dynamics like that of Group A companies. For the ease of analysis and to bring out the applicability of PL 111-230 on these companies, these are classified as India centric



Group B companies in table-14. These are the companies which have more than 65% of their workforce in India.

**Table-14: India Centric Group B Service Suppliers**

No. #	Company	Total Global Headcount	% of Total Headcount from India
1	Cognizant	220,000	>68% <sup>221</sup>
2	Syntel <sup>11</sup>	24,469	>73% <sup>222</sup>
3	iGate Corporation	33,484	>75% <sup>223</sup>

It is worth noting that these three companies, identified as India centric service suppliers in table-14, form only 4.8% of the share of US JPs in the US CRS market.

Further research was conducted to corroborate the findings on direct competitors. It was found that companies across Group A, Group B and Group C have intense competition and bid for similar contracts or projects for the US customers. For instance, Wipro won a USD 500 million outsourcing contract from Citigroup (US based client), against other bidders from Group A, Group B and Group C which included TCS, HCL, Infosys, Cognizant, IBM, Accenture, Dell and others for this contract<sup>224</sup>. A similar article states that Group A companies such as Infosys, Wipro bid against Group B companies such as IBM and Group C companies such as Accenture for renewal of contracts with various US based companies such as Citigroup, Bank of Boston, Bristol-Myers Squibb etc.<sup>225</sup> As evident, all Group A, Group B and Group C companies bid for the same contract and are like service suppliers.

In yet another instance, Infosys set up delivery centre in Wisconsin to support US clients including Harley Davidson. It was this five-year engagement that acted as a catalyst for locating new facility. Infosys under this contract provides applications management, infrastructure support and hosting services.<sup>226</sup>

Additional validation was done to establish that the selected companies in table-13 have a significant play in the CRS segment and provide like services, by mapping each company offering with the CRS definition. This was done based on the revenue these companies generate across 'Gartner Service Segments'. Also, since the 'Gartner Service Segments' have been mapped to provisional CPC -84 definition (in the section 2.1.3), it can also be concluded (by extension) that these companies offer services as classified under CPC-84 definitions.

Also, it can be concluded that commercial entities (subsidiaries/ branch offices) in the US will provide same services as that of India, US and rest of the world JP companies, as commercial entities are an integral part of overall company.

A snapshot of services provided by direct competitors in Group A, Group B and Group C companies is shown in table-15.

<sup>11</sup> Syntel: Global HC: 24,496 | Offshore Billable HC (India Billable HC): 17,914 -> India HC as % of Global HC: >73%

**Table-15: Provision of Like Services by Group A, Group B and Group C companies<sup>227</sup>**

Group	#	Company Name	Software Support (CPC 8425)	Consulting (CPC 841   8421   8422)	IT Outsourcing (CPC 841   8421-25   8431-39   844   845   8491-99)	Implementation (CPC 841   8421-24   8491-99)	Business Process Outsourcing (CPC 841   8421-24)   8491-99)	Hardware Support (CPC 845)
<b>Group A Companies</b>								
<b>A</b>	1	Tata Consultancy Services	✓	✓	✓	✓	✓	
	2	Infosys	✓	✓	✓	✓	✓	
	3	Wipro	✓	✓	✓	✓	✓	
	4	HCL Technologies	✓	✓	✓	✓	✓	
	5	Tech Mahindra	✓	✓	✓	✓	✓	✓
	6	Larsen & Toubro Infotech	✓	✓	✓	✓		
<b>Group B - Direct Competitors</b>								
<b>B</b>	1	International Business Machine (IBM)	✓	✓	✓	✓	✓	✓
	2	Hewlett-Packard (HP)	✓	✓	✓	✓	✓	✓
	3	Deloitte	✓	✓	✓	✓	✓	
	4	Automatic Data Processing	✓	✓			✓	✓
	5	Xerox		✓	✓	✓	✓	✓
	6	Computer Science Corporation		✓	✓	✓	✓	
	7	EMC	✓	✓	✓	✓		✓
	8	First Data		✓		✓	✓	
	9	Dell		✓	✓	✓	✓	✓
	10	AT&T	✓	✓	✓	✓		✓
	11	FIS	✓			✓	✓	
	12	Fiserv	✓	✓	✓	✓	✓	
	13	Amazon			✓			
	14	Verizon	✓	✓	✓	✓		✓
	15	Paychex					✓	
	16	Convergys	✓	✓		✓	✓	
	17	Broadridge Financial Solutions					✓	
	18	West					✓	
	19	Total System Services (TSYS)					✓	
	20	SunGard Data Systems		✓			✓	
	21	Rackspace Hosting			✓	✓		

Group	#	Company Name	Software Support (CPC 8425)	Consulting (CPC 841   8421   8422)	IT Outsourcing (CPC 841   8421-25   8431-39   844   845   8491-99)	Implementation (CPC 841   8421-24   8491-99)	Business Process Outsourcing (CPC 841   8421-24)   8491-99)	Hardware Support (CPC 845)
	22	Unisys	✓	✓	✓	✓	✓	✓
	23	CenturyLink			✓			
	24	CDK Global					✓	
	25	CompuCom	✓	✓	✓	✓		✓
	26	Acxiom		✓	✓		✓	
	27	Sapient	✓	✓	✓	✓	✓	
	28	Cognizant	✓	✓	✓	✓	✓	
	29	iGate Corporation		✓	✓	✓	✓	
	30	Syntel		✓	✓	✓	✓	
<b>Group C – Direct Competitors</b>								
C	1	Accenture	✓	✓	✓	✓	✓	
	2	Capgemini		✓	✓	✓	✓	
	3	CGI	✓	✓	✓	✓	✓	
	4	SAP	✓	✓		✓		
	5	Aon		✓			✓	
	6	NTT Data	✓	✓	✓	✓		✓
	7	Ricoh	✓		✓	✓		✓
	8	Hitachi		✓		✓		
	9	Genpact	✓		✓	✓	✓	✓
	10	British Telecom (BT)		✓	✓	✓		✓
	11	Teleperformance		✓	✓	✓	✓	
	12	Samsung SDS		✓	✓	✓	✓	
	13	Canon	✓	✓	✓	✓		✓

*As evident, Group A, Group B and Group C companies are like service suppliers and provide like services that overlap significantly as per provisional CPC-84 classification.*

### 3.3 Applicability of US PL 111-230 On Group A, B and C Companies

The overarching objective of the study is to understand the impact of the law; hence it is important to know the applicability of the law on different companies. Applicability of US PL 111-230 on a company depends on the composition of its workforce in the US. The law mandates payment of additional fee on visa filings, only if the company employs 50 or more people in the US and more than 50% of its employees in the US are on H-1B or L-1 visas. To understand the applicability of US PL 111-230 on Group A, Group B and Group C companies, it is essential to source information on the total US workforce composition and alien workforce composition (include employees which are on H-1B or L-1 visas) for all identified companies in Group A, Group B and Group C.

#### 3.3.1 Applicability of PL 111-230 on Group A Companies

To assess whether the US law that increases visa fees for H-1B and L-1 visas i.e. PL 111-230 is applicable on Group A companies a survey referred to as the “Request for Information” (RFI) was circulated to parent companies of the Group A companies identified in table-4. RFI was floated to access the H-1B visa yearly data from FY10-FY15 (FY denotes American fiscal year i.e. Oct-Sep) on total number of initial (new) H-1B visas received, number of H-1B visa received for lateral hiring, number of renewal visa requests filed and number of renewal visa granted.

RFI also requested the L-1 visa yearly data from FY10-FY15 (FY denotes American fiscal year i.e. Oct-Sep) on the number of initial (new) L-1 applications filed, number of initial (new) visa granted, number of renewal visa requests filed and number of renewal visa granted.

Each parent of Group A companies was also requested to indicate the applicability of PL 111-230 or 50:50 rule on its subsidiaries in the US. The applicability of the law is defined if a company has more than 50 employees in the US and more than 50 percent of the US employees are on H-1B or L-1 visas.

All the identified parent companies of Group A companies provided the data requested on the applicability of PL 111-230 and categorically mention if they were impacted by the law. Table-16 represents the summary of the responses received from various parents of Group A companies:

**Table-16: Applicability of PL 111-230 on Group A Companies**

Group A Companies	Applicability of PL 111-230 (FY15)	Applicability of PL 111-230 (FY14)	Applicability of PL 111-230 (FY13)	Applicability of PL 111-230 (FY12)
Tata Consultancy Services	Yes	Yes	Yes	Yes
Infosys	Yes	Yes	Yes	Yes
Wipro	Yes	Yes	Yes	Yes
HCL Technologies	Yes	Yes	Yes	Yes
Tech Mahindra	Yes	Yes	Yes	Yes
Larsen & Toubro Infotech	Yes	Yes	Yes	Yes

Please refer to the Request for Information (RFI) template in the Appendix A-7 titled “Request for Information Template”.

It should be noted that while each of the Group A parent companies located in India have indicated that they were affected by the higher fees pursuant to PL 111-230 and continue to be effected by PL 114-113. They have also clarified that not all their subsidiaries are impacted by these measures.

### **3.3.2 Applicability of PL 111-230 on Group B & Group C Companies**

Data on applicability of PL 111-230 at the company level was not available on any of the secondary sources including company’s website, annual report, news articles etc. In the absence of the same, data across two parameters: a) Total US workforce; and b) Total number of employees on H-1B and L-1 visa, was required to assess the applicability of PL 111-230 on each company in Group B and Group C.

#### **Step 1: Estimation of Data on H-1B and L-1 Visa Approved for Group B and Group C Companies**

- a) **FOIA Requests filed in 2016:** To access the data on the visa number filed by Group B and Group C companies, attempts were made to directly contact US government under Freedom of Information Act (FOIA), since this data is otherwise not available across any other secondary source publicly available.

FOIA is a mechanism through which people, irrespective of their nationality, can request access to information from government agencies and bodies within the US government. Separate FOIA requests were filed with the United States Citizenship and Immigration Services (USCIS) and the Department of State (DOS) (visa issuing agencies) to access the data around H-1B and L-1 visa filings by Group A, Group B and Group C companies. The request thus made was to access the H-1B visa yearly data from FY10-FY15 (FY denotes American fiscal year i.e. Oct-Sep) on total number of initial (new) H-1B visas filled and granted, and number of renewal visa granted in each year. In addition, data was requested to ascertain L-1 visa yearly data from FY10-FY15 on the number of initial (new) L-1 applications filed, number of visas granted by the respective agencies. Along with these data sets, government agencies were categorically asked to comment on whether the petitioner employs 50 or more individuals in the United States and in those, whether more than 50 percent of the US employees are on H-1B or L-1A or L-1B non-immigrant status was also requested. Please refer appendix A-8 for the copy of FOIA request made in March 2016.

The request was processed and the reply from United States Department of State in July 2016 states, “We are unable to provide specific information about visa applicants or their visa cases without the applicants’ authorization. Furthermore, the State Department does not organize visa records across classification by corporate affiliation, so we are not able to locate and provide the information that you are seeking.”

**FOIA Requests filed in 2012:** A similar FOIA request was made to the USCIS to access the quarterly data (from September 2009 to September 2012) on total H-1B applications filed, approved and granted, pertaining to all companies with more than 500 total H-1B applications filed during the year. For the same period, data on L-1 applications for all companies who filed more than 50 L-1 petitions during the year, was also requested. The data on total visa numbers for companies fulfilling the above conditions has been provided by USCIS through its reply dated

December 5, 2012. Please refer appendix A-9 for the copy of FOIA request made in December 2012.

However, through the same request, USCIS was also requested for data on initial vs. renewal<sup>228</sup> visa split as well as information on US employee base composition of each company. The same has not been provided by USCIS in its reply.

The data provided by USCIS had number of L-1 visa (on monthly basis) by petitioning companies with applications filed/ approved/ denied cases greater than 50 between July 1, 2009 to September 30, 2012. It also provided the number of H-1B visa (on monthly basis) by petitioning companies with applications filed/ approved/ denied cases greater than 500 between July 1, 2009 to September 30, 2012.

To calculate the total visa approved for one company, the visa granted to all its subsidiaries and the entities of the same company with different names as provided by the USCIS in the FOIA response was added. For example: Total number of visa approved for Cognizant was calculated by summing up the visa granted to Cognizant Tech Solns US Corp, Cognizant Technology Solns US Corp, Cognizant Tech Solution US Corp, Cognizant Tech Solutions US Corp etc. Detailed list for each company is mentioned in the appendix A-4, titled "List of Group B and Group C entities filing visa-petitions".

To calculate the visa approved in FY10 for a particular company, the visa approved numbers from October 2009 to September 2010 month for that company (for entities with different names and subsidiaries of that company) were summed.

Table-17 represents the number of L-1 and H-1B visas approved for Group B and Group C companies between FY10 to FY12, as evaluated from the data received from FOIA request in 2012.

**Table-17: Summary of Number of L-1 and H-1B Visa Approved from FOIA<sup>229</sup>**

		L-1 Visa Approved			H-1B Visa Approved		
		FY10	FY11	FY12	FY10	FY11	FY12
<b>Group B: Direct Competitor</b>	International Business Machine (IBM)	670	807	698	1063	1454	2366
	Hewlett-Packard (HP)	186	186	179	259	567	844
	Deloitte	86	77	191	807	1323	2257
	Automatic Data Processing						
	Xerox						
	Computer Science Corporation (CSC)	43	72	68			
	EMC				102	261	254
	First Data						
	Dell						
	AT&T						
	Fidelity National Information Services Inc. (FIS)						

		L-1 Visa Approved			H-1B Visa Approved		
	Companies	FY10	FY11	FY12	FY10	FY11	FY12
	Fiserv						
	Amazon				310	486	993
	Verizon				49	215	184
	Paychex						
	Convergys						
	Broadridge Financial Solutions						
	West						
	Total System Services (TSYS)						
	SunGard Data Systems						
	Rackspace Hosting						
	Unisys						
	CenturyLink						
	CDK Global						
	CompuCom						
	Acxiom						
	Sapient	22	54	46			
<b>Group B: India Centric Companies</b>	Cognizant	1765	1348	1332	4229	7816	14492
	iGate Corporation	17	25	42	194	344	1375
	Syntel	41	45	31	368	639	1383
<b>Group C: Direct Competitors</b>	Accenture	43	34	71	525	1203	3915
	Capgemini	62	50	33	106	166	271
	CGI						
	SAP	87	87	95			
	Aon						
	NTT Data						
	Ricoh						
	Hitachi						
	Genpact	19	45	158			
	British Telecom (BT)						
	Teleperformance						
	Samsung SDS	3	24	22			
	Canon						

The L-1 and H-1B visa data for few companies (as available through FOIA) across Group B and Group C was captured between FY10 to FY12 to understand the total visa holders in that timeframe.

As evident, L-1 and H-1B visa numbers for all companies were not available through the data received from FOIA. Other sources such as USCIS website and computer world website were explored to fill the gaps in the above data.

- b) **Data from USCIS and Computer World:** For companies for which the H-1B data was not available through FOIA request of 2012 for a particular year or multiple years, the data was populated from the that available through similar USCIS sheets as received from third parties and the one published by Computer world. Computer world is a publication website serving the needs of IT and business management with coverage of information technologies, emerging technologies, career information and analysis of technology trends. It is a part of renowned International Data Group (IDG)<sup>230</sup>.

The data from USCIS had number of H-1B visas approved for fiscal years FY10 to FY13. To calculate the total visa approved for one company, the visa granted to all its entities with different names were covered as provided by the USCIS across each year.

For example, to understand the visa filed by Sapient, USCIS data which provides H-1B visa approved numbers for FY10,11,12 and FY13 was considered. As per the USCIS data, H-1B visas approved for Sapient Corporation and Sapient Corp (relevant entities corresponding to Sapient) was summed for each fiscal year to get the overall H-1B visas approved.

The FY14 H-1B visa data for companies was extracted directly from computer world website<sup>231</sup> providing information through a table titled "Top H-1B visa approvals in FY 2014 for new employment in computer occupations".

Table-18 represents the number of H-1B visa approved by companies between FY10 to FY14, as evaluated / populated from USCIS and computer world data sources.

**Table-18: Summary of H-1B Visas Approved as Extracted from USCIS and Computer World Sheets**

		H-1 B Visa Approved				
	Companies	FY10	FY11	FY12	FY13	FY14
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)				1619	1513
	Hewlett-Packard (HP)				704	
	Deloitte				1491	280
	Automatic Data Processing	2	6	14	15	
	Xerox	3	4	16	29	
	Computer Science Corporation (CSC)	30	72	132	277	833
	EMC				126	121
	First Data	3	4		4	
	Dell	57	142	274	202	
	AT&T	23	41	19	19	
	Fidelity National Information Services Inc. (FIS)	17	31	20	18	
	Fiserv	2	5	69	36	
	Amazon				868	811
	Verizon				21	
	Paychex		1	2	1	
	Convergys	15	16	5	1	
	Broadridge Financial Solutions	16	11	15	15	
	West	12	7	18	22	



		H-1 B Visa Approved				
	Companies	FY10	FY11	FY12	FY13	FY14
	Total System Services (TSYS)	1	1	1	3	
	SunGard Data Systems	16	18	17	20	
	Rackspace Hosting	14	27	38	13	
	Unisys	1	2	15	11	
	CenturyLink			6		
	CDK Global					
	CompuCom	3	2	2		
	Acxiom	6	16	29	28	
	Sapient	17	32	57	51	
<b>Group B: India Centric Companies</b>	Cognizant				5165	5228
	iGate Corporation				1156	927
	Syntel				1041	1149
<b>Group C: Direct Competitors</b>	Accenture				3340	2376
	Capgemini				493	699
	CGI	15	19	222	125	112
	SAP	66	64	79	70	
	Aon	6	6	17	2	
	NTT Data	2	1	140	352	358
	Ricoh	2	4	1	4	
	Hitachi	24	85	201	159	97
	Genpact	33	58	133	245	
	British Telecom (BT)	1	3	2	2	
	Teleperformance					
	Samsung SDS	11	28	26	36	
	Canon					

The H-1B visa data for few companies (as available through USCIS/ Computer world) across Group B and Group C was captured between FY10 to FY14 to determine the total visa holders in that timeframe.

