Foreign Direct Investment Policy

April 2006

सत्यमेव जयते

Department of Industrial Policy & Promotion
Ministry of Commerce & Industry
Government of India

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FOREWORD

Foreign Direct Investment (FDI) plays an important role in the long-term economic development of a country not only as a source of capital but also for enhancing competitiveness of the domestic economy through transfer of technology, strengthening infrastructure, raising productivity and generating new employment opportunities. FDI also has an important role in enhancing exports. We in India see FDI as a developmental tool.

The policy of the Government of India is to strive to maximize the developmental impact and spin-offs of FDI. While the Government encourages, and indeed, welcomes FDI in all the sectors where it is permitted, we are especially looking for large FDI inflows in the development of infrastructure, technological upgradation of Indian industry through 'greenfield' investments in manufacturing, and in projects having the potential for creating employment opportunities on a large scale. We also invite investments in setting up Special Economic Zones and establishing manufacturing units therein.

India has consistently been classified as among the most attractive investment destinations by a slew of reputed international rating organizations. With its highly-skilled and cost-effective manpower, it offers immense opportunities not only for Business Process Outsourcing, but increasingly for the higher end of the value chain in Knowledge Process Outsourcing and Engineering Process Outsourcing.

In order to further improve the investment climate, a major rationalization of the FDI policy and associated procedures was recently undertaken by my Ministry. This Compendium is the result of that exercise, and I am very happy to present it to the investing community.

KAMAL NATH
Minister of Commerce & Industry

New Delhi
April 17, 2006

COMPENDIUM ON FOREIGN DIRECT INVESTMENT POLICY

AN OVERVIEW

The Government of India has recently undertaken a comprehensive review of the FDI policy and associated procedures. As a result, a number of rationalisation measures have been undertaken which, inter alia include, dispensing with the need of multiple approvals from Government and/or regulatory agencies that exist in certain sectors, extending the automatic route to more sectors, and allowing FDI in new sectors. The latest changes in the FDI policy were notified vide Press Note 4 (2006 Series).

* * *

As per the extant policy, FDI up to 100% is allowed, under the automatic route, in most sectors/ activities. FDI under the automatic route does not require prior approval either by the Government of India or the Reserve Bank of India (RBI). Investors are only required to notify the concerned Regional office of RBI within 30 days of receipt of inward remittances and file required documents with that office within 30 days of issue of shares to foreign investors.

Under the Government approval route, applications for FDI proposals, other than by Non-Resident Indians, and proposals for FDI in 'Single Brand' product retailing, are received in the Department of Economic Affairs, North Block, New Delhi. Proposals for FDI in 'Single Brand' product retailing and by NRIs are received in the Department of Industrial Policy & Promotion, Udyog Bhavan, and New Delhi. Applications can be submitted either in the prescribed proforma FC-IL form, or on plain paper with a check list available on the website **www.dipp.gov.in.**

Foreign investments in equity capital of an Indian company under the Portfolio Investment Scheme are not within the ambit of FDI policy and are governed by separate regulations of RBI /Securities & Exchange Board of India (SEBI).

Foreign investors intending to set up Branch /Liaison/Project Offices would also be governed by specific Regulations under Foreign Exchange Management Act (FEMA) which, inter alia, prescribe permissible activities and approvals required for such offices. These are available at the RBI website **www.rbi.org.in**

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This Compendium on the extant Foreign Direct Investment Policy has been organized in three sections dealing with FDI policy, related Press Notes and FDI statistics.

Section A gives an overview of extant FDI policy. In the sectors listed in the statement, FDI is allowed only in the indicated activities subject to the equity limits and/or other conditions, as indicated. FDI in all sectors/activities is subject to sectoral guidelines and requirements. FDI is not permitted in Retail trade (except Single Brand product retailing); Lottery; Gambling and Atomic Energy. In the remaining sectors/activities, FDI up to 100% would be allowed on the automatic route.

Section B contains relevant Press Notes on FDI policy and procedures in a chronological order. All Press Notes, issued since 1991, are available at the website **www.dipp.gov.in.**

Section C deals with FDI inflow statistics since 1991, including the country-wise and sector wise details. It also gives FDI inflow statistics, as per international practices, since 2000-01. FDI statistics is also available at the website **www.dipp.gov.in**

CONTENTS

SECTION A

FDI POLICY

POLICY ON FOREIGN DIRECT INVESTMENT (FDI)

I. Sectors prohibited for FDI

i. Retail trading (except Single Brand Product retailing)

ii. Atomic energy

iii. Lottery business

iv. Gambling and Betting

II. All Activities/ Sectors would require prior Government approval for FDI in the following circumstances:

i. where provisions of Press Note 1(2005 Series) are attracted;

ii. where more than 24% foreign equity is proposed to be inducted for manufacture of items reserved for the Small Scale sector.

III. In Sectors/Activities not listed below, FDI is permitted up to 100% on the automatic route subject to sectoral rules / regulations applicable.

IV. Sector-specific policy for FDI : In the following sectors/activities, FDI upto the limit indicated below is allowed subject to other conditions as indicated:

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
1.	**Airports-**				
a.	Greenfield projects	100%	Automatic	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006
b.	Existing projects	100%	FIPB beyond 74%	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006
2.	**Air Transport Services**	49%- FDI; 100%- for NRI investment	Automatic	Subject to no direct or indirect participation by foreign airlines. Government of India Gazette Notification dated 2.11.2004 issued by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
3.	**Alcohol-Distillation & Brewing**	100%	Automatic	Subject to license by appropriate authority	PN 4 / 2006
4.	**Asset Reconstruction Companies**	49% (only FDI)	FIPB	Where any individual investment exceeds 10% of the equity, provisions of Section 3(3)(f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 should be complied with. www.finmin.nic.in	
5.	**Atomic Minerals**	74%	FIPB	Subject to guidelines issued by Department of Atomic Energy vide Resolution No. 8/1(1)/97-PSU/1422 dated 6.10.98.	
6.	**Banking - Private sector**	74% (FDI+FII)	Automatic	Subject to guidelines for setting up branches / subsidiaries of foreign banks issued by RBI. www.rbi.org.in	PN 2 / 2004
7.	**Broadcasting**				
a.	FM Radio	FDI +FII investment up to 20%	FIPB	Subject to Guidelines notified by Ministry of Information & Broadcasting www.mib.nic.in	PN 6 / 2005
b.	Cable network	49% (FDI+FII)	FIPB	Subject to Cable Television Network Rules (1994) Notified by Ministry of Information & Broadcasting www.mib.nic.in	
c.	Direct-To-Home	49% (FDI+FII). Within this limit, FDI component not to exceed 20%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
d.	Setting up hardware facilities such as up-linking, HUB, etc	49% (FDI+FII)	FIPB	Subject to Up-linking Policy notified by Ministry of Information & Broadcasting www.mib.nic.in	PN 1 / 2006
e.	Up-linking a News & Current Affairs TV Channel	26% FDI+FII	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	PN 1/ 2006
f.	Up-linking a Non-news & Current Affairs TV Channel	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	PN 1 / 2006
8.	**Cigars & Cigarettes-** Manufacture	100%	FIPB	Subject to industrial license under the Industries (Development & Regulation) Act, 1951	PN 4 / 2006
9.	**Coal & Lignite mining** for captive consumption by power projects, and iron & steel, cement production and other eligible activities permitted under the Coal Mines (Nationalisation) Act, 1973.	100%	Automatic	Subject to provisions of Coal Mines (Nationalization) Act, 1973 www.coal.nic.in	PN 4 / 2006
10.	**Coffee & Rubber processing & warehousing**	100%	Automatic		PN 4 / 2006
11.	**Construction Development projects,** including housing, commercial premises, resorts, educational institutions, recreational facilities, city and regional level infrastructure, townships.	100%	Automatic	Subject to conditions notified vide Press Note 2 (2005 Series) including: a. minimum capitalization of US$ 10 million for wholly owned subsidiaries and US$ 5 million for joint venture. The funds would have to be brought within six months of commencement of business of the Company.	PN 2 / 2005 & PN 2 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
				b. Minimum area to be developed under each project- 10 hectares in case of development of serviced housing plots; and built-up area of 50,000 sq. mts. in case of construction development project; and any of the above in case of a combination project. **[Note: For investment by NRIs, the conditions mentioned in Press Note 2 / 2005 are not applicable.]**	
12.	**Courier services** for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898.	100%	FIPB	Subject to existing laws and exclusion of activity relating to distribution of letters, which is exclusively reserved for the State. www.indiapost.gov.in	PN 4 / 2001
13.	**Defence production**	26%	FIPB	Subject to licensing under Industries (Development & Regulation) Act, 1951 and guidelines on FDI in production of arms & ammunition.	PN 4 / 2001 & PN 2 / 2002
14.	**Floriculture, Horticulture**, **Development of Seeds, Animal Husbandry**, **Pisciculture, aqua-culture, cultivation of vegetables, mushrooms, under controlled conditions** and services related to agro and allied sectors.	100%	Automatic		PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
15.	**Hazardous chemicals,** viz., hydrocyanic acid and its derivatives; phosgene and its derivatives; and isocyanates and diisocyantes of hydrocarbon.	100%	Automatic	Subject to industrial license under the Industries (Development & Regulation) Act, 1951 and other sectoral regulations.	PN 4 / 2006
16.	**Industrial explosives-** Manufacture	100%	Automatic	Subject to industrial license under Industries (Development & Regulation) Act, 1951 and regulations under Explosives Act, 1898	PN 4 / 2006
17.	**Insurance**	26%	Automatic	Subject to licensing by the Insurance Regulatory & Development Authority www.irda.nic.in	PN 10 / 2000
18.	**Investing companies in infrastructure / services sector (except telecom sector)**	49%	FIPB	Foreign investment in an investing company will not be counted towards sectoral cap in infrastructure/services sector provided the investment is up to 49% and the management of the company is in Indian hands	PN 2 / 2000 & PN 5 / 2005
19.	**Mining** covering exploration and mining of diamonds & precious stones; gold, silver and minerals.	100%	Automatic	Subject to Mines & Minerals (Development & Regulation) Act, 1957 www.mines.nic.in Press Note 18 (1998) and Press Note 1 (2005) are not applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and/or the particular mineral.	PN 2 / 2000, PN 3 / 2005, & PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
20.	**Non Banking Finance Companies- approved activities**				
i) ii) iii) iv) v) vi) vii) viii) ix) x) xi) xii) xiii) xiv) xv) xvi) xvii) xviii) xix)	**Merchant banking** **Underwriting** **Portfolio Management Services** **Investment Advisory Services** **Financial Consultancy** **Stock Broking** **Asset Management** **Venture Capital** **Custodial Services** **Factoring** **Credit Reference Agencies** **Credit Rating Agencies** **Leasing & Finance** **Housing Finance** **Forex Broking** **Credit card business** **Money changing business** **Micro credit** **Rural credit.**	100%	Automatic	Subject to: a. minimum capitalization norms for fund based NBFCs - US$ 0.5 million to be brought upfront for FDI up to 51%; US$ 5 million to be brought upfront for FDI above 51% and up to 75%; and US$ 50 million out of which US$ 7.5 million to be brought upfront and the balance in 24 months for FDI beyond 75% and up to 100%. b. minimum capitalization norms for non-fund based NBFC activities- US$ 0.5 million. c. foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities subject to bringing in US$ 50 million without any restriction on number of operating subsidiaries without bringing additional capital. d. joint venture operating NBFC's that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities subject to the subsidiaries also complying with the applicable minimum capital inflow. e. compliance with the guidelines of the RBI.	PN 2 / 2000, PN 6 / 2000, & PN 2 / 2001

