

**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Industrial Policy & Promotion**  
**(FC-I Section)**

**Press Note No. 5 (2016 Series)**

**Subject: Review of Foreign Direct Investment (FDI) policy on various sectors**

The Government of India has reviewed the extant FDI policy on various sectors and made following amendments in the Consolidated FDI Policy Circular of 2016 issued on June 07, 2016 (**FDI Policy**).

2. After para 3.7.1 of the FDI Policy, following new para 3.7.2 is added:

**3.7.1 *bis*:** For establishment of branch office, liaison office or project office or any other place of business in India if the principal business of the applicant is Defence, Telecom, Private Security or Information and Broadcasting, approval of Reserve Bank of India is not required in cases where FIPB approval or license/permission by the concerned Ministry/Regulator has already been granted.

3. (i) Para 5.2.1 of the FDI Policy is amended to read as under:

| <b>Sector/Activity</b>                                                                                                                                                                                                                                                                                                                                                                                                   | <b>% of Equity/<br/>FDI Cap</b> | <b>Entry<br/>Route</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------------------|
| a) Floriculture, Horticulture, and Cultivation of Vegetables & Mushrooms under controlled conditions;<br>b) Development and Production of seeds and planting material;<br>c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, Apiculture; and<br>d) Services related to agro and allied sectors<br><b>Note: Besides the above, FDI is not allowed in any other agricultural sector/activity</b> | 100%                            | Automatic              |

(ii) Para 5.2.1.1 of the FDI Policy is amended to read as under:

The term “under controlled conditions” covers the following:

‘Cultivation under controlled conditions’ for the categories of floriculture, horticulture, cultivation of vegetables and mushrooms is the practice of cultivation wherein rainfall, temperature, solar radiation, air humidity and culture medium are controlled artificially. Control in these parameters may be effected through protected cultivation under green houses, net houses, poly houses or any other improved infrastructure facilities where micro-climatic conditions are regulated anthropogenically.

4. Para 5.2.5 of the FDI Policy is amended to read as under:

Subject to the provisions of the FDI policy, foreign investment in ‘manufacturing’ sector is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval. Notwithstanding the FDI policy provisions on trading sector, 100% FDI under Government approval route is allowed for trading, including through e-commerce, in respect of food products manufactured and/or produced in India. Applications for FDI in food products retail trading would be processed in the Department of Industrial Policy & Promotion before being considered by the Government for approval.

5. Para 5.2.6.of the FDI Policy is amended to read as under:

| <b>Sector/Activity</b>                                                                                                                                                                                  | <b>% of Equity/<br/>FDI Cap</b> | <b>Entry Route</b>                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>5.2.6.1</b> Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951; and<br><br>Manufacturing of small arms and ammunition under the Arms Act, 1959 | 100%                            | Automatic up to 49%<br><br>Government route beyond 49% wherever it is likely to result in access to modern technology or for other reasons to be recorded |

### 5.2.6.2 Other Conditions

- (i) Infusion of fresh foreign investment within the permitted automatic route level, in a company not seeking industrial license, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval.
- (ii) 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 and Ministry of External Affairs.
- (iii) Foreign investment in the sector is subject to security clearance and guidelines of the M/o Defence.
- (iv) Investee company should be structured to be self-sufficient in areas of product design and development. The investee/joint venture company along with manufacturing facility, should also have maintenance and life cycle support facility of the product being manufactured in India.

6. Para 5.2.7.1 of the FDI Policy is amended to read as under:

| Sector/Activity                                                                                                                                                                                                                                                                                                                                                                                                | % of Equity/<br>FDI Cap | Entry Route |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------|
| <b>5.2.7.1.1</b><br>(1) <b>Teleports</b> (setting up of up-linking HUBs/Teleports);<br>(2) <b>Direct to Home</b> (DTH);<br>(3) <b>Cable Networks</b> (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability);<br>(4) <b>Mobile TV</b> ;<br>(5) <b>Headend-in-the Sky Broadcasting Service(HITS)</b> | 100%                    | Automatic   |

|                                                                                                                                                                                                                                                                                       |      |           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------|
| <b>5.2.7.1.2</b>                                                                                                                                                                                                                                                                      |      |           |
| <b>Cable Networks</b> (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))                                                                                                                                 | 100% | Automatic |
| <b>Note:</b><br>Infusion of fresh foreign investment, beyond 49% in a company not seeking license/permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval |      |           |

