



# Investing In India

FOREIGN DIRECT INVESTMENT

## Policy & Procedures



सत्यमेव जयते

**SIA**



**SECRETARIAT FOR INDUSTRIAL ASSISTANCE  
DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION  
MINISTRY OF COMMERCE & INDUSTRY, GOVT. OF INDIA  
NEW DELHI**

**INVESTING**

**IN**

**INDIA**

**FOREIGN DIRECT INVESTMENT**

**- Policy and Procedures**

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This booklet on '**Investing in India**-Foreign Direct Investment- Policy and Procedures' is intended to serve as a guide to prospective investors/entrepreneurs and does not purport to be a legal document. In case of any variance between what has been stated in this booklet and the relevant Act, Rules, Regulations, Policy Statements, etc., the latter shall prevail.



सचिव  
*Secretary*

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## FOREWORD

Foreign Direct Investment (FDI) plays an important role in the economic development not only as a source of financial capital but also as a means of knowledge and technology transfer. Since 1991, the Government of India has been pursuing a programme of structural reforms aimed at stabilizing the economy and promoting reliance on market mechanisms.

2. The FDI policy in India has been progressively liberalized. FDI is now permitted in most sectors/activities under the automatic route. The FDI Policy in India is widely recognized as being very liberal. This is reflected in the international recognition of India as a hot investment destination.

3. This publication is intended to provide first hand information on the policies and procedures relating to investing in India. This is also available at the website of the Department ([www.dipp.nic.in](http://www.dipp.nic.in)). Clarification can also be sought through E-mail or on-line Chat available daily between 1100 - 1200 hrs(IST) & 1600 - 1700 hrs (IST) (GMT + 5.30) or Bulletin Board facility available on the website.

4. I hope this Manual will be useful to the existing and potential investors. We welcome suggestions to further improve this Manual.

**Ashok Jha**



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## CHAPTER I

### INTRODUCTION

1.1 India, the largest democracy in the world, with its consistent growth, performance and abundance of skilled manpower provides enormous opportunities for investment, both domestic and foreign. India is the fourth largest economy and the tenth most industrialised country. Indian economy with a GDP growth rate of 8.2%, was the second fastest growing economy in the world during 2003-04..

Major initiatives such as industrial decontrol, simplification of investment procedures, enactment of competition law, liberalisation of trade policy, full commitment to safeguarding intellectual property rights, financial sector reforms, liberalisation of exchange regulations etc., have been taken, which provide a liberal, attractive, and investor friendly investment climate.

### India – At a glance

1.2 Some facts about India:

- India is a Union of States with parliamentary system of Government
- Land area: 3.29 million square kilometers
- Capital: New Delhi
- Population: 1.027 billion (March 1, 2001)
- Climate: mainly tropical with temperature ranging from 10° – 40° C in most parts
- Time zone: GMT + 5 1/2 hours
- Major international airports: New Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Thiruvananthapuram
- Major ports of entry: Mumbai, , Kolkata, Kandla, Haldia, Chennai, Vizag, J.L. Nehru, Kochi, Mormugao, New Mangalore, Ennore, Paradip and Tuticorin

### Basic Economic Statistics

1.3 They are:

- GDP at current prices Rs.27,721 billion (2003-04)
- GDP(PPP) =US \$ 2860 billion
- GDP growth rate (2003-04): 8.2%
- Exchange rate: Rs.45.95/ \$ (as on June 30, 2004)
- Foreign Exchange reserves:US\$ 119 Billion (as on 13.8. 2004)
- Exports: US\$ 61.7 billion (2003 – 04)
- Imports: US\$ 75.4 billion(2003-04)

## FDI Outlook

1.4 India has emerged as a favourite destination for foreign investors. A number of studies /Reports have highlighted India's attractiveness as an Investment Destination. Some of these are:

- 1) By AT KEARNEY Business Confidence Index, 2003
  - Sixth most attractive investment destination
  - Third most preferred destination for American & British investors
- 2) Second hottest investment destination during the next four years-United Nations Conference on Trade and Development(UNCTAD)
- 3) Rated as the best BPO destination by A T KEARNEY

This manual provides a brief description of FDI-Policies and Procedures, for the guidance of the investors.

## CHAPTER II

### FOREIGN DIRECT INVESTMENT

#### Policy

2.1 FDI upto 100% is allowed under the automatic route in all activities/sectors except the following which will require approval of the Government :

- Activities/items that require an Industrial Licence;
- Proposals in which the foreign collaborator has a previous/existing venture/ tie up in India in the same or allied field,
- All proposals relating to acquisition of shares in an existing Indian company by a foreign/NRI investor.
- All proposals falling outside notified sectoral policy/caps or under sectors in which FDI is not permitted.

2.2 FDI policy is reviewed on an ongoing basis and measures for its further liberalization are taken. Change in sectoral policy/sectoral equity cap is notified from time to time through Press Notes by the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. Policy announcement by SIA are subsequently notified by RBI under FEMA. All Press Notes are available at the website of Department of Industrial Policy & Promotion.

#### Automatic Route

2.3 FDI Policy permits FDI up to 100 % from foreign/NRI investor without prior approval in most of the sectors including the services sector under automatic route. FDI in sectors/activities under automatic route does not require any prior approval either by the Government or the RBI. The investors are required to notify the Regional office concerned of RBI of receipt of inward remittances within 30 days of such receipt and will have to file the required documents with that office within 30 days after issue of shares to foreign investors.

#### Government approval route

2.4 All activities which are not covered under the automatic route according to para 2.1 above, prior Government approval for FDI/NRI shall be necessary. Areas/sectors/activities hitherto not open to FDI/NRI investment shall continue to be so unless otherwise decided and notified by Government.

An investor can make an application for prior Government approval even when the proposed activity is under the automatic route.

#### Procedure for obtaining Government approval -FIPB

2.5 All proposals for foreign investment requiring Government approval are considered for approval by the Foreign Investment Promotion Board (FIPB). The

FIPB also grants composite approvals involving foreign investment/foreign technical collaboration.

For seeking the approval for FDI other than NRI Investments and 100% EOU, applications in form FC-IL should be submitted to the Department of Economic Affairs (DEA), Ministry of Finance.

**2.6** The guidelines for consideration of FDI proposals by the FIPB are at Annexure-I. The sector specific guidelines for FDI and Foreign Technology Collaborations are at Annex II.

### FDI from NRI & for 100% EOU

**2.7** FDI applications with NRI Investments and 100% EOU should be submitted to the Public Relation & Complaint (PR&C) Section of Secretariat of Industrial Assistance (SIA), Department of Industrial Policy & Promotion.

### Proposals requiring Govt's Approval

**2.8** Application for proposals requiring prior Govt's approval should be submitted to FIPB in FC-IL form. Plain paper applications carrying all relevant details are also accepted. No fee is payable. The following information should form part of the proposals submitted to FIPB: -

- (a) Whether the applicant has had or has any previous/existing financial/technical collaboration or trade mark agreement in India in the same or allied field for which approval has been sought; and
- (b) If so, details thereof and the justification for proposing the new venture/technical collaboration (including trade marks).
- (c) Applications can also be submitted with Indian Missions abroad who will forward them to the Department of Economic Affairs for further processing.
- (d) Foreign investment proposals received in the DEA are placed before the Foreign Investment Promotion Board (FIPB) within 15 days of receipt.

The decision of the Government in all cases is usually conveyed by the DEA within 30 days.

### FDI Prohibited

**2.9** FDI is not permissible in the following cases

- i. Gambling and Betting, or
- ii. Lottery Business, or
- iii. Business of chit fund
- iv. Nidhi Company
- v. Housing and Real Estate business.

- vi. Trading in Transferable Development Rights (TDRs)
- vii. Retail Trading
- viii. Atomic Energy
- ix. Agricultural or plantation activities or Agriculture (excluding Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisciculture and Cultivation of Vegetables, Mushrooms etc. under controlled conditions and services related to agro and allied sectors) and Plantations (other than Tea plantations)

## General Permission of RBI under FEMA

**2.10** RBI has granted general permission under Foreign Exchange Management Act (FEMA) in respect of proposals approved by the Government. Indian companies getting foreign investment approval through FIPB route do not require any further clearance from RBI for the purpose of receiving inward remittance and issue of shares to the foreign investors.

The companies are, however, required to notify the Regional office concerned of the RBI of receipt of inward remittances within 30 days of such receipt and to file the required documents with the concerned Regional offices of the RBI within 30 days after issue of shares to the foreign investors or NRIs.

## Investment by Existing companies

**2.11** Besides new companies, automatic route for FDI/NRI investment is also available to the existing companies proposing to induct foreign equity. For existing companies with an expansion programme, the additional requirements include (i) the increase in equity level resulting from the expansion of the equity base of the existing company without the acquisition of existing shares by NRI/foreign investors, (ii) the money to be remitted should be in foreign currency and (iii) proposed expansion programme should be in the sector(s) under automatic route. Otherwise, the proposal would need Government approval through the FIPB. For this the proposal must be supported by a Board Resolution of the existing Indian company.

**2.12** For existing companies without an expansion programme, the additional requirements for eligibility for automatic approval are (i) that they are engaged in the industries under automatic route, (ii) the increase in equity level must be from expansion of the equity base and (iii) the foreign equity must be in foreign currency.

**2.13** The earlier SEBI requirement, applicable to public limited companies, that shares allotted on preferential basis shall not be transferable in any manner for a period of 5 years from the date of their allotment has now been modified to the extent that not more than 20 per cent of the entire contribution brought in by promoter cumulatively in public or preferential issue shall be locked-in.

## Participation by international financial institutions

**2.14** Equity participation by international financial institutions such as ADB, IFC, CDC, DEG, etc. in domestic companies is permitted through automatic route subject to SEBI/RBI regulations and sector specific cap on FDI.

## Issue and valuation of shares in case of existing companies

**2.15** In case of listed companies, according to RBI/SEBI guidelines, the issue price shall be either at:

- (a) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date or
- (b) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the two weeks preceding the relevant date.

The stock exchange referred to is the one at which the highest trading volume in respect of the share of the company has been recorded during the preceding six months prior to the relevant date.

The relevant date is the date thirty days prior to the date on which the meeting of the General Body of the shareholder is convened.

In all other cases a company may issue shares as per the RBI regulation in accordance with the guidelines issued by the erstwhile Controller of Capital Issues.