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
21.	**Petroleum & Natural Gas sector**				
a.	Other than Refining and including market study and formulation; investment/ financing; setting up infrastructure for marketing in Petroleum & Natural Gas sector.	100%	Automatic	Subject to sectoral regulations issued by Ministry of Petroleum & Natural Gas; and in the case of actual trading and marketing of petroleum products, divestment of 26% equity in favour of Indian partner/public within 5 years. www.petroleum.nic.in	PN 1 / 2004 & PN 4 / 2006
b.	Refining	26% in case of PSUs 100% in case of Private companies	FIPB (in case of PSUs) Automatic (in case of private companies)	Subject to Sectoral policy www.petroleum.nic.in	PN 2 / 2000
22.	**Print Media-**				
a.	Publishing of **newspaper and periodicals** dealing with news and current affairs	26%	FIPB	Subject to Guidelines notified by Ministry of Information & Broadcasting. www.mib.nic.in	
b.	**Publishing of scientific magazines/ specialty journals/ periodicals**	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. www.mib.nic.in	PN 1 / 2004
23.	**Power** including generation (except Atomic energy); transmission, distribution and Power Trading.	100%	Automatic	Subject provisions of the Electricity Act, 2003 www.powermin.nic.in	PN 2 / 1998, PN 7 / 2000, & PN 4 / 2006
24.	**Tea Sector**, including tea plantation	100%	FIPB	Subject to divestment of 26% equity in favour of Indian partner/Indian public within 5 years and prior approval of State Government for change in land use.	PN 6 / 2002

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
25.	**Telecommunications**				
a.	Basic and cellular, Unified Access Services, National/ International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added telecom services	74% (Including FDI, FII, NRI, FCCBs, ADRs, GDRs, convertible preference shares, and proportio-nate foreign equity in Indian promoters/ Investing Company)	Automatic up to 49%. FIPB beyond 49%.	Subject to guidelines notified in the PN 5 (2005 Series).	PN 5 / 2005
b.	ISP with gateways, radio-paging, end-to-end bandwidth.	74%	Automatic up to 49%. FIPB beyond 49%.	Subject to licensing and security requirements notified by the Department of Telecommunications. www.dotindia.com	PN 4 / 2001
c.	ISP without gateway, infrastructure provider providing dark fibre, electronic mail and voice mail	100%	Automatic up to 49%. FIPB beyond 49%.	Subject to the condition that such companies shall divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world. Also subject to licensing and security requirements, where required. www.dotindia.com	PN 9 / 2000
d.	Manufacture of telecom equipments	100%	Automatic	Subject to sectoral requirements. www.dotindia.com	PN 2 / 2000

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
26.	**Trading**				
a.	Wholesale/cash & carry trading	100%	Automatic	Subject to guidelines for FDI in trading issued by Department of Industrial Policy & Promotion vide Press Note 3 (2006 Series).	PN 4 / 2006
b.	Trading for exports	100%	Automatic		
c.	Trading of items sourced from small scale sector	100%	FIPB		
d.	Test marketing of such items for which a company has approval for manufacture	100%	FIPB		
e.	Single Brand product retailing	51%	FIPB		
27.	**Satellites - Establishment and operation**	74%	FIPB	Subject to Sectoral guidelines issued by Department of Space/ISRO www.isro.org	
28.	Special Economic Zones and Free Trade Warehousing Zones covering setting up of these Zones and setting up units in the Zones	100%	Automatic	Subject to Special Economic Zones Act, 2005 and the Foreign Trade Policy. www.sezindia.nic.in	PN 9 / 2000, PN 2 / 2006 & PN 4 / 2006

SECTION B

PRESS NOTES ON FDI POLICY

PRESS NOTES ON FDI POLICY

Government of India
Ministry of Industry
(Department of Industrial Policy & Promotion)
SIA (FC Division)
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Press Note No. 3 (1997 Series)

The Government have taken a series of steps to further liberalise and streamline the procedures and mechanism for approval of both domestie and foreign direct investment. In fulfilment of its commitment to provide greater transparency in decision making, the Government have announced a set of Guidelines for consideration of foreign direct invetment proposals by the Foreign Investment Promotion Board.

A set of Guidelines announced in this regard is enclosed for general information and for information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(32)/97-IP
Dated 17th January, 1997.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB)

The following Guidelines are laid-down to enable the Foreign Investment Promotion Board (FIPB) to consider the proposals for Foreign Direct Investment (FDI) and formulate its recommendations.

1. All applications should be put up before the FIPB by the SIA (Secretariat of Industrial Assistance) within 15 days and it should.4 be ensured that comments of the administrative ministries are placed before the Board either prior to/or in the meeting of the Board.

2. Proposals should be considered by the Board keeping in view the time-frame of 6 weeks for communicating Government decision (i.e. approval of IM/CCFI or rejection as the case may be).

3. In cases in which either the proposal is not cleared or further information is required in order to obviate delays presentation by applicant in the meeting of the FIPB should be resorted to.

4. While considering cases and making recommendations, FIPB should keep in mind the sectoral requirements and the sectoral policies vis-a-vis the proposal(s).

5. FIPB would consider each proposal in totality (ie. if it includes apart from foreign investment. technical collaboration/industrial licence) for composite approval or, otherwise. However, the FIPB's recommendation would relate only to the approval for foreign financial and technical collaboration and the foreign investors will need to take other prescribed clearances separately.

6. The Board should examine the following while considering proposals submitted to it for consideration.

   (i) whether the items of activity involve industrial licence or not and if so the considerations for grant of industrial licence must be gone into;

   (ii) whether the proposal involves technical collaboration and if so (a) the source and nature of technology sought to be transferred, (b) the terms of payment (payment of royalty by 100% subsidiaries is not permitted);

   (iii) whether the proposal involves any mandatory requirement for exports and if so whether the applicant is prepared to under take such obligation (this is for Small Industry Units, as also for dividend balancing and for 100% EOUs/EPZ Units).

   (iv) whether the proposal involves any export projection and if so the items of export and the projectcd destinations.

(v) whether the proposal has concurrent commitment, under other schemes such as EPCG scheme, etc.

(vi) in the case of Export Oriented Units (EOUs) whether the prescribed minimum value addition norms and the minimum turn over of exports are met or not.

(vii) whether the proposal involves relaxation of locational restrictions stipulated in the industrial licensing policy; and

(viii) whether the proposal has any strategic or defence related considerations.

7. While considering proposals the following may be prioritised.

(a) Items falling whithin Annexure III of the New Industrial Policy (i.e. those which do not qualify)' for automatic approval).

(b) Items falling in infrastructure sector.

(c) Items which have an export potential.

(d) Items which have large scale employment potential and especially for rural people.

(e) Items which have a direct or backward linkage with agro business/farm sector

(f) Items which have greater social relevance such as hospitals, human resource development, life saving drugs and equipment.

(g) Proposals which result in induction of technology or infusion of capital.

8. The following should be especially considered during the secrutiny and consideration of proposas.

(a) The extent of foreign equity proposed to be held (keeping in view sectoral caps if any - e.g. 24% for SSI units, 40% for air taxi/airlines operators, 49% in basic/cellular /paging etc. in Telecom Sector.)

(b) Extent of equity with composition of foreign/NRl (which may include OCB)/resident Indians.

(c) Extent of equity from the point of view whether the proposed project would amount to a holding company/wholly owned subsidiary/a company with dominant foreign investment (i.e. 76% or more) joint venture.

(d) Whether the proposed foreign equity is for setting up a new project (joint venture or otherwise) or whether it is for enlargement of foreign/NRl equity or whether it is for fresh induction of foreign equity/NRI equity in an existing Indian company.

(e) In the case of fresh induction offoreign/NRI equity and/or in cases of enlargement of foreign/ NRI equity), in existing Indian companies whether there is a resolution of the Board of Directors supporting the said induction/enlargement of foreign/NRl equity and whether there is a shareholders agreement or not.

(f) In the case of induction of fresh equity in the existing Indian companies and/or enlargement of foreign equity in existing Indian companies, the reason why the proposal has been made and the modality for induction/enhancement (i.e. whether by increase of paid up capital/ authorised capital, transfer of shares (hostile or otherwise) whether by rights issue, or by what modality].

(g) Issue/transfer/pricing of shares will be as per SEBI/RBI guidelines.

(h) Whether the activity is an industrial or a service activity or a combination of both.

(i) Whether the item of activity involves any restriction by way of reservation for the small scale sector.

(j) Whether there are any sectoral restrictions on the activity (e.g. there is ban on foreign investment in real estate while it is not so for NRI/OCB investment).

(k) Whether the item involves only trading activity and if so whether it involves export or both export and import, or also includes domestic trading and if domestic trading whether it also includes retail trading.

(l) Whether the proposal involves import of items which are either hazardous, banned or detrimental to environment (e.g. import of plastic scrap or recycled plastics).

In respect of the industries/activities listed in Annex III of the New Industrial Policy automatic approval for majority equity holding (50/51/74 per cent) is accorded by the Reserve Bank of India. FIPB may consider recommending higher levels of foreign equity in respect of these activities keeping in view the special requirements and merit of each case.

10. In respect of other industries/activities the Board may consider recommending 51 per cent foreign equity on examination of each individual proposal. For higher levels of equity upto 74 per cent the Board may consider such proposals keeping in view considerations such as the extent of capital needed for the project, the nature and quality of technology, the requirements of marketing and management skills and the commitment for exports.

11. FIPB may consider and recommend proposals for 100 per cent foreign owned holding/subsidiary companies based on the following criteria:

(a) where only "holding" operation is involved and all subsequent/downstream investments to be carried out would require prior approval of the Government.

(b) where proprietary technology is sought to be protected or sophisticated technology is proposed to be brought in;

(c) where at least 50% of production is to be exported,

(d) proposals for consultancy; and

(e) proposals for power, roads, ports and industrial model towns/industrial parks or estates.

12. In special cases, where the foreign investor is unable initially to identify an Indian joint venture partner, the Board may consider and recommend proposals permitting 100 per cent foreign equity on a temporary basis on the condition that the foreign investor would divest to the Indian parties (either individual, joint venture partners or general public or both) at least 26 percent of its equity within a period of 3 - 5 years.

13. Similarly in the case of a joint venture, where the Indian partner is unable to raise resources for expansion/technological upgradation of the existing industrial activity the Board may consider and recommend increase in the proportion/percentage (up to 100 per cent) of the foreign equity in the enterprise.

14. In respect of trading companies, 100 per cent foreign equity may be permitted in the case of the activities involving the following;

(i) exports;

(ii) bulk imports with export/expanded warehouse sales;

(iii) cash and carry wholesale trading;

(iv) other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group.

15. In respect of the companies in the infrastructure/services sector where there is a prescribed cap for foreign investment, only the direct investment should be considered for the prescribed cap and foreign investment in an investing company should not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49 per cent and the management of the investing company is with the Indian owners.

16. No condition specific to the letter of approval issued to a foreign investor would be changed or additional condition imposed subsequent to the issue of a letter of approval. This would not prohibit changes in general policies and, regulations applicable to the industrial sector.

17. Where in case of a proposal (not being 100% subsidiary) foreign direct investment has been approved upto a designated percentage of foreign equity in the joint venture company, the percentage would not be reduced while permitting induction of additional capital subsequently. Also in the case of approved activities, if the foreign investor(s) concerned wishes to bring in additional capital on later dates keeping the investment to such approved activities, FIPB would recommend such cases for approval on an automatic basis.

18. As regards proposal for private sector banks, the application would be considered only after "in principle" permission is obtained from the Reserve Bank of India (RBI).

19. The restrictions prescribed for proposals in various sectors as obtained, at present, are given in the Annex and these should be kept in view while considering the proposals.

These Guidelines are meant to assist the FIPB to consider proposals in an objective and transparent manner. These would not in any way restrict the flexibility or bind the FIPB from considering the proposals in their totality or making recommendations based on other criteria or special circumstances or features it considers relevant. Besides these are in the nature of administrative Guidelines and would not in any way be legally binding in respect of any recommendation to be made by the FIPB or decisions to be taken by the Government in cases involving Foreign Direct Investment (FDI).

These guidelines are issued without prejudice to the Government's right to issue fresh guidelines or change the legal provisions and policies whenever considered necessary.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 2 (1998 Series)

Under the present policy,. Indian companies undertaking generation and transmission of electric energy, produced in hydro-electric power plants, coal based power plants, oil based thermal power plants and gas based thermal power plants are eligible for automatic approval up to 74% foreign equity.