- c) Data not available in public sources:** Even after going through the steps a & b (FOIA request data and USCIS/ Computer world data) a great deal of data was not publicly available. In order continue our analysis of the impact of PL 111-230, we have made the following informed assertions:
- Data received from FOIA through the request placed in 2012, provided H-1B approved visa numbers for each company having greater than 500 petitions from Jul 1, 2009 to Sep 30, 2012. It can be concluded that for all the companies for which the H-1B visa data was not provided through FOIA, must have a maximum of 500 H-1B approved visas for the time period which covers FY10-12 (from Oct 2009 to Sep 2012). Hence, companies for which the H-1B data was not provided through FOIA request, the H-1B numbers for the timeframe of FY10-12 were taken as 500 H-1B visas (to hedge for maximum possible impact of applicability of PL 111-230 on companies).

- ii. Similarly, FOIA request, provided L-1 approved visa numbers for each company having greater than 50 petitions from Jul 1, 2009 to Sep 30, 2012. It can be concluded, that for all the companies for which the L-1 visa data was not provided through FOIA, must have a maximum of 50 L-1 approved visas for that time period. Hence, for companies for which L-1 data was not provided through FOIA request, the L-1 visa numbers for the timeframe of FY10-12 were taken as 50 visas (to hedge for maximum possible impact of applicability of PL 111-230 on companies).

Table-19 below shows the calculation of total of H1 and L1 visa holders of Group B and Group C companies. For the clarity of pointing out different data sources used, data points were colour coded with different colours for better readability. Please note that the data sets in orange colour are sourced from USCIS/ computer world (as explained in step b above), the data points in grey colour are concluded based on informed assumptions formed on the data received through FOIA request as explained in step c. Numbers with no colour code are the actual numbers received in response to FOIA request of 2012 (as explained in step a above).

**Table-19: Summary of H-1B and L-1 Visa Approval Numbers from Various Sources<sup>12</sup>**

Categories	Companies List	L-1 Visa Approved					H-1B Visa Approved				
		FY10	FY11	FY12	FY13	FY14	FY10	FY11	FY12	FY13	FY14
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)	670	807	698			1,063	1,454	2,366	1,619	1,513
	Hewlett-Packard (HP)	186	186	179			259	567	844	704	
	Deloitte	86	77	191			807	1,323	2,257	1,491	280
	Automatic Data Processing	50					2	6	14	15	
	Xerox	50					3	4	16	29	
	Computer Science Corporation (CSC)	43	72	68			30	72	132	277	833
	EMC	50					102	261	254	126	121
	First Data	50					3	4		4	
	Dell	50					57	142	274	202	
	AT&T	50					23	41	19	19	
	Fidelity National Information Services (FIS)	50					17	31	20	18	
	Fiserv	50					2	5	69	36	
	Amazon	50					310	486	993	868	811
	Verizon	50					49	215	184	21	
	Paychex	50						1	2	1	
	Convergys	50					15	16	5	1	
	Broadridge Financial Solutions	50					16	11	15	15	
	West	50					12	7	18	22	
	Total System Services (TSYS)	50					1	1	1	3	
	SunGard Data Systems	50					16	18	17	20	
	Rackspace Hosting	50					14	27	38	13	
	Unisys	50					1	2	15	11	
	CenturyLink	50							6		
	CDK Global	50					500				
	CompuCom	50					3	2	2		
	Acxiom	50					6	16	29	28	
	Sapient	22	54	46			17	32	57	51	
<b>Group B: India Centric Companies</b>	Cognizant	1,765	1,348	1,332			4,229	7,816	14,492	5,165	5,228
	iGate Corporation	17	25	42			194	344	1,375	1,156	927
	Syntel	41	45	31			368	639	1,383	1,041	1,149
<b>Group C: Direct Competitors</b>	Accenture	43	34	71			525	1,203	3,915	3,340	2,376
	Capgemini	62	50	33			106	166	271	493	699
	CGI	50					15	19	222	125	112
	SAP	87	87	95			66	64	79	70	
	Aon	50					6	6	17	2	
	NTT Data	50					2	1	140	352	358
	Ricoh	50					2	4	1	4	
	Hitachi	50					24	85	201	159	97
	Genpact	19	45	158			33	58	133	245	
	British Telecom (BT)	50					1	3	2	2	
	Teleperformance	50					500				
	Samsung SDS	3	24	22			11	28	26	36	
	Canon	50					500				

<sup>12</sup> Various sources include FOIA request, USCIS, Computer world and estimations based on FOIA data received

(iii) Further, to estimate the remaining numbers of H-1B and L-1 visa holders, the maximum of the visa number approved (best case scenario) in any particular year (based on the data available) was taken for those years for which the data was unavailable from the above steps (a, b & c(i), c(ii)). For example: The number of L-1 visa approved for IBM was 670 in FY10, 807 in FY11 and 698 in FY12 was available from the FOIA response. The highest of the L-1 visa approved between FY10 to FY12 was 807 in FY11, hence for the years FY13 and FY14 for which the data was not available, the L-1 visa approved numbers was taken to be 807.

These data points are shown in green colour in table-20. It should be noted that the usage of this estimation methodology ensures that the maximum potential impact of the law on Group B and Group C companies is accounted for. The subsequent comparative assessment of impact of the law on Group B and Group C companies is hence done in the most adverse scenario for showcasing disproportionate impact on Group A companies.

**Table-20: Consolidated Number of H-1B and L-1 Visas Approved**

Categories	Companies List	L-1 Visa Approved					H-1B Visa Approved				
		FY10	FY11	FY12	FY13	FY14	FY10	FY11	FY12	FY13	FY14
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)	670	807	698	807	807	1,063	1,454	2,366	1,619	1,513
	Hewlett-Packard (HP)	186	186	179	186	186	259	567	844	704	844
	Deloitte	86	77	191	191	191	807	1,323	2,257	1,491	280
	Automatic Data Processing	50			17	17	2	6	14	15	15
	Xerox	50			17	17	3	4	16	29	29
	Computer Science Corporation (CSC)	43	72	68	72	72	30	72	132	277	833
	EMC	50			17	17	102	261	254	126	121
	First Data	50			17	17	3	4	4	4	4
	Dell	50			17	17	57	142	274	202	274
	AT&T	50			17	17	23	41	19	19	41
	Fidelity National Information Services (FIS)	50			17	17	17	31	20	18	31
	Fiserv	50			17	17	2	5	69	36	69
	Amazon	50			17	17	310	486	993	868	811
	Verizon	50			17	17	49	215	184	21	215
	Paychex	50			17	17	2	1	2	1	2
	Convergys	50			17	17	15	16	5	1	16
	Broadridge Financial Solutions	50			17	17	16	11	15	15	16
	West	50			17	17	12	7	18	22	22
	Total System Services (TSYS)	50			17	17	1	1	1	3	3
	SunGard Data Systems	50			17	17	16	18	17	20	20
	Rackspace Hosting	50			17	17	14	27	38	13	38
	Unisys	50			17	17	1	2	15	11	15
	CenturyLink	50			17	17	6	6	6	6	6
	CDK Global	50			17	17	500			167	167
	CompuCom	50			17	17	3	2	2	3	3
	Acxiom	50			17	17	6	16	29	28	29
	Sapient	22	54	46	54	54	17	32	57	51	57
<b>Group B: India Centric Companies</b>	Cognizant	1,765	1,348	1,332	1,765	1,765	4,229	7,816	14,492	5,165	5,228
	iGate Corporation	17	25	42	42	42	194	344	1,375	1,156	927
	Syntel	41	45	31	45	45	368	639	1,383	1,041	1,149
<b>Group C: Direct Competitors</b>	Accenture	43	34	71	71	71	525	1,203	3,915	3,340	2,376
	Capgemini	62	50	33	62	62	106	166	271	493	699
	CGI	50			17	17	15	19	222	125	112
	SAP	87	87	95	95	95	66	64	79	70	79
	Aon	50			17	17	6	6	17	2	17
	NTT Data	50			17	17	2	1	140	352	358
	Ricoh	50			17	17	2	4	1	4	4
	Hitachi	50			17	17	24	85	201	159	97
	Genpact	19	45	158	158	158	33	58	133	245	245
	British Telecom (BT)	50			17	17	1	3	2	2	3
	Teleperformance	50			17	17	500			167	167
	Samsung SDS	3	24	22	24	24	11	28	26	36	36
	Canon	50			17	17	500			167	167

**d) Arriving at Total H-1B and L-1 Visa Holders for Group B and Group C Companies**

Based on the data gathered by performing steps a to c to ascertain the H-1B and L-1 visa holders in the US for short listed companies in Group B and Group C, total H-1B and L-1 visa holders for these companies for FY12, FY13 and FY14 was estimated in table-21 below. To calculate the total number of visa holders in a particular year, total L-1 and H-1B visa approved for the last three years were summed up. As an illustration, to calculate the total visa holders in FY14, total L-1 and H-1B visa approved in FY12, FY13 and FY14 were summed. Similarly, to calculate the total visa holders in FY12, total L-1 and H-1B visa approved in FY10, FY11 and FY12 were summed.

For example, at a company level- IBM, to calculate the total visa holders in FY14, the total number of L-1 visas approved in FY12, 13 and 14 were 698, 807 and 807 respectively, hence the total number of L-1 visa holders in FY14 were 2,312 (summation of all L-1 visas approved in the last three years). In addition to L-1 visas, the number of H-1B visas approved for IBM in FY12, 13 and 14 were 2366, 1619 and 1513 respectively, hence the total number of H-1B visa holders in FY14 were 5,498 (summation of all H-1B visas approved in the last three years). To calculate the total visa holders on L-1 and H-1B in IBM, the sum of 2,312 (L-1 visa holders) and 5,498 (H-1B visa holders) i.e. 7,810 was taken.

Table-21 below shows the total visa holders (H-1B and L-1) in FY14, FY13 and FY12 in the US on the rolls of the shortlisted companies in Group B and Group C.

**Table-21: Total H-1B and L-1 Visa Holders for FY14, FY13 and FY12**

Categories	Companies List	L-1 Visa Approved					H-1B Visa Approved					Total H-1B & L-1 Visa Holders FY14	Total H-1B & L-1 Visa Holders FY13	Total H-1B & L-1 Visa Holders FY12
		FY10	FY11	FY12	FY13	FY14	FY10	FY11	FY12	FY13	FY14			
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)	670	807	698	807	807	1,063	1,454	2,366	1,619	1,513	7,810	7,751	7,058
	Hewlett-Packard (HP)	186	186	179	186	186	259	567	844	704	844	2,943	2,666	2,221
	Deloitte	86	77	191	191	191	807	1,323	2,257	1,491	280	4,601	5,530	4,741
	Automatic Data Processing	17	17	17	17	17	2	6	14	15	15	95	86	73
	Xerox	17	17	17	17	17	3	4	16	29	29	125	100	74
	Computer Science Corporation (CSC)	43	72	68	72	72	30	72	132	277	833	1,454	693	417
	EMC	17	17	17	17	17	102	261	254	126	121	552	692	668
	First Data	17	17	17	17	17	3	4	4	4	4	63	63	62
	Dell	17	17	17	17	17	57	142	274	202	274	801	669	524
	AT&T	17	17	17	17	17	23	41	19	19	41	130	130	134
	Fidelity National Information Services (FIS)	17	17	17	17	17	17	31	20	18	31	120	120	119
	Fiserv	17	17	17	17	17	2	5	69	36	69	225	161	127
	Amazon	17	17	17	17	17	310	486	993	868	811	2,723	2,398	1,840
	Verizon	17	17	17	17	17	49	215	184	21	215	471	471	499
	Paychex	17	17	17	17	17	2	1	2	1	2	56	55	56
	Convergys	17	17	17	17	17	15	16	5	1	16	73	73	87
	Broadridge Financial Solutions	17	17	17	17	17	16	11	15	15	16	97	92	93
	West	17	17	17	17	17	12	7	18	22	22	113	98	88
	Total System Services (TSYS)	17	17	17	17	17	1	1	1	3	3	58	56	54
	SunGard Data Systems	17	17	17	17	17	16	18	17	20	20	108	106	102
	Rackspace Hosting	17	17	17	17	17	14	27	38	13	38	140	129	130
	Unisys	17	17	17	17	17	1	2	15	11	15	92	79	69
	CenturyLink	17	17	17	17	17	6	6	6	6	6	69	69	69
	CDK Global	17	17	17	17	17	167	167	167	167	167	551	552	552
	CompuCom	17	17	17	17	17	3	2	2	3	3	59	58	58
	Axiom	17	17	17	17	17	6	16	29	28	29	137	124	102
	Sapient	22	54	46	54	54	17	32	57	51	57	319	294	228
<b>Group B: India Centric Companies</b>	Cognizant	1,765	1,348	1,332	1,765	1,765	4,229	7,816	14,492	5,165	5,228	29,747	31,918	30,982
	iGate Corporation	17	25	42	42	42	194	344	1,375	1,156	927	3,584	2,984	1,997
	Syntel	41	45	31	45	45	368	639	1,383	1,041	1,149	3,694	3,184	2,507
<b>Group C: Direct Competitors</b>	Accenture	43	34	71	71	71	525	1,203	3,915	3,340	2,376	9,844	8,634	5,791
	Capgemini	62	50	33	62	62	106	166	271	493	699	1,620	1,075	688
	CGI	17	17	17	17	17	15	19	222	125	112	510	417	307
	SAP	87	87	95	95	95	66	64	79	70	79	513	490	478
	Aon	17	17	17	17	17	6	6	17	2	17	87	76	80
	NTT Data	17	17	17	17	17	2	1	140	352	358	901	544	194
	Ricoh	17	17	17	17	17	2	4	1	4	4	60	60	58
	Hitachi	17	17	17	17	17	24	85	201	159	97	508	496	361
	Genpact	19	45	158	158	158	33	58	133	245	245	1,097	797	446
	British Telecom (BT)	17	17	17	17	17	1	3	2	2	3	58	58	57
	Teleperformance	17	17	17	17	17	167	167	167	167	167	551	552	552
	Samsung SDS	3	24	22	24	24	11	28	26	36	36	168	160	114
	Canon	17	17	17	17	17	167	167	167	167	167	551	552	552

## **Step 2: Estimation of US Workforce Data for Group B and Group C Companies**

To understand the applicability of PL 111-230 on Group B and Group C companies, it is important to ascertain a) the proportion of employees on H-1B and L-1 visa (calculated from the above section, step-1) b) the total number of employees in the US for each Group B and Group C company. To ascertain the latter, it would so appear to be fairly simple task but it's not. This is because majority of the US and Global MNC's have stopped issuing their US workforce numbers from the past many years. Because of the negative political activism which has been discussed in the section 1.4.1. Some of the politicians, led a campaign to suggest that many American companies are using loopholes in the American visa system to offshore jobs to other countries such as India by cutting down their workforce in the US. As a direct fallout of this campaign many American companies stopped issuing data related with their US workforce. Hence, it was nearly impossible to find this number without some estimation technique or secondary resources.

Hence, to calculate the total number of US workforce for shortlisted companies, data available from public sources and estimations based on LinkedIn data was utilized. Below are the details of US workforce numbers obtained from publicly available sources and LinkedIn.

### **Step 2A: Sourcing of US headcount from public sources**

For certain companies where the US workforce number was available through public sources such as annual reports, the number was directly sourced. Table-22 lists the US workforce for these companies.

**Table-22: US Headcount 2015 from Public Sources**

Group	Company Name	US Headcount (2015)
Group B: Direct Competitor	International Business Machine (IBM)	71,000 <sup>232</sup>
	Deloitte	70,603 <sup>233</sup>
	Xerox	82,747 <sup>234</sup>
	Fidelity National Information Services Inc. (FIS)	21,000 <sup>235</sup>
	West	8,470 <sup>236</sup>
Group B: India Centric Companies	Cognizant	40,800 <sup>237</sup>
	iGate Corporation	4,917 <sup>238</sup>
Group C: Direct Competitors	Accenture	48,000 <sup>239</sup>
	SAP	16,051 <sup>240</sup>

### **Step 2B: Estimation of US headcount from LinkedIn**

A method was adopted to triangulate the US workforce data for companies for which US headcount data was not available from publicly available sources. Mentioned below are detailed steps undertaken to estimate US headcount for companies:



- 1) Actual global Headcount data for 2015 (available for all the companies) was sourced from publicly available sources such as Annual reports, SEC filings<sup>13</sup>. Please refer table-23, column titled “Actual Global HC (Public Source) 2015”
- 2) Global Headcount (Refer table-23, column titled “Global HC (LinkedIn) 2016”) and US Headcount (Refer table-23, column titled “US HC (LinkedIn) 2016”) data for companies was sourced from LinkedIn in 2016. LinkedIn is a business-oriented social networking website, where people create their profile highlighting the current company they are working for. LinkedIn has more than 400 Million users<sup>241</sup>. And is fast emerging world’s largest and most respected professional profile carrier through which professionals are seeking and applying for jobs. Hence, it is appropriate to assume that information extracted from LinkedIn would be believable but may not be most up to date. This is because some people may take some time to update the employers changed, but it is quite evident that once the employer has been entered it would not be a fake information.