Other relevant guidelines of Securities and Exchange Board of India (SEBI)/ RBI including the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997, wherever applicable, would need to be followed. Further information could be obtained at Security and Exchange Board of India's (SEBI) website : [www.sebi.gov.in](http://www.sebi.gov.in)

## ADR/GDR

**2.16** An Indian corporate can raise foreign currency resources abroad through the issue of American Depository Receipts (ADRs) or Global Depository Receipts (GDRs). Regulation 4 of Schedule I of FEMA Notification no. 20 allows an Indian company to issue its Rupee denominated shares to a person resident outside India being a depository for the purpose of issuing Global Depository Receipts (GDRs) and/ or American Depository Receipts (ADRs), subject to the conditions that:

- the ADRs/GDRs are issued in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government thereunder from time to time

- The Indian company issuing such shares has an approval from the Ministry of Finance, Government of India to issue such ADRs and/or GDRs or is eligible to issue ADRs/ GDRs in terms of the relevant scheme in force or notification issued by the Ministry of Finance, and
- There are no end-use restrictions on GDR/ADR issue proceeds, except for an express ban on investment in real estate and stock markets.
- The FCCB issue proceeds need to conform to external commercial borrowing end use requirements; in addition, 25 per cent of the FCCB proceeds can be used for general corporate restructuring
- Is not otherwise ineligible to issue shares to persons resident outside India in terms of these Regulations.
- There is no limit upto which an Indian company can raise ADRs/GDRs. However, the Indian company has to be otherwise eligible to raise foreign equity under the extant FDI policy.

**2.17** A company engaged in the manufacture of items covered under Automatic route, whose direct foreign investment after a proposed GDRs/ADRs/FCCBs issue is likely to exceed the percentage limits under the automatic route, or which is implementing a project falling under Government approval route, would need to obtain prior Government clearance through FIPB before seeking final approval from the Ministry of Finance.

## Foreign currency convertible Bonds

**2.18** FCCBs are issued in accordance with the scheme [the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993] and subscribed by a non-resident in foreign currency and convertible into ordinary shares of the issuing company in any manner, either in whole, or in part, on the basis of any equity related warrants attached to debt instruments;

## Eligibility

**2.19** The eligibility for issue of Convertible Bonds or Ordinary Shares of Issuing Company is given as under:

- (i) An issuing company desirous of raising foreign funds by issuing Foreign Currency Convertible Bonds or ordinary shares for equity issues through Global Depository Receipt
- (ii) Can issue FCCBs upto USD 50 Million under the Automatic route,
- (iii) From USD 50 –100 Million, the companies have to take RBI approval,
- (iv) From USD 100 Million and above, prior permission of the Department of Economic Affairs is required.

## Preference shares

**2.20** Foreign investment through preference shares is treated as foreign direct investment. Proposals are processed either through the automatic route or FIPB as the case may be, as per the following guidelines:-

- (i) Foreign investment in preference share are considered as part of share capital and fall outside the External Commercial Borrowing (ECB) guidelines/cap.
- (ii) Preference shares to be treated as foreign direct equity for purpose of sectoral caps on foreign equity, where such caps are prescribed, provided they carry a conversion option. Preference shares structured without such conversion option fall outside the foreign direct equity cap.
- (iii) Duration for conversion shall be as per the maximum limit prescribed under the Companies Act or what has been agreed to in the shareholders agreement whichever is less.
- (iv) The dividend rate would not exceed the limit prescribed by the Ministry of Finance.
- (v) Issue of preference shares should conform to guidelines prescribed by the SEBI and RBI and other statutory requirements.

## FDI in EOUs/SEZs/Industrial Park/EHTP/STP

### Special Zones (SEZs)

### Economic

**2.21** 100% FDI is permitted under automatic route for setting up of special Economic Zone.

Units in SEZ qualify for approval through automatic route subject to sectoral norms. Details about the type of activities permitted are available in the Foreign Trade Policy issued by Department of Commerce. Proposals not covered under the automatic route require approval by FIPB. The procedure mentioned in para 2.8 will be applicable for seeking requisite approval.

### 100% Export Oriented Units (EOUs)

**2.22** 100% FDI is permitted under automatic route for setting up 100% EOU, subject to sectoral norms. Proposals not covered under the automatic route would be considered and approved by FIPB. The procedure mentioned in para 2.8 will be applicable for seeking requisite approval.

### Industrial Park

**2.23** 100% FDI is permitted under automatic route for setting up of Industrial Park. The procedure mentioned in Para 2.3 will be applicable.

## Electronic Hardware Technology Park (EHTP) Units

2.24 All proposals for FDI/NRI investment in EHTP Units are eligible for approval under automatic route subject to parameters listed in Para 2.1. For proposals not covered under automatic route, the applicant should seek separate approval of the FIPB, as per the procedure outlined in Para 2.8.

## Software Technology park Units

2.25 All proposals for FDI/NRI investment in STP Units are eligible for approval under automatic route subject to parameters listed in Para 2.1. For proposals not covered under automatic route, the applicant should seek separate approval of the FIPB, as per the procedure outlined in Para 2.8.

## Capitalization of Import Payables

2.26 FDI inflows are required to be under the following modes;

- i. By inward remittances through normal banking channels or
- ii. By debit to the specified account of person concerned maintained in an authorized dealer/authorized bank.

Issue of equity to non-residents against other modes of FDI inflows or in kind is not permissible.

However, Issue of equity shares against lump sum fee, royalty payable and external commercial borrowings (ECBs) in convertible foreign currency are permitted, subject to meeting all applicable tax liabilities and sector specific guidelines.

## CHAPTER III

### INDUSTRIAL LICENSING

#### Industrial Licensing Policy

**3.1** Industrial Licenses are regulated under the Industries (Development & Regulation) Act, 1951. The requirements of Industrial licence has been progressively reduced. At present industrial licence for manufacturing is required only for the following:

- i. Industries retained under compulsory licensing,
- ii. Items reserved for small scale sector; and
- iii. When the proposed location attracts locational restriction

#### Industries requiring Compulsory Licensing

**3.2** The following industries require compulsory industrial license:

- i. Distillation and brewing of alcoholic drinks;
- ii. Cigars and cigarettes of tobacco and manufactured tobacco substitutes;
- iii. Electronic Aerospace and defence equipment: all types;
- iv. Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches;
- v. Hazardous chemicals;
  - (a) Hydrocyanic acid and its derivatives
  - (b) Phosgene and its derivatives
  - (c) Isocyanates and di-isocyanates of hydrocarbon, not elsewhere specified (example: Methyl Isocyanate); and
- vi. Drugs and Pharmaceuticals (according to modified Drug Policy issued in September, 1994 and subsequently amended in February, 1999)

#### Industries under small-scale sector

**3.3** An industrial undertaking is defined as a small-scale unit if the capital investment in plant and machinery does not exceed Rs 10 million.

Small-scale units can get registered with the Directorate of Industries/District Industries Centre of the State Government. Such units can manufacture any item, and are also free from locational restrictions

#### Manufacture of items reserved for small-scale sector

**3.4** Non-small scale units can manufacture items reserved for the small scale sector only after obtaining an industrial license. In such cases, the non-small scale unit is required to undertake an obligation to export 50 per cent of the production of SSI reserved items.

## FDI in SSI Units

3.5 A small scale unit can not have more than 24 per cent equity in its paid up capital from any industrial undertaking, either foreign or domestic. If the equity from another company (including foreign equity) exceeds 24 per cent, even if the investment in plant and machinery in the unit does not exceed Rs 10 million, the unit loses its small-scale status.

## Locational Restrictions

3.6 Industrial undertakings are free to select the location of a project. Industrial Licence is required if the proposed location is within 25 KM of the Standard Urban Area limits of 23 city having population of 1 million as per 1991 census. List of such cities is at Annex-VI

Locational restriction does not apply:

- i) If the unit were to be located in an area designated as an "industrial area" before the 25th July, 1991.
- ii) Electronics, Computer software and Printing and any other industry, which may be notified in future as "non polluting industry", are exempt from such locational restriction.

The location of industrial units is subject to applicable local zoning and land use regulations and environmental regulations.

## Procedure for obtaining Industrial Licence:

3.7 Industrial Licence is granted by the Government of India in the Secretariat for Industrial Assistance (SIA) on the recommendation of the Licensing Committee. Application for industrial license is required to be submitted in the prescribed form. (Form FC-IL).

This form is available in the Public Relation & Complaint Section (PR&C) of the SIA, all outlets dealing in Government Publications, Indian Embassies, and can also be downloaded from the web site <http://www.dipp.nic.in>.

Application accompanied with a crossed demand draft of Rs.2500/- (appr. US\$ 55) may be submitted to the Public Relation & Complaint Section (PR&C) of Department of Industrial Policy & Promotion.

Decisions are usually taken within 4-6 weeks of filing the application.

## Policy for Industries exempt from licensing- Industrial Entrepreneurs Memorandum (IEM)

3.8 Industrial undertakings exempt from industrial licence are only required to file an Industrial Entrepreneur Memoranda (IEM) in Part 'A', in the prescribed format, with the Secretariat of Industrial Assistance, and obtain an acknowledgement. No further approval is required.

Immediately after commencement of commercial production, the industrial undertaking is required to file with the SIA, Part B of the IEM.

### Procedure for filing IEM

3.9 (a) The form for filing an IEM is available at Public Relation & Complaint Section (PR&C, all outlets dealing in Government publications, Indian Embassies, and can also be downloaded from the web site <http://dipp.nic.in>.

(b) The IEM can be filed with the PR&C either in person or by post. The IEM should be submitted along with a crossed demand draft of Rs. 1000/- (appr. US\$ 22) for up to 10 items proposed to be manufactured For more than 10 items, an additional fee of Rs. 250 (appr. US\$ 6) for up to 10 additional items needs to be paid.

(C) On filing the IEM, an acknowledgement containing the SIA Registration Number, for future reference, is issued. In case IEM is sent by post, the acknowledgement is sent by post & no further approval is required.

**An IEM would stand cancelled if the proposal requires compulsory licence.**

### Procedure on Commencement of Commercial Production

3.10 Upon commencement of commercial production, Industrial undertakings need to file information in Part 'B' of the IEM to PR&C in SIA. No fee is to be paid for filing Part B.

All industrial undertakings whether or not exempt from compulsory industrial licensing, are statutorily required to submit monthly production return in the prescribed proforma every month. This should reach the Industrial Statistics Unit (ISU) of the Department positively by the 10<sup>th</sup> of the following month.

