Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
Secretariat for Industrial Assistance

PRESS NOTE NO. 2 (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)/ 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 shareholders.

(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 of the Bank. At all times, at least 26 per cent of the paid up capital will have to be held 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 otherwise of shares of a private bank, if such acquisition results in any person owning or controlling 5 per cent or more of the paid up capital of the private bank will apply to foreign investors as well.

2. <u>Setting up of a subsidiary by foreign banks</u>

(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 consistent with para 1(b) above.

(e) A subsidiary of a 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 of a foreign bank will be issued separately by RBI.

(g) All applications 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 appropriate Parliamentary approvals.

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