**Table-23: Sourcing of Headcount 2016 from LinkedIn**

Group	Company Name	US HC (LinkedIn) 2016	Global HC (LinkedIn) 2016	Actual Global HC (Public Source) 2015
<b>Group B: Direct Competitor</b>	Hewlett-Packard (HP)	88,342	279,480	287,000 <sup>242</sup>
	Automatic Data Processing	30,753	48,422	55,000 <sup>243</sup>
	Computer Science Corporation (CSC)	22,490	61,934	70,000 <sup>244</sup>
	EMC	32,969	67,292	72,000 <sup>245</sup>
	First Data	11,931	16,228	24,000 <sup>246</sup>
	Dell	41,144	111,652	100,000 <sup>247</sup>
	AT&T	164,446	178,743	281,450 <sup>248</sup>
	Fiserv	13,503	19,066	22,000 <sup>249</sup>
	Amazon	67,000	108,374	230,800 <sup>250</sup>
	Verizon	121,693	132,483	177,700 <sup>251</sup>
	Paychex	10,211	10,278	13,000 <sup>252</sup>
	Convergys	11,341	37,155	130,000 <sup>253</sup>
	Broadridge Financial Solutions	3,203	5,366	7,400 <sup>254</sup>
	Total System Services (TSYS)	4,031	5,639	10,500 <sup>255</sup>
	SunGard Data Systems	3,025	8,001	13,000 <sup>256,14</sup>
	Rackspace Hosting	4,808	6,237	6,189 <sup>257</sup>
	Unisys	7,653	21,934	20,000 <sup>258</sup>
	CenturyLink	25,097	27,707	43,000 <sup>259</sup>
	CDK Global	4,449	6,486	8,900 <sup>260</sup>
	CompuCom	6,330	8,356	11,500 <sup>261</sup>
	Acxiom	3,848	4,630	4,320 <sup>262</sup>

<sup>13</sup> SEC filing is a financial statement submitted to the US Securities and Exchange Commission (SEC)

<sup>14</sup> Actual Global HC for Sungard is for the year 2014, as it was acquired by FIS in 2015

Group	Company Name	US HC (LinkedIn) 2016	Global HC (LinkedIn) 2016	Actual Global HC (Public Source) 2015
	Sapient	3,489	15,702	11,900 <sup>263,15</sup>
<b>Group B: India Centric Companies</b>	Syntel	3,068	18,095	24,537 <sup>264</sup>
<b>Group C: Direct Competitors</b>	Capgemini	14,417	159,554	180,639 <sup>265</sup>
	CGI	6,263	39,127	65,000 <sup>266</sup>
	Aon	19,467	46,510	68,790 <sup>267</sup>
	NTT Data	4,223	14,954	241,600 <sup>268</sup>
	Ricoh	14,191	22,648	109,950 <sup>269</sup>
	Hitachi	6,956	22,052	336,670 <sup>270</sup>
	Genpact	3,839	49,120	72,000 <sup>271</sup>
	British Telecom (BT)	2,750	45,549	88,500 <sup>272</sup>
	Teleperformance	3,331	20,881	190,000 <sup>273</sup>
	Samsung SDS	429	4,411	14,300 <sup>274</sup>
	Canon	8,540	17,691	189,571 <sup>275</sup>

- 3) In the absence of actual global HC of companies in 2016 (since their annual reports are yet not published), global headcount for 2016 was estimated based on the employment growth rate for the last three years. Employment growth rate in turn is dependent on revenue growth rate and US HC growth rate.

The revenue growth rate was estimated based on the geographical revenue<sup>16</sup> compound annual growth rate (CAGR) for the last three years. Geographical revenue available for all the companies for the last three years was taken from public sources. The geographies considered were United States, Americas, North America, Global (in the priority order based on the data availability) since US employment will be a function of revenue generated from US geography.

Please refer table-24 below for the estimation of revenue CAGR.

<sup>15</sup> Actual Global HC for Sapient is for the year 2013, as it was acquired by Publicis in 2015

<sup>16</sup> US geographical revenue is taken wherever available, else North Americas, Americas or Global revenue is taken based on the data availability

**Table-24: Estimation of Revenue CAGR**

Group	Company Name	Geo. Revenue 2011	Geo. Revenue 2012	Geo. Revenue 2013	Geo. Revenue 2014	Geo. Revenue 2015	Revenue CAGR	Revenue Unit	Geo.
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)			43,249 <sup>276</sup>	41,410 <sup>277</sup>	38,486 <sup>278</sup>	-6%	USD Mn.	Americas
	Hewlett-Packard (HP)		42,140 <sup>279</sup>	40,284 <sup>280</sup>	38,805 <sup>281</sup>	NA	-4%	USD Mn.	United States
	Deloitte			16,400 <sup>282</sup>	17,400 <sup>283</sup>	18,300 <sup>284</sup>	6%	USD Mn.	Americas
	Automatic Data Processing			7,700 <sup>285</sup>	8,354 <sup>286</sup>	9,102 <sup>287</sup>	9%	USD Mn.	United States
	Xerox			14,534 <sup>288</sup>	13,041 <sup>289</sup>	12,557 <sup>290</sup>	-7%	USD Mn.	United States
	Computer Science Corporation (CSC)			3,667 <sup>291</sup>	3,268 <sup>292</sup>	3,057 <sup>293</sup>	-9%	USD Mn.	United States
	EMC			12,230 <sup>294</sup>	12,835 <sup>295</sup>	13,361 <sup>296</sup>	5%	USD Mn.	United States
	First Data			9,145 <sup>297</sup>	9,428 <sup>298</sup>	9,795 <sup>299</sup>	3%	USD Mn.	United States
	Dell	31,912 <sup>300</sup>	30,404 <sup>301</sup>	28,200 <sup>302</sup>	NA	NA	-6%	USD Mn.	United States
	AT&T			1,26,212 <sup>303</sup>	1,29,772 <sup>304</sup>	1,40,234 <sup>305</sup>	5%	USD Mn.	United States
	Fidelity National Information Services (FIS)			754 <sup>306</sup>	789 <sup>307</sup>	864 <sup>308</sup>	4%	USD Mn.	United States
	Fiserv			4,814 <sup>309</sup>	5,066 <sup>310</sup>	5,254 <sup>311</sup>	4%	USD Mn.	Global
	Amazon			41,410 <sup>312</sup>	50,834 <sup>313</sup>	63,708 <sup>314</sup>	24%	USD Mn.	North America
	Verizon			1,20,550 <sup>315</sup>	1,27,079 <sup>316</sup>	1,31,620 <sup>317</sup>	4%	USD Mn.	Global
	Paychex			2,300 <sup>318</sup>	2,500 <sup>319</sup>	2,700 <sup>320</sup>	8%	USD Mn.	Global
	Convergys			1,861 <sup>321</sup>	2,320 <sup>322</sup>	2,322 <sup>323</sup>	12%	USD Mn.	North America
	Broadridge Financial Solutions			2,098 <sup>324</sup>	2,209 <sup>325</sup>	2,369 <sup>326</sup>	6%	USD Mn.	United States
	West			1,621 <sup>327</sup>	1,717 <sup>328</sup>	1,812 <sup>329</sup>	6%	USD Mn.	United States
	Total System Services (TSYS)			712 <sup>330</sup>	779 <sup>331</sup>	982 <sup>332</sup>	17%	USD Mn.	United States
	SunGard Data Systems		1,733 <sup>333</sup>	1,685 <sup>334</sup>	1,712 <sup>335</sup>	NA	-1%	USD Mn.	United States
	Rackspace Hosting			1,076 <sup>336</sup>	1,232 <sup>337</sup>	1,367 <sup>338</sup>	13%	USD Mn.	United States
	Unisys			1,455 <sup>339</sup>	1,378 <sup>340</sup>	1,371 <sup>341</sup>	-3%	USD Mn.	United States

	CenturyLink			17,095 <sup>342</sup>	17,028 <sup>343</sup>	16,668 <sup>344</sup>	-1%	USD Mn.	Global
	CDK Global			1,426 <sup>345</sup>	1,548 <sup>346</sup>	1,641 <sup>347</sup>	7%	USD Mn.	United States
	CompuCom		2,300 <sup>348</sup>			1,900 <sup>349</sup>	-6%	USD Mn.	Global
	Acxiom			954 <sup>350</sup>	950 <sup>351</sup>	924 <sup>352</sup>	-2%	USD Mn.	United States
	Sapient	625 <sup>353</sup>	691 <sup>354</sup>	798 <sup>355</sup>	NA	NA	13%	USD Mn.	United States
<b>Group B: India Centric Companies</b>	Cognizant			6,860 <sup>356</sup>	7,880 <sup>357</sup>	9,759 <sup>358</sup>	19%	USD Mn.	North America
	iGate Corporation		758 <sup>359</sup>	802 <sup>360</sup>	877 <sup>361</sup>	NA	8%	USD Mn.	United States
	Syntel			757 <sup>362</sup>	827 <sup>363</sup>	873 <sup>364</sup>	7%	USD Mn.	North America
<b>Group C: Direct Competitors</b>	Accenture			12,035 <sup>365</sup>	12,796 <sup>366</sup>	14,209 <sup>367</sup>	9%	USD Mn.	North America
	Capgemini			2,071 <sup>368</sup>	2,226 <sup>369</sup>	3,332 <sup>370</sup>	27%	Euro Mn.	North America
	CGI			2,513 <sup>371</sup>	2,665 <sup>372</sup>	2,813 <sup>373</sup>	6%	CAD Mn.	United States
	SAP			6,233 <sup>374</sup>	6,489 <sup>375</sup>	8,428 <sup>376</sup>	16%	Euro Mn.	Americas
	Aon			5,574 <sup>377</sup>	5,824 <sup>378</sup>	6,063 <sup>379</sup>	4%	USD Mn.	United States
	NTT Data			13,01,941 <sup>380</sup>	13,43,700 <sup>381</sup>	15,11,800 <sup>382</sup>	8%	Yen Mn.	Global
	Ricoh			5,02,065 <sup>383</sup>	5,96,892 <sup>384</sup>	6,55,974 <sup>385</sup>	14%	Yen Mn.	Americas
	Hitachi			8,04,057 <sup>386</sup>	9,10,274 <sup>387</sup>	10,64,100 <sup>388</sup>	15%	Yen Mn.	North America
	Genpact			360 <sup>389</sup>	303 <sup>390</sup>	305 <sup>391</sup>	-8%	USD Mn.	North & Latin America
	British Telecom (BT)			1,057 <sup>392</sup>	1,074 <sup>393</sup>	1,049 <sup>394</sup>	0%	Euro Mn.	Americas
	Teleperformance			2,433 <sup>395</sup>	2,758 <sup>396</sup>	3,398 <sup>397</sup>	18%	Euro Mn.	Global
	Samsung SDS			6,012 <sup>398</sup>	6,738 <sup>399</sup>	6,700 <sup>400</sup>	6%	USD Mn.	Global
	Canon			10,59,501 <sup>401</sup>	10,36,500 <sup>402</sup>	11,44,422 <sup>403</sup>	4%	Yen Mn.	Americas

Further, to establish the relation between employment CAGR and revenue CAGR, companies for which both US headcount and revenue numbers were available for same set of years from public sources, the US headcount CAGR and revenue CAGR was calculated. Then, the average ratio of US headcount CAGR (refer table-25, column titled “US headcount CAGR”) to that of revenue CAGR (taken from table-24 for the same companies) was calculated in table-25 (refer column titled “Ratio of US HC/ US Revenue CAGR”).

**Table-25: Establishing Relationship Between US HC Growth Rate and Revenue Growth Rate**

Group	Company Name	US Headcount (2015)	US Headcount (2014)	US Headcount (2013)	US Headcount CAGR	Revenue CAGR	Ratio of US HC/ US Revenue CAGR
<b>Group B: Direct Competitor</b>	International Business Machine (IBM)	71,000 <sup>404</sup>	83,000 <sup>405</sup>	88,150 <sup>406</sup>	-10%	-6%	1.81
	Deloitte	70,603 <sup>407</sup>	64,884 <sup>408</sup>	60,951 <sup>409</sup>	8%	6%	1.35
<b>Group C: Direct Competitors</b>	Accenture	44,000 <sup>410</sup>		40,000 <sup>411</sup>	5%	9%	0.56

The ratio of US HC to US Revenue CAGR i.e. 1.24 (average of 1.81, 1.35 and 0.56 from table-25) was applied on the revenue CAGR calculated in table-24 to understand the employment CAGR for each Group B and Group C company and thereby, total global HC 2016 was estimated basis the employment CAGR in table-26.

**Table-26: Estimation of Total Global HC for 2016<sup>17</sup>**

Group	Company Name	Actual Global HC (Public Source) 2015	Employment CAGR	Total Global HC 2016E
<b>Group B: Direct Competitors</b>	International Business Machine (IBM)		-7%	
	Hewlett-Packard (HP)	2,87,000	-5%	2,72,601
	Deloitte		7%	-
	Automatic Data Processing	55,000	11%	60,961
	Xerox		-9%	-
	Computer Science Corporation (CSC)	70,000	-11%	62,438
	EMC	72,000	6%	76,044
	First Data	24,000	4%	25,041
	Dell	1,00,000	-7%	92,552
	AT&T	2,81,450	7%	3,00,361
	Fidelity National Information Services (FIS)		6%	-
	Fiserv	22,000	6%	23,222
	Amazon	2,30,800	30%	2,99,713
	Verizon	1,77,700	6%	1,87,613
	Paychex	13,000	10%	14,348
	Convergys	1,30,000	15%	1,48,891
	Broadridge Financial Solutions	7,400	8%	7,975

<sup>17</sup> Please note that the companies for which actual global HC for 2015 is available from public sources, the estimates for global HC for 2016 is not estimated

Group	Company Name	Actual Global HC (Public Source) 2015	Employment CAGR	Total Global HC 2016E
	West		7%	-
	Total System Services (TSYS)	10,500	22%	12,769
	SunGard Data Systems	12,804	-1%	12,708
	Rackspace Hosting	6,189	16%	7,165
	Unisys	20,000	-4%	19,269
	CenturyLink	43,000	-2%	42,329
	CDK Global	8,900	9%	9,704
	CompuCom	11,500	-8%	10,619
	Acxiom	4,320	-2%	4,235
	Sapient	16,060	16%	18,657
<b>Group B: India Centric Companies</b>	Cognizant		24%	-
	iGate Corporation		9%	-
	Syntel	24,537	9%	26,777
<b>Group C: Direct Competitors</b>	Accenture		11%	-
	Capgemini	1,80,639	33%	2,40,907
	CGI	65,000	7%	69,694
	SAP		20%	-
	Aon	68,790	5%	72,460
	NTT Data	2,41,600	10%	2,64,886
	Ricoh	1,09,950	18%	1,29,488
	Hitachi	3,36,670	19%	3,99,572
	Genpact	72,000	-10%	64,892
	British Telecom (BT)	88,500	0%	88,083
	Teleperformance	1,90,000	23%	2,32,909
	Samsung SDS	14,300	7%	15,289
	Canon	1,89,571	5%	1,98,827

- 4) LinkedIn does not list the exact employee base as reflected by comparing actual global headcount (from public sources) to global headcount (LinkedIn) in table-23. Companies for which actual US HC is not available, for these companies, “Estimated US HC 2016<sup>18</sup>” was calculated in table-27. This was achieved by scaling the US HC LinkedIn 2016 using the scaling factor<sup>19</sup> derived from comparison of Global HC LinkedIn 2016 to the estimated Global HC 2016 for the company. US headcount for each year 2015, 2014, 2013 and 2012 was estimated based on the employment CAGR and estimated US HC 2016.

Please note that, companies for which US headcount 2015 was available from public sources (table 22), is marked in orange colour in table-27. And for such companies, employment CAGR was applied on US headcount 2015, to estimate the US headcount for the remaining years i.e. 2014, 2013 and 2012. Please refer table-27 below for the estimation of US HC for each Group B and Group C company across years.