2. The Government has reviewed the existing guidelines for automatic approval for foreign equity for electric generation, transmission and distribution projects and has decided to enlarge the provisions for automatic-approval for such projects. Accordingly, projects for electric generation, transmission and distribution will be permitted foreign equity participation up to 100% on the automatic approval route provided the foreign equity in any such project does not exceed Rs. 1500 crore. The categories which would qualify for such automatic approval are:

(i) Hydro-electricpower plants.

(ii) Coal/lignite based thermal power plants.

(iii) Oil based thermal power plants.

(iv) Gas based thermal power plants.

3. It is clarified that the facility for automatic approval, as enumerated in paragraph 2 above, does **not** include generation, transmission and distribution of electric energy produced in atomic reactor power plants and hence such proposals shall **not** qualify for automatic approval by RBI under this Press Note.

4. The provisions referred in para 2 above would be listed under the heading Part "D" of Annexure-III as appended to this Press Note as a substitution of the existing entry No. C-4 in Part “C” of Annexure-III.

5. The list appended to this Press Note is based on the National Industrial Classification of all Economic Activities (NIC), 1987. The entrepreneurs/investors are advised to give the description of their activity under this classification system when submitting their applications to the RBI.

6. All other terms and conditions as notified under Press Note No. 2 (1997 Series) dated the 17th January, 1997 and Press Note No. 14 (1997 Series) dated the 8th October, 1997 remain unchanged.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(31)/97-I.P.
Dated 13th June, 1998.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 16 (1998 Series)

In the Press Note No. 4 (1997 Series) issued by this Department on 30th April, 1997, guidelines for FDI in the Non-Banking Financial Companies (NBFCs) including norms for the minimum capitalisation were announced. The question of minimum capitalisation requirement has been reviewed by the Government and it has been decided that foreign investment proposals for purely financial consultancy services that are non-fund based, would not be subjected to the minimum capitalisation norms subject to the following conditions :-

"It would not be permissible for such a company to set up by any subsidiary for any other activity, nor any equity it may contribute in an NBFC holding/operating company would be reckoned as domestic equity."

NBFCs undertaking fund based activities shall, however, continue to attract minimum capitalisation norms.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(32)/97-I.P.
Dated 3rd November, 1998.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 5 (1999 SERIES)

As per guideline No. 2 of the Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB) as notified vide Press Note No. 3 (1997 series), proposals for FDI should be considered by the Board keeping in view the time-frame of six weeks for communicating government decision (i.e., approval of IM or CCFI or rejection as the case may be).

With a view to expediting disposal of FDI proposals, Government have decided to reduce the time frame for consideration of such proposals to thirty (30) days from six weeks. Accordingly, guideline No. 2 as contained in Press Note No. 3 (1997 series) shall stand modified as under:

"Proposals should be considered by the Board keeping in view the time-frame of thirty (30) days for communicating Government decision (i.e., approval of IM/CCFI or rejection as the case may be)."

This is for general information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 10(32)/97-IP
Dated 19th March, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 7 (1999 Series)

As per existing provision the foreign collaboration approvals are subject to the condition that the total non resident shareholding including foreign holding in the Indian company should not exceed the amount as well as the percentage specified in the approval letter. For any proposed increase in the amount as also the percentage of non resident shareholding, prior approval of the Government is necessary.

Proposals are received by the Government for financial restructuring in the following manner:

(a) in the case of joint venture companies proposals for increase in the amount of non resident equity within the approved percentage of non resident equity and

(b) In case of wholly owned subsidiaries or holding companies of foreign companies in India, proposals relating to enhancement of paid up capital.

Government keeping in view the desirability of infusion of additional funds as equity by the foreign company leading to increased investment inflows have reviewed the existing provision for obtaining prior approval of the Government for increase in the amount of foreign equity without change in the percentage of equity in the above type of cases and decided that henceforth there would be no need for obtaining prior approval of FIPB/Government for increase in the amount of foreign equity within the percentage of foreign equity already approved in all cases in which the original project cost was up to Rs. 600 crore. Any company can henceforth infuse additional funds by way of foreign equity as a result of financial restructuring (provided there is no change in the percentage of foreign equity) and notify the same to the Secretariat of Industrial Assistance (SIA) within thirty days of receipt of funds as also allotment of shares to non resident shareholders.

The above procedure will. however, not apply in cases of increase in the percentage of foreign equity as also where initial approval was granted by CCFI. Such cases shall require prior approval of the FIPB/Government as per the existing procedure.

This is for general information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 7(9)/99-IP
Dated 1st April, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 9 (1999 Series)

Subject: Policy relating to the standard conditions applicable to foreign owned Indian holding companies requiring prior and specific approval of FIFB/Government for downstream investment in Annexure III activities, which qualify for Automatic Approval.

The Government have reviewed the existing policy relating to the standard conditions applicable to foreign owned Indian holding companies requiring prior and specific approval of FIFB/Government for downstream investment. On careful consideration of the matter and with a view to further simplifying the investment procedures for downstream investment. it has been decided to permit foreign owned Indian holding companies to make downstream investment in Annexure III activities, which qualify for Automatic Approval subject to the following conditions:-

(a) downstream investments may be made within foreign equity levels permitted for different activities under the automatic route;

(b) proposed/existing activities for the joint venture company being fully confined to Annexure III activities;

(c) increase in equity level resulting out of expansion of equity base of the existing/fresh equity of the new joint venture company;

(d) the downstream investment involving setting up of an EOU/STP/EHTP project or items involving compulsory licensing; SSI reserved items; acquisition of existing stake in an Indian company by way of transfer/ as also buyback shall not be eligible for automatic approval and shall require prior approval of FIPB/Government;

(e) the holding company to notify SIA of its downstream investment within 30 days of such investment even if shares have not been allotted alongwith the modality of investment in new/ existing ventures (with/without expansion programme);

(f) proposals for downstream investment by way of induction of foreign equity in an existing Indian Company to be duly supported by a resolution of the Board of Directors supporting the said induction as also a shareholders Agreement and consent letter of the Foreign Collaborator;

(g) issue/transfer/pricing/valuation of shares shall be in accordance with SEBI/RBI guidelines;

(h) foreign owned holding companies would have to bring in requisite funds from abroad and not leverage funds from domestic market for such investments. This would, however not preclude downstream operating companies to raise debt in the domestic market.

2. The above procedure will form part of the FIPB Guidelines and paragraph 11(a) of the "Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB)" notified vide Press Note No. 3 (1997 Series) shall stand modified accordingly in respect of down stream investment by foreign owned Indian holding companies.

3. All investors and entrepreneurs may please take note of the aforesaid revision in the policy.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 7(13)/99-IP
Datde 12th April, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 12 (1999 Series)

The Government, vide Press Note No. 4 (1997 Series), had announced the norms for FDI in Non Banking Financial Sector. It was further clarified vide Press Note No. 16 (1998 series) that foreign investment proposals for purely financial consultancy services that are non-fund based, would not be subjected to the minimum capitalisation norms as applicable to the NBFCs subject to certain conditions.

2. The matter has been reviewed and it has since been decided as under:

3. The guidelines for foreign equity investment in Non Banking Financial Services sector would be amended to provide for a minimum capitalisilion norm of US$ 0.5 million, for the activities which are not fund based and only advisory or consultancy in nature, irrespective of the foreign equity participation level.

4. The provision of (1) above would be applicable in the following permitted NBFC activities for foreign equity investment:

i. Investment advisory services

ii. Financial consultancy

iii. Credit Reference Agencies

iv. Credit Rating Agencies

v. Forex broking

vi. Money changing business

5. The other provisions of the guidelines of Press Note No. 4 (1997 Series) and Press Note No. 16 (1998 Series) would, however, continue to be applicable in the above cases.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 10(32)/97-IP
Dated 1st July, 1999.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No.2 (2000 Series)

Subject : Expansion of list of industries/activities eligible for automatic route for Foreign Direct Investment (FDI), Non Resident Indian (NRI) and Overseas Corporate Body (OCB) investment.

In pursuance of Government's commitment to early implementation of the second phase of the economic reforms and with a view to further liberalising the FDI regime, Government, on review of the policy on FDI, has decided to place all items / activities under the automatic route for FDI/NRI and OCB investment except the following :

i. All proposals that require an Industrial Licence which includes (i) the item requiring an Industrial Licence under the Industries (Development and Regulation) Act, 1951; (ii) foreign investment being more than 24% in the equity capital of units manufacturing items reserved for small scale industries; and (iii) all items which require an Industrial Licence in terms of the locational policy notified by Government under the New Industrial Policy of 1991.

ii. All proposals in which the foreign collaborator has a previous venture/tie-up in India. The modalities prescribed in Press Note No. 18 dated 14.12.98 of 1998 Series, shall apply in such cases.

iii. All proposals relating to acquisition of shares in an existing Indian company in favour of a foreign/NRI/OCB investor.

iv. All proposals falling outside notified sectoral policy/caps or under sectors in which FDI is not permitted and/or whenever any investor chooses to make an application to the FIPB and not to avail of the automatic route.

2. All proposals for investment in public sector units as also for EOU/EPZ/ EHTP/STP units would qualify for automatic route subject to the above parameters.

3. The modalities and procedures for automatic route would remain the same and RBI would continue to be the concerned agency for monitoring/reporting as per existing procedure. The National Industrial Classification of all Economic Activities (NIC), 1987, shall remain applicable for description of activities and classification for all matters relating to FDI/NRI/OCB investment.

4. FDI/NRI/OCB investment under the automatic route shall continue to be governed by the notified sectoral policy and equity caps and RBI shall ensure compliance with the same.

5. Areas/sectors/activities hitherto not open to FDI/NRI/OCB investment shall continue to be so unless otherwise decided and notified by Government.

6. Henceforth, any change in sectoral policy/sectoral equity cap shall be notified by the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion.

7. Press Note No. 2 (1997 Series), Press Note No. 14 (1997 Series), Press Note No. 2 (1998 Series) and Press Note No. 1 (1999 Series) stand superseded to the extent as aforesaid.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 11th February, 2000.

SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sl.No.	Sector	Guidelines
1.	Banking	NRI holding may be upto 40%, inclusive of equity participation by other foreign investors. Foreign investment of upto 20% is permitted by foreign banking companies or finance companies including multilateral financial institutions. Multilateral institutions are allowed to invest within the overall foreign direct investment cap of 40% in case of shortfall in foreign direct investment contribution by NRIs. The automatic route is not available.
	Non-Banking Financial Companies (NBFC)	a. FDI/NRI/OCB investments allowed in the following 17 NBFC activities shall be as per levels indicated below: i. Merchant banking ii. Underwriting iii. Portfolio Management Services iv. Investment Advisory Services v. Financial Consultancy vi. Stock Broking vii. Asset Management viii. Venture Capital ix. Custodial Services x. Factoring xi. Credit Reference Agencies xii. Credit rating Agencies xiii. Leasing & Finance xiv. Housing Finance xv. Forex Broking xvi. Credit card business xvii. Money changing Business b. Minimum Capitalisation Norms for fund based NBFCs: i For FDI upto 51% - US$ 0.5 million to be brought upfront ii For FDI above 51% and upto 75% - US$5 million to be brought upfront iii For FDI above 75% and upto 100% - US$ 50 million out of which US $ 7.5 million to be brought upfront and the balance in 24 months iv 100% NBFC with a minimum capital of US$ 50 million allowed to set up 100% downstream subsidiary to undertake specific NBFC activities. Such a subsidiary, however, would be required to dis-invest its equity to the minimum extent of 25%, through a public offering only, within a period of 3 years. c. Minimum capitalisation norms for non-fund based activities:

Sl.No.	Sector	Guidelines
		Minimum capitalisation norm of US $ 0.5 million is applicable in respect of all permitted non-fund based NBFCs with foreign investment. The automatic route is not available.
2.	Civil Aviation (detailed guidelines have been issued by Ministry of Civil Aviation)	In the domestic Airlines sector: i. FDI upto 40% permitted subject to no direct or indirect equity participation by foreign airlines is allowed. ii. 100% investment by NRIs/OCBs. iii. The automatic route is not available.
3.	Telecommunication	i. In basic, Cellular Mobile, paging and Value Added service, and Global Mobile Personal Communications by Satellite, FDI is limited to 49% subject to grant of licence from Department of Telecommunications and adherence by the companies (who are investing and the companies in which investment is being made) to the licence conditions for foreign equity cap and lock in period for transfer and addition of equity and other licence provisions. ii. No equity cap is applicable to manufacturing activities.
4.	Information Technology	FDI upto 100% permitted for E-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading, inter alia, implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.
5.	Petroleum (other than Refining)	a. Under the exploration policy, FDI upto 100% is allowed for small fields through competitive bidding; upto 60% for unincorporated JV; and upto 51% for incorporated JV with a No Objection Certificate for medium size fields. b. For petroleum products and pipeline sector, FDI is permitted upto 51%. c. FDI is permitted upto 74% in infrastructure related to marketing and marketing of petroleum products. d. 100% wholly owned subsidiary(WOS) is permitted for the purpose of market study and formulation. e. 100% wholly owned subsidiary is permitted for investment/ Financing. f. For actual trading and marketing, minimum 26% Indian equity is required over 5 years. The automatic route is not available.

