

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

Press Note 7 (2008)

Subject: Consolidated policy on Foreign Direct Investment.

After the review of the policy on Foreign Direct Investment (FDI) undertaken in 2005-06, summary of the policy was notified vide Press Note 4 (2006).

2. Thereafter, further policy revisions were issued vide Press Note 5(2006) and Press Note 2 (2007) and 3(2007). A comprehensive review of the FDI policy was undertaken in 2007-08 and the policy measures were notified vide Press Note 1-6 (2008).

3. A summary of the FDI policy and regulations applicable in various sectors and activities after incorporating the policy changes up to 31-3-2008 is at Annex.

(Gopal Krishna)
Joint Secretary to the Government of India

No. 5(10)/2006-FC dated 16th June 2008

POLICY ON FOREIGN DIRECT INVESTMENT (FDI)
(31st March 2008)

I. Sectors prohibited for FDI

- i. Retail Trading (except single brand product retailing)
- ii. Atomic Energy
- iii. Lottery Business
- iv. Gambling and Betting
- v. Business of chit fund
- vi. Nidhi Company
- vii. Trading in Transferable Development Rights (TDRs).
- viii. Activity/sector not opened to private sector investment

II. Sector-specific policy for FDI:

In the following sectors/activities, FDI is allowed up-to the limit indicated below subject to other conditions as indicated.

Sr. No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions
I	AGRICULTURE			
1.	Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisciculture, Aquaculture and Cultivation of Vegetables & Mushrooms under controlled conditions and services related to agro and allied sectors. Note: Besides the above, FDI is not allowed in any other agricultural sector/activity	100%	Automatic	
2.	Tea Sector , including tea plantation Note: Besides the above, FDI is not allowed in any other plantation sector/activity	100%	FIPB	Subject to divestment of 26% equity in favour of Indian partner/Indian public within 5 years and prior approval of State Government concerned in case of any change in future land use.

II	INDUSTRY			
II A	MINING			
3.	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.
4.	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
5.	Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities . Note : FDI will not be allowed in mining of “prescribed substances” listed in Government of India notification No. S.O. 61(E) dt. 18.1.2006 issued by the Department of Atomic Energy under the Atomic Energy Act, 1962.	100%	FIPB	Subject to sectoral regulations and the Mines and Minerals (Development & Regulation) Act, 1957 and the following conditions- i. value addition facilities are set up within India along with transfer of technology; ii. disposal of tailing during the mineral separation shall be carried out in accordance with regulations framed by the Atomic Energy Regulatory Board such Atomic Energy (Radiation Protection) Rules 2004 and the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules 1987.
II B	MANUFACTURING			
6.	Alcohol-Distillation & Brewing	100%	Automatic	Subject to license by appropriate authority
7.	Cigars & Cigarettes-Manufacture	100%	FIPB	Subject to industrial license under the Industries (Development & Regulation) Act, 1951

8.	Coffee & Rubber processing & warehousing	100%	Automatic	
9.	Defence production	26%	FIPB	Subject to licensing under Industries (Development & Regulation) Act, 1951 and guidelines on FDI in production of arms & ammunition.
10.	Hazardous chemicals , viz., hydrocyanic acid and its derivatives; phosgene and its derivatives; and isocyanates and diisocyanates of hydrocarbon.	100%	Automatic	Subject to industrial license under the Industries (Development & Regulation) Act, 1951 and other sectoral regulations.
11.	Industrial explosives- Manufacture	100%	Automatic	Subject to industrial license under Industries (Development & Regulation) Act, 1951 and regulations under Explosives Act, 1898
12.	Drugs & Pharmaceuticals including those involving use of recombinant DNA technology	100%	Automatic	
II C	POWER			
13.	Power including generation (except Atomic energy); transmission, distribution and Power Trading.	100%	Automatic	Subject to provisions of the Electricity Act, 2003 www.powermin.nic.in
III	SERVICES			
14.	CIVIL AVIATION SECTOR			
(i)	Airports-			
a.	Greenfield projects	100%	Automatic	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic.in
b.	Existing projects	100%	FIPB beyond 74%	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic.in
(ii)	Air Transport Services including Domestic Scheduled Passenger Airlines; Non-Scheduled Airlines; Chartered Airlines; Cargo Airlines; Helicopter and Seaplane Services			
c.	Scheduled Air Transport Services/ Domestic Scheduled Passenger Airline	49%- FDI; 100%- for NRI investment	Automatic	Subject to no direct or indirect participation by foreign airlines and sectoral regulations..
d.	Non-Scheduled Air Transport Service/ Non-Scheduled airlines, Chartered airlines, and Cargo airlines	74%- FDI 100%- for NRIs investment	Automatic	Subject to no direct or indirect participation by foreign airlines in Non-Scheduled and Chartered airlines. Foreign airlines are allowed to participate in the equity of companies operating Cargo

				airlines. Also subject to sectoral regulations.
e.	Helicopter Services/Seaplane services requiring DGCA approval	100%	Automatic	Foreign airlines are allowed to participate in the equity of companies operating Helicopter and seaplane airlines. Also subject to sectoral regulations.
(iii)	Other services under Civil Aviation Sector			
f.	Ground Handling Services	74%- FDI 100%- for NRIs investment	Automatic	Subject to sectoral regulations and security clearance.
g.	Maintenance and Repair organizations; flying training institutes; and technical training institutions	100%	Automatic	
15.	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
16.	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
17.	Broadcasting			
a.	FM Radio	FDI +FII investment up to 20%	FIPB	Subject to Guidelines notified by Ministry of Information & Broadcasting. www.mib.nic.in
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
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
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
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
18.	Commodity Exchanges	49% (FDI+FII) Investment by Registered FII under PIS will be limited to 23% and	FIPB	FII purchases shall be restricted to secondary market only. No foreign investor/entity, including persons acting in concert, will hold more than 5% of the equity in these companies.