<sup>18</sup> Estimated US HC= Scaling factor \* US HC LinkedIn

<sup>19</sup> Scaling factor = (Actual Global HC/Global HC LinkedIn)

**Table-27: Estimation of US Headcount**

Group	Company Name	Total US HC LinkedIn 2016	Total Global HC LinkedIn 2016	Total Global HC 2016E	Estimated US HC 2016	Estimated US HC 2015	Estimated US HC 2014	Estimated US HC 2013	Estimated US HC 2012	Employment CAGR
Group B: Direct Competitors	International Business Machine (IBM)					71,000	76,377	82,161	88,383	-7%
	Hewlett-Packard (HP)	88,342	2,79,480	2,72,601	86,168	90,719	95,511	1,00,556	1,05,867	-5%
	Deloitte			-		70,603	65,985	61,669	57,635	7%
	Automatic Data Processing	30,753	48,422	60,961	38,717	34,931	31,515	28,433	25,653	11%
	Xerox			-		82,747	90,690	99,395	1,08,935	-9%
	Computer Science Corporation (CSC)	22,490	61,934	62,438	22,673	25,419	28,497	31,948	35,818	-11%
	EMC	32,969	67,292	76,044	37,257	35,276	33,400	31,623	29,941	6%
	First Data	11,931	16,228	25,041	18,411	17,645	16,911	16,208	15,534	4%
	Dell	41,144	1,11,652	92,552	34,105	36,850	39,816	43,020	46,482	-7%
	AT&T	1,64,446	1,78,743	3,00,361	2,76,336	2,58,938	2,42,635	2,27,359	2,13,044	7%
	Fidelity National Information Services (FIS)			-		21,000	19,895	18,849	17,857	6%
	Fiserv	13,503	19,066	23,222	16,446	15,581	14,761	13,985	13,249	6%
	Amazon	67,000	1,08,374	2,99,713	1,85,291	1,42,687	1,09,879	84,615	65,159	30%
	Verizon	1,21,693	1,32,483	1,87,613	1,72,333	1,63,227	1,54,603	1,46,434	1,38,696	6%
	Paychex	10,211	10,278	14,348	14,255	12,915	11,702	10,602	9,606	10%
	Convergys	11,341	37,155	1,48,891	45,447	39,681	34,646	30,250	26,412	15%
	Broadridge Financial Solutions	3,203	5,366	7,975	4,760	4,417	4,099	3,803	3,529	8%
	West			-		8,470	7,907	7,382	6,892	7%
	Total System Services (TSYS)	4,031	5,639	12,769	9,128	7,506	6,172	5,075	4,174	22%
	SunGard Data Systems	3,025	8,001	12,708	4,805	4,841	4,878	4,915	4,952	-1%
	Rackspace Hosting	4,808	6,237	7,165	5,523	4,771	4,121	3,560	3,075	16%
	Unisys	7,653	21,934	19,269	6,723	6,978	7,243	7,517	7,802	-4%
	CenturyLink	25,097	27,707	42,329	38,341	38,949	39,567	40,195	40,832	-2%
	CDK Global	4,449	6,486	9,704	6,656	6,105	5,599	5,135	4,709	9%
	CompuCom	6,330	8,356	10,619	8,044	8,712	9,435	10,218	11,066	-8%
	Axiom	3,848	4,630	4,235	3,519	3,590	3,663	3,737	3,812	-2%
	Sapient	3,489	15,702	18,657	4,146	3,569	3,072	2,644	2,276	16%
Group B: India Centric Companies	Cognizant			-		40,800	32,918	26,559	21,428	24%
	iGate Corporation			-		4,917	4,494	4,108	3,756	9%
	Syntel	3,068	18,095	26,777	4,540	4,160	3,812	3,493	3,201	9%
Group C: Direct Competitors	Accenture			-		48,000	43,339	39,131	35,331	11%
	Capgemini	14,417	1,59,554	2,40,907	21,768	16,322	12,239	9,177	6,881	33%
	CGI	6,263	39,127	69,694	11,156	10,404	9,704	9,050	8,440	7%
	SAP			-		16,051	13,351	11,105	9,236	20%
	Aon	19,467	46,510	72,460	30,328	28,792	27,334	25,950	24,636	5%
	NTT Data	4,223	14,954	2,64,886	74,804	68,228	62,230	56,759	51,770	10%
	Ricoh	14,191	22,648	1,29,488	81,136	68,894	58,498	49,672	42,177	18%
	Hitachi	6,956	22,052	3,99,572	1,26,039	1,06,198	89,480	75,394	63,525	19%
	Genpact	3,839	49,120	64,892	5,072	5,627	6,244	6,928	7,686	-10%
	British Telecom (BT)	2,750	45,549	88,083	5,318	5,343	5,368	5,394	5,419	0%
	Teleperformance	3,331	20,881	2,32,909	37,154	30,309	24,725	20,170	16,454	23%
	Samsung SDS	429	4,411	15,289	1,487	1,391	1,301	1,217	1,138	7%
	Canon	8,540	17,691	1,98,827	95,980	91,512	87,252	83,190	79,317	5%

Based on the above methodology, US workforce for all the Group B and Group C companies was estimated for years 2014, 2013 and 2012. This will help establish the applicability of PL 111-230 by

evaluating the proportion of H-1B and L-1 visa holders to that of the US workforce for each company across each year.

### 3.3.3 Effective Applicability of the Law on Group B and Group C Companies

Applicability of PL 111-230 on the Group B and Group C companies depends upon the following factors:

- a) Total US workforce of more than 50 employees
- b) Share of aliens (on H-1B and L-1 visa) of more than 50% in the total US workforce

To understand the applicability of PL 111-230 on all Group B and Group C companies, workforce on H-1B and L-1 visa and total US workforce data was sourced from above section 3.3.2.

For Group B and Group C companies, based on the workforce on H-1B and L-1 visa (sourced from table-21) and total US workforce (sourced from table-27) data sets, the proportion of workforce on H-1B and L-1 visa for a particular year was calculated, hence understanding the mandate of higher payment under US PL 111-230 in that year. If the proportion of workforce on H-1B and L-1 visa is greater than 50%, then the law is applicable, mandating higher payment.

Table-28, 29 and 30 summarizes the applicability of PL 111-230 on Group B and Group C companies in 2014, 2013 and 2012 respectively.

**Table-28: Applicability of PL 111-230 on Group B and Group C Companies for 2014**

Company Name	Group	Total US Workforce (2014)	Workforce on H-1B and L-1 Visa (2014)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
International Business Machine (IBM)	Group B: Direct Competitors	76,377	7,810	10%	No
Hewlett-Packard (HP)	Group B: Direct Competitors	95,511	2,943	3%	No
Deloitte	Group B: Direct Competitors	65,985	4,601	7%	No
Automatic Data Processing	Group B: Direct Competitors	31,515	95	0%	No
Xerox	Group B: Direct Competitors	90,690	125	0%	No
Computer Science Corporation (CSC)	Group B: Direct Competitors	28,497	1,454	5%	No
EMC	Group B: Direct Competitors	33,400	552	2%	No
First Data	Group B: Direct Competitors	16,911	63	0%	No
Dell	Group B: Direct Competitors	39,816	801	2%	No
AT&T	Group B: Direct Competitors	2,42,635	130	0%	No



Company Name	Group	Total US Workforce (2014)	Workforce on H-1B and L-1 Visa (2014)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
Fidelity National Information Services (FIS)	Group B: Direct Competitors	19,895	120	1%	No
Fiserv	Group B: Direct Competitors	14,761	225	2%	No
Amazon	Group B: Direct Competitors	1,09,879	2,723	2%	No
Verizon	Group B: Direct Competitors	1,54,603	471	0%	No
Paychex	Group B: Direct Competitors	11,702	56	0%	No
Convergys	Group B: Direct Competitors	34,646	73	0%	No
Broadridge Financial Solutions	Group B: Direct Competitors	4,099	97	2%	No
West	Group B: Direct Competitors	7,907	113	1%	No
Total System Services (TSYS)	Group B: Direct Competitors	6,172	58	1%	No
SunGard Data Systems	Group B: Direct Competitors	4,878	108	2%	No
Rackspace Hosting	Group B: Direct Competitors	4,121	140	3%	No
Unisys	Group B: Direct Competitors	7,243	92	1%	No
CenturyLink	Group B: Direct Competitors	39,567	69	0%	No
CDK Global	Group B: Direct Competitors	5,599	551	10%	No
CompuCom	Group B: Direct Competitors	9,435	59	1%	No
Acxiom	Group B: Direct Competitors	3,663	137	4%	No
Sapient	Group B: Direct Competitors	3,072	319	10%	No
Cognizant	Group B: India Centric Companies	32,918	29,747	90%	Yes
iGate Corporation	Group B: India Centric Companies	4,494	3,584	80%	Yes
Syntel	Group B: India Centric Companies	3,812	3,694	97%	Yes
Accenture	Group C: Direct Competitors	43,339	9,844	23%	No
Capgemini	Group C: Direct Competitors	12,239	1,620	13%	No
CGI	Group C: Direct Competitors	9,704	510	5%	No

Company Name	Group	Total US Workforce (2014)	Workforce on H-1B and L-1 Visa (2014)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
SAP	Group C: Direct Competitors	13,351	513	4%	No
Aon	Group C: Direct Competitors	27,334	87	0%	No
NTT Data	Group C: Direct Competitors	62,230	901	4%	No
Ricoh	Group C: Direct Competitors	58,498	60	0%	No
Hitachi	Group C: Direct Competitors	89,480	508	1%	No
Genpact	Group C: Direct Competitors	6,244	1,097	22%	No
British Telecom (BT)	Group C: Direct Competitors	5,368	58	2%	No
Teleperformance	Group C: Direct Competitors	24,725	551	3%	No
Samsung SDS	Group C: Direct Competitors	1,301	168	17%	No
Canon	Group C: Direct Competitors	87,252	551	1%	No

**Table-29: Applicability of PL 111-230 on Group B and Group C Companies for 2013**

Company Name	Group	Total US Workforce (2013)	Workforce on H-1B and L-1 Visa (2013)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
International Business Machine (IBM)	Group B: Direct Competitors	82,161	7,751	9%	No
Hewlett-Packard (HP)	Group B: Direct Competitors	1,00,556	2,666	3%	No
Deloitte	Group B: Direct Competitors	61,669	5,530	9%	No
Automatic Data Processing	Group B: Direct Competitors	28,433	86	0%	No
Xerox	Group B: Direct Competitors	99,395	100	0%	No
Computer Science Corporation (CSC)	Group B: Direct Competitors	31,948	693	2%	No
EMC	Group B: Direct Competitors	31,623	692	2%	No
First Data	Group B: Direct Competitors	16,208		0%	No

Company Name	Group	Total US Workforce (2013)	Workforce on H-1B and L-1 Visa (2013)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
			63		
Dell	Group B: Direct Competitors	43,020	669	2%	No
AT&T	Group B: Direct Competitors	2,27,359	130	0%	No
Fidelity National Information Services (FIS)	Group B: Direct Competitors	18,849	120	1%	No
Fiserv	Group B: Direct Competitors	13,985	161	1%	No
Amazon	Group B: Direct Competitors	84,615	2,398	3%	No
Verizon	Group B: Direct Competitors	1,46,434	471	0%	No
Paychex	Group B: Direct Competitors	10,602	55	1%	No
Convergys	Group B: Direct Competitors	30,250	73	0%	No
Broadridge Financial Solutions	Group B: Direct Competitors	3,803	92	2%	No
West	Group B: Direct Competitors	7,382	98	1%	No
Total System Services (TSYS)	Group B: Direct Competitors	5,075	56	1%	No
SunGard Data Systems	Group B: Direct Competitors	4,915	106	2%	No
Rackspace Hosting	Group B: Direct Competitors	3,560	129	4%	No
Unisys	Group B: Direct Competitors	7,517	79	1%	No
CenturyLink	Group B: Direct Competitors	40,195	69	0%	No
CDK Global	Group B: Direct Competitors	5,135	552	11%	No
CompuCom	Group B: Direct Competitors	10,218	58	1%	No
Acxiom	Group B: Direct Competitors	3,737	124	3%	No
Sapient	Group B: Direct Competitors	2,644	294	11%	No
Cognizant	Group B: India Centric Companies	26,559	31,918	120%	Yes
iGate Corporation	Group B: India Centric Companies	4,108	2,984	73%	Yes
Syntel	Group B: India Centric Companies	3,493	3,184	91%	Yes

Company Name	Group	Total US Workforce (2013)	Workforce on H-1B and L-1 Visa (2013)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
Accenture	Group C: Direct Competitors	39,131	8,634	22%	No
Capgemini	Group C: Direct Competitors	9,177	1,075	12%	No
CGI	Group C: Direct Competitors	9,050	417	5%	No
SAP	Group C: Direct Competitors	11,105	490	4%	No
Aon	Group C: Direct Competitors	25,950	76	0%	No
NTT Data	Group C: Direct Competitors	56,759	544	4%	No
Ricoh	Group C: Direct Competitors	49,672	60	0%	No
Hitachi	Group C: Direct Competitors	75,394	496	1%	No
Genpact	Group C: Direct Competitors	6,928	797	22%	No
British Telecom (BT)	Group C: Direct Competitors	5,394	58	2%	No
Teleperformance	Group C: Direct Competitors	20,170	552	3%	No
Samsung SDS	Group C: Direct Competitors	1,217	160	17%	No
Canon	Group C: Direct Competitors	83,190	552	1%	No

**Table-30: Applicability of PL 111-230 on Group B and Group C Companies for 2012**

Company Name	Group	Total US Workforce (2012)	Workforce on H-1B and L-1 Visa (2012)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
International Business Machine (IBM)	Group B: Direct Competitors	88,383	7,058	8%	No
Hewlett-Packard (HP)	Group B: Direct Competitors	1,05,867	2,221	2%	No
Deloitte	Group B: Direct Competitors	57,635	4,741	8%	No
Automatic Data Processing	Group B: Direct Competitors	25,653	73	0%	No
Xerox	Group B: Direct Competitors	1,08,935		0%	No

Company Name	Group	Total US Workforce (2012)	Workforce on H-1B and L-1 Visa (2012)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
			74		
Computer Science Corporation (CSC)	Group B: Direct Competitors	35,818	417	1%	No
EMC	Group B: Direct Competitors	29,941	668	2%	No
First Data	Group B: Direct Competitors	15,534	62	0%	No
Dell	Group B: Direct Competitors	46,482	524	1%	No
AT&T	Group B: Direct Competitors	2,13,044	134	0%	No
Fidelity National Information Services (FIS)	Group B: Direct Competitors	17,857	119	1%	No
Fiserv	Group B: Direct Competitors	13,249	127	1%	No
Amazon	Group B: Direct Competitors	65,159	1,840	3%	No
Verizon	Group B: Direct Competitors	1,38,696	499	0%	No
Paychex	Group B: Direct Competitors	9,606	56	1%	No
Convergys	Group B: Direct Competitors	26,412	87	0%	No
Broadridge Financial Solutions	Group B: Direct Competitors	3,529	93	3%	No
West	Group B: Direct Competitors	6,892	88	1%	No
Total System Services (TSYS)	Group B: Direct Competitors	4,174	54	1%	No
SunGard Data Systems	Group B: Direct Competitors	4,952	102	2%	No
Rackspace Hosting	Group B: Direct Competitors	3,075	130	4%	No
Unisys	Group B: Direct Competitors	7,802	69	1%	No
CenturyLink	Group B: Direct Competitors	40,832	69	0%	No
CDK Global	Group B: Direct Competitors	4,709	552	12%	No
CompuCom	Group B: Direct Competitors	11,066	58	1%	No
Acxiom	Group B: Direct Competitors	3,812	102	3%	No
Sapient	Group B: Direct Competitors	2,276	228	10%	No

Company Name	Group	Total US Workforce (2012)	Workforce on H-1B and L-1 Visa (2012)	Proportion of Workforce on H-1B and L-1 Visa	Higher Payment Mandated by US PL 111-230
Cognizant	Group B: India Centric Companies	21,428	30,982	145%	Yes
iGate Corporation	Group B: India Centric Companies	3,756	1,997	53%	Yes
Syntel	Group B: India Centric Companies	3,201	2,507	78%	Yes
Accenture	Group C: Direct Competitors	35,331	5,791	16%	No
Capgemini	Group C: Direct Competitors	6,881	688	10%	No
CGI	Group C: Direct Competitors	8,440	307	4%	No
SAP	Group C: Direct Competitors	9,236	478	5%	No
Aon	Group C: Direct Competitors	24,636	80	0%	No
NTT Data	Group C: Direct Competitors	51,770	194	4%	No
Ricoh	Group C: Direct Competitors	42,177	58	0%	No
Hitachi	Group C: Direct Competitors	63,525	361	1%	No
Genpact	Group C: Direct Competitors	7,686	446	22%	No
British Telecom (BT)	Group C: Direct Competitors	5,419	57	2%	No
Teleperformance	Group C: Direct Competitors	16,454	552	3%	No
Samsung SDS	Group C: Direct Competitors	1,138	114	17%	No
Canon	Group C: Direct Competitors	79,317	552	1%	No

In table-29 and table-30, for the company Cognizant, the proportion of workforce on H-1B and L-1 Visa is more than 100%. This is due to estimations made to calculate the US workforce and H-1B and L-1 visa holders. Hence the proportion of workforce on H-1B and L-1 visas is logically concluded to be more than 50% which still makes it applicable to PL 111-230.

### 3.3.4 Companies affected by PL 111-230 across years

Based on the analyses of the applicability of the law data in table-16 (for Group A companies) and table-28, 29 and 30 for Group B and Group C companies; only Group A companies and India centric Group B

companies are affected by PL 111-230 across each year 2014, 2013 and 2012. Table-31 below summarizes the companies affected by PL 111-230 across 2014, 2013 and 2012:

**Table-31: Summary of the companies affected by PL 111-230 (2012- 2014)**

Company Name	Group
<b>Tata Consultancy Services</b>	Group A
<b>Infosys</b>	Group A
<b>Wipro</b>	Group A
<b>HCL Technologies</b>	Group A
<b>Tech Mahindra</b>	Group A
<b>Larsen &amp; Toubro Infotech</b>	Group A
<b>Cognizant</b>	Group B: India Centric Companies
<b>iGate Corporation</b>	Group B: India Centric Companies
<b>Syntel</b>	Group B: India Centric Companies

Apart from all Group A companies, India centric Group B companies were also impacted by PL 111-230. However, these India centric Group B companies form only 4.8% of the share of market amongst Group B companies share in the US CRS market and does not affect the overall analysis that the predominant impact of 50:50 rule is on Group A companies.