Sl.No.	Sector	Guidelines
	Petroleum Refining	a. FDI as permitted upto 26% in case of Public Sector Units. PSUs will hold 26% and balance 48% by public. Automatic route is not available. b. In case of private Indian companies, FDI is permitted upto 100% under automatic route.
6.	Housing & Real Estate	No foreign investment is permitted in this sector. NRIs/OCBs are allowed to invest. The scheme specific to NRIs and OCBs covers the following: a. Development of serviced plots and construction of built up residential premises. b. Investment in real estate covering construction of residential and commercial premises including business centres and offices c. Development of townships d. City and regional level urban infrastructure facilities, including both roads and bridges e. Investment in manufacture of building materials f. Investment in participatory ventures in (a) to (e) above g. Investment in housing finance institutions
7.	Coal and Lignite	i. Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI upto 100%. ii. 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing. iii. FDI upto 74% is allowed for exploration or mining of coal or lignite for captive consumption. iv. In all the above cases, FDI is allowed upto 50% under the automatic route subject to the condition that such investment shall not exceed 49% of the equity of a PSU.
8.	Venture Capital Fund (VCF) and Venture Capital Company(VCC)	An offshore venture capital company may contrinute upto 100% of the capital of a domestic venture capital fund and may also set up a domestic asset management company to manage the fund. VCFs and VCCs are permitted upto 40% of the paid up corpus of the domestic unlisted companies. This ceiling would be subject to relevant equity investment limit in force in relation to areas reserved

Sl.No.	Sector	Guidelines
		for SSI. Investment in a single company by a VCF/VCC shall not exceed 5% of the paid-up corpus of a domestic VCF/VCC. The automatic route is not available.
9.	Trading	Trading is permitted under automatic route with FDI upto 51% provided it is primarily export activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, under the FIPB route:- i. 100% FDI is permitted in case of trading companies for the following activities: • exports; • bulk imports with export/exbonded warehouse sales; • cash and carry wholesale trading; • other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group and for third party use or onward transfer/distribution/sales. ii. The following kinds of trading are also permitted, subject to provisions of EXIM Policy: a. Companies for providing after sales services (that is no trading per se) b. Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India. c. Trading of hi-tech items/items requiring specialised after sales service d. Trading of items for social sector e. Trading of hi-tech, medical and diagnostic items. f. Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name. g. Domestic sourcing of products for exports. h. Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing.
10.	Investing companies in infrastructure/ service sector	In respect of the companies in infrastructure/service sector, where there is a prescribed cap for foreign investment, only the direct investment will be considered for the prescribed cap and foreign investment in an investing company will not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49% and the management of the investing company is with the Indian owners. The automatic route is not available.

Sl.No.	Sector	Guidelines
11.	Atomic energy	The following three activities are permitted to receive FDI/NRI/OCB investments through FIPB (as per detailed guidelines issued by Department of Atomic Energy vide Resolution No.8/1(1)/97-PSU/1422 dated 6.10.98): a. Mining and mineral separation b. Value addition per se to the products of (a) above c. Integrated activities (comprising of both (a) and (b) above. The following FDI participation is permitted: i. Upto 74% in both pure value addition and integrated projects. ii. For pure value addition projects as well as integrated projects with value addition upto any intermediate stage, FDI is permitted upto 74% through joint venture companies with Central/State PSUs in which equity holding of at least one PSU is not less than 26%. iii. In exceptional cases, FDI beyond 74% will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval.
12.	Defence and strategic industries	No FDI/NRI/OCB investment is permitted
13.	Agriculture (including plantation)	No FDI/NRI/OCB investment is permitted
14.	Print media	No FDI/NRI/OCB investment is permitted
15.	Broadcasting	No FDI/NRI/OCB investment is permitted
16.	Power	Upto 100% FDI allowed
17.	Drugs & Pharmaceuticals	i. FDI upto 74% in the case of bulk drugs, their intermediates and formulations (except those produced by the use of recombinant DNA technology) would be covered under automatic route. ii. FDI above 74% for manufacture of bulk drugs will be considered by the Government on case to case basis for manufacture of bulk drugs from basic stages and their intermediates and bulk drugs produced by the use of recombinant DNA technology as well as the specific cell/tissue targeted formulations provided it involves manufacturing from basic stage.

Sl.No.	Sector	Guidelines
18.	Roads & Highways, Ports and Harbours.	FDI upto 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
19.	Hotels & Tourism	100% FDI is permissible in the sector. The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry includes travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports, and health units for tourists and Convention/Seminar units and organisation. Automatic route is also available upto 51% subject to the following parameters. For foreign technology agreements, automatic approval is granted if i. upto 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architecture, design, supervision, etc. ii. upto 3% of the net turnover is payable for franchising and marketing/publicity support fee, and iii. upto 10% of gross operating profit is payable for management fee, including incentive fee.
20.	Mining.	i. For exploration and mining of diamonds and precious stones FDI is allowed upto 74% under automatic route. ii. For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed upto 100% under automatic route. iii. Press Note No. 18 (1998 series) dated 14.12.98 would not be applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and / or the particular mineral.
21.	Postal services	Couriers carrying packages, parcels and other items which do not come within the ambit of Indian Post Office Act 1998 shall not be permitted.

<table>
<tr><th>Sl.No.</th><th>Sector</th><th>Guidelines</th></tr>
<tr><td>22.</td><td>Pollution Control and management</td><td>FDI upto 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted under automatic route.</td></tr>
<tr><td>23.</td><td>Advertising and films</td><td>Automatic approval is available for the following:
• Upto 74% FDI in advertising sector
• Upto 100% FDI in film industry (i.e. film financing, production, distribution, exhibition, marketing and associated activities relating to film industry) subject to the following:
i. Companies with an established track record in films, TV, music, finance and insurance would be permitted.
ii. The company should have a minimum paid up capital of US$ 10 million if it is the single largest equity shareholder and at least US$ 5 million in other cases.
iii. Minimum level of foreign equity investment would be US$ 2.5 million for the single largest equity shareholder and US$ 1 million in other cases.
iv. Debt equity ratio of not more than 1:1, i.e., domestic borrowings shall not exceed equity.</td></tr>
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Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 6 (2000 Series)

Subject : FDI in the Non-Banking Financial Sector – relaxation of norms – reg.

Press Note No. 4 (1999 Series), inter-alia, provides for a 100% foreign equity in Non-Banking Finance Companies (NBFCs) where such NBFC has to act only as a holding company with a minimum capitalisation of US $ 50 million and specific activities to be undertaken by down stream subsidiaries with minimum 25% domestic equity, of which 10% has to be brought-up front and the remaining 15% over a period of 2 years.

2. Government, on review of the policy in this regard, has decided to allow holding companies with a minimum capital of US$ 50 million, to set up a 100% downstream subsidiary to undertake specific NBFC activities. Such a subsidiary, however, would be required to dis-invest its equity to the minimum extent of 25%, through a public offering only, within a period of 3 years.

3. Press Note No. 4 (1997 Series) issued by Government on 30th April, 1997 shall stand amended to the above extent.

4. The other provisions of the NBFC guidelines issued through Press Notes No. 13 of (1997 Series), 8 and 16 of (1998 Series), 11, 12 and 14 of (1999 Series) would continue to be applicable.

(A.C. Duggal)
Director

F. No. 7(4)/2000-IP
Dated 31st March, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 7 (2000 Series)

Subject: Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) / Non Resident Indian (NRI) / Overseas Corporate Bodies (OCB) Investment.

In pursuance of Government's commitment to further liberalising the FDI regime, Government, on review of the policy on FDI, has decided to bring about the following changes in the FDI policy:

I. Foreign Direct Investment upto 100% is allowed for e-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in 5 years, if these companies are listed in other parts of the world. Further, these companies would engage only in business to business (B2B) e-commerce and not in retail trading, inter alia, implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.

II. Vide Press Note No. 12 of 1992 Series, it had been decided to withdraw the condition of dividend balancing in all foreign investment approvals except for industries in the 22 specified consumer goods sector. On review of the existing policy on dividend balancing applicable to 22 specified consumer goods industries, and with a view to attracting FDI, it has been decided, with immediate effect, to remove the condition of dividend balancing on these 22 consumer goods industries. This decision will come into force from the date of issue of this Press Note and the export obligation and concomitant dividend balancing will remain applicable until the date of issue of this Press Note.

III. Under Press Note No. 2 of 1998 series, projects for electricity generation, transmission and distribution with foreign equity upto 100%, had been made eligible for automatic approval provided the foreign equity in any such project does not exceed Rs. 1500 crore. The categories that qualified for such automatic approval are hydroelectric power plants, coal / lignite based thermal power plants, oil based thermal power plants and gas based thermal power plants. Generation, transmission and distribution of electrical energy produced in atomic reactor power plants is not elgible for automatic approval. Keeping in view the growing demand for power in the country and the need for more investment in this sector, Government, as part of further liberalisation of FDI regime, has decided to remove the upper limit for foreign direct investment in respect of projects relating to electric generation, transmission and distribution (other than atomic reactor power plants).

IV. As per existing guidelines for FDI in petroleum sector, FDI in refining is permitted upto 26% (public sector holding of 26% and balance 48% by public). In case of private Indian companies, FDI in refining is permitted upto 49%. Government, as part of liberalisation of FDI regime has decided to increase the level of FDI in oil refining sector under automatic route from the existing 49% to 100%.

(M.S. Srinivasan)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 14th July, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 9 (2000 Series)

Subject : Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) and investment by Non Resident Indians (NRI) / Overseas Corporate Bodies (OCB).

In pursuance of Government's commitment to liberalisting the FDI regime, Government, on review of the policy on FDI, has decided to bring about the following changes in the FDI policy :

I. FDI upto 100% is allowed through the automatic route for all manufacturing activities in Special Economic Zones (SEZs), except for the following activities :

   a. arms and ammunition, explosives and allied items of defence equipment, defence aircraft and warships;

   b. atomic substances;

   c. narcotics and psychotropic substances and hazardous chemicals;

   d. distillation and brewing of alcoholic drinks; and

   e. cigarettes / cigars and manufactured tobacco substitutes.

II. FDI upto 100% is allowed for the following activities in the telecom sector :

   a. ISPs not providing gateways (both for satellite and submarine cables);

   b. Infrastructure Providers providing dark fibre (IP Category I);

   c. Electronic Mail; and

   d. Voice Mail

   The above would be subject to the following conditions :

   a. FDI upto 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world.

   b. The above services would be subject to licensing and security requirements, wherever required.

   c. Proposals for FDI beyond 49% shall be considered by FIPB on case to case basis.

III. Payment of royalty upto 2% for exports and 1% for domestic sales is allowed under automatic route on use of trademarks and brand name of the foreign collaborator without technology transfer.

IV. Payment of royalty upto 8% on exports and 5% on domestic sales by wholly owned subsidiaries to offshore parent companies is allowed under the automatic route without any restriction on the duration of royalty payments.

V. Offshore Venture Capital Funds / Companies are allowed to invest in domestic venture capital undertakings as well as other companies through the automatic route, subject only to SEBI regulations and sector specific caps on FDI.

(A.C. Duggal)
Director

F. No. 7(4)/2000-IP
Dated 8th September, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 10 (2000 Series)

Subject : Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) and investment by Non Resident Indians (NRI) / Overseas Corporate Bodies (OCB).