### Carry on Business (COB) Licence

3.11 Small-scale units by virtue of their natural growth may exceed the investment limits prescribed for small-scale units. In such cases these units need to obtain a Carry-on-Business (COB) Licence based on the best production in the preceding three years. No export obligation is fixed on the capacity for which the COB license is granted.

The application for COB licence should be submitted in revised form "EE", which can be downloaded from the web site <http://www.dipp.nic.in> along with a crossed demand draft of Rs. 2500/- (appr. US\$ 55)

However, on further expansion of its capacity beyond the capacity included in COB license, the unit would need to obtain an industrial licence.

### How the prescribed fee are to be paid

3.12 The fee prescribed for various applications, licenses are to be paid through crossed demand draft drawn in favour of the Pay & Accounts Officer, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, payable at New Delhi.

## Environmental Clearances

**3.13** Entrepreneurs are required to obtain Statutory clearances relating to Pollution Control and Environment, as may be necessary for setting up an industrial project for 31 categories of industries in terms of Notification (SO 60(E) dated 27.1.94) issued under The Environment (Protection) Act, 1986 from the Ministry of Environment & Forest, Government of India. This list includes petrochemical complexes, petroleum refineries, cement, thermal power plants, bulk drugs, fertilisers, dyes, paper etc.

## Exemptions under Environment (protection) Act

**3.14** However, if investment in the project is less than Rs. 1 billion, such Environmental clearance is not necessary, except in cases of pesticides, bulk drugs and pharmaceuticals, asbestos and asbestos products, integrated paint complexes, mining projects, tourism projects of certain parameters, tarred roads in Himalayan areas, distilleries, dyes, foundries and electroplating industries.

Further, any item reserved for the small-scale sector is also exempt from obtaining environmental clearance from the Central Government.

Powers have been delegated to the State Governments for grant of environmental clearance for certain categories of thermal power plants.

Setting up industries in certain locations considered ecologically fragile (e.g. Aravalli Range, coastal areas, Doon valley, Dahanu, etc.) are guided by separate guidelines issued by the Ministry of Environment and Forests, Government of India.

Details can be obtained at the website of Ministry of Environment and Forests (<http://envfor.nic.in>).

## CHAPTER IV

### FOREIGN TECHNOLOGY AGREEMENTS

#### General Policy

4.1 For promoting technological capability in Indian industry, acquisition of foreign technology is encouraged through foreign technology collaboration agreements. Induction of know-how through such agreements are permitted either through automatic route or with prior approval from the Government.

#### Scope of Technology Collaboration

4.2 The terms of payment under foreign technology collaboration, which are eligible for approval through the automatic route and by the Government approval route are technical know how fees, payment for design and drawing, payment for engineering service and royalty. Payments for hiring of foreign technicians, deputation of Indian technicians abroad, and testing of indigenous raw material, products, indigenously developed technology in foreign countries are governed by separate RBI procedures and rules and are not covered by the foreign technology collaboration approval. Similarly, payments for imports of plant and machinery and raw material are also not covered by the foreign technology collaboration approval. For any of these items, entrepreneurs may contact the RBI.

#### Automatic Route

4.3 Government has delegated powers to Reserve Bank of India to allow payments for foreign technology collaboration by Indian companies under automatic route subject to the following limits:

- (i) the lump sum payments not exceeding US \$ 2 Million;
- (ii) royalty payable being limited to 5 per cent for domestic sales and 8 per cent for exports, subject to a total payment of 8 per cent on sales over a 10 year period; without any restriction on the duration of the royalty payments. The aforesaid royalty limits are net of taxes and are calculated according to standard conditions. (Press Note no. of 1. of 2002)

Terms of payment qualifying for automatic route is irrespective of the extent of foreign equity in the Indian company.

#### Use of trademarks and brand name

4.4 Payment of royalty up to 2% for exports and 1% for domestic sales is allowed under automatic route for use of trademarks and brand name of the foreign collaborator without technology transfer. Royalty on brand name/trade mark shall be paid as a percentage of net sales, viz., gross sales less agents'/dealers' commission, transport cost, including ocean freight, insurance, duties, taxes and other charges, and cost of raw materials, parts and components imported from the foreign licensor or its subsidiary/affiliated company.

In case of technology transfer, payment of royalty subsumes the payment of royalty for use of trademark and brand name of the foreign collaborator.

### Procedure for Automatic Route

4.5 Applications for automatic approval for such foreign technology agreements should be submitted in Form FT (RBI) with the concerned Regional offices of Reserve Bank of India. No fee is payable. Approvals are generally available within 2 weeks.

### Government Approval- Project Approval Board

4.6 For the following categories, Government approval(PAB when technical collaboration is proposed and FIPB where both financial & technical collaboration are proposed) would be necessary:

- Proposals attracting compulsory licensing
- Items of manufacture reserved for the small scale sector
- Proposals involving any previous/existing joint venture or technology transfer/trademark agreement in the same or allied field in India. (The definition of "same" and "allied" field would be as per 3 and 4 digits NIC 1987 Codes).
- Proposals not meeting any or all of the parameters for automatic approval as given in Para 4.3.

### Procedure for Government Approval

4.7 Proposals for foreign technology collaboration not coming under the automatic route are considered by the Project Approval Board in the Department of Industrial Policy and Promotion. Application in such cases should be submitted in Form FC-IL to the Secretariat for Industrial Assistance. Proposals where both financial & technical collaboration are proposed, application is to be submitted to FIPB. No fee is payable. On consideration of the proposal by the Project Approval Board/FIPB, decisions are normally conveyed within 4 to 6 weeks of filing the application.

## CHAPTER V

### ENTRY OPTIONS FOR FOREIGN INVESTOR

#### Entry Options

5.1 A foreign company planning to set up business operations in India has the following options:

#### Incorporated Entity

i) By incorporating a company under the Companies Act, 1956 through

- Joint Ventures; or
- Wholly Owned Subsidiaries

Foreign equity in such Indian companies can be up to 100% depending on the requirements of the investor, subject to equity caps in respect of the area of activities under the Foreign Direct Investment (FDI) policy.

#### As an Unincorporated Entity

ii) As a foreign Company through

- Liaison Office/Representative Office
- Project Office
- Branch Office

Such offices can undertake activities permitted under the Foreign Exchange Management (Establishment in India of branch or office of other place of business) Regulations, 2000.

#### Incorporation of Company

5.2 For registration and incorporation, an application has to be filed with Registrar of Companies (ROC). Once a company has been duly registered and incorporated as an Indian company, it is subject to Indian laws and regulations as applicable to other domestic Indian companies.

For details please visit the website of Ministry of Company Affairs at <http://dca.nic.in>

#### Liaison Office/Representative Office

5.3 The role of the liaison office is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. It can promote export/import from/to India and also facilitate technical/financial collaboration between parent company and companies in India. Liaison office can not undertake any commercial activity directly or indirectly and can not, therefore, earn any income in India. Approval for establishing a liaison office in India is granted by Reserve Bank of India (RBI).

## Project Office

5.4 Foreign Companies planning to execute specific projects in India can set up temporary project/site offices in India. RBI has now granted general permission to foreign entities to establish Project Offices subject to specified conditions. Such offices can not undertake or carry on any activity other than the activity relating and incidental to execution of the project. Project Offices may remit outside India the surplus of the project on its completion, general permission for which has been granted by the RBI.

## Branch Office

5.5 Foreign companies engaged in manufacturing and trading activities abroad are allowed to set up Branch Offices in India for the following purposes:

- (i) Export/Import of goods
- (ii) Rendering professional or consultancy services
- (iii) Carrying out research work, in which the parent company is engaged.
- (i) Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
- (ii) Representing the parent company in India and acting as buying/selling agents in India.
- (iii) Rendering services in Information Technology and development of software in India.
- (vii) Rendering technical support to the products supplied by the parent/ group companies.
- (viii) Foreign airline/shipping company.

A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer.

Branch Offices established with the approval of RBI, may remit outside India profit of the branch, net of applicable Indian taxes and subject to RBI guidelines. Permission for setting up branch offices is granted by the Reserve Bank of India (RBI).

## Branch Office on “Stand Alone Basis” in SEZ

5.6 Such Branch Offices would be isolated and restricted to the Special Economic zone (SEZ) alone and no business activity/transaction will be allowed outside the SEZs in India, which include branches/subsidiaries of its parent office in India.

No approval shall be necessary from RBI for a company to establish a branch/unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

Application for setting up Liaison Office/ Project Office/ Branch Office may be submitted in form FNC 1 (available at RBI website at [www.rbi.org.in](http://www.rbi.org.in))

### Investment in a firm or a proprietary concern by NRIs

**5.7** A non-resident Indian or a person of Indian origin resident outside India may invest by way of contribution to the capital of a firm or a proprietary concern in India on non-repatriation basis provided

- i) Amount is invested by inward remittance or out of NRE/FCNR/NRO account maintained with AD
- ii) The firm or proprietary concern is not engaged in any agricultural/plantation or real estate business i.e. dealing in land and immovable property with a view to earning profit or earning income there from.
- iii) Amount invested shall not be eligible for repatriation outside India NRIs/PIO may invest in sole proprietorship concerns/ partnership firms with repatriation benefits with the approval of Government /RBI.

### Investment in a firm or a proprietary concern by other than NRIs

**5.8** No person resident outside India other than NRIs/PIO shall make any investment by way of contribution to the capital of a firm or a proprietorship concern or any association of persons in India. The RBI may, on an application made to it, permit a person resident outside India to make such investment subject to such terms and conditions as may be considered necessary.

## CHAPTER VI

### EXCHANGE CONTROL MANAGEMENT

#### FEMA

6.1 The Reserve Bank of India's Exchange Control Department, administers Foreign Exchange Management Act, 1999, (FEMA) which has replaced the earlier Act, FERA, with effect from June 1, 2000. The new legislation is for "facilitating external trade" and "promoting the orderly development and maintenance of foreign exchange market in India". FEMA extends to the whole of India.

Under FEMA an Indian company with foreign equity participation is treated at par with other locally incorporated companies. Accordingly, the exchange control laws and regulations for residents apply to foreign-invested companies as well.

#### FDI In Indian Company

6.2 In terms of Section 6(3)(b) of Foreign Exchange Management Act, 1999 Reserve Bank regulates transfer or issue of any security by a person resident outside India read with Notification No. FEMA 20/2000-RB dated May 3, 2000

#### General permission under FEMA

##### Issue of Rights/Bonus Shares

6.3 General permission is available to Indian companies to issue Right/Bonus shares subject to certain conditions. Entitlement of rights shares is not automatically available to investors who have been allotted such shares as OCBs. Such issuing companies would have to seek specific permission from RBI, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai for issue of shares on right basis to erstwhile OCBs. However, bonus shares can be issued to OCBs.