**Table-32: Effective Impact of US PL 111-230**

Group A Companies	Group B Companies	Group C Companies
The law affects all Group A companies adversely by mandating additional fee for every new H-1B and L-1 visa file due to unfavourable split of their US workforce (more than 50% US employees on H-1B or L-1 Visa)	Except India centric companies, none of the Group B companies qualify for an additional fee as per US PL 111-230 as has been established in the section 3.3.4	None of the Group C companies qualify for an additional fee as per US PL 111-230 as has been established in the section 3.3.4

From the above analysis, it can be deduced that the law PL 111-230 is applicable only on Group A companies and India centric Group B companies, giving a competitive disadvantage to Group A companies (Indian JP in the US) compared to Group B (US JP) and Group C companies (RoW JP in the US). And this will continue to be the case under the new law PL 114-113, where the H-1B and L-1 visa fee is further increased.

**Impact of PL 114-113:** As the applicability of PL 114-113 continues to depend upon the same parameters as followed for US PL 111-230 and uses the same 50:50 rule as basis of its applicability. Hence, all Group A companies and India centric Group B companies will most likely be impacted under PL 114-113, paying an additional fee of USD 4,000 for H-1B petitions and USD 4,500 for L-1A and L-1B petitions.

### 3.4 Monetary Impact of PL 111-230 on Group A Companies

For Group A companies, monetary impact due to the applicability of PL 111-230 was calculated based on H-1B and L-1 visas filed and the additional fees of USD 2,000 and USD 2,250 paid per petition respectively for H-1B and L-1 visas under PL 111-230. For H-1B visas, the additional fee is paid on the number of initial (new) visa received and the number of visa received for lateral hiring.

The fee applicable per petition in the absence of US PL 111-230 for H-1B visa is USD 2,515. As established above in the report section 3.3.4, all Group A companies are impacted by PL 111-230. Hence, an additional fee of US 2,000 is applicable per petition under US PL 111-230.

Table-33 depicts the calculation of monetary impact of PL 111-230 on Group A companies for H-1B visas received. Please note that, six Group A companies have been named anonymous (Company A, Company B etc.) so that their identity remains confidential as per the terms of data shared through “Request for Information”.

**Table-33: Monetary Impact Due to H-1B Visa Additional Fee Under PL 111-230**

Group A Companies	Total H-1B Visas Received <sup>20</sup> (FY10-15) <sup>21</sup>	Fee applicable per petition in absence of US PL 111-230 (USD)	Total Visa fee applicable in absence of US PL 111-230 (USD Mn) (FY 10-15)	Additional Fee on account of US PL 111-230 - Per Petition (USD)	Total Additional Fee paid on account of US PL 111-230 (USD Mn) (FY 10-15)	Total Visa Fee Paid (USD Mn) (FY 10-15)
Company A	26,466	2,515	66.6	2,000	52.9	119.5
Company B	26,865	2,515	67.6	2,000	53.7	121.3
Company C	16,562	2,515	41.7	2,000	33.1	74.8
Company D	7,359	2,515	18.5	2,000	14.7	33.2
Company E	5,857	2,515	14.7	2,000	11.7	26.4
Company F	4,290	2,515	10.8	2,000	8.6	19.4
<b>Total</b>	<b>87,399</b>		<b>219.8</b>		<b>174.8</b>	<b>394.6</b>

The additional fee paid on account of US PL 111-230 for Group A companies in H-1B category is USD 174.8 million from FY10 to FY15 (FY denotes American fiscal year).

For L-1 visas, additional fee is paid on the number of initial (new) applications filed irrespective of whether the visa for granted or not. The fee applicable per petition in the absence of US PL 111-230 for L-1 visa is USD 690. All Group A companies are impacted by PL 111-230. Hence, an additional fee of US 2,250 is applicable per petition under US PL 111-230.

<sup>20</sup> Includes H-1B number of initial (new) visa received and H-1B number of visa received for lateral hiring

<sup>21</sup> Source, Data received from Request for Information (RFIs) sent to Indian companies



Table-34 depicts the calculation of monetary impact of PL 111-230 on Group A companies for L-1 visas filed. For example, Company A (one of the six Group A companies) in total files 22,105 L-1 visas from FY10 to FY15. Fee applicable per petition of L-1 visa in the absence of US PL 111-230 is USD 690, hence the total fee applicable for 22,105 petitions in the absence of the law is USD 15.3 million. Since, the company is impacted by PL 111-230 an additional fee of USD 2,250 per petition must be paid. Therefore, the total additional fee to be paid due to the law for 22,105 petitions is USD 49.7 million. Company A paid a total visa fee of USD 65 million from FY10 to FY15, which is a summation of fee paid in the absence of the law and fee paid due to the applicability of the law. In a similar way, monetary impact on the rest of the five Group A companies was calculated.

**Table-34: Monetary Impact Due to L-1 Visa Additional Fee Under PL 111-230**

Group A Companies	Total L-1 Visas Filed (FY 10-15) <sup>22</sup>	Fee applicable per petition in absence of US PL 111-230 (USD)	Total Visa fee applicable in absence of US PL 111-230 (USD Mn) (FY 10-15)	Additional Fee on account of US PL 111-230 - Per Petition (USD)	Total Additional Fee paid on account of US PL 111-230 (USD Mn) (FY 10-15)	Total Visa Fee Paid (USD Mn) (FY 10-15)
Company A	22,105	690	15.3	2250	49.7	65.0
Company B	2,561	690	1.8	2250	5.8	7.5
Company C	2,197	690	1.5	2250	4.9	6.5
Company D	5,806	690	4.0	2250	13.1	17.1
Company E	3,601	690	2.5	2250	8.1	10.6
Company F	283	690	0.2	2250	0.6	0.8
<b>Total</b>	<b>36,553</b>		<b>25.2</b>		<b>82.2</b>	<b>107.5</b>

The additional fee paid on account of US PL 111-230 for Group A companies in L-1 category is USD 82.2 million from FY10 to FY15 (FY denotes American fiscal year), while the total visa fee paid is USD 107.5 million from FY10 to FY15 for Group A companies in the L-1 visa category.

*The total additional fee paid by Group A companies due to US PL 111-230 across both H-1B and L-1 visa category is USD 257 million from FY10 to FY15.*

<sup>22</sup> Source, Data from Request for Information (RFIs) sent to Indian companies

## CONCLUSION

To understand the impact of increased fees for the entry of temporary non-immigrant workers in the US, the study identified the set of companies from different origins, classified as Group A (Indian JP in the US), Group B (US JP) and Group C (RoW JP in the US) in the report. It further established the commercial presence and like services provided by each of those service suppliers having competitive relationship with each other. Applicability of US PL 111-230 was evaluated on Group A, Group B and Group C companies by analysing the proportion of visa holders (H-1B and L-1) of that of US workforce across years 2014, 2013 and 2012.

US PL 111-230 mandates payment of additional fee for all companies employing more than 50 people, out of which 50% or more are on H-1B or L-1 visa. On the face of it, the law applies equally well to all companies irrespective of their revenue size, nature of business, and region of origin. However, in effect, as demonstrated with informed estimates that the law discriminately targets companies with Indian origin or companies that leverage Indian talent. This is clear from the comparison of Group A, Group B and Group C companies and the impact of US PL 111-230 on the three groups, as summarised below in table-35:

**Table-35: Summary of Impact of US PL 111 230 on Group A, Group B and Group C Companies**

Parameters	Group A companies	Group B companies	Group C companies
<b>Origin of Juridical Persons</b>	India	United States	Rest of the World
<b>Applicability of US PL 111-230</b>	Obligated to pay additional fee	Not impacted to pay additional fee (except for India centric Group B companies)	Not impacted to pay additional fee
<b>Monetary loss due to US PL 111-230 (FY2010-15)</b>	USD 257 Mn	Nil (excluding India centric Group B companies)	Nil

As evident from the analysis of Group A, Group B and Group C companies, US PL 111-230, owing to its nature of expression, mandates only Group A companies (Indian JP in the US) to pay the additional fee, causing both financial and competitive losses.

An evaluation of the total number of visas filed highlights that Group A companies paid an additional USD 257 million (over and above regular visa fee of USD 245 million) between FY10-15 pursuant to the US PL 111-230 as against zero additional fee for the Group B (excluding India centric Group B companies) and Group C companies.

As explained earlier, the impact assessment has been done at the parent level rather than the subsidiary level. This is essential in assessing the real impact of the law, given the complex structure of finance in these global multi-national companies.

While the report is centred around PL 111-230 it also tries to put things in perspective from broader point of view on what was the objective behind such legislative effort and how such an innovative rule (50:50)

was carved out in a fashion that only hurts select group of companies and none of the home-grown ones (except for India centric companies). The report also tries to uncover that this legislative effort is not a standalone effort but only a part of broader concerted strategy in slew of other legislative and administrative efforts targeted at Indian companies or companies leveraging Indian talent only or some would argue to not just promote but mandate 'hire local' despite the fact, that there is shortage of talent in the local marketplace and no one to shield as per macro-economic data.

This monetary impact of additional USD 257 million is directly impairing the competitiveness of Indian companies. The IT industry is intensely competitive and is characterized by rapidly changing technology, frequent new product launches, strict timelines, best quality output and cost reductions. It is challenging to meet these expectations with an additional burden of the cost implied with the H-1B and L-1 visas under PL 111-230 which is further going to be increased with the new law PL 114-113 where the additional visa fee is doubled compared to that of PL 111-230.

*It can be concluded that while US PL 111-230 is origin neutral in theory, its practical implications are discriminatory to Indian companies operating in the US CRS market as opposed to companies with juridical persons in the US and RoW with juridical persons in the US, which stand safeguarded under the law. Considering the current intensely competitive market, and shirking profit margins, the additional monetary burden caused due to the law can prove detrimental to the business interests of Indian companies operating in the US CRS market.*

A-1 Glossary of Terms

- a. **CRS Market as per provisional-CPC 84 definitions:** Computer and related services (CRS) market is defined as per Central Product Classification (CPC) having following components<sup>412</sup>: a) consultancy services related to the installation of computer hardware, b) software implementation services, c) data processing services, d) data base services, e) maintenance and repair services of office machinery and equipment including computers, and f) other.
  
- b. **L-1 and H-1B Visas:** The L-1 visa<sup>413</sup> category consists of L-1A and L-1B visas. L-1A visa classification enables a US employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. L-1B visa enables a US employer to transfer a professional employee with specialized knowledge relating to the organization's interests from one of its affiliated foreign offices to one of its offices in the United States.  
  
H-1B visa<sup>414</sup> is also a non-immigrant visa which permits foreign workers to enter into US to carry out functions of a company, however, the individual must possess knowledge either theoretical or technical in a specialty occupation field.
  
- c. **US Public Law 111-230**<sup>415</sup>: The law required the submission of an additional fee of USD 2,000 for certain H-1B petitions and USD 2,250 for certain L-1A and L-1B petitions postmarked on or after August 14, 2010. This law remained in effect through September 30, 2015.  
These additional fee applies only to petitioners who employ 50 or more employees in the United States and if more than 50 per cent of its employees are on H-1B or L (including L-1A and L-1B) non-immigrant status.
  
- d. **US Public Law 114-113**<sup>416</sup>: The Consolidated Appropriations Act, 2016, increased fees further for certain H-1B and L-1 petitioners. These petitioners must submit an additional fee of \$4,000 for certain H-1B petitions and \$4,500 for certain L-1A and L-1B petitions postmarked on or after December 18, 2015. This law will remain in effect through September 30, 2025.  
Similar to, US PL 111-230, these additional fee applies only to petitioners who employ 50 or more employees in the United States and if more than 50 per cent of its employees are on H-1B or L (including L-1A and L-1B) non-immigrant status.
  
- e. **Juridical Person (JP):** JP<sup>417</sup> means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association.
  
- f. **Group A, B and C Companies:** Group A companies having commercial presence of Indian JP in the US, Group B companies are juridical persons of US and Group C companies having commercial presence of rest of the world JP in the US.
  
- g. **Commercial Presence (Mode 3):** Commercial presence<sup>418</sup> means any type of business or professional establishment, including through (i) the constitution, acquisition or maintenance

of a juridical person, or (ii) the creation or maintenance of a branch or a representative office, within the territory of a member for the purpose of supplying service.

- h. **Gartner IT Services Market:** As defined by Gartner Inc.- IT services refer to the application of business and technical expertise to enable enterprises to create, access, manage, and optimize information technology and IT-intensive business processes. It includes the following components: a) Product Support, b) Business Services – Consulting, c) Business Services - IT Outsourcing, d) Business Services – Implementation, and e) Business Services – BPO.

## A-2 Acronyms

Acronym	Description
JP	Juridical Person
USCIS	United States Citizenship and Immigration Services
CRS	Computer and Related Services
CPC	Central Product Classification
WTO	World Trade Organisation
GATS	General Agreement on Trade in Services
DHS	Department of Homeland Security
DOL	Department of Labour
DOS	Department of State
LCA	Labour Condition Application
CISCOR	Citizenship and Immigration Services Centralized Oracle Repository
SEC	Security and Exchange Commission
FY	Fiscal Year (Represents American fiscal year Oct-Sep)
CY	Calendar Year (Represents calendar year Jan-Dec)
HC	Head Count
FOIA	Freedom of Information Act

## A-3 US Commitments under the CRS Sector under GATS

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<b>B. COMPUTER AND RELATED SERVICES<sup>23</sup></b>  (MTN.GNS/W/120 a) - e), except airline computer reservation systems)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) None	

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
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<sup>23</sup> THE UNITED STATES OF AMERICA - Schedule of Specific Commitments, GATS/SC/90, 15 April 1994, Source, The United States of America - schedule of specific commitments, p.39

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
ALL SECTORS COVERED BY THIS SCHEDULE: For the purpose of this schedule the "United States" is defined as encompassing the 50 states of the United States, plus the District of Columbia.			
All Sectors: Temporary Entry and Stay of Natural Persons <sup>24</sup>	<p>4) Unbound, except for measures concerning temporary entry and stay of nationals of another member who fall into the categories listed below:</p> <p><u>Intra-corporate Transferees</u> - managers, executives and specialists, as defined below, who are employees of firms that provide services within the United States through a branch, subsidiary, or affiliate established in the United States and who have been in the prior employ of their firm outside the United States for a period of not less than one year immediately preceding the date of their application for admission and who are one of the following:</p> <p>a) <b>Managers</b> - persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring, firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.</p>	4) Unbound	

- <sup>24</sup> "Temporary entry" means entry without intent to establish permanent residence under immigration laws of the US and confers no rights with respect to citizenship. US commitments regarding entry and temporary stay in the US do not apply in cases of labour/management disputes. Source: THE UNITED STATES OF AMERICA - Schedule of Specific Commitments, GATS/SC/90, 15 April 1994, pg. 1 -7

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>b) <b>Executives</b> - persons within the organization who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services of the organization.</p> <p>c) <b>Specialists</b> - persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organization's services, research equipment, techniques, or management. (Specialists may include, but are not limited to, members of licenced professions.)</p> <p>Entry for persons named in this section is limited to a three-year period that may be extended for up to two additional years for a total term not to exceed five years.</p> <p><u>Fashion Models and Specialty Occupations</u> – Up to 65,000 persons annually on a worldwide basis in occupations as set out in 8 USC. § 1101 (a) (15) (H) (i) (b), consisting of</p> <p>(i) fashion models who are of distinguished merit and ability; and</p> <p>(ii) persons engaged in a specialty occupation, requiring</p> <p>(a) theoretical and practical application of a body of highly specialized knowledge; and</p> <p>(b) attainment of a bachelor's or higher degree in the specialty (or its equivalent) as a minimum for entry into the occupation in the United States.</p>		

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>Persons seeking admission under (ii) above shall possess the following qualifications:</p> <p>(a) full licensure in a US state to practice in the occupation, if such licensure is required to practice in the occupation in that state; and</p> <p>(b) completion of the required degree, or experience in the specialty equivalent to the completion of the required degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.</p> <p>Entry for persons named in this section is limited to three years.</p> <p>Specialty occupation aliens and their employers must be in compliance with all labour condition application requirements that are attested to by the established employer.</p> <p>These requirements are:</p> <p>a) wages paid to the person are the greater of:</p> <ol style="list-style-type: none"> <li>1) the actual wage paid by the employer to individuals in that place of employment with similar qualifications and experience, or</li> <li>2) the prevailing wage for that occupational classification in the area of employment;</li> </ol> <p>b) conditions of work are such that they will not adversely affect working conditions for those similarly employed;</p> <p>c) there is no strike or lockout in the course of a labour/management dispute in progress at the place of employment affecting the subject occupation; labour/management dispute in progress at the place of employment;</p>		



Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>d) the employer has not laid off or otherwise displaced workers in the subject occupation in the previous six months and will not lay off or displace any US worker during the 90-day period following the filing of an application or the 90-day periods preceding and following the filing of any visa petition supported by the application;</p> <p>e) the employer has taken and is taking timely and significant steps to recruit and retain sufficient US workers in the specialty occupation; and</p> <p>f) notice is given at the time of application by the employer to employees or their representatives at the place of employment.</p>		