7. Para 5.2.9 of the FDI Policy is amended to read as under:

### **5.2.9 Civil Aviation**

#### **5.2.9.1 Airports**

| <b>Sector/Activity</b>  | <b>% of Equity/ FDI Cap</b> | <b>Entry Route</b> |
|-------------------------|-----------------------------|--------------------|
| (a) Greenfield projects | 100%                        | Automatic          |
| (b) Existing projects   | 100%                        | Automatic          |

#### **5.2.9.2 Air Transport Services**

| <b>Sector/Activity</b>                                                                                              | <b>% of Equity/ FDI Cap</b> | <b>Entry Route</b>                                                                        |
|---------------------------------------------------------------------------------------------------------------------|-----------------------------|-------------------------------------------------------------------------------------------|
| (1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline<br>(b) Regional Air Transport Service | 100%                        | Automatic up to 49%<br>(Automatic up to 100% for NRIs)<br><br>Government route beyond 49% |
| (2) Non-Scheduled Air Transport Service                                                                             | 100%                        | Automatic                                                                                 |

|                                                                   |      |           |
|-------------------------------------------------------------------|------|-----------|
| (3) Helicopter services/seaplane services requiring DGCA approval | 100% | Automatic |
|-------------------------------------------------------------------|------|-----------|

There is no change in Other Conditions mentioned in the FDI Policy for this sector and Note thereto.

8. Para 5.2.13 of the FDI Policy is amended to read as under

| Sector/Activity                  | % of Equity/<br>FDI Cap | Entry Route                                                          |
|----------------------------------|-------------------------|----------------------------------------------------------------------|
| <b>Private Security Agencies</b> | 74%                     | Automatic up to 49%<br><br>Government route beyond 49% and up to 74% |

#### 5.2.13.1 Other Conditions

- (1) FDI in Private Security Agencies is subject to compliance with Private Security Agencies (Regulation) (PSAR) Act, 2005, as amended from time to time.
- (2) For the purposes of FDI policy on the sector, terms "Private Security Agencies", "Private Security" and "Armoured Car Service" will have the same meaning as provided under PSAR Act, 2005, which is reproduced as under:

"Private Security Agency" means a person or body of persons other than a government agency, department or organisation engaged in the business of providing private security services including training to private security guards or their supervisor or providing private security guards to any industrial or business undertaking or a company or any other person or property;

"Private Security" means security provided by a person, other than a public servant, to protect or guard any person or property or both and includes provision of armoured car service;

"Armoured Car Service" means the service provided by deployment of armed guards along with armoured car and such other related services which may be

notified by the Central Government or as the case may be, the State Government from time to time.

9. Para 5.2.15.3 of the FDI Policy is amended to read as under:

| Sector/Activity                    | % of Equity/<br>FDI Cap | Entry Route                                               |
|------------------------------------|-------------------------|-----------------------------------------------------------|
| <b>Single Brand Retail Trading</b> | 100%                    | Automatic up to 49%<br><br>Government route<br>beyond 49% |

(1) Foreign Investment in Single Brand product retail trading is 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 in Single Brand product retail trading would be subject to the following conditions:

- (a) Products to be sold should be of a 'Single Brand' only.
- (b) Products should be sold under the same brand internationally i.e. products should be sold under the same brand in one or more countries other than India.
- (c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing.
- (d) A non-resident entity or entities, whether owner of the brand or otherwise, shall be permitted to undertake 'single brand' product retail trading in the country for the specific brand, directly or through a legally tenable agreement with the brand owner for undertaking single brand product retail trading. The onus for ensuring compliance with this condition will rest with the Indian entity carrying out single-brand product retail trading in India. The investing entity shall provide evidence to this effect at the time of seeking approval, including a copy of the licensing/franchise/sub-licence agreement,

specifically indicating compliance with the above condition. The requisite evidence should be filed with the RBI for the automatic route and SIA/FIPB for cases involving approval.

- (e) In respect of proposals involving foreign investment beyond 51%, sourcing of 30% of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the goods purchased, beginning 1<sup>st</sup> April of the year of the commencement of the business i.e. opening of the first store. Thereafter, it would have to be met on an annual basis. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of foreign investment for the purpose of carrying out single-brand product retail trading.
- (f) Subject to the conditions mentioned in this Para, a single brand retail trading entity operating through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

(3) Application seeking permission of the Government for FDI exceeding 49% in a company which proposes to undertake single brand retail trading in India would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The applications 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. In case of FDI up to 49%, the list of products/product categories proposed to be sold except food products would be provided to the RBI.