##### Issue of shares under merger/ amalgamation

6.4 Where a Scheme of merger or amalgamation of two or more Indian companies has been approved by a court in India, the transferee company may issue shares to the shareholders of the transferor company, resident outside India subject to ensuring that the percentage of shareholding of persons resident outside India in the transferee or new company does not exceed the percentage specified in the approval granted by the Central Government or the Reserve Bank

##### Issue of shares under ESOS scheme

6.5 A company may issue shares under this Scheme, to its employees or employees of its joint venture or wholly owned subsidiary abroad who are resident outside India, directly or through a Trust subject to the condition that the scheme has been drawn in terms of relevant regulations issued by the SEBI; and face value of the shares to be allotted under the scheme to the non-resident employees does not exceed 5% of the paid-up capital of the issuing company.

## Issue of shares by Indian companies under ADR/GDR

**6.6** An Indian corporate can raise foreign currency resources abroad through the issue of ADRs or GDRs. Regulation 4 of Schedule I of FEMA Notification no. 20 allows an Indian company to issue its Rupee denominated shares to a person resident outside India being a depository for the purpose of issuing GDRs and/ or ADRs, subject to the conditions that:

- the ADRs/GDRs are issued in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government thereunder from time to time
- The Indian company issuing such shares has an approval from the Ministry of Finance, Government of India to issue such ADRs and/or GDRs or is eligible to issue ADRs/ GDRs in terms of the relevant scheme in force or notification issued by the Ministry of Finance, and
- Is not otherwise ineligible to issue shares to persons resident outside India in terms of these Regulations.

## Repatriation of Investment Capital and Profits Earned in India

- 6.7**
- (i) All foreign investments are freely repatriable except for the cases where NRIs choose to invest specifically under non-repatriable schemes. Dividends declared on foreign investments can be remitted freely through an Authorised Dealer.
  - (ii) Non-residents can sell shares on stock exchange without prior approval of RBI and repatriate through a bank the sale proceeds if they hold the shares on repatriation basis and if they have necessary NOC/tax clearance certificate issued by Income Tax authorities.
  - (iii) For sale of shares through private arrangements, Regional offices of RBI grant permission for recognized units of foreign equity in Indian company in terms of guidelines indicated in Regulation 10.B of Notification No. FEMA.20/2000 RB dated 3<sup>rd</sup> May 2000. The sale price of shares on recognised units is to be determined in accordance with the guidelines prescribed under Regulation 10B(2) of the above Notification.
  - (iv) Profits, dividends, etc. (which are remittances classified as current account transactions) can be freely repatriated.

## Transfer of shares/debentures

- 6.8** The following are permitted:
- A person resident outside India ( Other than NRI and OCB) may transfer by way of sale or gift the shares or convertible debentures to any person resident outside India ( including NRIs); provided transferee has obtained

prior permission of SIA/FIPB to acquire the shares if he has previous venture or tie-up in India in same field or allied field

- NRI or OCB may transfer by way of sale or gift the shares or convertible debentures held by him or it to another non-resident Indian; provided transferee has obtained prior permission of Central Government to acquire the shares if he has previous venture or tie-up in India in the same field or allied field
- The person resident outside India may transfer any security to a person resident in India by way of gift.
- A person resident outside India may sell the shares and convertible debentures of an Indian company on a recognized Stock Exchange in India through a registered broker.

## Current Account Transactions

**6.9** Prior approval of the RBI is required for acquiring foreign currency above certain limits for the following purposes:

- Holiday travel over US\$ 10,000 p.a.
- Gift / donation over US\$ 5,000 / US\$ 10,000 per beneficiary p.a.
- Business travel over US\$ 25,000 per person
- Foreign studies as per estimate of institution or US\$ 100,000 per academic year
- Architectural / consultancy services procured from abroad over US\$ 1,000,000 per project
- Remittance for purchase of Trade Mark / Franchise
- Reimbursement of pre incorporation expenses over US\$ 100,000
- Remittances exceeding US\$ 25,000 p.a. (over and above ceilings prescribed for other remittances mentioned above) by a resident individual for any current account or capital account transaction.

In certain specified cases, prior approval of the ministry concerned is needed for withdrawal of foreign exchange, such as: -

- Remittance of freight of vessel chartered by a PSU,
- Payment of import through ocean transport by a Govt. Department or a PSU on C.I.F basis,
- Multi-modal transport operators making remittance to their agents abroad.

### Acquisition of Immovable Property by Non-resident:

**6.10** A person resident outside India, who has been permitted by Reserve Bank to establish a branch, or office, or place of business in India (excluding a Liaison Office), has general permission of Reserve Bank to acquire immovable property in India, which is necessary for, or incidental to, the activity. However, in such cases a declaration, in prescribed form (IPI), is required to be filed with the Reserve Bank, within 90 days of the acquisition of immovable property.

Foreign nationals of non-Indian origin who have acquired immovable property in India with the specific approval of the Reserve Bank can not transfer such property without prior permission from the Reserve Bank of India.

### Acquisition of Immovable Property by NRI

**6.11** An Indian citizen resident outside India (NRI) can acquire by way of purchase any immovable property in India other than agricultural/ plantation /farm house. He may transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India or a person resident in India .

## CHAPTER VII

### PORTFOLIO INVESTMENT SCHEME

- Portfolio Scheme(PIS)**      **Investment**      **7.1**      Foreign Institutional Investors(FIIs) registered with SEBI and Non-resident Indians are eligible to purchase the shares and convertible debentures under the Portfolio Investment Scheme. The FII should apply to the designated AD who may then grant permission to FII for opening a foreign currency account and/or a Non Resident Rupee Account
- Foreign Investors (FIIs)**      **Institutional**      **7.2**      FIIs include Asset Management Companies, Pension Funds, Mutual Funds, Investment Trusts as Nominee Companies, Incorporated/Institutional Portfolio Managers or their Power of Attorney holders, University Funds, Endowment Foundations, Charitable Trusts and Charitable Societies.
- Regulations Governing PIS**      **7.3**      Investment by Foreign Institutional Investors( FIIs) is regulated under SEBI (FII) Regulations , 1995 and Regulation 5(2) of FEMA Notification No.20 dated May 3,2000. SEBI acts as the nodal point in the entire process of FII registration. FIIs are required to apply to SEBI in a common application form in duplicate.. RBI approval is also required under FEMA to enable an FII to buy/sell securities on Stock Exchanges and open foreign currency and Indian Rupee accounts with a designated bank branch.
- Policy on FII Investments**      **7.4**      Main features of the policy on investment by FII are
- FIIs are required to allocate their investment between equity and debt instruments in the ratio of 70:30. However, it is also possible for an FII to declare itself a 100% debt FII in which case it can make its entire investment in debt instruments.
- FIIs can buy/sell securities on Stock Exchanges. They can also invest in listed and unlisted securities outside Stock Exchanges where the price has been approved by RBI.
- No individual FII/sub-account can acquire more than 10% of the paid up capital of an Indian company.
- All FIIs and their sub-accounts taken together cannot acquire more than 24% of the paid up capital of an Indian Company.
- Indian Companies can raise the above mentioned 24% ceiling to the Sectoral Cap / Statutory Ceiling as applicable by passing a resolution by its Board of Directors followed by passing a Special Resolution to that effect by its General Body in terms of Press Release dated Sept.20,2001 and FEMA Notification No.45 dated Sept. 20,2001.

No permission from RBI is needed so long as the FIIs purchase and sell on recognized stock exchange. All non-stock exchange sales/purchases require RBI permission.

### Portfolio Investments by NRIs:

7.5 NRIs/PIOs are permitted to purchase/sell shares/convertible debentures of Indian companies on Stock Exchanges under Portfolio Investment Scheme. For this purpose, the NRI/PIO has to apply to a designated branch of a Bank which deals in Portfolio Investment. All the sale/purchase transaction are routed through the designated branch.

An NRI can purchase shares up to 5% of the paid up capital of an Indian company. All NRIs taken together cannot purchase more than 10% of the paid up value of the company. This limit can be increased by the Indian company to 24% by passing a General Body resolution.

Investment can be made both on repatriation basis or non-repatriation basis. The sale of shares will be subject to payment of applicable taxes.

For details regarding portfolio investment scheme visit the website of RBI at [www.rbi.org.in](http://www.rbi.org.in) and Security & Exchange Board of India (SEBI) at [www.sebi.gov.in](http://www.sebi.gov.in).

## CHAPTER VIII

### INCORPORATION OF COMPANY

#### Company's Act 1956

**8.1** The incorporation of a company in India is governed by the company's Act, 1956. It extends to the whole of India and Part II of the Act deal with the incorporation of a company and matters related to.

#### Private company

**8.2** Private company means a company which has a minimum paid-up capital of one lakh rupees or such higher paid-up capital as may be prescribed, and by its articles,

- (a) restricts the rights to transfer its shares, if any;
- (b) limits the number of its members to fifty not including
  - i) persons who are in the employment of the company; and
  - ii) persons who, having been formerly in the employment of the company, were members of the company while in that employment have continued to be members after the employment ceased; and
- (c) prohibits any invitation to the public to subscribe for any shares in, or debentures of, the company;
- (d) prohibits any invitation or acceptance of deposits from persons other than its members, directors or their relatives.

#### Public company

**8.3** A public company is a company which is not a private company and has a minimum paid-up capital of five lakh rupees or such higher paid-up capital, as may be prescribed; is a private company which is a subsidiary of a company which is not a private company.

#### Formation of a private limited company

**8.4** A private Company can be formed either by

- i. incorporation of a new company for doing a new business, or
- ii. conversion of existing business of a sole proprietary concern or partnership firm into a company.

#### Name of company

**8.5** The name of a corporation is the symbol of its personal existence. Any suitable name may be selected subject, however, to specified conditions

**8.6** The following guidelines would be followed while applying for registration of name of the company:

- The promoters should select three to four alternative names, quite distinct from each other.
- The names should include as far as possible activity as per the main objects of the proposed company.
- The names should not be too closely resemble with the name of any other registered company.
- The official guidelines issued by the Central Government should be followed while selecting the names. Besides, the names so selected should not violate the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950.
- Apply in form 1-A to the Registrar of Companies having jurisdiction along with a filing fee of Rs. 500.