#### A-4 List of Group B and Group C entities filing visa-petitions

##### **Notes:**

*Visa data<sup>25</sup> contains many entries with seemingly erroneous names of the filing entity. Wherever applicable, prudent assumptions (by considering entities with erroneous names and subsidiaries in the US) have been made while including the relevant ones under Group B and Group C categories.*

Group B: Direct Competitors
International Business Machine (IBM)
IBM CORP
IBM CORPORATION
IBM INDIA PRIVATE LIMITED
IBM INDIA PRIVATE LTD
IBM INDIA PVT LTD
IBM CORPORATION (GUARDIUM INC)
IBM GLOBAL SYSTEMS INC
IBM INDIA PRIVATE LIMITED
IBM INDIA PRIVATE LIMITED
IBM GLOBAL SYSS DBA JOLT TECHS
IBM GLOBAL SYSTEMS DBA JOLT TECHS
IBM INDIA PTV LTD
IBM INDIA PVT INC

<sup>25</sup> Source: Data received from FOIA request, USCIS and Computer world

IBM INDIA PVT LT
IBM INDIA PVT.LTD
IBM INDIAN PVT LTD
IBM INDIA PRIVATE LIMITED
IBM INDIA PRIVATE LID
IBMINDIA PRIVATE LIMITED
IBM CORPORATION INDIA PRIVATE LTD
IBM GLOBAL SYSTEMS DBA JOLT TECH
IBM INDIA PIVATE LIMITED
IBM INDIA PRAVATE LIMITED
IBM INDIA PRIVATE CASE MANAGER
IBM PRIVATE LIMITED
<b>Hewlett-Packard (HP)</b>
HEWLETT PACKARD CO
HEWLETT PACKARD COMPANY
HEWLETT-PACKARD COMPANY
MPHASIS CORP
MPHASIS CORPORATION
MPHAIS CORP
MPHASIS CORPORTION
MPHASIS INFRASTRUCTURE SVCS INC
MPHASIS CORPORATIONS
MPHASIS INFRASTRUCTURE SERVICES IN
MPHASIS CORPORTATION
MPHASIS FINSOLUTIONS PRIVATE
MPHASIS FINSOLUTIONS PRIVATE LIMIT
MPHASIS FINSOLUTIONS PRIVATE LTD
HP ENTERPRISE SERVICES LLC A HEWLE
HP ENTERPRISE SVCS LLC (A HEWLETT
HP ENTERPRISE SERVICES LLC
HP ENTERPRISE SVC LLC A HEWLETT-PA
HP ENTERPRISE SVCS LLC A HEWLETT
HP ENTERPRISE SVCS LLC A HEWLETT P
HP ENTERPRISE SVCS LLC A HEWLETT-P
HP ENTERPRISE SVCS LLC (A HEWLETT-
HP ENTERPRISE SVCS LLP (A HEWLETT-
HP ENTERPRISE SVCS LLC
HEWLETT PACKARD GLOBALSOFT LIMITE
HP ENTERPRISE SERVICES LLC (A HEWL
HP ENTERPRISE SVCS LLC (A HEWLETTE

HEWLETT PACKARD COMP
HEWLETT PACKARD GLOBALSOFT LIMITED
HEWLETT PACKARD GLOBALSOFT LTD
HEWLETT PACKARD OCOMPANY
HEWLETT PACKARD PACKARD COMPANY
HEWLETT-PACKARD CARIBE B V PR
HEWLETT-PACKARD CARIBE B V PUERTO
HEWLETT-PACKARD CARIBE BV PUERTO R
HEWLETT-PACKARD GLOBALSOFT LIMITED
HEWLETT-PACKARD GLOBALSOFT LTD
HEWLETT PACKARAD GLOBALSOFT LIMITE
HEWLETT PACKARD COMPAN
HEWLETT PACKARD GLOBALSOFT LIMITED
HEWLETT PACKARD STATE & LOCAL ENTE
HEWLETT-PACKARD FINANCIAL SVCS CO
HEWLETT PARKARD COMPANY
HEWLETT-PACKARD CARIBE B V (PR)
HEWLETT-PACKARD CO
HEWLETT-PACKARD STATE & LOCAL ENTE
HEWLETT PACKARD FINANCIAL SVCS CO
<b>Deloitte</b>
DELOITTE & TOUCHE LLP
DELOITTE CONSULTING LLP
DELOITTE & TOUCH LLP
DELOITTE & TOUCHE LLC
DELOITTE & TOUCHE OVERSEAS SVCS
DELOITTE & TOUCHE OVERSEAS SVCS LL
DELOITTE & TOUCHE USA OVERSEAS SVC
DELOITTE CONSULTING OVERSEAS
DELOITTE CONSULTING OVERSEAS PROJE
DELOITTE CONSULTING OVERSEAS SVCS
DELOITTE FINANCIAL ADVISORY SERVIC
DELOITTE FINANCIAL ADVISORY SVCS
DELOITTE FINANCIAL ADVISORY SVCS L
DELOITTE LLP
DELOITTE SERVICES LP
DELOITTE SVCS LP

DELOITTE TAX LLP
DELOITTE TOUCHE TOHMATSU SVCS INC
DELOITTE CONSULTING LLP
DELOITTE CONSULTING LLP
DELOITTE CONSULTING LLP
DELOITTE & TOUCHE OVERSEAS PROJECT
DELOITTE ANALYTICS LLC
DELOITTE CONS OVERSEAS PROJECTS LL
DELOITTE CONSULTING LLLP
DELOITTE FINANCIAL ADVISORY SRVCS
DELOITTE SVCS LLP
DELOITTE TOUCHE TOHMATSU SERVICES
DELOITTE & TOUCHE LLP
DELOITTE & TOUCHE LLP
DELOITTE CONSULTING LLP
DELOITTE CORP FINANCE LLC
DELOITTE FINAN ADVISORY SVCS LLP
DELOITTE FINANCIAL ADVISORY SVC LL
DELOITTE MARKETPOINT LLC
DELOITTE SVCS OVERSEAS SVCS LLC
DELOITTE TAX LLLP
DELOITTE TAX OVERSEAS SERVICES LLC
DELOITTE TOUCHE TOHMATSU SERVICES,
DELOITTE & TOUCHE LLP **
<b>Automatic Data Processing</b>
AUTOMATIC DATA PROCESSING INC
AUTOMATIC DATE PROCESSING INC
<b>Xerox</b>
XEROX CORP
XEROX CORPORATION
XEROX AUDIO VISUAL SOLUTIONS
XEROX BUSINESS SERVICES LLC
XEROX COMMERCIAL SOLUTIONS LLC
XEROX COPORATION
XEROX HR SOLUTIONS LLC
XEROX STATE & LOCAL SOLUTIONS INC
XEROX STATE HEALTHCARE LLC
XEROX HERITAGE LLC
<b>Computer Science Corporation (CSC)</b>
COMPUTER SCIENCES CORPORATION

CSC COVANSYS CORPORATION
APPLABS INC
CSC CONSULTING INC
COMPUTER SCIENCE CORP
COMPUTER SCIENCES CORP
COMPUTER SERVICE TECHNOLOGY INC
CSC CONVANSYS CORP
CSC CONVANSYS CORPORATION
CSC COVANSYS CORP
CSC HOLDINGS LLC
APPLABS TECHNOLOGIES PVT LTD
APPLABS TECHS PVT LTD
<b>EMC</b>
EMC CORPORATION
EMC CORP
EMC2 MECHANICAL INC
<b>First Data</b>
FIRST DATA MERCHANT SVCS CORP
FIRST DATA TECHNOLOGIES INC
<b>Dell</b>
DELL INC
DELL MARKETING LP
DELL MARKETING L P
DELL MARKETING
DELL MARKETING LLP
DELL PRODUCTS LP
DELL USA LP
DELL MARKETING USA LP
DELL FINANCIAL SVCS
DELL MARKETING LKP
DELL MARKETINGN LP
DELL MARKING SYSTEMS INC
DELL PRODUCTS INC
DELL SERVICES ENGRG SOLUTIONS CORP
DELL SVCS ENGINEERING SOLUTIONS CO
DELLMARKETING LP
DELL PRODS LP
DELL MKTG L P
DELL PRODUCTS,LP
DELL SERVICES ENGINEERING SOLUTION

DELL SVCS ENGINEERING SOLNS CORP
DELL WORLD TRADE LP
<b>AT&amp;T</b>
AT & T LABS INC
AT & T MOBILITY SVCS LLC
AT&T MOBILITY SERVICES LLC
AT&T MOBILITY SVCS LLC
AT&T SERVICES INC
AT&T SVCS INC
AT&T SVCS LLC
AT&T CORP
AT&T LABS INC
AT & T CORP
AT & T SVCS INC
AT&T MANAGEMENT SERVICES LP
AT&T MOBILITY
AT&T SOLUTIONS INC
<b>Fidelity National Information Services (FIS)</b>
FIS MANAGEMENT SERVICES LLC
FIS MANAGEMENT SVCS LLC
FIS MGMT SVCS LLC
FIS GROUP INC
FIS MANAGMENT SERVICES LLC
FIS MGMT SERVICES LLC
FIS MGT SVCS LLC
<b>Fiserv</b>
FISERV GLOBAL SERVICES INC
FISERV GLOBAL SVCS INC
FISERV - BANCINTELLIGENCE.COM INC
FISERV GLOBL SERVICES INC
FISERV PAR INC
FISERV SOLNS DBA IP/COMPUTER UTILI
FISERV SOLUTIONS INCORPORATED
FISERV SOLUTIONS INC
<b>Amazon</b>
AMAZON COM INDC LLC
AMAZON CORP LLC
AMAZON CORPORATE LLC
AMAZON FULFILLMENT SERVICES INC
AMAZON FULFILLMENT SVCS INC

AMAZON GLOBAL RESOURCES INC
AMAZON SERVICES LLC
AMAZON COM AZDC INC
AMAZON COPORATE LLC
AMAZON CORPORATE LLC
AMAZON CORPORTE LLC
AMAZON PRODUCE NETWORK LLP
AMAZON SVCS LLC
AMAZON WEB SERVICES LLC
AMAZON WEB SVCS LLC
AMAZON COM AZDC LLC
AMAZON COM KSDC LLC
AMAZON CORPORATE LLC
AMAZON COM DEDC LLC
AMAZON COM KYDC INC
AMAZON CORPORATE
AMAZON CORPORATION LLC
AMAZON DIGITAL SVCS INC
AMAZON LOGISTICS GROUP LLC
AMAZON.COM DEDC LLC
AMAZON.COM KYDC INC
AMAZON.COM.AZDC LLC
AMAZON.COM.DECD LLC
AMAZON.COM.DEDC LLC
AMAZON.COM.DEDC. LLC
AMAZON.COM.KYDC INC
AMAZON CORPORATE LLC`
AMAZON CORPORATELLC
AMAZON.COM.NVDC INC
<b>Verizon</b>
VERIZON DATA SERVICES LLC
VERIZON SERVICES CORP
VERIZON SVCS OPERATIONS INC
VERIZON BUSINESS NETWORK SVCS INC
VERIZON CORP RESOURCES GROUP LLC
VERIZON CORPORATE RESOURCES GR LLC
VERIZON CORPORATE SERVICES CORP
VERIZON SERVICES CORPORATION
VERIZON SERVICES OPERATIONS INC
VERIZON BUS NETWORK SVCS INC

VERIZON BUS NETWORK SERVICES INC
VERIZON CORPORATE RESOURCES GR
VERIZON WIRELESS
<b>Paychex</b>
PAYCHEX INC
<b>Convergys</b>
CONVERGYS CORP
CONVERGYS CORPORATION
CONVERGYS INFO MANAGEMENT GR INC
CONVERGYS CUSTOMER MGMT GROUP INC
CONVERGYS CUSTOMER MGT GROUP INC
CONVERGYS INFO MGMT GROUP INC
CONVERGYS INFO MGT GROUP INC
CONVERGYS INFORMATION MGT GR INC
CONVERGYS CUSTOMER MGMT GRP INC
CONVERGYS CUSTOMER MGT GR INC
CONVERGYS INFO MGT GR INC
CONVERGYS INFORMATION MANAGEMENT G
CONVERGYS INFORMATION MGMT GROUP I
CONVERGYS INFORMATION MGMT GRP INC
CONVERGYS INFO MANAGEMENT GROUP IN
CONVERGYS INFORMATION MGT GROUP IN
<b>Broadridge Financial Solutions</b>
Broadridge Financial Solutions
BROADRIDGE FINANCIAL SOLNS
BROADRIDGE FINANCIAL SOLNS INC
BROADRIDGE FINANCIAL SOLUTIONS IN
BROADRIDGE FINANCIAL SOLUTIONS INC
BROADRIDGE FINANCIAL SERVICES INC
<b>West</b>
WEST ASSET MANAGEMENT
WEST CORP
WEST SERVICES INC
WEST CORPORATION
WEST SVCS INC
<b>Total System Services (TSYS)</b>



TSYS ACQUIRING SOLUTIONS
TSYS MERCHANT SOLUTIONS LLC
<b>SunGard Data Systems</b>
SUNGARD AMBIT LLC
SUNGARD AVAILABILITY SERVICES
SUNGARD AVAILABILITY SERVICES LLP
SUNGARD AVAILABILITY SERVICES LP
SUNGARD AVAILABILITY SVCS LP
SUNGARD BUSINESS SYSTEMS LLC
SUNGARD CONSULTING SERVICES LLC
SUNGARD CONSULTING SVCS LLC
SUNGARD ENERGY SYSTEMS INC
SUNGARD PUBLIC SECTOR INC
SUNGARD CONSULTING SERVICES INC
SUNGARD AVAILABILITY SVCS
SUNGARD HIGHER EDUCATION
SUNGARD INST BROKERAGE INC
SUNGARD INSTITUTIONAL BROKERAGE IN
SUNGARD KIODEX INC
SUNGARD PUBLIC SECTOR
SUNGARD SYSTEMS INTERNATIONAL INC
SUNGARD AVANTGARD LLC
SUNGARD CONSULTING SVCS INC
SUNGARD INVESTMENT SYSTEMS
SUNGARD FINANCIAL SYSS LLC
SUNGARD FINANCIAL SYSTEMS LLC
<b>Rackspace Hosting</b>
RACKSPACE LTD
RACKSPACE US INC
<b>Unisys</b>
UNISYS CORPORATION
UNISYS CORP
<b>CompuCom</b>
COMPUCOM SYSTEMS INC
COMPUCOM SYSTEMS INC DBA EXCELL DA
<b>Acxiom</b>
ACXIOM CORP
ACXIOM CORPORATION
<b>Sapient</b>

SAPIENT CORPORATION
SAPIENT CORP
<b>Group B: India Centric Companies</b>
<b>Cognizant</b>
COGNIZANT TECHNOLOGY SOLUTIONS US
COGNIZANT TECH SOLUTION US CORP
COGNIZANT TECH SOLNS US CORP
COGNIZANT TECH SOLUTIONS US CORP
COGNIZANT TECHNOLOGY SOLNS US CORP
COGNIZANT TECH OSOLUTIONS US CORP
COGNIZANT TECH SOL US CORP
COGNIZANT TECH SOLUTIONS US CORP
COGNIZANT TECH SOLUTINS US CORP
COGNIZANT TECH SOLUTIONS CORP
COGNIZANT TECH SOLUTIONS CORP US
COGNIZANT TECH SOLUTIONS UC CORP
COGNIZANT TECH SOLUTIONS US COPR
COGNIZANT TECH SOLUTIONS US CORPO
COGNIZANT TECH SOLUTIONS US CORPOR
COGNIZANT TECH SOLUTIOS UC CORP
COGNIZANT TECH SOULTIONS US CORP
COGNIZANT TECHN SOLUTIONS US CORP
COGNIZANT TECHNOLOGY SOLUTIONS US C
COGNIZANT TECHNOLOGY COLUTIONS US
COGNIZANT TECHNOLOGY SOLUTION US
COGNIZANT TECHS SOLUTIONS US CORP
COGNIZANT US CORP
COGNIZATN TECH SOLUTIONS US CORP
COGNIZANT TEC SOLUTIONS US CORP
COGNIZANT TECH SOLTUIONS US CORP
COGNIZANT TECH SOLUTIONS INC
COGNIZANT TECH SOLUTIONS US
COGNIZANT TECH SOLUTIONS USCORP
COGNIZANT TECH SOLUTONS US CORP
COGNIZANT TECH SOULTIONS US CORP
COGNIZANT TECH US CORP
COGNIZANT TECHNOLOGIES SOLUTIONS U