		Investment under FDI Scheme limited to 26%.		
19.	Construction Development projects , including housing, commercial premises, resorts, educational institutions, recreational facilities, city and regional level infrastructure, townships. Note:: FDI is not allowed in Real Estate Business	100%	Automatic	Subject to conditions notified vide Press Note 2 (2005 Series) including: <ul style="list-style-type: none"> 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. 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 1: For investment by NRIs, the conditions mentioned in Press Note 2 / 2005 are not applicable. Note 2: For investment in SEZs, Hotels & Hospitals, conditions mentioned in Press Note 2(2005) are not applicable]
20.	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
21.	Credit Information Companies	49 % (FDI+FII) Investment by Registered FII under PIS will be limited to 24% only in the CICs listed at the Stock Exchanges within the overall limit of 49% foreign investment.	FIPB	Foreign Investment in CIC will be subject to Credit Information Companies (Regulation) Act, 2005. FII investment will be subject to the conditions that: <ul style="list-style-type: none"> (a) No single entity should directly or indirectly hold more than 10% equity (b) Any acquisition in excess of 1% will have to be reported to RBI as a reporting requirement; and (c) FIIs investing in CICs shall not seek a representation on the Board of Directors based upon their shareholding.
22.	Industrial Parks both setting up and in established Industrial Parks	100%	Automatic	Conditions in Press Note 2(2005) applicable for construction development projects would not apply provided the Industrial Parks meet with the under-mentioned conditions- <ul style="list-style-type: none"> i. it would comprise of a minimum of 10 units and no single unit shall occupy more than 50%

				<p>of the allocable area;</p> <p>ii. the minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.</p>
23	Insurance	26%	Automatic	<p>Subject to licensing by the Insurance Regulatory & Development Authority</p> <p>www.irda.nic.in</p>
24.	Investing companies in infrastructure / services sector (except telecom sector)	100%	FIPB	<p>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.</p>
25.	Non Banking Finance Companies			
i)	Merchant Banking	100%	Automatic	<p>Subject to:</p> <p>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%.</p> <p>b. minimum capitalization norms for non-fund based NBFC activities- US\$0.5 million.</p> <p>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.</p> <p>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.</p> <p>e. compliance with the guidelines of the RBI.</p> <p>f. The minimum capitalization norms would apply would be applicable where the foreign holding in a NBFC(both direct and</p>
ii)	Underwriting Portfolio Management Services			
iii)	Investment Advisory Services			
iv)	Financial Consultancy			
v)	Stock Broking			
vi)	Asset Management			
vii)	Venture Capital			
viii)	Custodial Services			
ix)	Factoring			
x)	Credit Rating Agencies			
xi)	Leasing & Finance			
xii)	Finance			
xiii)	Housing Finance			
xiv)	Forex Broking			
xv)	Credit card Business			
xvi)	Money changing			

xvii)	business			foreign holding in a NBFC(both direct and indirect) exceeds the limits indicated at (a) above
xviii)	Rural credit			g. The capital for the purpose of minimum capitalization norms shall consist of ordinary shares only.
26.	Petroleum & Natural Gas sector			
a.	Refining	49% 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 <u>and no divestment or dilution of domestic equity in the existing PSUs.</u>
b.	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 www.petroleum.nic.in
27.	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
28.	Telecommunications			
a.	Basic and cellular, Unified Access Services, National/ International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal	74% (Including FDI, FII, NRI, FCCBs, ADRs, GDRs, convertible preference shares, and proportionate foreign	Automatic up to 49%. FIPB beyond 49%.	Subject to guidelines notified in the PN 3(2007)

	Communications Services (GMPCS) and other value added telecom services	equity in Indian promoters/ Investing Company)		
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 Dept. of Telecommunications. www.dotindia.com
c.	(a) ISP without gateway, (b) infrastructure provider providing dark fibre, right of way, duct space, tower (Category I); (c) 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
d.	Manufacture of telecom equipments	100%	Automatic	Subject to sectoral requirements. www.dotindia.com
29.	Trading			
a.	Wholesale/cash & carry trading	100%	Automatic	Subject to the condition that the test marketing approval will be for a period of two years and investment in setting up manufacturing facilities commences simultaneously with test marketing.
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	Subject to guidelines for FDI in trading issued by Department of Industrial Policy & Promotion vide Press Note 3 (2006 Series).
30.	Satellites - Establishment and operation	74%	FIPB	Subject to Sectoral guidelines issued by Department of Space/ISRO www.isro.org
31.	Special Economic Zones and Free Trade Warehousing Zones covering	100%	Automatic	Subject to Special Economic Zones Act, 2005 and the Foreign Trade Policy. www.sezindia.nic.in

	setting up of these Zones and setting up units in the Zones			
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II. In Sectors/Activities not listed above, FDI is permitted up to 100% on the automatic route subject to sectoral rules/ regulations applicable.

III. Prior Government approval for FDI required in the following circumstances:

- i) where provisions of Press Note 1 (2005 Series) issued by the Government of India are attracted;
- ii) where more than 24% foreign equity is proposed to be inducted for manufacture of items reserved for the Small Scale sector.
