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Cabinet

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Cabinet approves simplification and liberalisation of the Foreign Direct Investment Policy, 2016 in various sectors

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given its ex-post-facto approval for the FDI policy amendments announced by the Government on 20th June, 2016. The FDI policy amendments are meant to liberalise and simplify the FDI policy so as to provide ease of doing business in the country leading to larger FDI inflows contributing to growth of investment, incomes and employment. The details are as follows:

1. Radical Changes for promoting Food Products manufactured/produced in India

It has now been provided that 100% FDI under government route for trading, including through e-commerce, is permitted in respect of food products manufactured and/or produced in India.

2. Foreign Investment in Defence Sector up to 100%

Earlier FDI regime permitted 49% FDI participation in the equity of a company under automatic route. FDI above 49% was permitted through Government approval on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country. In this regard, the following changes have inter-alia been brought in the FDI policy on this sector:

i. Foreign investment beyond 49% has now been permitted through government approval route wherever it is likely to result in access to modern technology or for other reasons to be recorded.
ii. FDI limit for defence sector has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959.

3. Review of Entry Routes in Broadcasting Carriage Services

FDI policy on Broadcasting carriage services has also been amended. New sectoral caps and entry routes are as under:

Sector/Activity	New Cap and Route
5.2.7.1.1	**100%**

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(1)**Teleports**(setting up of up-linking HUBs/Teleports); (2)**Direct to Home** (DTH); (3)**Cable Networks** (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability); (4)**Mobile TV**; (5)**Headend-in-the Sky Broadcasting Service**(HITS)	**Automatic**
5.2.7.1.2 Cable Networks (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	
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	

4. Pharmaceutical

The earlier FDI policy on pharmaceutical sector provides for 100% FDI under automatic route in greenfield pharma and FDI up to 100% under government approval in brownfield pharma. With the objective of promoting the development of this sector, 74% FDI under automatic route has been permitted in brownfield pharmaceuticals. FDI beyond 74% would be permitted through Government approval route.

5. Civil Aviation Sector

(i) The earlier FDI policy on Airports permitted 100% FDI under automatic route in Greenfield Projects and 74% FDI in Brownfield Projects under automatic route. FDI beyond 74% for Brownfield Projects is under government route.

(ii) With a view to aid in modernization of the existing airports to establish a high standard and help ease the pressure on the existing airports, 100% FDI under automatic route has now been permitted in Brownfield Airport projects.

(iii) As per the earlier FDI policy, foreign investment up to 49% was allowed under automatic route in Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline and regional Air Transport Service. This limit has now been raised to 100%, with FDI upto 49% permitted under automatic route and FDI beyond 49% through Government approval. For NRIs, 100% FDI will continue to be allowed under automatic route. Foreign airlines would continue to be allowed to invest in capital of Indian companies operating scheduled and non-scheduled air-transport services up to the limit of 49% of their paid up capital.

6. Private Security Agencies

The earlier policy permitted 49% FDI under government approval route in Private Security Agencies. Since Private Security Agencies are already required to get license under PSAR Act 2005, the requirement of putting them through another line of Government approvals through FIPB has now been done away with for FDI up to 49%. Accordingly, FDI up to 49% is now permitted under automatic route in this sector. FDI beyond 49% and upto 74% is permitted through Government approval route.

7. Establishment of branch office, liaison office or project office

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, it has provided that approval of Reserve Bank of India would not be required in cases where FIPB approval or license/permission by the concerned Ministry/Regulator has already been granted.

8. Animal Husbandry

As per FDI Policy 2016, FDI in Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture and Apiculture is allowed 100% under Automatic Route under controlled conditions. The requirement of 'controlled conditions' for FDI in these activities has now been done away with.

9. Single Brand Retail Trading

Local sourcing norms have been relaxed up to three years, with prior Government approval, for entities undertaking Single Brand Retail Trading of products having 'state of art' and 'cutting edge' technology. For such entities, 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, sourcing norms would be applicable.

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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Background:

In last two years, Government has brought major FDI policy reforms in a number of sectors viz. Defence, Construction Development, Insurance, Pension Sector, Broadcasting Sector, Tea, Coffee, Rubber, Cardamom, Palm Oil Tree and Olive Oil Tree Plantations, Single Brand Retail Trading, Manufacturing Sector, Limited Liability Partnerships, Civil Aviation, Credit Information Companies, Satellites-establishment/operation and Asset Reconstruction Companies. Measures undertaken by the Government have resulted in increased FDI inflows at US$ 55.46 billion in financial year 2015-16, as against US$ 36.04 billion during the financial year 2013-14. This is the highest ever FDI inflow for a particular financial year. However, it was felt that the country has potential to attract far more foreign investment which can be achieved by further liberalizing and simplifying the FDI regime.

Accordingly, Union Government radically liberalized the FDI regime on 20th June, 2016 with the objective of providing major impetus to employment and job creation in India. This was the second major reform after the last radical changes announced in November, 2015. Changes introduced in the policy included increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment. The amendments were aimed at further simplifying the regulations governing FDI in the country and make India an attractive destination for foreign investors. Most of the sectors with these changes have now been brought under automatic route for FDI, except a small negative list. The amendments have made India the most open economy in the world for FDI.

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