### Memorandum of Association

**8.7** An important step in the formation of a company is to prepare a document called Memorandum of Association. It is the charter of the company and it contains the basic conditions on which the company is incorporated.

The Memorandum contains the name, the state in which the registered office is to be situated, main objects of the company to be pursued by the company on its incorporation and objects incidental or ancillary to the attainment of the main objects, liability of the members and the authorized capital of the company. The main purpose of the memorandum is to state the scope of activities and powers of the company.

### Articles of Association

**8.8** Articles of Association of the company contain rules, regulation and bye-laws for the general management of the company. It is compulsory to get the articles of associations registered along with the memorandum of association in case of a private company. The Articles are subordinate to the Memorandum of Association. Therefore, the Articles should not contain any regulation, which is contrary to provisions of the Memorandum or the Companies Act. The Articles are binding on the members in relation to the company as well as on the company in its relation to members.

### Registration company and issue of capital

**8.9** After completion of the preliminaries as enumerated, the application with necessary documents are required to be filed with the Registrar of Companies of the State in which the company is proposed to be incorporated. These include:

- (a) Memorandum of Association (duly stamped) and a duplicate thereof.
- (b) Articles of Association (duly stamped) and a duplicate thereof
- (c) The agreement, if any, which the company proposes to enter into with any individual for appointments as its managing or whole time director or manager.
- (d) A copy of the letter of the Registrar of Companies intimating the availability of the proper name
- (e) Documents evidencing payment of prescribed registration and filing fee, i.e. a bank draft or a treasury challan.
- (f) Documents evidencing the directorship and situation of Registered office in Form 32 and Form 18 respectively and declaration of compliance with requirements of the Companies Act in Form No.1 and Form 29 for giving consent to act as a Director in case of public company be also given

### Registration fee

**8.10** The amount of registration fee payable is regulated with reference to the amount of authorized capital of the proposed company.

### Certificate Incorporation

**8.11** Once the company, as per the company's Act and the relevant rules, has complied with all requirements, the Registrar will register the company and issue a Certificate of Incorporation of company, which confirms the compliance with the requirements of the company's Act in regard to registration of a company. It brings the company into existence as a legal entity.

### Issue of share capital

**8.12** After obtaining registration, the company proceeds with its business for which it requires funds. In case of a private company, the capital is to be raised by way of private arrangements whereas a public ltd company can raise funds from the public. First of all, the company will issue shares to the subscribers to its memorandum and other members of the company. The issued capital must not exceed the authorized capital of the company.

It is necessary for a public limited company to obtain the Certificate of Commencement of Business before commencing the business.

For more details please contact Ministry of Company Affairs at <http://www.dca.nic.in>.

## CHAPTER IX

### OTHER SCHEMES AND INCENTIVES

#### 100% EXPORT ORIENTED UNITS (EOUs) and Special Economic Zones (SEZs)

##### Policy for Setting Up (Automatic route) 100% EOUs

9.1 The Development Commissioners (DCs) of Special Economic Zones (SEZs) accord automatic approval to projects where

- (a) Activity proposed does not attract compulsory licensing or falls in the services sector except Software & IT enabled services;
- (b) Location is in conformity with the prescribed parameters;
- (c) Units undertake to achieve positive net foreign exchange earning;

##### Conversion from EOU to DTA Units

9.2 Unit is amenable to bonding by customs authorities; and Conversion of existing Domestic Tariff Area (DTA) units into EOU is also permitted under automatic route, if the DTA unit satisfies the parameters mentioned above and there is no outstanding export obligation under any other export oriented scheme of the Government of India.

##### Policy for Setting Up (Government Approval) 100% EOUs

9.3 Proposals not covered by the automatic route shall be forwarded by the DC to the Board of Approval (BoA), Department of Commerce for consideration. On consideration of the proposal by the Board, the decision would normally be conveyed in six weeks.

##### Procedure for Approval for EOUs and Units in SEZ

9.4 Applications in the prescribed form for 100 per cent EOUs and units set up in SEZ should be submitted to the concerned Development Commissioners (DCs) of the Special Economic Zones (SEZs) for automatic approval and for Government approval. The Form is printed in the Handbook of Procedures for Export and Import, 2002-2007 published by the Ministry of Commerce & Industry and is also available at all outlets dealing in Government publications. The application should be submitted along with a crossed demand draft of Rs.5000/- drawn in favour of the "the Pay & Accounts Officer, Department of Commerce, Ministry of Commerce and Industry", payable at New Delhi.

Wherever, the proposals meet the criteria for automatic approval, as given in paragraph 5.1, the DC of the SEZ would issue approval letters within 2 weeks. For proposals requiring Government approval, proposal shall be placed by the Development Commissioner before the Board of Approvals (BoA) and approval shall be conveyed normally within 45 days.

### Policy for FDI/NRI Investment for 100% EOUs/Units in SEZ

9.5 All such proposals qualify for automatic route subject to sectoral norms. Details about the type of activities permitted are given in the Foreign Trade policy issued by Department of Commerce (web site - <http://commerce.nic.in>). Proposals not covered under the automatic route would be considered and approved by FIPB.

### Policy for Setting Up Special Economic Zone (SEZ) - Board of Approval

9.6 All such proposals as per criteria under appendix 14 I in the Handbook of Procedure 2002-07 published by Department of Commerce are considered by Board of Approvals and Department of Commerce issues the letter of permission.

### Procedure for Setting Up SEZ

- 9.7 The applicant should follow the following procedure:
- Submission of 10 copies of application along with project report to Chief Secretary of the concerned State.
  - Forwarding of application along with comments by the State government to Department of Commerce (Board of Approval)
  - Consideration by BoA
  - Issue of letter of permission by Department of Commerce

### Policy for FDI/NRI Investment for Setting Up SEZ

9.8 As 100% FDI is permitted under automatic route for setting up of Special Economic Zone, the procedure mentioned in para 3.12 will be applicable for seeking requisite approval.

### Setting up of Industrial Parks, Model Towns and Growth Centres

### Policy under automatic route

9.9 The Government notified Industrial Park scheme on 1.4.2002 for setting up Industrial Parks/ Model Towns. The scheme is available at [www.dipp.nic.in](http://www.dipp.nic.in). Secretariat for Industrial Assistance, Department of Industrial Policy & Promotion accords the approval to set up the Industrial Parks/ Model Towns, which meet all the criteria laid down under automatic route in the Industrial Park Scheme.

### Approval by Empowered Committee

9.10 All proposals not meeting any or all of the parameters for automatic route require the approval of Empowered Committee set up in the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry.

### Procedure for approval and availing 100% tax exemption under Section 80IA

9.11 Application in the Form-IPS-1, available on this Department's web site (<http://dipp.nic.in>), for obtaining approval for setting up an industrial park and for availing 100% tax exemption available under section 80 IA of the Income Tax Act, shall be made to the Public Relation and Complaint Section of the Department of Industrial Policy and Promotion. Application for automatic route has to be submitted in duplicate and for non-automatic approval, in six sets. The application shall be accompanied by a fee of Rupees 6,000/- by a demand draft drawn in favour of the

Pay and Accounts Officer, Department of Industrial Policy & Promotion payable at New Delhi. All applications eligible for Automatic route in accordance with the Industrial Park scheme, 2002 shall be disposed of within fifteen days. All proposals not eligible for automatic route require the approval of Empowered Committee set up in the Department of Industrial Policy and Promotion. On consideration of the proposal by the Committee, the decision is usually conveyed within six weeks.

### Policy for FDI/NRI investment for Industrial Parks/ Model Towns/Growth Centers

**9.12** As 100% FDI is permitted under automatic route for setting up of Industrial Parks/ Model Towns , the procedure mentioned in para 2.3 will be applicable for seeking requisite approval.

### Electronic Hardware Technology Park (EHTP) and Software Technology Park (STP) Schemes

**9.13** In order to provide impetus to the electronics industry, to enhance its export potential and to develop an efficient electronic component industry, Electronic Hardware Technology Park (EHTP) and Software Technology Park (STP) schemes offer a package of incentives and facilities like duty free imports on the lines of the EOU Scheme, deemed exports benefits and tax holidays.

### Policy for Automatic route

**9.14** The Directors of STPs in respect of STP proposals; and the Designated Officers in respect of EHTP proposals accord automatic approval if:

- (a) items do not attract compulsory licensing;
- (b) location is in conformity with the prescribed parameters;
- (c) unit is amenable to bonding by the Customs, and all the manufacturing operations are carried out in the same premises and the proposal does not envisage sending out of the bonded area any raw material or intermediate products for any other manufacturing or processing activity.

All proposals for FDI/NRI investments in EHTP/STP units are eligible for approval through automatic route subject to parameters listed under Para 2.5

### Policy for Government Approval – Inter-Ministerial Standing Committee

**9.15** All proposals for setting up of these projects, which do not meet any or all of the parameters for automatic approval, need to be considered and approved by the Ministry of Information Technology through the Inter-Ministerial Standing Committee.

### Procedure for Approval for EHTP/STP Units

**9.16** Application, in the prescribed form, should be submitted to the concerned Directors of STPs or the Designated Officers of EHTPs for automatic route , and to the Ministry of Information Technology for Government approval. The application should be submitted along with a crossed demand draft for Rs. 5000/- drawn in favour of the “the Pay & Accounts Offer, Department of Commerce, Ministry of Commerce & Industry”, payable at New Delhi. The form is available in any outlet dealing with Government Publications.

Wherever, the proposals meet the criteria for automatic approval, as given in paragraph 8.14 the approval letters are issued within 2 weeks. All other proposals shall be forwarded to the Inter Ministerial Standing Committee for consideration.

Applications submitted for Government approval shall be forwarded by the Officer designated to the Inter Ministerial Standing Committee in the Ministry of Information Technology for consideration. On consideration by the Inter Ministerial Standing Committee, a decision would be normally conveyed within six weeks.

## Procedure for FDI / NRI Investment

**9.15** All proposals for FDI/NRI investment in EHTP/STP Units are eligible for approval under automatic route subject to parameters listed in Para 2.1 For proposals not covered under automatic route, the applicant should seek separate approval of the FIPB, as per the procedure outlined in Para 2.5.

## CHAPTER X

### TAXATION IN INDIA

#### Taxation System in India

**10.1** India has a well developed tax structure. The main taxes/duties that the Union Government is empowered to levy are Income Tax (except tax on agricultural income, which the State Governments can levy), Customs duties, Central Excise and Sales Tax and Service Tax. The principal taxes levied by the State Governments are Sales Tax, Stamp Duty, State Excise, Land Revenue, Tax on Professions and like. The Local Bodies are empowered to levy tax on properties, Octroi and for utilities like water supply, drainage, etc.