In pursuance of Government's commitment to liberalise the FDI regime, on review of the policy on FDI, it has been decided that foreign equity participation upto 26% in the Insurance sector, as prescribed in the Insurance Act, 1999, will be allowed under the automatic route.

Companies bringing in FDI shall, however, be required to obtain necessary licence from the Insurance Regulatory & Development Authority for undertaking insurance activities.

(M.S. Srinivasan)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 19th October, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2001 Series)

Subject : Liberalisation of the existing norms for foreign investment in the NBFC sector.

In pursuance of the Government's commitment to liberalise the FDI regime, it has been decided to further liberalise the FDI guidelines in respect of NBFC sector as under :

(a) The existing requirements to bring in capital would continue to be applicable. That is, if the

(i) FDI is less than 51%, US$ 0.5 million to be brought in upfront;

(ii) FDI is more than 51% and upto 75%, US$ 5 million to be brought in upfront; and

(iii) FDI is more than 75% and upto 100%, US$ 50 million, out of which US$ 7.5 million to be brought in upfront and the balance in 24 months.

(b) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US$ 50 million as at (a) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital).

(c) Joint Venture operating NBFCs that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow, i.e., (a) (i) and (a) (ii) above.

(d) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard.

2. Press Note No.4 (1997 Series), Press Note No.13 (1997 Series), Press Note No.8 (1998 Series), Press Note No.16 (1998 Series), Press Note No.11 (1999 Series), Press Note No.12 (1999 Series) and Press Note No.6 (2000 Series) issued on FDI in NBFC Sector stand modified to this extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(16)/2001-FC.I
Dated 17th April, 2001.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 4 (2001 Series)

Subject : Revision of existing sectoral guidelines and equity cap on Foreign Direct Investment (FDI), including investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs).

With a view to further liberalising the FDI regime, Government have effected the following changes in the FDI policy:

i. FDI up to 100% is permitted on the automatic route for manufacture of drugs and pharmaceutical, provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology and specific cell / tissue targeted formulations. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology and specific cell / tissue targeted formulations will require prior Government approval.

ii. FDI up to 100% is permitted in airports, with FDI above 74% requiring prior approval of the Government.

iii. The defence industry sector is opened up to 100% for Indian private sector participation with FDI permissible up to 26%, both subject to licensing.

iv. FDI up to 100% is permitted for development of integrated townships, including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit systems; and manufacture of building materials. Development of land and providing allied infrastructure will form an integral part of township's development, for which necessary guidelines/norms relating to minimum capitalisation, minimum land area, etc., will be notified separately by the Government. FDI in this sector would be permissible with prior Government approval.

v. FDI up to 100% is permitted on the automatic route in hotel and tourism sector.

vi. FDI up to 100% is permitted in courier services subject to existing laws and exclusion of activity relating to distribution of letters. FDI in this sector would be permissible with prior Government approval.

vii. FDI up to 100% is permitted on the automatic route for Mass Rapid Transport Systems in all metropolitan cities, including associated commercial development of real estate.

viii. NRI investment in foreign exchange is made fully repatriable whereas investments made in Indian rupees through rupee accounts shall remain non-repatriable.

ix. FDI up to 74% is permitted for the following telecom services subject to licensing and security requirements:

   a. Internet service providers with gateways;

   b. Radio paging; and

   c. End-to-end bandwidth

   Proposals with FDI beyond 49% shall require prior Government approval.

x. FDI up to 49% from all sources is permitted in the banking sector on the automatic route subject to conformity with guidelines issued by RBI from time to time.

2. The provisions of Press Note No. 2 of 2000 stand modified to the above extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(6)/2000-FC.I
Dated: 21st May, 2001.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 2 (2002 Series)

Subject: Guidelines for licensing production of Arms & Ammunitions.

In pursuance of the Government decision to allow private sector participation up to 100% in the defence industry sector with foreign direct investment (FDI) permissible up to 26%, both subject to licensing, as notified vide Press Note No. 4 (2001 Series), the following guidelines for licensing production of arms and ammunitions are hereby notified:

1. Licence applications will be considered and licences given by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, in consultation with Ministry of Defence.

2. Cases involving FDI will be considered by the FIPB and licences given by the Department of Industrial Policy & Promotion in consultation with Ministry of Defence.

3. The applicant should be an Indian company / partnership firm.

4. The management of the applicant company / partnership should be in Indian hands with majority representation on the Board as well as the Chief Executive of the company / partnership firm being resident Indians.

5. Full particulars of the Directors and the Chief Executives should be furnished along with the applications.

6. The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market. Preference would be given to original equipment manufacturers or design establishments and companies having a good track record of past supplies to Armed Forces, Space and Atomic energy sectors and having an established R & D base.

7. There would be no minimum capitalization for the FDI. A proper assessment, however, needs to be done by the management of the applicant company depending upon the product and the technology. The licensing authority would satisfy itself about the adequacy of the net worth of the foreign investor taking into account the category of weapons and equipment that are proposed to be manufactured.

8. There would be a three-year lock-in period for transfer of equity from one foreign investor to another foreign investor (including NRIs & OCBs with 60% or more NRI stake) and such transfer would be subject to prior approval of the FIPB and the Government.

9. The Ministry of Defence is not in a position to give purchase guarantee for products to be manufactured. However, the planned acquisition programme for such equipment and overall requirements would be made available to the extent possible.

10. The capacity norms for production will be provided in the licence based on the application as well as the recommendations of the Ministry of Defence, which will look into existing capacities of similar and allied products.

11. Import of equipment for pre-production activity including development of prototype by the applicant company would be permitted.

12. Adequate safety and security procedures would need to be put in place by the licensee once the licence is granted and production commences. These would be subject to verification by authorized Government agencies.

13. The standards and testing procedures for equipment to be produced under licence from foreign collaborators or from indigenous R & D will have to be provided by the licensee to the Government nominated quality assurance agency under appropriate confidentiality clause. The nominated quality assurance agency would inspect the finished product and would conduct surveillance and audit of the Quality Assurance Procedures of the licensee. Self-certification would be permitted by the Ministry of Defence on case to case basis, which may involve either individual items, or group of items manufactured by the licensee. Such permission would be for a fixed period and subject to renewals.

14. Purchase preference and price preference may be given to the Public Sector organizations as per guidelines of the Department of Public Enterprises.

15. Arms and ammunition produced by the private manufacturers will be primarily sold to the Ministry of Defence. These items may also be sold to other Government entities under the control of the Ministry of Home Affairs and State Governments with the prior approval of the Ministry of Defence. No such item should be sold within the country to any other person or entity. The export of manufactured items would be subject to policy and guidelines as applicable to Ordnance Factories and Defence Public Sector Undertakings. Non-lethal items would be permitted for sale to persons / entities other than the Central or State Governments with the prior approval of the Ministry of Defence. Licensee would also need to institute a verifiable system of removal of all goods out of their factories. Violation of these provisions may lead to cancellation of the licence.

16. Government decision on applications to FIPB for FDI in defence industry sector will be normally communicated within a time frame of 10 weeks from the date of acknowledgement by the Secretariat for Industrial Assistance in the Department of Industrial Policy & Promotion.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(37)/2001-FC:I
Dated 4th January, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 5 (2002 Series)

Subject: Prohibition on foreign investment in lottery business, gambling and betting - regarding

As per existing policy, lottery business, gambling and betting are not open to foreign investment, which applies to FDI, FII portfolio investment, NRI/OCB portfolio investment, NRI/OCB investment on non-repatriation basis and investment by foreign venture capital investors.

2. Government has been receiving queries from certain State Governments, prospective investors, technology providers, franchise / trademark / brand name licesnsors, management consultants, etc. as to whether fdi is permissible in Government / private lotteries, online lotteries, casinos, etc., and also whether foreign technology collaboration, including licensing of franchise / trademark / brand name, management contract, etc., are permitted in the lottery business, gambling and betting sector.

3. It is clarified that both foreign investment and foreign technology collaboration in any form are completely prohibited in the lottery business, gambling and betting sector.

(M.S. Srinivasan)
Joint Secretary to the Government of india

F. No. 5(31)/2000-FC I
Dated 5th July, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 6 (2002 Series)

Subject: Revision of existing sectoral guidelines for FDI, including investment by non-resident Indians and overseas corporate bodies.

As part of the ongoing liberalisation of the FDI regime, the Government, in partial relaxation of the extant policy which prohibits FDI in the agriculture sector, including plantations, has decided to allow FDI up to 100% in tea sector, including tea plantations. Proposals for FDI in tea sector will require prior approval of the Central Government and would be subject to following conditions:

(i) compulsory divestment of 26% equity of the company in favour of an Indian partner / Indian public within a period of five years; and

(ii) prior approval of the State Government concerned in case of any future land use change.

The above dispensation would be applicable to all fresh investments (FDI) made in this sector from the date of this notification.

2. The provisions of Press Note No. 2 (2000 Series) dated 11.2.2000 stand modified to the above extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(9)/2000-FC.I
Dated 5th July, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 3 (2003 Series)

Subject: Capitalisation of import payables -liberalisation of policy.

At present, issue or shares by a company in India to a person resident outside India is permitted only against inward remittance of convertible foreign exchange through normal banking channels or by debit to NRE / FCNR account of the person concerned maintained with an authorised foreign exchange dealer bank.

2. As a part of the ongoing process of liberalisation, it has been decided to permit issue of equity shares against lumpsum, fee, royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment/repayment, subject to meeting all applicable tax liabilities and procedures.

(R.S. Julaniya)
Director

F. No. 5(4)/2003-FC
Dated 29th July, 2003.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 5 (2003 Series)

Subject: Issue of shares against External Commercial Borrowings - liberalisation of.

Vide Press Note 3 (2003 Series) dated 28th July, 2003 issue of equity shares against lump-sum fee, royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment/repayment, subject to meeting all applicable tax liabilities and procedures has been permitted.

As a part of the ongoing process of liberalisation, it has been decided to permit issue of equity shares against all External Commercial Borrowings (excluding those deemed as ECBs) received in convertible foreign currency, subject to meeting all tax liabilities and procedures.

(R.S. Julaniya)
Director

F.No. 5(4)/2003-FC
Dated 28th November, 2003.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 1 (2004 Series)

Subject: Revision of existing sectoral guidelines and equity cap on Foreign Direct Investment (FDI), including investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs)

With a view to further liberalising the FDI regime, Government have effected the following changes in the FDI Policy:

i) FDI up to 100 per cent is permitted in printing scientific and technical magazines, periodicals and journals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from lime to time by the Ministry of Information and Broadcasting. FDI in this sector would be permissible with prior Government approval.

ii) FDI up to 100 per cent is permitted on the automatic route on Petroleum product marketing. FDI for this sector would be permissible subject to the existing sectoral policy and regulatory framework in the oil marketing sector.

iii) FDI up to 100 per cent is permitted on the automatic route in oil exploration in both small and medium sized fields subject to and under the policy of the Government on private participation in : (a) exploration of oil and (b) the discovered fields of national oil companies.

iv) FDI up to 100 per cent is permitted on the automatic route for petroleum product pipelines subject to and under the Government Policy and regulations thereof.

v) FDI up to 100 per cent is permitted for Natural Gas/LNG Pipelines with prior Government approval.

2. The provisions of Press Note 2 of 2000 stand modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Gavemment of India

F. No. 9/1//2002-FC
Dated 28th January, 2004.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2004 Series)

Subject: Revision of existing sectoral guidelines and equity cap an Foreign Direct Investment (FDI), including investment by Non Resident Indias (NRIs) and Overseas Corporate Bodies (OCBs)/Foreign Institutional Investors (FIIs) in the Banking Sector.

With a view to further liberalising foreign investment in Banking Sector, the Government have effected the following changes:

1. FDI limit in Indian Private Sector Banks

(a) FDI limit in Private Sector Banks is raised to 74 per cent under the automatic route including investment by FIIs. This will include FDI investment under Portfolio Investment Scheme (PIS) by FIIs, NRIs and shares acquired prior to September 16, 2003 by OCBs and continue to include IPOs, Private placements, GDRs/ADRs and acquisition of shares from existing sharehoiders.