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

**Note:**

(i) Conditions mentioned at Para 5.2.15.3 (2) (b) & 5.2.15.3 (2) (d) will not be applicable for undertaking SBRT of Indian brands.

(ii) An Indian manufacturer is permitted to sell its own branded products in any manner i.e. wholesale, retail, including through e-commerce platforms.

(iii) Indian manufacturer would be the investee company, which is the owner of the Indian brand and which manufactures in India, in terms of value, at least 70% of its products in house, and sources, at most 30% from Indian manufacturers.

(iv) Indian brands should be owned and controlled by resident Indian citizens and/or companies which are owned and controlled by resident Indian citizens.

(v) Sourcing norms will not be applicable up to three years from commencement of the business i.e. opening of the first store for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge' technology and where local sourcing is not possible. Thereafter, provisions of Para 5.2.15.3 (2) (e) will be applicable.

10. Para 5.2.27 of the FDI Policy is amended to read as under:

**Pharmaceuticals**

| Sector/Activity               | % of Equity/ FDI Cap | Entry Route                                        |
|-------------------------------|----------------------|----------------------------------------------------|
| <b>5.2.27.1</b><br>Greenfield | 100%                 | Automatic                                          |
| <b>5.2.27.2</b><br>Brownfield | 100%                 | Automatic up to 74%<br>Government route beyond 74% |

**5.2.27.3 Other Conditions**

- (i) 'Non-compete' clause would not be allowed in automatic or government approval route except in special circumstances with the approval of the Foreign Investment Promotion Board.
- (ii) The prospective investor and the prospective investee are required to provide a certificate along with the FIPB application as per Annexure-10 of FDI Policy.

- (iii) Government may incorporate appropriate conditions for FDI in brownfield cases, at the time of granting approval.
- (iv) FDI in brownfield pharmaceuticals, under both automatic and government approval routes, is further subject to compliance of following conditions:
  - (a) The production level of National List of Essential Medicines (NLEM) drugs and/or consumables and their supply to the domestic market at the time of induction of FDI, being maintained over the next five years at an absolute quantitative level. The benchmark for this level would be decided with reference to the level of production of NLEM drugs and/or consumables in the three financial years, immediately preceding the year of induction of FDI. Of these, the highest level of production in any of these three years would be taken as the level.
  - (b) R&D expenses being maintained in value terms for 5 years at an absolute quantitative level at the time of induction of FDI. The benchmark for this level would be decided with reference to the highest level of R&D expenses which has been incurred in any of the three financial years immediately preceding the year of induction of FDI
  - (c) The administrative Ministry will be provided complete information pertaining to the transfer of technology, if any, along with induction of foreign investment into the investee company.

**Note:**

- i. FDI up to 100%, under the automatic route is permitted for manufacturing of medical devices. The above mentioned conditions will, therefore, not be applicable to greenfield as well as brownfield projects of this industry.
- ii. Medical device means-
  - a. any instrument, apparatus, appliance, implant, material or other article, whether used alone or in combination, including the software, intended by its manufacturer to be used specially for human beings or animals for one or more of the specific purposes of-
    - (aa) diagnosis, prevention, monitoring, treatment or alleviation of any disease or disorder;
    - (ab) diagnosis, monitoring, treatment, alleviation of, or assistance for, any injury or handicap;
    - (ac) investigation, replacement or modification or support of the anatomy or of a physiological process;

(ad) supporting or sustaining life;

(ae) disinfection of medical devices;

(af) control of conception,

and which does not achieve its primary intended action in or on the human body or animals by any pharmacological or immunological or metabolic means, but which may be assisted in its intended function by such means;

b. an accessory to such an instrument, apparatus, appliance, material or other article;

c. a device which is reagent, reagent product, calibrator, control material, kit, instrument, apparatus, equipment or system whether used alone or in combination thereof intended to be used for examination and providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body or animals.

iii. The definition of medical device at Note (ii) above would be subject to the amendment in Drugs and Cosmetics Act.

11. The above decision will take immediate effect.



(Atul Chaturvedi)

Joint Secretary to the Government of India

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- For suitably incorporating the policy changes in Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000 and the relevant schedules thereof.

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