COGNIZANT TECHNOLOGY SOLN US CORP
COGNIZANT TECHNOLOYG SOLUTIONS US
COGNIZANT TEHC SOLUTIONS US CORP
COGNIZANTTECH SOLUTIONS US CORP
COGNIZNANT TECH SOLUTIONS US CORP
COGNIZNT TECH SOLNS US CORP
COGNIZANT TECH SOLUTIONS US CORP
COGNIZANT TECHNOLGY SOLN US CORP
COGNIZANT TECHNOLOGY SOLUTIONS US
COGNIAANT TECHNOLOGY SOLUTIONS US
COGNIGEN CORPORATION
COGNIGZANT TECH SOLNS US CORP
COGNIZANAT TECHNOLOGY SOLUTIONS US
COGNIZANE TECHNOLOGY SOLUTIONS US
COGNIZANT TECH COLUTIONS US CORP
COGNIZANT TECH SLOUTIONS US CORP
COGNIZANT TECH SOLOUTIONS US CORP
COGNIZANT TECH SOLUITONS US CORP
COGNIZANT TECH SOLUTIONS U S CORP
COGNIZANT TECH SOLUTIONS US CROP
COGNIZANT TECH SOLUTIONS US SOLUTI
COGNIZANT TECH SOLUTIONSUS CORP
COGNIZANT TECH SOUTIONS US CORP
COGNIZANT TECH SULUTIONS US CORP
COGNIZANT TECHNLOLGY SOLNS US CORP
COGNIZANT TECHNOLOCY SOLNS US CORP
COGNIZANT TECHNOLOGY LOLUTIONS US
COGNIZANT TECHNOLOGY SOLUTIIONS US
COGNIZANT TECHNOLOGY SOLUTION
COGNIZANT TECHNOLOGY SOLUTIONS
COGNIZANT TECHNOLOGY SOLUTIPNS US
COGNIZANT TECHNOLOGY SOULTIONS US
COGNIZANT TECHNOLOGYSOLNS US CORP
COGNIZANTTT ECH SOLUTIONS US CORP

COGNIZNAT TECH SOLUTIONS US CORP
<b>iGate Global Solutions</b>
IGATE GLOBAL SOLUTIONS AN IGATE CO
IGATE GLOBAL SOLUTIONS AN IGATE
IGATE GLOBAL SOLNS AN IGATE CO
IGATE TECH INC AN IGATE COMPANY
IGATE GLOBAL SOLNS AN IGATE COMPAN
IGATE GLOBAL SOLUTIONS LTD AN IGAT
IGATE GLOBAL SUTIONS IGATE COMPANY
IGATE TECHNOLOGIES INC
IGATE AMERICAS INC
IGATE AMERICAS INC FKA PATNI AMERI
IGATE GLOBAL SOLUTIONS-IGATE COMP
IGATE GLOBAL SOLUTIONS AN IGATE C
IGATE TECH INC
IGATE TECHNOLGIES INC
IGATE TECHNOLOGIES
IGATE TECHNOLOGIES AN IGATE CO
IGATE TECHNOLOGIES INC
IGATE TECHNOLOGIES INC AN IGATE CO
IGATE TECHNOLOGIES, INC
IGATE TECHS INC
IGATE TECHS INC AN IGATE CO
IGATE TECHS INC AN IGATE COMPANY
IGATE TEHCNOLOGIES INC
IGATE TEHNOLOGIES INC
IGATE TECHNOLOGIES IN AN IGATE CO
IGATE TECHNOLOGIES INC AND IGATE C
IGATE TECHNOLOGIES INC-IGATE COMP
IGATE TECHNOLOGIES IN C AN IGATE C
PATNI AMERICAS INC
PATNI AMEREICAS INC
PATNI AMERICANS INC
PATNI AMERICAS INC
<b>Syntel</b>
SYNTEL CONSULTING INC
SYNTEL LIMITED
SYNTEL INC
SYNTEL CONSULTING INC

SYNTEL COMSULTING INC
SYNTEL CONSULTIN INC
SYNTEL CONSULTING
SYNTEL CONSULTING INC
SYNTELCONSULTING INC
SYNTEL CONSULTING LLC
SYNTEL CONSULTING, INC
SYNTEL CORPORATION INC
SYNTEL CONSTULING INC
SYNTEL CONSULTANCY INC
SYNTEL CONSULTANTS INC
SYNTEL CONSULTING INC.
SYNTEL LTD
<b>Group C: Direct Competitors</b>
<b>Accenture</b>
ACCENTURE LLP
ACCENTURE TECH SOLUTIONS
ACCENTURE TECHNOLOGY SOLUTIONS
ACCENTURE TECHNOLOGIES SOLUTIONS
ACCENTURE TECH SOLNS
ACCENTURE GLOBAL INC
ACCENTURE LLC
ACCENTURE LLLP
ACCENTURE LLP'
/ACCENTURE LLP
<b>Capgemini</b>
CAPGEMINI FINANCIAL SVCS USA INC
CAPGEMINI APPLICATION SERVICES LLC
CAPGEMINI APPLICATION SVCS LLC
CAPGEMINI APPLICATIONS SVCS LLC
CAPGEMINI U S LLC *
CAPGEMINI AMERICA INC
CAPGEMINI FINANCIAL SERVICES USA
CAPGEMINI FINANCIAL SERVICES USA I
CAPGEMINI FINANCIAL SVCS USA INC L
CAPGEMINI U S LLC
CAPGEMINI US LLC
CAPGEMINI FINANCAL SVCS USA INC (L
CAPGEMINI FINANCIAL SVCS USA INC (
CAPGEMINI FINANCIAL SVCS. USA, INC

CAPGEMINI FINANCIAL SVCS INC
<b>CGI</b>
CGI FEDERAL INC
CGI COMMUNICATIONS INC
CGI TECH & SOLUTIONS INC
CGI TECH AND SOLUTIONS INC
CGI TECHN AND SOLUTIONS INC
CGI TECHNOLOGIES & SOLUTIONS INC
CGI TECHNOLOGIES AND SOLNS INC
CGI TECHNOLOGIES AND SOLUTINS INC
CGI TECHNOLOGIES AND SOLUTIONS INC
CGI TECHS & SOLNS INC
CGI TECHS & SOLUTIONS INC
CGI TECHS AND SOLUTIONS INC
CGI FOODS EQUITABLE PLAZA INC
CGI INC
CGI INTERACTIVE COMMUNICATIONS INC
CGI INTERNATIONAL LLC
CGI TECHNOLOGIES & SOLNS INC
CGI TECHNOLOGIES SOLNS INC
CGI NORTH AMERICA INC
CGI TECHS AND SOLUTONS INC
<b>SAP</b>
SAP AMERICA INC
SAP GLOBAL MARKETING INC
SAP INDUSTRIES INC
SAP LAB LLC
SAP LABS LLC
SAP GLOBAL MARKETING
SAP INTERNATIONAL INC
SAP PUBLIC SERVICES INC
SAP PUERTO RICO GMBH LLC
SAP TECHNOLOGY SOLUTIONS INC
SAP TECH SOLUTIONS INC
SAPS LABS LLC
<b>Aon</b>
AON CONSULTING INC
AON CONSULTING INC[INCORPORATED IN
AON RISK SVCS INC OF MARYLAND

AON SERVICE CORP
AON SVC CORP
AON BENFIELD INC
AON RISK SERVICES INC OF MARYLAND
AON RISK SVCS (HOLDINGS) OF THE AM
AON FIRE PROTECTION ENGINEERING CO
AON FIRE PROTECTION ENGRG CORP
AON RISK CONSULTANTS INC
AON SERVICE CORPORATION
<b>NTT Data</b>
NTT AMERICA INC
NTT MULTIMEDIA COMMUNICATIONS LABO
NTT DATA ENTERPRISE APP SVCS INC
NTT DATA INC
NTT DATA INC FORMERLY KEANE INC
NTT DATA INC FORMERY KEANE INC
NTT DATA INC FORMERLY KEANE INC
NTT DATA INC FORMERLY KEANE INC
NTT DATA INC (FORMERLY KEANE INC)
NTT DATA INC FOMERLY KEANE INC
NTT DATA INC KEANE INC
NTT DATA IONC FORMERLY KEANE INC
NTT DATA, INC
<b>Ricoh</b>
RICOH AMERICAS CORPORATION
RICOH INNOVATIONS INC
RICOH AMERICAS CORP
RICOH PROD PRINT SOLUTIONS LLC
RICOH USA INC
<b>Hitachi</b>
HITACHI AMERICA LTD HAL
HITACHI CONSULTING
HITACHI CONSULTING CORPORATION
HITACHI AMERICA LTD
HITACHI CONS CORP
HITACHI CONSULTING CORP
HITACHI CONSULTING SOFTWARE SERVIC
HITACHI CONSULTING SOFTWARE SVCS I
HITACHI DATA SYSTEMS CORP
HITACHI SOLUTIONS AMERICA LTD

HITACHI CONS SOFTWARE SVCS INC
HITACHI CONS SOFTWARE SERVICES INC
HITACHI CONS SOFTWARE SVCS INC
HITACHI CONSULTIGN SOFTWARE SVCS I
HITACHI CONSULTING SOFTWARE SVCS
HITACHI CONSULTING SOFTWARE SVCS N
HITACHI DATA SYSTEMS CORPORATION
HITACHI GLOBAL STORGE TECHNOLOGIES
HITACHI HIGH TECHNOLOGIES AMERICA
HITACHI CONSULTNG CORPORATION
HITACHI CONSUTLING CORPORATION
<b>GENPACT</b>
GENPACT PROCESS SOLUTIONS LLC
GENPACT LLC
HEADSTRONG SERVICE LLC
HEADSTRONG SERVICES INC
HEADSTRONG SERVICES LLC
HEADSTRONG SERVICES LLP
HEADSTRONG SRVC LLC
HEADSTRONG SVCS LLC
<b>British Telecom (BT)</b>
BT SYSTEMS LLC
BT AMERICAS INC
BT CAPITAL MARKETS LLC
BT TRANS LLC
<b>Samsung SDS</b>
SAMSUNG INFO SYSTEMS AMERICA INC
SAMSUNG INFORMATION SYS AMERICA IN
SAMSUNG SDI AMERICA INC
SAMSUNG SDS AMERICA INC
SAMSUNG INFORMATION SYSTEMS AMERIC
SAMSUNG INTL INC
SAMSUNG INFO SYS AMERICA INC



## A-5 List of Group A and Group C companies in the US<sup>26</sup>

Parent Company Name	US Subsidiaries	% of shares held by the parent company
<b>Group A Companies</b>		
<b>Tata Consultancy Services</b>	CMC eBiz Inc	100
	MS CJV Investments Corporation	100
	TCS e-Serve America, Inc.	100
	CMC Americas Inc.	100
	Tata America International Corporation	100
<b>Infosys</b>	Loadstone Management Consultants Inc.	100
	Infosys Public Services, Inc.	100
	Infosys Americas, Inc.	100
	Infosys McCamish Systems, Inc.	99.9
	Infosys nova holdings LLC	100
	Panaya Inc.	100
	Kallidus Inc.	100
	Noah Consulting LLC	100
<b>Wipro</b>	Wipro LLC	100
	Infocrossing Inc	100
	Wipro Data Centre and Cloud Services, Inc.	100
	Opus Capital Markets Consultants LLC	100
	Wipro Gallagher Solutions Inc	100
	Healthplan Services Insurance Agency, Inc	100
	Healthplan Services, Inc	100
	Wipro Promax Analytics Solutions LLC	100
	Healthplan Holdings, Inc	100
	Harrington Health Services Inc	100
	Wipro Insurance Solutions LLC	100
	Wipro IT Services, Inc	100
<b>HCL Technologies</b>	HCL America Inc.	100
	HCL Expense Management Services Inc.	100
	Axon Solutions Inc	100
	HCL Latin America Holding LLC	100
	HCL America Solutions Inc.	100
	HCL-TEN Ventures, LLC	100
<b>Tech Mahindra</b>	Tech Mahindra (Americas) Inc	100
	Tech Talenta Inc.	100

<sup>26</sup> Sources for the table (US subsidiaries and % of shares held) are provided in table 7 (for Group A companies) and table 8 (for Group C companies)

	Tech Mahindra IPR Inc	100
	Comviva Technologies Inc.	100
	Tech Mahindra Technologies Inc.	100
	Citisoft Inc.	100
	vCustomer Services LLC	100
	FixStream Networks Inc.	73.9
	Mahindra Technologies Services Inc.	100
	Sofgen Americas Inc	100
<b>Larsen &amp; Toubro Infotech</b>	Larsen & Toubro Infotech LLC	100
<b><u>Group C: Direct Competitors</u></b>		
<b>Accenture</b>	Accenture LLP	Not Available
	Accenture Newco, Inc.	Not Available
	Accenture Sub Inc.	Not Available
	Accenture 2, Inc.	Not Available
	BPM Technical Resources LLC	Not Available
	Digital Asset Management Co.	Not Available
	Epylon Corporation	Not Available
	Indelq, Inc.	Not Available
	Navitaire Inc.	Not Available
	BABCN LLC	Not Available
	TekraM LLC	Not Available
	Utiligent LLC	Not Available
	VIA World Network LLC	Not Available
	Accenture Financial Corporation	Not Available
	Willow Investment, Inc.	Not Available
	Willow Investment Properties, Inc.	Not Available
	Proquire LLC	Not Available
<b>Capgemini</b>	Capgemini US LLC	Not Available
	Capgemini Financial Services USA, Inc.	Not Available
	Capgemini America, Inc.	Not Available
	Sogeti USA LLC	Not Available
<b>CGI</b>	CGI Technologies and Solutions, Inc.	Not Available
	CGI Federal Inc.	Not Available
<b>SAP</b>	Ariba, Inc.,	100
	Concur Technologies, Inc	100
	SAP America, Inc.	100
	SAP Industries, Inc	100
	SAP Labs, LLC,	100
	SuccessFactors, Inc.,	100
	Sybase, Inc.,	100
	110405, Inc.,	100

	Ariba International, Inc.,	100
	Ariba International Holdings, Inc.,	100
	Business Objects Option LLC,	100
	Concur Holdings (US) LLC,	100
	Inxight Federal Systems Group, Inc.,	100
	H-G Intermediate Holdings, Inc.,	100
	H-G Holdings, Inc.	100
	Gelco Information Network, Inc.,	100
	Financial Fusion, Inc.,	100
	Extended Systems, Inc.,	100
	Plateau Systems LLC,	100
	SAP National Security Services, Inc	100
	SAP International, Inc.,	100
	SAP Global Marketing, Inc.,	100
	SAP Public Services, Inc.	100
	SAP Technologies Inc.,	100
	Sybase International Holdings Corporation, LLC,	100
	Sybase 365, LLC,	100
	Sapphire Ventures Fund II, L.P.,	0
	TRX, Inc	100
	TRX Technology Services, L.P.,	100
	TRX Fulfillment Services	100
	TRX Data Service, Inc.,	100
	Travel Technology,	100
	TomorrowNow, Inc.,	100
	Technology Licensing Company, LLC,	100
<b>Aon (181 Subsidiaries)</b>	Aon Service Corporation	Not Available
	Aon US Holdings, Inc.	Not Available
	ARMRISK Corp.	Not Available
	K2 Technologies Inc. etc.	Not Available
<b>NTT Data</b>	Raging Wire Data Centres, Inc.	80.1
	RW Holdco Inc.	80.1
	RW Midco Inc.	80.1
	Dimension Data (US) II Inc.	100
	Dimension Data (US) Inc.	100
	Dimension Data North America, Inc.	100
	Solutionary, Inc.	100
	NTT Innovation Institute, Inc.	100
	DOCOMO GuamHoldings, Inc.	66.7
	MCV Guam Holding Corp.	66.7
	DOCOMO Capital, Inc.	66.7

	NTT Data International L.L.C.	54.2
	NTT Data Inc.	54.2
	NTT Data Enterprise Services Holding, Inc.	54.2
<b>Ricoh</b>	Ricoh Electronics, Inc.	100
	Ricoh Americas Holdings, Inc.	100
	Ricoh Americas Corporation	100
	Ricoh USA, Inc.	100
	Ricoh Printing Systems America, Inc.	100
	Ricoh Production Print Solutions, LLC	100
	mindSHIFT Technologies, Inc.	100
	Ricoh Imaging Americas Corporation	100
<b>Hitachi</b>	Deere Hitachi Construction Machinery Corp.	Not Available
	Hitachi Construction Machinery Holding USA Corp	Not Available
<b>Genpact</b>	Creditek Corporation	Not Available
	Genpact International, Inc.	Not Available
	Genpact LLC	Not Available
	Genpact (Mexico) I LLC	Not Available
	Genpact (Mexico) II LLC	Not Available
	Genpact Mobility Services, Inc.	Not Available
	Genpact Mortgage Services, Inc.	Not Available
	Genpact Onsite Services Inc.	Not Available
	Genpact Registered Agent, Inc.	Not Available
	Genpact Services LLC	Not Available
	Genpact US LLC	Not Available
<b>British Telecom (BT)</b>	Radianz Americas Inc	100
	Infonet USA Corporation	100
	Infonet Services Corporation	100
	Infonet Broadband Services Corporation	100
	IINS, Inc.	100
	BTGS USVI Limited	100
	BT United States L.L.C	100
	BT Newgate LLC	100
	BT Moorgate LLC	100
	BT LatAm, Inc.	100
	BT LatAm Services, Inc.	100
	BT LatAm Holdings Two, Inc	100
	BT LatAm Holdings Three, Inc	100
	BT LatAm Holdings One, Inc	100
	BT LatAm (Nevada) Corp.	100
	BT Federal Inc	100

	BT Conferencing Video Inc	100
	BT Communications Sales of Virginia LLC	100
	BT Communications Sales LLC	100
	BT Commerce L.L.C.	100
	BT Americas Inc.	100
	BT Americas Holdings Inc	100
<b>Teleperformance</b>	Teleperformance Group Inc	100
<b>Samsung SDS</b>	Samsung Electronics America (SEA)	100
	NexusDX (Nexus)	100
	NeuroLogica	100
	Samsung Semiconductor (SSI)	100
	PrinterOn America	100
	Quietside	100
	RT SV CO-INVEST	99.9
	SEMES America	100
	Samsung Telecommunications America	100
	Samsung International	100
	Grandis	100
	Samsung Research America	100
	Samsung Semiconductor (SSI)	100
<b>Canon</b>	Canon Information Technology Services, Inc	Not Available
	Canon Solutions America, Inc	Not Available
	Canon Financial Services, Inc.	Not Available
	Canon Information and Imaging Solutions, Inc.	Not Available
	Canon Business Process Services, Inc.	Not Available
	Canon BioMedical, Inc	Not Available
	Canon US Life Sciences, Inc	Not Available
	Canon Healthcare Optics Research Laboratory Boston	Not Available
	Imaging System Research Division	Not Available
	Canon Virginia, Inc.	Not Available
	Canon Environmental Technologies, Inc.	Not Available
	Canon Virginia Oakland	Not Available
	Virtual Imaging, Inc.	Not Available
	Canon USA. Latin America Group	Not Available

## A-6 Letter by US Senators

For Immediate Release

Contact: Max Gleischman (Durbin)  
202.228.5244

Beth Pellett Levine  
202.224.6197

April 1, 2007

DURBIN AND GRASSLEY ZERO IN ON H-1B VISA DATA

Letters Sent on Day of Application Deadline for 2008 Visas

[WASHINGTON, DC] – United States Senators Dick Durbin (D-IL) and Chuck Grassley (R-IA) sent a letter today to the top 25 recipients of approved H-1B visa petitions in 2007, seeking detailed information on how each firm uses the visa program. These firms were responsible for nearly 20,000 of the available H-1B visas last year.