(b) The aggregate foreign investment in a private bank from all sources will be allowed up to a maximum of 74 per cent of the paid up capital or the Bank. At all times. at least 26 per cent of the paid up capital will have to be heid by residents, except in regard to a wholly-owned subsidiary of a foreign bank.

(c) The stipulations as above will be applicable to all investments in existing private sector banks also.

(d) The permissible limits under portfolio investment schemes through stock exchangers for FIIs and NRIs will be as follows:

(i) In the case of FIIs, as hitherto, individual FII holding is restricted to 10 per cent, aggregate limit for all FIIs cannot exceed 24 per cent, which can be raised to 49 per cent by the bank concerned passing a resolution by its Board of Directors followed by passing of a special resolution to that effect by its General Body.

(ii) Thus, the FII investment limit will continue to be within 49 per cent.

(iii) In the case of NRIs, as hitherto, individual holding is restricted to 5 per cent and aggregate limit cannot exceed 10 per cent. However, NRI holding can be allowed up to 24 per cent provided the banking company passes a special resolution to that effect in the General Body.

(e) Applications for Foreign Direct Investment (FDI route) in private banks having joint venture/ subsidiary in insurance sector may be addressed to the Reserve Bank of India (RBI) For consideration in consultation with the Insurance Regulatory and Development Authority (IRDA) in order to ensure that the 26 per cent limit of Foreign shareholding applicable for the insurance sector is not being breached.

(f) Transfer of shares under FDI from residents to non-residents will continue to require approval of Foreign Investment Promotion Board (FIPB) under Foreign Exchange Management Act (FEMA).

(g) The policies and procedures prescribed from time to time by RBI and other institutions such as SEBI, D/o Company Affairs and IRDA on these matters will continue to apply.

(h) RBI guidelines relating to acquisition by purchase or othewise of shares of a private bank, if such acquisition results in any person owning or controlling 5 per cent or mare of the paid up capital of the private bank will apply to foreign investors as well.

2. Setting up of a subsidiary by foreign banks

(a) Foreign banks will be permitted to either have branches or subsidiaries not both.

(b) Foreign banks regulated by a banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100 per cent paid up capital to enable them to set up a wholly-owned subsidiary in India.

(c) A foreign bank may operate in India through only one of the three channels viz., (i) branch/es (ii) a wholly-owned subsidiary and (iii) a subsidiary with aggregate foreign investment up to a maximum of 74 per cent in a private bank.

(d) A foreign bank will be permitted to establish a wholly-owned subsidiary either through conversion of existing branches into a subsidiary or through a fresh banking licence, A foreign bank will be permitted to establish a subsidiary through acquisition of shares of an existing private sector bank provided at least 26 per cent of the paid capital of the private sector bank is held by residents at all times times consistent with para 1(b) above.

(e) A subsidiary of foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks.

(f) Guidelines for setting up a wholly-owned subsidiary or a foreign bank will be issued separately by RBI.

(g) All applicaticns by a foreign bank for setting up a subsidiary or for conversion of their existing branches to subsidiary in India will have to be made to the RBI.

3. At present there is a limit of ten per cent on voting rights in respect of banking companies, and this should be noted by potential investor. Any change in the ceiling can be brought about only after final policy decisions and appropriare parliamentary approvals.

(Umesh Kumar)
Joint Secretary to the Gavemment of India

F. No. 5/6/2000-FC
Dated 5th March, 2004.

Government of India
Ministry of Finance
Department of Economic Affairs
(FI Unit)
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<u>Press Note</u>

Subject: Simplification of foreign investment procedures

In order to make the environment in India more attractive for foreign investors, Government has decided to simplify the procedure by placing the following under the General Permission route (i.e. RBI route) instead of existing Government approval route (i.e. FIPB route) for speedy and streamlined investment approvals:

a) Transfer of shares from resident to non-resident (including transfer of subscribers' shares to non-residents) other than in financial services sector provided the investment is covered under automatic route, does not attract the provisions of SEBI's (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, falls within the sectoral cap and also complies with prescribed pricing guidelines.

b) Conversion of ECB/Loan into equity provided the activity of the company is covered under automatic route, the foreign equity after such conversion falls within the sectoral cap and also complies with prescribed pricing guidelines.

c) Cases of increase in foreign equity participation by fresh issue of shares as well as conversion of preference shares into equity capital provided such increase falls within the sectoral cap in the relevant sectors, are within the automatic route and also complies with prescribed pricing guidelines.

In respect of the procedural simplifications given at para 1 above, the onus of complying with the sectoral cap/limits prescribed under the FDI policy as well as other guidelines/regulations would rest with the buyer and seller/issuer.

Necessary notification/circular under FEMA giving details of the simplification of procedures are being brought out by the Reserve Bank of India.

(U.K. Sinha)
Joint Secretary to the Gavemment of India

F. No. 1/3/2003-FIU
Datde 29th September, 2004.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 1 (2005 Series)

Subject: Guidelines pertaining to approval of foreign/technical collaborations under the automatic route with previous ventures/tie-up in India.

The Government has reviewed the guidelines notified vide Press Note 18 (1988 series) which stipulated approval of the Government for new proposals for foreign investment/technical collaboration where the foreign investor has or had any previous joint venture or technology transfer/ trademark agreement in the same or allied field in India.

2. New proposals for foreign investment/technical collaboration would henceforth be allowed under the automatic route, subject to sectoral policies, as per the following guidelines.

(i) Prior approval of the Government would be required only in cases where the foreign investor has an existing joint venture or technology transer/trademark agreement in the 'same' field. The onus to provide requisite justification as also proof to the satisfaction of the Government that the new proposal would or would not in any way jeopardize the interests of the existing joint venture or technology/trademark partner or other stakeholders would lie equally on the foreign investor/technology supplier and the Indian partner.

(ii) Even in cases where the foreign investor has a joint venture or technology transfer/trademark agreement in the 'same' field prior approval of the Government will not be required in the following cases:

a. Investments to be made by Venture Capital Funds registered with the Security and Exchange Board or India (SEBI); or

b. Where in the existing joint-venture investment by either of the parties is less than 3%; or

c. Where the existing venture/collaboration is defunct or sick.

(iii) In so far as joint ventures to be entered into after the data of this Press Note are concered, the joint venture agreement may embody a 'conflict' of interest clause to safeguard the interests of joint venture partners in the event of one of the partners desiring to set up another joint venture or a wholly owned subsidiary in the 'same' field of economic activity.

3. These guidelines would come into force with immediate effect.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 8/1/2003-FC (Pt.)
Dated 12th January, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2005 Series)

Subject: Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects

With a view to catalysing investment in townships, housing, built-up infrastructure and construction-development projects as an instrument to generate economic activity, create new employment opportunities and add to the available housing stock and built-up infrastructure, the Government has decided to allow FDI up to 100% under the automatic route in townships, housing, built-up infrastructure and construction-development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure), subject to the following guidelines:

a. Minimum area to be developed under each project would be as under:

   i. In case of development of serviced housing plots, a minimum land area of 10 hectares

   ii. In case of construction-development projects, a minimum built-up area of 50,000 sq.mts

   iii. In case of a combination project, anyone of the above two conditions would suffice

b. The investment would further be subject to the following conditions:

   i. Minimum capitalization of US$10 million for wholly owned subsidiaries and US$ 5 million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company.

   ii. Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.

c. At least 50% of the project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor would not be permitted to sell undeveloped plots.

   For the purpose of these guidelines, “undeveloped plots” will mean where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body/service agency before he would be allowed to dispose of serviced housing plots.

d. The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government!Municipal/ Local Body concerned.

e. The investor shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-Iaws/regulations of the State Government! Municipal/Local Body concerned.

f. The State Government / Municipal / Local Body concerned, which approves the building / development plans, would monitor compliance of the above conditions by the developer."

2. Para (iv) of Press Note 4 (2001 Series), issued by the Government on 21.5.2001, and Press Note 3 (2002 Series), issued on 4.1.2002, stand superceded.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(6)/2000-FC
Dated 3rd March, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 3 (2005 Series)

Subject: Clarification regarding Guidelines pertaining to approval of foreign/technical collaborations under the automatic route with previous ventures/tie-ups in India.

The Government, vide Press Note 1 (2005 Series) dated 12.1.2005, notified fresh guidelines for approval of new proposals for foreign/technical collaboration under the automatic route with previous venture/tie up in India. According to these guidelines, prior approval of the Government would be required for new proposals for foreign investment/technical collaboration, in cases where the foreign investor has an existing joint venture or technology transfer/trademark agreement in the same field in India.

2 The Government had, earlier vide Press Note 10 (1999 Series) notified the definition of "same field" as the 4 digit National Industrial Classification (NIC) 1987 Code. It is hereby reiterated that for the purposes of Press Note 1 (2005 Series), the definition of 'same' field would continue to be 4 digit NIC 1987 Code.

3 It is also clarified that proposals in the Information Technology sector, investments by multinational financial institutions and in the mining sector for same area/mineral were exempted from the application of Press Note 18 (1998 Series) vide Press Note 8 (2000 Series), Press Note 1(2001 Series) and Press Note 2 (2000 Series) respectively. Investment proposals in these sectors would continue to be exempt from Press Note 1 (2005 Series).

4. From para 2(i) of the guidelines notified vide Press Note 1 (2005 Series), it is clear that prior Government approval for new proposals would be required only in cases where the foreign investor has an existing joint venture, technology transfer/trademark agreement in the 'same' field subject to provisions of para 2(ii) of the Press Note 1 (2005 Series).

5. For the purpose of avoiding any ambiguity it is reiterated that joint ventures, technology transfer/ trademark agreements existing on the date of issue of the said Press Note i.e. 12.1.2005 would be treated as existing joint venture, technology transfer/trademark agreement for the purposes of Press Note 1 (2005 Series).

(Umesh Kumar)
Joint Secretary to the Government of India

F.No.8/1/2003-FC(Pt.)
Dated 15th March, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 4 (2005 Series)

Subject: Conversion of NRI investment into repatriable equity-clarification

Vide Press Note 4 (2001 Series), investment by Non-Resident Indian (NRI) made in foreign exchange on non-repatriable basis was allowed to be made fully repatriable whereas investment made in Indian rupees through rupee account continued to remain non-rapatriable.

2. Proposals for conversion of NRI investment into repatriable equity are hitherto being considered by the FIPB for approval. The procedure has been reviewed in the context of various liberalization measures taken by the Government in the recent past.

3. It is clarified that in terms of Press Note 4 (2001 Series), all proposals would qualify for conversion of non-repatriable equity into repatriable equity under the automatic route provided:

(a) the original investment by the NRI was made in foreign exchange under the FDI Scheme (Schedule I of FEMA Regulation 20/2000 dated 3.5.2000); and

(b) the sector/activity in which the investment is proposed to be converted into repatriable equity is on the automatic route for FDI.

(R.S. Julaniya)
Director

F. No. 5/20/2005-FC
Dated 31st August, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 5 (2005 Series)

Subject: Enhancement of the Foreign Direct Investment ceiling from 49 per cent to 74 per cent in the Telecom sector

In pursuance of the Government's commitment to liberalise the FDI regime, it has been decided to enhance the Foreign Direct Investment ceiling from 49 per cent to 74 per cent in certain telecom services (such as Basic, Cellular, Unified Access Services, National/International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added services), subject to the following conditions:-

A. The total composite foreign holding including but not limited to investments by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs), convertible preference shares, proportionate foreign investment in Indian promoters/investment companies including their holding companies, etc., herein after referred as FDI, will not exceed 74 per cent. Thus, 74 per cent foreign investment can be made directly or indirectly in the operating company or through a holding company. Hence, the remaining 26 per cent will be owned by resident Indian citizens or an Indian Company (i.e. foreign direct investment does not exceed 49 percent and the management is with the Indian owners). It is clarified that proportionate foreign component of such an Indian Company will also be counted towards the ceiling of 74%. However, foreign component in the total holding of Indian public sector banks and Indian public sector financial institutions will be treated as 'Indian' holding. The licensee will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 74% on a half yearly basis.