Since 1991 tax system in India has under gone a radical change, in line with liberal economic policy. Some of the changes are:

- ◆ Reduction in customs and excise duties
- ◆ Lowering corporate Tax
- ◆ Widening of the tax base and toning up the tax administration

#### Personal Income Tax

**10.2** Individual tax slabs are 0%, 10%, 20%, 30% for annual incomes upto Rs.50,000, 50,001-60,000, 60,001-1,50,000 and above 1,50,000. Surcharges of 10% is levied on income exceeding Rs.8,50,000.

**10.3** Withholding tax rates for payment to non-residents are determined by the finance Act passed by the parliament for each year. The current rates are:

(i)	<b>Interest</b>	20%
(ii)	Dividends	Dividends paid by domestic companies :Nil
(iii)	<b>Royalties</b>	20%
(iv)	Technical Services	20%
(v)	Any Other Services	Individuals: 30% of the income Companies:40% of the net income

The above rates are general and in respect of countries with which India does not have a Double Taxation Avoidance Agreement (DTAA).

#### General Tax Incentives for Industries

**10.4** Tax holidays in the form of deductions are available for various types of investments. These include incentives to priority sectors and incentives to industries located in special area/regions.

## Infrastructure Sectors

**10.5** Tax incentives available for those engage in development of infrastructure are listed below:

Deduction of 100% of the profits from business for a period of 10 years for

- i) Development or operation and maintenance of ports, airports, roads, highways, bridges, rail systems, inland waterways, inland ports, water supply projects, water treatment systems, irrigation projects, sanitation and sewage projects, solid waste management systems.
- ii) Generation, distribution and transmission of power which commence before 31.3.2006.
- iii) Development, ,operation and maintenance of an industrial park or special Economic Zone before 31.3.2006.

## Capital Gains on Infrastructure funds

**10.6** Income by way of dividend, interest, or long-term capital gain of an infrastructure capital company or an infrastructure capital fund is 100% tax-exempt. Income of venture capital company or venture capital fund set up to raise funds for investment in a venture capital undertaking is also tax-exempt.

## Backward Areas/Regions

**10.7** Special packages for special category states offer the following:

### North Eastern States & Sikkim

(a) Deduction of 100% of profits derived by undertakings set up in certain notified areas or in certain thrust sector industries in the North-Eastern States and the State of Sikkim, for a period of ten years.

### Uttaranchal & Himachal Pradesh

(b) Deduction of 100% of profits derived by undertakings et up in certain notified areas or in certain thrust sector industries in the States of Uttaranchal and Himachal Pradesh for the first five years and 25% (30% in the case of companies) for the next five years.

## Special Schemes

**10.8** Units located in specified zones have the following tax exemptions:

### EHTP & STP units

(a) Deduction of 100% of profits, derived from the export of articles or things or computer software is available for undertakings set up in free trade zones, electronic hardware technology parks, software technology parks for 10 years, up to 31.3.2009.

### Special Economic Zones

(b) Deduction of 100% of profits derived from the export of articles or things or computer software, is available for undertakings set up in Special Economic Zones (SEZ's) for a period of five years followed by 50% for the next two years. An additional deduction of 50% of the profits credited to a reserve

account to be utilized for the purposes of the business, is also available to such undertakings for the next three years.

### Export Oriented Units

- (c) Deduction of 100% of profits, derived from the export of articles or things or computer software, is available for 1005 Export Oriented Units for ten years, up to 31.3.2009.

### Banking unit in SEZ

- (d) Deduction of 100% of income of an off shore banking unit situated in a Special Economic Zone from business activities with undertakings located in the Special Economic Zone, for a period of three years followed by 50% of such income for the next two years.

### Specific Sectors

**10.9** Tax incentives for certain specified sectors are also available as explained below:

#### Multiplex theaters & Convention centers

- (a) Deduction of 50% of profits derived from the business of building, owning and operation of multiplex theatres or convention centers constructed before 31.3.2005, for a period for five years.

#### building housing projects

- (b) Deduction of 100% of profits derived by undertakings engaged in the business of developing and building housing projects which are approved by the local authority before 31.3.2005.

#### Handling, storage and transportation of food grains

- (c) Deduction of 100% profits derived by an undertaking from the integrated business of handling, storage and transportation of food grains for the first years and 25% (30%) in the case of companies for the next five years.

#### Refining of mineral oil

- (d) Deduction of 100% of profits derived by an undertaking engaged in the commercial production or refining of mineral oil for a period of 7 years.

#### Export of Wood-based Handicraft

- (l) Deduction of 100% of profits derived from export of wood-based handicraft is available to undertakings up to 31.3.2009.

### Double Taxation Relief

**10.10** India has entered into DTAA with 65 countries including countries like U.S.A., U.K., Japan, France, Germany, etc. In case of countries with which India has double taxation avoidance agreements, the tax rates are determined by such agreements and are indicated for various countries as under:

Country	Dividends %	Interest %	Royalties %
Australia	15	15	15
Austria	20	20	30
Bangladesh	15	10	10
Belarus	15	10	15
Belgium	15	15	20
Brazil	15	15	15
Bulgaria	15	15	20
Canada	25	15	15
China	10	10	10
Cyprus	15	10	15
Czechoslovakia	20	15	30
Czech Republic	10	10	10
Denmark	20	15	20
Egypt	20	20	30
Finland	15	10	20
France	10	15	10/20
Germany	10	10	10
Greece	20	20	30
Hungary	15	15	30
Indonesia	15	10	15
Israel	10	10	10
Italy	20	15	20
Japan	15	15	20
Jordan	10	10	20
<b>Kazakhstan</b>	10	10	10
Kenya	15	15	20
Korea	20	15	15
Kyrgyzstan	10	10	15
Libya	20	20	30

Country	Dividends %	Interest %	Royalties %
Malaysia	20	20	30
Malta	15	10	15
Mauritius	15	20	15
Mongolia	15	15	15
Morocco	10	10	10
Namibia	10	10	10
Nepal	15	15	15
Netherlands	10	10	10
New Zealand	15	10	10
Norway	15	15	30
Oman	12.5	10	15
Philippines	20	15	15
Poland	15	15	22.5
Portugal	15	10	10
Qatar	10	10	10
Romania	20	15	22.5
Russian Federation	10	10	10
Singapore	15	15	15
South Africa	10	10	10
Spain	15	15	20
Sri Lanka	15	10	10
Sweden	10	10	10
Switzerland	15	15	20
Syria	0	7.5	10
Tanzania	15	12.5	20
Thailand	20	20	15
Trinidad and Tobago	10	10	10
Turkey	15	15	15
Turkmenistan	10	10	10

Country	Dividends %	Interest %	Royalties %
United Arab Emirates	15	12.5	10
United Kingdom	15	15	15
United States	20	15	15
Uzbekistan	15	15	15
Vietnam	10	10	10
Zambia	15	10	10
Non treaty countries	0	20	20

### Authority for Advance Ruling

**10.11** With a view to avoid a dispute in respect of assessment of income-tax liability in the case of a non-resident (and also specified categories of residents), a Scheme of Advance Ruling was incorporated in the Income-tax Act. The Authority for advance Ruling (AAR) pronounces rulings on the applications of the non-resident/residents submitted and such rulings are binding both on the applicant and the income-tax department. Thus, the applicant can avoid expensive and time consuming litigation which would have arisen from normal income-tax assessment proceedings. The application in such cases should be addressed to The commissioner of Income-tax, Authority for Advance Rulings, 5th Floor, N.D.M.C. Building, Yashwant Place, Satya Marg, Chankyapuri, New Delhi- 110021.

## CHAPTER XI

### INVESTMENT GUIDANCE AND FACILITATION

#### INVESTMENT GUIDANCE

##### Secretariat for Industrial Assistance (SIA)

11.1 SIA has been set up by the Government of India in the Department of Industrial Policy and Promotion in the Ministry of Commerce and Industry to provide a single window for entrepreneurial assistance, investor facilitation, receiving and processing all applications which require Government approval, conveying Government decisions on applications filed, assisting entrepreneurs and investors in setting up projects, (including liaison with other organisations and State Governments) and in monitoring implementation of projects. It also notifies all Government policy relating to investment and technology, and collects and publishes monthly production data for 209 select industry groups.

##### Assistance to entrepreneurs

11.2 Public Relation & Complaint (PR&C) Section functioning under the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion provides assistance to entrepreneurs on various subjects concerning investment decisions. PR&C receives all papers/applications related to industrial approvals i.e. IEMs, Industrial Licences, Foreign Investment, Foreign Technology Agreements, 100 per cent EOUs, EHTP, STP Schemes, etc. and immediately issues a computerised acknowledgement, which also has an identity/reference number. All correspondence with the SIA should quote this number.

The Unit also provides information regarding the current status of applications filed for various industrial approvals.

##### Web Site, (<http://dipp.nic.in>)

11.3 To facilitate the easy availability of information to the investors and provide information about the investment climate in the country, state industrial policies, projects on offer, publications, notifications and press notes/releases, Department hosts an investor-friendly web site <http://dipp.nic.in>.

The web site contains the following:

- Manual on Foreign Direct Investment in India - Policy and Procedures (available in English, French, German, Spanish, Korean and Italian language)
- Ready Reckoner for Investing in India
- SIA Newsletter-monthly issues
- SIA Statistics- monthly issues
- Press Notes, Notifications and Press Releases

- List of ssi reserved items & NIC codes
- Industrial Policy Statements
- Latest Annual Report
- Information about Intellectual Property Rights
- Status of PAB/IEM and LOI proposals
- Important Legislations
- Information about Attached and Subordinate Offices
- Profile of selected industrial sectors
- Link to other Ministries/Departments
- All relevant application forms

## NIC Codes

**11.4** In all the forms required for various approvals National Industrial Classification (NIC) Codes for the activities to be undertaken have to be filled in. The description of activities seeking all industrial approvals including foreign direct investment are required to be given as per the *National Industrial Classification of All Economic Activities (NIC), 1987*, published by the Central Statistical Organisation, Ministry of Statistics and Programme Implementation, New Delhi. Copies of the publication can be obtained on payment from Controller of publications, 1, Civil Lines, Delhi-1 10054 or from any outlet dealing in Government publications.

DIPP website provides a link at the homepage to this list for the benefit of the users.