"By the end of the day today, all of the H-1B visas for the year will likely be spoken for," Durbin said. "The H-1B program can't be allowed to become a job-killer in America. We need to ensure that firms are not misusing these visas, causing American workers to be unfairly deprived of good high-skill jobs here at home."

Durbin and Grassley have repeatedly raised concerns that the loopholes in the H-1B and L-1 visa programs are allowing for the outsourcing of American jobs. Last year, they introduced the H-1B and L-1 Visa Fraud and Abuse Prevention Act, which would require H-1B applicants to make a good faith effort to hire American workers first and would give the Department of Labor greater oversight authority in investigating possible fraud and abuse.

"I have no doubt that we'll hear arguments all day as to why the cap on H-1B visas should be raised, but nobody should be fooled. The bottom line is that there are highly skilled American workers being left behind, searching for jobs that are being filled by H-1B visa holders," Grassley said. "It's time to close the loopholes that have allowed this to happen and enact real reform."

The letters are part of an effort to determine if the H-1B program is being used for its intended purpose - to fill a worker shortage for a temporary time period. Durbin and Grassley said they expect the companies to cooperate and answer their questions to ensure that accurate information is being used to address future reforms of the program.

The H-1B visa program allows American companies to employ temporary foreign workers in "specialty

occupations,” often in the high tech industry, while the L visa program is for intracompany transfers of managers, executives and specialists.

The letter was sent to the following companies: Infosys Technologies Ltd., Wipro Limited, Satyam Computer Services Ltd., Cognizant Tech Solutions, Microsoft Corporation, Tata Consultancy Services Ltd., Patni Computer Systems Inc., US Technology Resources LLC, I-Flex Solutions Inc., Intel Corporation, Accenture LLP, Cisco Systems Inc., Ernst & Young LLP, Larsen & Toubro Infotech Ltd., Deloitte & Touche LLP, Google Inc., Mphasis Corporation, University of Illinois at Chicago, American Unit Inc., Jsmn International Inc., Objectwin Technology Inc., Deloitte Consulting, Prince Georges County Public Schools, JPMorgan Chase and Co., and Motorola Inc.

A copy of the letter is attached.

-30-

April 1, 2008

Dear Sir/Madam:

We write to inquire about your company’s use of H-1B and L-1 visas. Congress intended these visa programs to benefit the American economy by allowing US employers to import high-skilled or highly-specialized workers when needed to complement the domestic workforce. However, we are concerned that these programs, as currently structured, are facilitating the outsourcing of American jobs.

As you know, today is the deadline for filing H-1B visa petitions. If past years are any guide, enough applications will be filed today to exhaust the annual allotment of H-1B visas. We understand that many employers would like Congress to make more H-1B visas available. However, we must be mindful of the impact importing more foreign workers will have on American workers, especially in light of the recent economic downturn.

We believe that before increasing the H-1B cap, Congress must close loopholes in the H-1B and L-1 programs that harm American workers. For example, under current law only employers that employ H-1B visa holders as a large percentage of their US workforce are required to attempt to recruit American workers before hiring a H-1B visa holder. Most companies can explicitly discriminate against American workers by recruiting and hiring only H-1B visa holders. As the US Department of Labor (DOL) has said: “H-1B workers may be hired even when a qualified US worker wants the job, and a US worker can be displaced from the job in favor of a foreign worker.”

Additionally, we are concerned that some companies may be circumventing the requirements of the H-1B visa program by using other visa programs, such as the L-1, to bring in cheaper foreign labor. While the L-1 visa program allows intercompany transfers to enter the United States, experts have concluded that some companies use the L-1 visa to bypass even the minimal protections for American workers that are in the H-1B program.

We have introduced S.1035, the H-1B and L-1 Visa Fraud and Abuse Prevention Act of 2007. This bipartisan legislation would reform the H-1B and L-1 visa programs to prevent abuses and protect American companies and workers. For example, S.1035 would require all employers seeking to hire an H-1B visa holder to first make a good-faith effort to hire an American worker.

According to statistics recently released by US Citizenship and Immigration Services, your company was one of the top 25 recipients of approved H-1B petitions in 2007. Understanding your company's use of high-skilled visas would help to inform further our views of the H-1B and L-1 visa programs. Accordingly, we would appreciate your responses to the following questions:

1.
  - a. For each of the last five fiscal years and fiscal year 2009, how many H-1B visa petitions have you submitted to USCIS and how many of these petitions have been approved?
  - b. For each of the last five fiscal years, how many people have you employed in the US and outside the US?
  - c. For each of the last five fiscal years, how many US citizens, H-1B visa holders, L-1A, and L-1B visa holders, and other foreign nationals have you employed in the US and outside the US? If you have employed other foreign nationals in the US, please specify the type of visas held by such nationals.
2.
  - a. For each of the last five fiscal years, have you been a H-1B dependent employer?
  - b. Would you support legislation prohibiting a company from hiring additional H-1B visa holders if the company employs more than 50 people and more than 50% of the company's employees are H-1B and L-1 visa holders? Please explain.
3.
  - a. For each of the last five fiscal years, how many Labor Condition Applications (LCA) have you submitted to DOL and how many of these LCAs have been approved? How many H-1B visa holders were covered by these LCAs?
  - b. If DOL denied any LCAs you submitted, what reasons did DOL give for the denial?
  - c. If you are a H-1B dependent employer, for how many LCAs have you claimed an exemption from the requirements to make a good-faith effort to recruit American workers and not to displace American workers (i.e. Alternative C in section F-1 of the LCA)? How many H-1B visa holders were covered by these exempt LCAs?
4.
  - a. Please provide a detailed description of your recruitment process for open positions, including any relevant company policies and where you advertise.
  - b. Do you give priority to US citizens when filling open positions? Do you make a good-faith effort to recruit US citizens for open positions before recruiting foreign nationals? If yes, please provide a detailed description of these efforts.
  - c. Would you support legislation requiring all employers seeking to hire an H-1B visa holder first to make a good-faith effort to hire an American worker? Please explain.
  - d. Would you support legislation requiring all employers seeking to hire an H-1B visa holder first to



advertise the job opening for a reasonable period of time on a website operated by DOL? Please explain.

5.

- a. Are there any positions for which you only recruit or give priority to foreign nationals?
- b. Are there any positions for which you advertise that you will only hire foreign nationals and/or H-1B visa holders?
- c. Would you support legislation requiring that employers may not advertise a job as available only for H-1B visa holders or recruit only H-1B visa holders for a job? Please explain.

6.

- a. For each of the last five fiscal years, how many foreign workers, H-1B visa holders, L-1A, and L-1B visa holders have you sponsored for employment-based legal permanent residency?
- b. How many such applications are pending?
- c. For each of the last five fiscal years, how many of your H-1B, L-1A, and L-1B employees have received employment-based green cards?

7.

- a. For each of the last five fiscal years, how many employees have you terminated outside the US?
- b. For each of the last five fiscal years, how many employees have you terminated in the US?
- c. How many of these employees were US citizens?
- d. Did H-1B visa holders replace or take over the job responsibilities of any of these terminated employees?
- e. Would you support legislation prohibiting all employers from displacing an American worker with a H-1B visa holder? Please explain.

8.

- a. For each of the last five fiscal years, how many of your H-1B and L-1 employees have you contracted to other companies?
- b. How many such employees have you contracted on a full-time basis?
- c. For each of the last five fiscal years, please provide a list of the companies to whom you have contracted your H-1B or L-1 employees and how many H-1B and L-1 employees you have contracted to each of these companies.
- d. Have any employees of companies to whom you have contracted your H-1B or L-1 employees been displaced by these employees?
- e. How do you determine whether you are involved in secondary displacement, i.e. your H-1B or L-1 employees are displacing employees of a contractor company?
- f. Would you support legislation prohibiting all employers from engaging in secondary displacement?

2.

- a. What positions do your current H-1B employees fill?
- b. How many of your current H-1B employees received higher education degrees in the US?
- c. How many of your current H-1B employees entered the US for the purpose of working for your

company?

- d. What is the average age of your current H-1B employees?
- e. What is the average level of experience of your current H-1B employees?
- f. What is the average length of stay in the US of your current H-1B employees?
- g. How many of your current H-1B employees are skill level one, two, three, and four?
- h. What are the mean, median, highest, and lowest salaries of your current H-1B employees?
- i. What are the mean, median, highest, and lowest salaries of your company's US citizen

employees who are situated similarly to your H-1B employees?

10.

- a. What positions do your current L-1A and L-1B employees fill?
- b. What is the average age of your current L-1A and L-1B employees?
- c. What is the average level of experience of your current L-1A and L-1B employees?
- d. What is the average length of stay in the US of your current L-1A and L-1B employees?
- e. What are the mean, median, highest, and lowest salaries of your current L-1A and L-1B

employees?

f. What are the mean, median, highest, and lowest salaries of your company's US citizen employees who are situated similarly to your L-1A and L-1B employees?

11.

a. Have you received any complaints from your H-1B and/or L-1 employees about unfair hiring practices, wages, or work conditions? If so, please provide details.

b. Have you received any complaints from your American employees about your company's use of the H-1B or L-1 visa programs? If so, please provide details.

Thank you for your time and consideration.

Sincerely,

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Richard J. Durbin

---

Charles E. Grassley

## A-7 Request for Information Template

### US VISA FILING DETAILS

Categories of data specific to Visa Filing	
1	H-1B Visa Filing Details
2	L-1 Visa Filing Details
3	50-50 Rule Applicability
4	US Entities Detail

**Note: FY denotes American Financial year i.e. Oct- Sep. For Example: FY15 denotes Oct 2014- Sep 2015**

#### Category 1

H-1B Visa Filing						
Year	FY10	FY11	FY12	FY13	FY14	FY15
Number of initial (new) visa received						
Number of visa received for lateral hirings*						
Number of renewal visa requests filed						
Number of renewal visa granted						

*\*Details of visa received for lateral hiring of resources already with a H-1B visa, however, a new H-1B visa has to be filed for these resources as they are changing company*

#### Category 2

L-1 Visa Filing						
Year	FY10	FY11	FY12	FY13	FY14	FY15
Number of initial (new) applications filed						
Number of initial (new) visa granted						
Number of renewal visa requests filed						
Number of renewal visa granted						

#### Category 3

50-50 Rule Applicability						
Definition: 50-50 Rule is applicable if a company has more than 50 employees in the US and more than 50 percent of the US employees are in H-1B or L-1 non-immigrant status						
Year	FY10	FY11	FY12	FY13	FY14	FY15
Impacted by 50-50 rule (Yes/ No)						

Category 4	US Entities Detail		
	Name of the US Entity	Mode of presence in the US (Branch/ Subsidiary/ Others specify)	Applicability of 50-50 rule (Yes/ No)

## A-8 Request for data under Freedom of Information Act filed in March 2016

**Date range of request:** October 1, 2009 through September 30, 2015

**Description of the Request:**

Requesting to access the following data related to H-1B and L-1 visa petitions filed by companies:

**H-1B Visa Data:**

- The information should include the number of H-1B initial visas filed and granted and H-1B renewal visa filed and granted on quarterly basis from FY2009 to FY2015 (Quarters being 1st October to 31st December, 1st January to 31st March, 1st April to 30th June and 1st July to 30th September). Also, it should state whether the company employ 50 or more individuals in the United States and are more than 50 percent of the US employees in H-1B or L-1A or L-1B non-immigrant status
- Data to be provided separately for all companies filing a total of more than 50 H-1B petitions in a particular year
- Please find below the template for your reference:

H-1B Visa Filing Details								
Following data related to H-1B visa petitions is requested:								
For each financial year, data to be provided for all companies filing a total of more than 50 H-1B petitions in that year							Kindly refer form I-129, Section 1 General Information of "H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement"	
Company Name	Fiscal year	Quarter Ending	H-1B Visa Details				Does the petitioner employ 50 or more individuals in the United States	Are more than 50 percent of the US employees in H-1B or L-1A or L-1B non-immigrant status
			Number of Initial Visa Filed	Number of Initial Visa Granted	Number of Renewal Visa	Number of Renewal Visa		
							Mark 'Yes' if the above statement holds true,	Mark 'Yes' if the above statement holds true, else mark

					Filed	Granted	else mark 'No'	'No'
Company A	FY10	Dec - 09					NA	NA
		Mar - 10					NA	NA
		Jun - 10					NA	NA
		Sep - 10						
	FY11	Dec - 10						
		Mar - 11						
		Jun - 11						
		Sep - 11						
	FY12	Dec - 11						
		Mar - 12						
		Jun - 12						
		Sep - 12						
	FY13	Dec - 12						
		Mar - 13						
		Jun - 13						
		Sep - 13						
	FY14	Dec - 13						
		Mar - 14						

		Jun - 14						
		Sep - 14						
	FY15	Dec - 14						
		Mar - 15						
		Jun - 15						
		Sep - 15						

#### L-1 Visa Data:

- The information should include the number of L-1 initial visas filed and granted and L-1 renewal visa filed and granted on quarterly basis from FY2009 to FY2015 (Quarters being 1st October to 31st December, 1st January to 31st March, 1st April to 30th June and 1st July to 30th September). Also, it should state whether the company employ 50 or more individuals in the United States and are more than 50 percent of the US employees in H-1B or L-1A or L-1B non-immigrant status
- Data should be provided separately for L-1 individual and L-1 blanket filings
- Data to be provided separately for all companies filing a total of more than 50 L-1 petitions in a particular year
- Please find below the template for your reference:

L-1 Visa Filing Details					
Following data related to L-1 visa petitions is requested:				Kindly refer form I-129, Section 1 General Information of "L Classification Supplement to Form I-129"	
For each financial year, data to be provided for all companies filing a total of more than 50 L-1 petitions in that year					
Company Name	Fiscal year	Quarter Ending	L-1 Visa Details	Does the petitioner employ 50 or more individuals in the United States	Are more than 50 percent of the US employees in H-1B or L-1A or L-1B non-immigrant status

			Number of Initial Visa Filed	Number of Initial Visa Granted	Number of Renewal Visa Filed	Number of Renewal Visa Granted	Mark 'Yes' if the above statement holds true, else mark 'No'	Mark 'Yes' if the above statement holds true, else mark 'No'
Company A	FY10	Dec - 09					NA	NA
		Mar - 10					NA	NA
		Jun - 10					NA	NA
		Sep - 10						
	FY11	Dec - 10						
		Mar - 11						
		Jun - 11						
		Sep - 11						
	FY12	Dec - 11						
		Mar - 12						
		Jun - 12						
		Sep - 12						
	FY13	Dec - 12						
		Mar - 13						
		Jun - 13						
		Sep - 13						
	FY14	Dec - 13						



		Mar - 14						
		Jun - 14						
		Sep - 14						
	FY15	Dec - 14						
		Mar - 15						
		Jun - 15						
		Sep - 15						

### A-9 Request for data under Freedom of Information Act, 2012

Under the Freedom of Information Act, requesting access to the following data related to H-1B and L-1 visa applications filed by companies. Please note that, looking for visa information as mentioned below:

#### Data for H-1B Visa:

Company	Quarter Ending	Number of Visa Applications Filed	Number of Visa Applications Rejected	Number of Visas Granted
Company A	Sep-09			
	Dec-09			
	Mar-10			
	Jun-10			
	Sep-10			
	Dec-10			
	Mar-11			
	Jun-11			
	Sep-11			
	Dec-11			
	Mar-12			
	Jun-12			
	Sep-12			

Kindly note that we need H-1B data **for all companies with total H-1B visa application filings more than 500.**

#### Data for L1 Visa:

Company	Quarter Ending	Number of Visa Applications Filed	Number of Visa Applications Rejected	Number of Visas Granted
Company A	Sep-09			
	Dec-09			
	Mar-10			
	Jun-10			
	Sep-10			
	Dec-10			
	Mar-11			
	Jun-11			
	Sep-11			
	Dec-11			
	Mar-12			
	Jun-12			
	Sep-12			

Kindly note that we need L1 data **for all companies with total L1 visa application filings more than 50.**

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