B. The majority Directors on the Board including Chairman, Managing Director and Chief Executive Officer (CEO) shall be resident Indian citizens, enforced through licence agreement. The appointment to these positions from among resident Indian citizens shall be made in consultation with serious Indian investors. Serious investor has been defined below in para G(ii).

C. The Share Holder Agreements (SHA) shall specifically incorporate the condition that majority directors on the Board including Chairman, Managing Director and CEO shall be resident Indian citizens and shall also envisage the conditions of adherence to Licence Agreement.

D. FDI upto 49 per cent will continue to be on automatic route. Foreign Investment Promotion Board (FIPB) approval shall be required for FDI in the licensee company/Indian promoters/ investment companies including their holding companies if it has a bearing on the overall ceiling of 74 per cent. While approving the investment proposals, FIPB shall take note that investment is not coming from unfriendly countries.

E. The investment approval by FIPB shall envisage the conditionality that Company would adhere to Licence Agreement.

F. FDI shall be subject to laws of India and not the laws of the foreign country/countries.

G. Department of Telecommunications (DoT) will enforce the above and the conditions mentioned below through appropriate amendment in licence:-

(i) There shall be a non-obstante clause in the licence which confers powers upon the licensor to cancel the licence under certain defined circumstances.

(ii) In order to ensure that at least one serious resident Indian promoter subscribes reasonable amount of the resident Indian shareholding, such resident Indian promoter shall hold at least 10 per cent equity of the licensee company.

(iii) The Company shall acknowledge compliance with the licence agreement as a part of Memorandum of Association of the Company. Any violation of the licence agreement shall automatically lead to the company being unable to carry on its business in this regard. The duty to comply with the licence agreement shall also be made a part of Articles of Association.

(iv) Chief Technical Officer (CTO)/Chief Finance Officer (CFO) shall be resident Indian citizens. The Licensor/DoT shall also be empowered to notify key positions to be held by resident Indian citizens.

(v) The Company shall not transfer the following to any person/ place outside India:-

(a) any accounting information relating to subscriber (except for roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature);

(b) user information (except pertaining to foreign subscribers using Indian Operator's network while roaming); and

(c) details of their infrastructure/network diagram except to telecom equipment suppliers/manufacturers who undertake the installation, commissioning etc. of the infrastructure of the licensee Company on signing of non-disclosure agreement.

(vi) The Company when entering into roaming agreements with service providers outside India must provide, on demand, the list of such users (telephone numbers, in case of foreign subscribers using Indian Operator's network while roaming).

(vii) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavor to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.

(viii) No traffic (mobile and landline) from subscribers within India to subscribers within India shall be hauled to any place outside India.

(ix) No Remote Access (RA) shall be provided to any equipment manufacturer or any other agency out side the country for any maintenance/repairs by the licensee. However, RA may be allowed for catastrophic software failure (such as failure to boot up etc.) which would lead to major part of the network becoming non-functional for a prolonged period, subject to meeting the following conditions:

(a) An identified Government agency (Intelligence Bureau) will be notified, when RA is to be provided.

(b) Remote Access password is to be enabled for a definite period only and only for access from pre-approved locations of the Original Equipment Manufacturer (OEM) Vendors and only for the equipments specifically under repair/ maintenance.

(c) The control of Remote Access i.e. activation, transfer of data, termination etc. shall be within the country and not at a Remote location, abroad.

(d) The Government agency will be given all support to record the transactions for on-line monitoring.

(e) Any equipment or software that forms part of the overall monitoring shall not be permitted to have remote access under any circumstances.

(f) DoT will define appropriately the terms catastrophic software failure, major part of the network, and prolonged period used under this clause.

(x) It shall be open to the Department of Telecommunications to restrict the Licensee Company from operating in any sensitive area from the National Security angle.

(xi) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of the States/Union Territories.

(xii) For monitoring traffic, the licensee company shall provide blind access of their network and other facilities as well as to books of accounts to the security agencies.

(xiii) In case of not adhering to Licence conditions envisaged in para G, the licence(s) granted to the company shall be deemed as cancelled and the licensor shall have the right to encash the performance bank guarantee(s) and the licensor shall not be liable for loss of any kind.

2. The conditions at para 1 above shall also be applicable to the existing companies operating telecom service(s) which had the FDI cap of 49%.

3. The relevant provisions of FDI policy for ‘investment companies’, as given in Press Note 2 (2000 series) dated 11.2.2000 issued by Department of Industrial Policy and Promotion will no longer be applicable to telecom sector.

4. An initial correction time of 4 months from the date of issue of this notification shall be allowed to the existing licensee companies providing telecom services mentioned in para 1 above for ensuring adherence to the aforesaid conditions. An unconditional compliance to the aforesaid conditions shall be submitted to the licensor within this period.

5. Press Note 15 (1998 Series) and Press Note 2 (2000 Series) issued by Department of Industrial Policy & Promotion stand modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 9(1)/2002-FC
Dated 3rd November, 2005.

Government of India
Ministry of Finance
Department of Economic Affairs
(Banking Division)
***

Press Release

Subject: Foreign Direct Investment (FDI) in Asset Reconstruction Companies.

Government has decided to permit Foreign Direct Investment (FDI) in the equity capital of Asset Reconstruction Companies (ARCs). Foreign Investment Promotion Board (FIPB) would henceforth consider applications from person/entities eligible to invest in India in the equity capital of Asset Reconstruction Companies registered with Reserve Bank of India under the FDI route subject to the following conditions:

(a) Maximum Foreign equity shall not exceed 49% of the paid up capital.

(b) Where any individual investment exceeds 10% of the equity, ARC should comply with the provisions of Section 3(3)(f) of SARFAESI Act.**

Foreign Direct Investment alone will be permitted; investments by Foreign institutional Investors (Flls) will not be permitted.

2. The policy on FDI in ARCs would be reviewed after two years.

3. Necessary notification/circular under FEMA are being brought out separately by Reserve Bank of India

(Amitabh Verma)
Joint Secretary to the Government of India

F.No. 44/17/2004-BO II
Dated 8th November, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 6 (2005 Series)

Subiect: FDI in Terrestrial Broadcasting FM.

Till now, foreign investment was permitted in Terrestrial Broadcasting up to 20% under the Portfolio Investment Schemes under Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 and Foreign Direct Investment (FDI) was not permitted by foreign entities.

2. Government of India has recently announced Phase II of the programme for expansion of FM radio broadcasting services through private agencies to supplement and complement the efforts of the All India Radio by operationalising radio for providing programmes with local content and relevance, improving the qualiy of fidelity in reception and generation, encouraging participation by local talent and generating, employment.

3. The Government has now decided to permit foreign investment, including FDI, NRI and PIO investments and portfolio investments up to 20% equity for FM Radio's Broadcasting Services subject to such terms and conditions as specified from time to time by Ministry of Information and Broadcasting for grant of permission for setting up of FM Radio Stations.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(35)/99-FC
Dated 15th November, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Release

Subject: Clarifications on approval procedure regarding cases not covered under automatic route of RBI.

Under the extant policy, FDI up to 100% is permitted under the automatic route in most sectors/ activities. Similarly, automatic route is also allowed for foreign technology collaboration where the payments are within 5% for domestic sales and 8% for exports. No approval of the Government is required in such cases.

2. Only cases not covered under the automatic route need approval of the Government through the Foreign Investment Promotion Board (FIPB) or Project Approval Board (PAB) for FDI and/or Foreign Technology collaboration respectively. It has been observed that sometimes proposals are submitted for prior Government approval even though the cases are eligible for the automatic route.

3. `The investors are hereby advised to access the automatic route where the policy so permits. Henceforth, whenever prior approval of the Government is sought for activities or royalty payments eligible for the automatic route, the investors would need to indicate specific reason for seeking prior Government approval while submitting their proposals.

(Umesh Kumar)
Joint Secretary to the Government of India

F .No. 5(19)/2005-FC
Dated 23rd December, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 1 (2006 Series)

Subject: Foreign Direct Investment (FDI) in Up-linking of TV Channels.

At present, FDI up to 49% is permitted for setting up hardware, Up-linking HUB, etc., subject to compliance with the Broadcasting Laws and Regulations and subject to the detailed guidelines for Up-linking announced by the Ministry of Information and Broadcasting from time to time.

2. Under the revised guidelines for Up-linking notified on 2.12.2005, the Government has decided to allow FDI in the Up-linking of TV Channels as under:

a) FDI up to 49% would be permitted with prior approval of the Government for setting up Up-linking HUB/ Teleports;

b) FDI up to 100% would be allowed with prior approval of the Government for Up-linking a Non-News & Current Affairs TV Channel;

c) FDI (including investment by Foreign Institutional Investors (FIIs) up to 26% would be permitted with prior approval of the Government for Up-linking a News & Current Affairs TV Channel subject to the condition that the portfolio investment in the form of FII/ NRI deposits shall not be "persons acting in concert" with FDI investors, as defined in the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. The Company permitted to uplink the channel shall certify the continued compliance of this requirement through the Company Secretary at the end of each financial year.

While calculating foreign equity of the applicant company, the foreign holding component, if any, in the equity of the Indian shareholder companies of the applicant company will be duly reckoned on pro-rata basis, so as to arrive at the total foreign holding in the applicant company. However, the indirect FII equity in a company as on 31st March of the year would be taken for the purposes of pro-rata reckoning of foreign holdings.

3. FDI for Up-linking TV Channels will be subject to compliance with the Up-linking Policy of the Government of India notified by the Ministry of Information & Broadcasting from time to time.

(Umesh Kumar)
Joint Secretary to the Government of India

F.No. 5(35)/99-FC
Dated the 13th January, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 2 (2006 Series)

Subject: Clarification regarding Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects.

The Government, vide Press Note 2 (2005 Series) dated 2.3.2005, had notified the policy for Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects. The Government has received few requests from investors seeking clarifications on applicability of these policy guidelines to some other sectors such as Special Economic Zones, Hotels, Hospitals, etc.

2. The matter has been considered in the light of the policy prevailing prior to issue of the subject Press Note. FDI up to 100% was already allowed under the automatic route in the Hotel and tourism sector, vide Press Note 4 (2001 Series) and in the Hospital sector, vide Press Note 2 (2000 Series). Special Economic Zones are separately regulated under the Special Economic Zone Act, 2005.

3. It is clarified that the provisions of Press Note 2 (2005 Series) shall not apply to Special Economic Zones; neither shall it apply to establishment and operation of hotels and hospitals which shall continue to be governed by Press Note 4 (2001 Series) and Press Note 2 (2000 Series) respectively.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 12/36/2005-FC
Dated 16th January, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 3 (2006 Series)

Subject: Guidelines for FDI in Retail Trade of 'Single Brand' Products

The Government has decided to allow FDI up to 51%, with prior Government approval, in retail trade of 'Single Brand' products. This is, inter alia, aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.

2. FDI up to 51% in retail trade of 'Single Brand' products would be subject to the following conditions:

i. Products to be sold should be of a 'Single Brand' only.

ii. Products should be sold under the same brand internationally.

iii. 'Single Brand' product-retailing would cover only products which are branded during manufacturing.

3. FDI would be allowed only with prior approval of the Government. Application seeking permission of the Government for FDI in retail trade of 'Single Brand' products would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The application would specifically indicate the product/product categories which are proposed to be sold under a 'Single Brand'. Any addition to the product/ product categories to be sold under'Single Brand' would require a fresh approval of the Government.

4. Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the products proposed to be sold satisfy the notified guidelines, before being considered by the FIPB for Government approval.

5. These guidelines would come into force with immediate effect.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(3)/2005-FC
Dated 10th February, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 4 (2006 Series)

Subject: Rationalisation of the FDI Policy

The policy on Foreign Direct Investment (FDI) has been reviewed on a continuing basis and several measures announced from time to time for rationalization / liberalization of the policy and simplification of procedures.