## Online Chat and Bulletin Board Services

**11.5** The web site has the facility of on line chat between 11 to 12 AM & 4.00 to 5.00 P.M. (Indian Standard Time, GMT+5 ½) on all working days where Investors can ask any question relating to FDI Policies and related issues.

The web site also has provision of bulletin board service. If the investor cannot avail the on line chat facility, he/she can post the question on bulletin board at any time. All efforts are made to send a reply within 24 hours

## Information about Various other Clearances and Approvals

**11.6** In addition to the approval for bringing FDI in India, other clearances and approvals, such as registration of company, environment and forest clearance, permission for import of plants and machinery, land acquisition, power and water connection, etc may be required for starting a business in India. Brief details of Departments/Agencies along with their web site addresses are given in Annex VIII.

## Publications

**11.7** Following publications are brought out by DIPP and updated regularly for the guidance of investors:

- Foreign Direct Investment in India – Policy & Procedure.
- Investing in India –Flyer
- Entry Strategies for foreign Investors –Flyer
- Taxation in India –Flyer
- Investment Opportunities in infrastructure sectors
- Single Window system in States & UTs

These publications are available through the PR&C of the SIA or Investment Promotion and Infrastructure Development Cell, Department of Industrial Policy & Promotion as also Indian Missions abroad. These can also be down loaded from the SIA web site.

## SIA Newsletter

**11.8** This is a monthly publication and covers information on data relating to Foreign Direct Investment, NRI Investment, sectoral breaks-up, countrywise break-up, all approvals accorded to FDI and NRI investment during the month, actual FDI inflows and policy notifications issued during the month. Annual issues of SIA Newsletter are available and on payment from Controller of Publications, 1, civil lines, Delhi - 110 054 or from any outlet dealing in Government publications.

## SIA Statistics

**11.9** This is also a monthly publication which contains data relating to Industrial Licences, approvals granted for setting up 100 per cent Export Oriented Units, details of approvals for Industrial Licences, EOUs, Foreign Technical Collaboration etc., monthly data on industrial production of 209 select industry groups, as well as policy announcements by Government during the month. Annual issues of SIA Statistics are available and on payment from Controller of Publications, 1 civil lines, Delhi - 110 054 or from any outlet dealing in Government publications

## INVESTMENT FACILITATION

### Foreign Investment Implementation Authority (FIIA)

**11.10** Foreign Investment Implementation Authority (FIIA) was established on 9.8.1999 to facilitate quick implementation of FDI approvals and assist foreign investors in getting necessary approvals. Fast Track Committees have been set up in 30 Ministries/Departments for regular review of FDI mega projects (with proposed investment of Rs. 1 billion and above), and resolution of any difficulties in consultation with the concerned Ministries/State Governments. Unresolved issues are brought before FIIA. Details of the Fast Track Committees set up in various Ministries/Departments are available at the website <http://dipp.nic.in>.

## Foreign Investment Promotion Board (FIPB)

11.11 The Government has set up the Foreign Investment Promotion Board (FIPB) to consider foreign direct investment (FDI) proposals, requiring Government approval.

The reconstituted FIPB comprises of:

- (i) Secretary, Department of Economic Affairs - Chairman
- (ii) Secretary, Department of Industrial Policy & Promotion - Member
- (iii) Secretary, Department of Commerce – Member
- (iv) Secretary (Economic Relations), Ministry of External Affairs - Member

The Board would be able to co-opt Secretaries and other top officials of financial institutions, banks and professional experts of industry and commerce, as and when necessary.

## BUSINESS OMBUDSPERSON

11.12 To facilitate expeditious redressal of grievances and attend to complaints relating to delays in grant and implementation of industrial approvals and facilitate their disposal, the Government has appointed a BUSINESS OMBUDSPERSON in the Ministry of Commerce & Industry. Additional Secretary & Financial Adviser, Ministry of Commerce and Industry, Udyog Bhavan, New Delhi-110011 has been nominated to act as Business Ombudsperson.(e mail: [nc@ub.nic.in](mailto:nc@ub.nic.in))

## Grievances Officer-cum-Joint Secretary

11.13 Grievances and complaints are also received by the Grievances Officer-cum-Joint Secretary, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Udyog Bhavan, New Delhi-110011, either through post or through the mail box in the PR&C of the SIA and at Reception of the Ministry of Commerce and Industry at Gate No.12 of Udyog Bhavan, New Delhi-110011. Any such communication is handled expeditiously and steps are taken to redress the grievance.

## Citizens Charter

11.14 The Department of Industrial Policy and Promotion has also got its own Citizens Charter, which outlines general procedures and standards of performance expected from the Department.

## CHAPTER XII

### FREQUENTLY ASKED QUESTIONS

#### **What are the forms in which business can be conducted by a foreign company in India?**

Foreign companies can make investments or operate their business in a number of ways such as Liaison/Representative Office, Project Office, Branch Office, 100% Wholly owned subsidiary and Joint venture company. The requisite approval can be granted by Reserve Bank of India (RBI) or Foreign Investment promotion Board (FIPB). Any company set up with FDI has to be incorporated under the Indian Companies Act with the Registrar of Companies, Ministry of Company Affairs and all Indian operations would be conducted through this company.

#### **What proposals require an Industrial Licence (IL) and how is it obtained?**

In the New Industrial Policy, all industrial undertakings are exempt from licensing except for those industries given in Annexure I and II of this Manual and those reserved for the Small Scale Sector. The project should not be located within 25 kilometres of a city with a population of more than one million as per 1991 Population Census.

The Government has substantially liberalised the procedures for obtaining an Industrial Licence. The application in form IL-FC should be filed with the SIA. Approvals normally granted within 6-8 weeks.

#### **What is the procedure for a delicensed sector?**

An Industrial undertaking exempted from licensing needs only to file information in the Industrial Entrepreneurs Memorandum (IEM) with the SIA, which will issue an acknowledgement. No further approvals are required.

#### **What is the Taxation Policy in India?**

Foreign nationals working in India are generally taxed only on their Indian income. Income received from sources outside India is not taxable unless it is received in India. The Indian tax laws provide for exemption of tax on certain kinds of income earned for services rendered in India. Further, foreign nationals have the option of being taxed under the tax treaties that India may have signed with their country of residence.

Remuneration for work done in India is taxable irrespective of the place of receipt. Remuneration includes salaries and wages, pensions, fees, commissions, profits in lieu of or in addition to salary, advance salary and perquisites. Taxable payments include all allowances and tax equalisation payments unless specifically excluded. The stock options granted by the employer are taxable as capital gains at the time of sale of shares acquired due to exercise of options.

### What are the important Labour Rules/ Regulations applicable in India?

Some of the important Labour Acts, which are applicable for carrying out business in India, are:

- Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- Employees' State Insurance Act 1948
- Workmen's Compensation Act, 1923
- Maternity Benefit Act, 1961
- Payment of Gratuity Act, 1972
- Factories Act, 1948
- Dock Workers (Safety, Health & Welfare) Act, 1986
- Mines Act, 1972
- Minimum Wages Act
- Payment of Bonus Act 1965
- Contract Labour [Regulation & Abolition] Act 1970
- Payment of Wages Act, 1936

### What is the situation regarding Intellectual Property Rights protection in India?

India is a signatory to the agreement concluding the Uruguay Round of GATT negotiations and establishing the World Trade Organisation (WTO) and its laws today are WTO compliant.

The status of various Intellectual Property laws in India and standards in respect of various areas of intellectual property are as under:

- A law on Trade Marks has been passed by Parliament and notified in the gazette on 30.12.1999. This law repeals and replaces the earlier Trade & Merchandise Act, 1958.
- A new law for the protection of Geographical Indications, viz., the Geographical Indications of Goods (Registration and the Protection) Act, 1999 has also been passed by the Parliament and notified on 30.12.1999. The Rules required under the Act were notified vide Notification No. G.S.R. 176 (E) dated 8<sup>th</sup> March, 2002. The Act and the Rules have been brought into force simultaneously with the setting up of Intellectual Property Appellate Board (IPAB) under the Trade Marks Act, 1999 on September 15, 2003.
- A law called the Designs Act, 2000 relating to Industrial Designs which repeals and replaces the earlier Designs Act, 1911 has been brought into force from 11.05.2001.

- A Bill on Patents to amend the Patents Act, 1970 was passed by Parliament on 14.05.2002. The amendment to the patent law has been made operational in May 2003.

### Is investment by Non-Resident Indians (NRIs) permitted?

The Government attaches importance to investments by NRIs. Government has provided a liberalised policy framework for approval of NRI investments through both the Automatic and the Government route. NRIs are permitted to invest up to 100% equity in the Real Estate and Civil Aviation Sectors. Automatic Approval is given by the RBI to all NRI proposals with their investment up to 100% for all items/activities except a few exceptions mentioned in Press Note 2 (2000 series) read with sector specific guidelines. Government approval is given for all proposals not qualifying under Automatic Route.

### Can profits, dividends, royalty, know how payments be repatriated from India?

All profits, dividends, royalty, know how payments that have been approved by the Government/RBI can be repatriated. Some sectors like investment in development of integrated township, NRI Investment in real estates, etc. may attract a lock-in period.

### What are the formalities a joint venture company has to complete to increase the foreign equity holding?

The following formalities are required for the joint ventures that want to increase in their foreign equity holding by acquisition of shares or by any other means.

- If only the quantum of foreign equity increased without change in percentage then Press Note no. 7 (1999 series) may be followed.
- For increase in percentage of foreign equity by way of expansion of capital base, automatic route or FIPB / Government route would apply depending upon the nature of proposal in terms of Press Note No. 2 (2000 series)
- Cases involving increase in percentage in foreign equity by way of acquiring existing shares in an Indian company would necessarily require prior approval of FIPB/Government.
- In cases involving inclusion of an additional foreign collaborator, guidelines laid down in Press Note No. 18 (1998 series) would have to be satisfied.

### What is the policy of conversion of non-repatriable shares into repatriable shares?

FIPB approval is required. Where original investment was made in foreign exchange, the change is allowed without any conditions; if not, the sale proceed will have to be repatriated to India by opening an NRO account.

### What is the mechanism for publicizing the changes in the FDI Policies?

Changes in FDI policies are brought out in the form of Press Notes by Department of Industrial Policy & Promotion (DIPP). Soon after releasing the Press Notes to the media, it is also loaded on the Departmental website (<http://dipp.nic.in>).

