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

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/tieup 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

No.7(4)/2000-IP dated 11th February 2000

SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sl.No.

Sector

Guidelines

1.Banking

Non-Banking Financial Companies (NBFC)

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.

a. FDI/NRI/OCB investments allowed in the following 17 NBFC activities shall be as per levels indicated below:

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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:

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For FDI upto 51% - US$ 0.5 million to be brought upfront

For FDI above 51% and upto 75% - US $ 5 million to be brought upfront

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

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:

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)

Petroleum Refining

a. Under the exploration policy, FDI utpo 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.

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 state 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 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.

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 f 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.

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.

22.Pollution Control and management

FDI upto 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted under automatic route.

23.Advertising and films

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.