2. Government of India has recently further reviewed the policy on FDI and decided as under:

a. To allow under the automatic route, FDI up to 100%, for :

i. distillation & brewing of potable alcohol;

ii. manufacture of industrial explosives;

iii. manufacture of hazardous chemicals;

iv. manufacturing activities located within 25 kms of the Standard Urban Area limits which require Industrial license under the Industries (Development & Regulation) Act, 1951;

v. setting up Greenfield airport projects;

vi. laying of Natural Gas/LNG pipelines, market study & formulation and Investment financing in the Petroleum & Natural Gas sector; and

vii. cash & carry wholesale trading and export trading.

b. To increase FDI caps to 100% and permit it under the automatic route for:

i. coal & lignite mining for captive consumption;

ii. setting up infrastructure relating to marketing in Petroleum & Natural Gas sector; and

iii. exploration and mining of diamonds & precious stones.

c. To allow FDI up to 100% under the automatic route in

i. power trading subject to compliance with Regulations under the Electricity Act, 2003;

ii. processing and warehousing of coffee and rubber.

d. To allow FDI up to 51 % with prior Government approval for retail trade of 'Single Brand' products, detailed guidelines for which have been notified vide Press Note 3 (2006 Series).

e. To allow under the automatic route transfer of shares from residents to non-residents in financial services, and where Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997 are attracted, in cases where approvals are required from the Reserve Bank of India/ Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997/Insurance Regulatory & Development Authority. With this, transfer of shares from residents to non-residents, including acquisition of shares in an existing company would be on the automatic route subject to sectoral policy on FDI.

f. To dispense with the requirement of mandatory divestment of 26% foreign equity in B2B e-Commerce.

3. FDI/NRI investment under the automatic route shall continue to be governed by the Sectoral regulations/licensing requirements.

4. A summary of the FDI policy and regulations applicable in various sectors / activities is at the Annex.*

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(3)/2005-FC
Dated 10th February, 2006.

* Policy in Section 'A'.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 5 (2006 Series)

Subject: Enhancement of Foreign Direct Investment ceiling from 49% to 74% in the Telecom Sector - Amendment to Press Note 5 (2005 Series)

Guidelines for enhancement of Foreign Direct Investment (FDI) ceiling in the telecom sector were notified vide Press Note 5 (2005 Series) on 3.11.2005. In terms of para 4 of the said Press Note, an initial correction time of 4 months from the date of issue of the Press Note was allowed to the existing licensee companies providing telecome services for ensuring adherence to the conditions.

The Government has decided to extend the time limit for the telecom service provider companies to comply with the conditions set out in Press Note 5 (2005 Series) by four months w.e.f. from 3.3.2006, i.e. till 2.7.2006.

Press Note 5 (2005 Series) dated 3.11.2005 stands modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 9(1)/2002-FC
Dated 3rd March, 2006.

SECTION C

FDI DATA

FOREIGN DIRECT INVETMENT DATA
(From August 1991 to December 2005)

Table 1 - Financial year-wise FDI Inflows (equity capital only)

Table 2 - FDI Inflows Data as per International practices.

Table 3 - Country-wise FDI Inflows from August 1991 to December 2005.

Table 4 - Sector-wise FDI Inflows from August 1991 to December 2005.

Table-1

Financial year-wise FDI Inflows (equity capital only)

(Amount US$ million)

S.No.	Financial Year (April – March)	Amount of FDI Inflows
1.	**August 1991-March 2000**	**16,703**
2.	2000-2001	2,908
3.	2001-2002	4,222
4.	2002-2003	3,134
5.	2003-2004	2,634
6.	2004-2005	3,755
7.	2005-2006 (up to December 2005)	3,695
8.	**Total (April 2000- December 2005)**	**20,348**
Cumulative Total (from August 1991 to December 2005)		**37,051**

Table-2

FDI Data as per International practices

(Amount US$ million)

S. No.	Financial Year (April-March)	Equity		Re-invested earnings	Other capital	Total FDI Inflows	Portfolio investment including GDR/ADR, FIIs & Offs-hore Funds
		FIPB Route/ RBI's Automatic Route/Acquiti-sition Route	Equity capital of unincor-porated bodies #				
1.	**August 1991 - March 2000**	**15,483**	-	-	-	**15,483**	**18,492**
2.	2000-01	2,339	61	1,350	279	4,029	2,760
3.	2001-02	3,904	191	1,645	390	6,130	2,021
4.	2002-03	2,574	190	1,833	438	5,035	979
5.	2003-04	2,197	190	1,798	488	4,673	11,377
6.	2004-05	3,251	111	1,816*	357*	5,535	8,909
7.	2005-06 (up to Dec. 05)	3,691	140	738*	150*	4,719	8,161
8.	**Total (April 2000-December 2005)**	**17,956**	**883**	**9,180**	**2,102**	**30,121**	**34,207**
Cumulative Total (from August 1991 to December 2005)		**33,439**	**883**	**9,180**	**2,102**	**45,604**	**52,699**

Source: *(i) '#' Figures for equity capital of unincorporated bodies for 2005-06 are estimates.*

(ii) '' Data in respect of 'Re-invested earnings' & 'Others capital' for the year 2004-2005 & 2005-2006 (up to December) are provisional.*

Table-3

Country-wise FDI Inflows from August 1991 to December 2005

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
1	Mauritius	11,115.47	37.25
2	U.S.A.	4,912.75	15.80
3	Japan	2,059.33	6.79
4	Netherlands	1,987.18	6.65
5	U.K.	1,911.77	6.26
6	Germany	1,338.88	4.27
7	Singapore	962.41	3.14
8	France	772.99	2.55
9	South Korea	748.98	2.28
10	Switzerland	613.58	1.98
11	Italy	485.74	1.58
12	Sweden	471.99	1.56
13	Hongkong	366.11	1.05
14	Australia	154.79	0.51
15	Denmark	156.49	0.51
16	U.A.E.	140.95	0.50
17	Belgium	142.41	0.46
18	Malaysia	135.82	0.46
19	Cyprus	117.47	0.40
20	Russia	116.33	0.39
21	Cayman Island	103.46	0.37
22	Canada	105.39	0.35
23	British Virginia	81.42	0.28
24	Bermuda	70.51	0.23
25	Thailand	74.73	0.22
26	Phillipines	52.35	0.15
27	Finland	43.25	0.14
28	Luxembourg	41.05	0.14
29	Israel	43.71	0.13
30	Austria	39.62	0.13
31	Spain	32.16	0.11

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
32	Bahrain	32.65	0.11
33	South Africa	30.87	0.11
34	Indonesia	30.32	0.11
35	West Indies	31.98	0.11
36	Oman	24.02	0.08
37	Nevis	19.17	0.07
38	Bahamas	20.76	0.06
39	Ice Land	18.65	0.06
40	Ireland	19.80	0.06
41	Saudi Arabia	19.14	0.06
42	Moracco	15.21	0.05
43	Iran	19.66	0.05
44	Norway	14.40	0.05
45	Taiwan	15.13	0.04
46	Gibraltar	10.97	0.04
47	Bangladesh	9.66	0.04
48	Kenya	8.98	0.03
49	Panama	10.19	0.03
50	Slovenia	8.24	0.03
51	Korea(North)	8.36	0.02
52	Kuwait	6.09	0.02
53	British Isles	5.38	0.02
54	Channel Island	5.64	0.02
55	Sri Lanka	4.88	0.02
56	Tunisia	4.31	0.02
57	Czech Republic	4.73	0.02
58	Liechtenstein	4.48	0.02
59	New Zealand	3.66	0.01
60	China	2.91	0.01
61	Isle of Man	2.85	0.01
62	Nigeria	2.48	0.01
63	Greece	2.68	0.01
64	Poland	2.00	0.01
65	Scotland	2.00	0.01
66	Slovakia	1.85	0.01

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
67	Uruguay	1.45	0.00
68	St. Vincent	1.38	0.00
69	Liberia	1.36	0.00
70	Portugal	1.21	0.00
71	Cuba	1.04	0.00
72	Seychelles	1.02	0.00
73	Ukraine	0.84	0.00
74	Uganda	0.81	0.00
75	Estonia	1.07	0.00
76	Belorussia	0.90	0.00
77	Brazil	0.81	0.00
78	Maldives	0.56	0.00
79	Aruba	0.43	0.00
80	Bhutan	0.61	0.00
81	Egypt	0.45	0.00
82	Malta	0.29	0.00
83	Hungary	0.31	0.00
84	Yugoslavia	0.24	0.00
85	Columbia	0.25	0.00
86	Croatia	0.20	0.00
87	Muscat	0.28	0.00
88	Nepal	0.22	0.00
89	Tanzania	0.18	0.00
90	Bulgaria	0.14	0.00
91	Virgin Islands	0.13	0.00
92	Zambia	0.10	0.00
93	Turkey	0.10	0.00
94	Vietnam	0.10	0.00
95	Qatar	0.09	0.00
96	Mayanmar	0.05	0.00
97	Peru	0.04	0.00
98	Mexico	0.04	0.00
99	Kazakhstan	0.02	0.00
100	Afghanistan	0.02	0.00
101	Romania	0.02	0.00

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
102	West Africa	0.02	0.00
103	Tatarstan	0.01	0.00
104	Argentina	0.01	0.00
105	Jordon	0.01	0.00
106	Yaman	0.01	0.00
107	Sudan	0.01	0.00
108	Syria	0.01	0.00
109	Malta	0.00	0.00
110	Lebanon	0.00	0.00
111	Georgia	0.00	0.00
112	Costa Rica	0.00	0.00
113	NRI	310.98	0.96
114	Unindicated Country	301.49	0.95
Total		**30,452.54**	**100.00**
115	Advance of Inflows (from 1999 to 2004)	2,178.72	-
116	RBI's –NRI Schemes	2,509.86	-
117	Acquisition of existing shares (from 1996 to 1999)	1,848.86	-
118	Stock Swapped	61.20	-
Grand Total		**37,051.18**	**-**

Table-4

Sector-wise FDI Inflows from August 1991 to December 2005

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
1	Electrical Equipments (Including computer software & electronics)	4,885.88	16.50
2	Transportation Industry	3,143.09	10.34
3	Services Sector	2,971.66	9.64
4	Telecommunications	2,890.12	9.58
5	Fuels (Power & Oil Refinery)	2,521.49	8.41
6	Chemicals (Other than Fertilizers)	1,889.51	5.86
7	Food Processing Industries	1,173.18	3.67
8	Drugs and Pharmaceuticals	948.54	3.18
9	Cement and Gypsum Products	746.79	2.54
10	Metallurgical Industries	627.32	2.12
11	Consultancy Services	444.48	1.59
12	Miscellaneous Mechanical & Engineering	491.45	1.51
13	Textiles (Includ Dyed, Printed)	430.07	1.32
14	Trading	374.23	1.16
15	Paper and Pulp including paper product	363.46	1.10
16	Hotel & Tourism	308.51	1.04
17	Glass	255.59	0.81
18	Rubber Goods	233.30	0.77
19	Commercial, Office & Household Equipment	231.67	0.66
20	Industrial Machinery	204.84	0.65
21	Machine Tools	155.43	0.52
22	Agricultural Machinery	135.50	0.43
23	Timber Products	107.12	0.37
24	Medical and Surgical Appliances	101.68	0.35
25	Soaps, Cosmetics and Toilet Preparations	88.74	0.31
26	Ceramics	89.70	0.27
27	Earth-moving Machinery	73.91	0.26
28	Fertilizers	78.22	0.26
29	Fermentation Industries	76.52	0.25
30	Leather, Leather Goods and Pickers	51.84	0.15
31	Glue and Gelatin	36.04	0.12
32	Vegetable Oils and Vanaspati	35.14	0.11

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
33	Prime movers other than Electrical	30.61	0.08
34	Industrial Instruments	21.70	0.06
35	Sugar	17.27	0.06
36	Scientific Instruments	14.85	0.05
37	Photographic Raw Film and Paper	15.25	0.05
38	Dye-stuffs	16.01	0.05
39	Boilers and Steam Generating Plants	5.01	0.01
40	Mathematical, Surveying and Drawing	0.00	0.00
41	Miscellaneous Industries	4,166.86	13.79
Total		**30,452.58**	**100.00**
42	Advance of Inflows (from 1999 to 2004)	2,178.72	-
43	RBI's -NRI Schemes	2,509.86	-
44	Acquisition of existing shares (from 1996 to 1999)	1,848.86	-
45	Stock Swapped	61.20	-
Grand Total		**37,051.22**	**-**

Department of Industrial Policy & Promotion
Ministry of Commerce & Industry
Government of India