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NEWSFLASH: RADICAL CHANGES IN FDI POLICY REGIME

Radical changes in FDI policy regime

Amidst the global slowdown, India has emerged as the frontrunner in attracting Foreign Direct Investment (FDI). In 2015-16, India received its highest ever FDI, which has given a big push to many key sectors including Railways, Defence, Insurance and Medical devices. To further boost the investment environment, recently the Government has decided to bring a number of changes in the FDI Policy. Details of these changes are tabulated as under:

Sr. No	Sector / Business Activity	Existing provision	New cap / ease of conditions
1	Defence sector	Upto 49% - Automatic route Above 49% - Approval route (on case to case basis, wherever it is likely to result in access to modern and 'state of the art' technology in the country)	The provision remains the same. However, the condition of access to 'state of the art' technology in the country has been removed. Further, the FDI limit for defence has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act, 1959.
2	Broadcasting Carriage Services a. Teleports b. Direct to Home (DTH) c. Cable Networks d. Mobile TV e. Headend in the Sky Broadcasting Service (HITS)	Upto 49% - Automatic route Beyond 49% - Approval route	100% - Automatic Route. However, 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 FIPB approval
3	Pharmaceutical	Greenfield projects - 100% Automatic Route Brownfield projects - 100% Approval Route	Greenfield projects - 100% Automatic Route Brownfield projects 74% - Automatic route Beyond 74% - Approval route
4	Civil Aviation - Airports	Greenfield projects - 100% Automatic Route Brownfield projects Upto 74% - Automatic Route Beyond 74% - Approval route	100% Automatic Route for both greenfield and brownfield projects
5	Civil Aviation - Scheduled Air Transport Service - Domestic scheduled Passenger Airline - Regional Air Transport Service	49% - Automatic Route (100% for NRIs)	Upto 49% - Automatic Route (100% for NRIs) Beyond 49% - Approval Route Foreign airlines allowed to invest upto 49% in capital of Indian companies operating scheduled and non-scheduled air-transport services

Sr. No	Sector / Business Activity	Existing provision	New cap / ease of conditions
6	Private Security Agencies	49% - Approval Route	Upto 49% - Automatic Route Beyond 49% and upto 74% - Approval Route
7	Animal Husbandry	100% - Automatic Route subject to compliance of defined 'controlled conditions'	Provision remains the same. However, the requirement of 'controlled conditions' has been removed.
8	Food Products Manufactured / Produced in India	-	100% FDI under approval route for trading, including through e-commerce
9	Single Brand Retail Trading	FDI beyond 51% - requires sourcing of 30% of the value of goods purchased, to be done from India. This requirement to be met on an Annual basis	Relaxation of local sourcing norms up to 3 years and a relaxed sourcing regime for another 5 years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology.
	Other		
10	Establishment of Branch Office, Liaison Office or Project Office in India - Defence, Telecom, Private Security or Information and Broadcasting	Approval of Reserve Bank of India is required to open Branch Office, Liaison Office or Project Office in India	Approval of Reserve Bank of India or separate security clearance would not be required in cases where FIPB approval or license/permission by the concerned Ministry/Regulator has already been granted.



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This newsflash is general in nature. In this newsflash, we have summarised various amendments made to the FDI policy by the Government of India. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the respective circulars and notifications and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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