## What are the policies and procedures governing Indian Investment abroad?

The Direct Investment by Indian parties in Joint Ventures (JVs) and Wholly Owned Subsidiaries (WOSs) abroad is encouraged. These Direct Investments by Indian parties can be in newly promoted foreign concerns, to make initial or additional Direct Investment in existing foreign concerns and for acquisition of overseas business. The foreign concern in which the direct investment is proposed to be made may be engaged in industrial, commercial, trading or service activities including hotel or tourism industries. These also include financial services such as insurance, mutual funds, etc.

There are two categories of applications for setting up overseas JVs and WOSs, viz. category (a): Fast Track and category (b): Normal Cases. All applications are to be made to and processed by the Reserve Bank of India (RBI),

For Fast Track category, an application for Direct Investment in a JV/WOS abroad from a private/public limited company will be eligible for automatic approval for RBI, provided the total value of the investment by the Indian party does not exceed US \$ 15 million and in respect of Indian Rupee investment in Nepal and Bhutan, it does not exceed Rs.600 million and the amount of investment is up to 25% of annual average export / foreign exchange earning of the Indian party (other than equity exports to existing JVs/WOSs abroad) in the preceding three years, etc. For Indian software companies norms are different.

All applications involving investment beyond US \$ 4 million but not exceeding US \$ 15 million or those not qualifying for Fast Track clearance on the basis of applicable criteria will be processed in the RBI through a Special Committee appointed by RBI in consultation with Government and Chaired by the Commerce Secretary with the Deputy Governor, RBI, as the alternate Chairman.

Investment proposals in excess of US \$ 15 million will be considered if the required resources beyond US \$ 15 million are raised through the GDR route. Up to 50% GDR resources raised may be invested as equity in overseas JVs subject to specific approvals of the Government.

Indian parties seeking to acquire overseas ventures through time-bound bidding/tender procedures are sometimes required to obtain "in-principle" approvals on an urgent basis. In such special circumstances, RBI may grant such 'in principle' approval. RBI would formulate separate guidelines/conditions on applications and approvals for such cases.

The detailed guidelines regarding the Indian investment abroad may be seen at the website ([www.iic.nic.in](http://www.iic.nic.in)) of India Investment Centre, Department of Economic Affairs, Ministry of Finance.

**What mechanism is available for alternative dispute resolution (ICADR)?**

International Centre for Alternative Dispute Resolution (ICADR) has been established as an autonomous organization under the aegis of Ministry of Law and Justice to promote settlement of domestic and international disputes by different modes of alternate dispute resolution. ICADR has its headquarters in New Delhi and has regional office in Lucknow and Hyderabad. More information on ICADR can be obtained from the website: <http://www.icadr.org>

**GUIDELINES FOR THE CONSIDERATION OF FOREIGN DIRECT  
INVESTMENT (FDI) PROPOSALS BY THE  
FOREIGN INVESTMENT PROMOTION BOARD (FIPB)**  
(To be read with paragraph 2-11 of the Manual)

*The Guidelines are meant to assist the FIPB to consider proposals in an objective and transparent manner. These would not in any way restrict the flexibility or bind the FIPB from considering the proposals in their totality or making recommendation based on other criteria or special circumstances or features it considers relevant. Besides these are in the nature of administrative Guidelines and would not in any way be legally binding in respect of any recommendation to be made by the FIPB or decisions to be taken by the Government in cases involving Foreign Direct Investment (FDI).*

*These guidelines are issued without prejudice to the Government's right to issue fresh guidelines or change the legal provisions and policies whenever considered necessary.*

**These guidelines stand modified to the extent changes have been notified by Secretariat for Industrial Assistance from time to time.**

The following Guidelines are laid-down to enable the Foreign Investment Promotion Board (FIPB) to consider the proposals for Foreign Direct Investment (FDI) and formulate its recommendations.

1. All applications should be put up before the FIPB by the SIA (Secretariat for Industrial Assistance) within 15 days and it should be ensured that comments of the administrative ministries are placed before the Board either prior to/or in the meeting of the Board.
2. Proposals should be considered by the Board keeping in view the time frame of 30 days for communicating Government decision (i.e. approval of C&IM/CCEA or rejection as the case may be).
3. In cases in which either the proposal is not cleared or further information is required, in order to obviate delays presentation by applicant in the meeting of the FIPB should be resorted to.
4. While considering cases and making recommendations, FIPB should keep in mind the sectoral requirements and the sectoral policies vis-a-vis the proposal(s).
5. FIPB would consider each proposal in totality (i.e. if it includes apart from foreign investment, technical collaboration/ industrial licence) for composite approval or otherwise. However, the FIPB's recommendation would relate only to the approval for foreign financial and technical collaboration and the foreign investor will need to take other prescribed clearances separately.
6. The Board should examine the following while considering proposals submitted to it for consideration:

- (i) Whether the items of activity involve industrial licence or not and if so the considerations for grant of industrial licence must be gone into;
- (ii) Whether the proposal involves technical collaboration and if so:- (a) the source and nature of technology sought to be transferred.
- (iii) Whether the proposal involves any mandatory requirement for exports and if so whether the applicant is prepared to undertake such obligation (this is for items reserved for small scale sector as also for dividend balancing, and for 100% EOUs/SEZ units);
- (iv) Whether the proposal involves any export projection and if so the items of export and the projected destinations;
- (v) Whether the proposal has concurrent commitment under other schemes such as EPCG Scheme etc.
- (vi) In the case of Export Oriented Units (EOUs) whether the prescribed minimum value addition norms and the minimum turn over of exports are met or not;
- (vii) Whether the proposal involves relaxation of locational restrictions stipulated in the industrial licensing policy;
- (viii) Whether the proposal has any strategic or defence related considerations, and
- (ix) Whether the proposal has any previous joint venture or technology transfer/trademark agreement in the same or allied field in India, the detailed circumstance in which it is considered necessary to set-up a new joint venture/enter into new technology transfer (including trade mark), and proof that the new proposal would not in any way jeopardize the interest of the existing joint venture or technology/trade mark partner or other stake holders.

7. While considering proposals the following may be prioritised.

- (a) Items/activities covered under automotive route (i.e. those which do not qualify under automatic route).
- (b) Items falling in infrastructure sector.
- (c) Items which have an export potential
- (d) Items which have large scale employment potential and especially for rural people.
- (e) Items, which have a direct or backward linkage with agro business/farm sector.
- (f) Item which have greater social relevance such as hospitals, human resource development, life saving drugs and equipment.
- (g) Proposals, which result in induction of technology or infusion of capital.

8. The following should be especially considered during the scrutiny and consideration of proposals:

- (a) The extent of foreign equity proposed to be held (keeping in view sectoral caps if any - e.g. 24% for SSI units, 40% for air taxi/airlines operators, 49% in basic/cellular/paging in Telecom sector etc).
- (b) Extent of equity with composition of foreign/NRI (which may include OCB)/resident Indians.

- (c) Extent of equity from the point of view whether the proposed project would amount to a holding company/wholly owned subsidiary/a company with dominant foreign investment (i.e. 75% or more) joint venture.
- (d) Whether the proposed foreign equity is for setting up a new project (joint venture or otherwise) or whether it is for enlargement of foreign/NRI equity or whether it is for fresh induction of foreign equity/NRI equity in an existing Indian company.
- (e) In the case of fresh induction of foreign/NRI equity and/or cases of enlargement of foreign/ NRI equity in existing Indian companies whether there is a resolution of the Board of Directors supporting the said induction/enlargement of foreign/NRI equity and whether there is a shareholders agreement or not.
- (f) In the case of induction of fresh equity in the existing Indian companies and/or enlargement of foreign equity in existing Indian companies, the reason why the proposal has been made and the modality for induction/enhancement [i.e. whether by increase of paid up capital/authorised capital, transfer of shares (hostile or otherwise) whether by rights issue, or by what modality].

Cases pertaining to FIPB approvals, which involve increase in the non-resident equity within the approved percentage of non-resident equity in a joint venture company and enhancement of paid-up capital in a wholly owned subsidiary do not require FIPB approval provided the intent for increase in the amount of foreign equity is duly notified to SIA and formal documentation by way of intimation is made to SIA within 30 days of receipt of funds and allotment of shares (to non-resident shareholders).

- (g) Issue/transfer/pricing of shares will be as per SEBI/RBI guidelines.
  - (h) Whether the activity is an industrial or a service activity or a combination of both.
  - (i) Whether the item of activity involves any restriction by way of reservation for the small scale sector.
  - (j) Whether there are any sectoral restrictions on the activity (e.g. there is ban on foreign investment in real estate while it is not so for NRI investment).
  - (k) Whether the item involves only trading activity and if so whether it involves export or both export and import, or also includes domestic trading and if domestic trading whether it also includes retail trading.
  - (l) Whether the proposal involves import of items which are either hazardous, banned or detrimental to environment (e.g. import of plastic scrap or recycled plastics).
9. In respect of activities to which equity caps apply, FIPB may consider recommending higher levels of foreign equity as compared to the prescribed caps, keeping in view the special requirements and merits of each case.
  10. In respect of other industries/activities the Board may consider recommending 51 per cent foreign equity on examination of each individual proposal. For higher levels of equity up to 74 per cent the Board may consider such proposals keeping in view considerations such as the extent of capital needed for the project, the nature and quality of technology, the requirements of marketing and management skills and the commitment for exports.
  11. FIPB may consider recommending proposals for 100 percent foreign owned holding/subsidiary companies based on

the following criteria:

- (a) where only "holding" operation is involved all subsequent/downstream investments to be carried out would require prior approval of the Government;
  - (b) where proprietary technology is sought to be protected or sophisticated technology is proposed to be brought in;
  - (c) where at least 50% of production is to be exported;
  - (d) proposals for consultancy; and
  - (e) proposals for industrial model towns/industrial parks or estates.
12. In special cases, where the foreign investor is unable initially to identify an Indian joint venture partner, the Board may consider and recommend proposals permitting 100 per cent foreign equity on a temporary basis on the condition that the foreign investor would divest to the Indian parties (either individual, joint venture partners or general public or both) at least 26 per cent of its equity within a period of 3-5 years.
13. Similarly in the case of a joint venture, where the Indian partner is unable to raise resources for expansion/ technological upgradation of the existing industrial activity the Board may consider and recommend increase in the proportion/percentage (up to 100 per cent) of the foreign equity in the enterprise.
14. In respect of trading companies, 100 per cent foreign equity may be permitted in the case of the activities involving the following:
- (i) exports;
  - (ii) bulk imports with ex-port/ex-bonded warehouse sales;
  - (iii) cash and carry wholesale trading;
  - (iv) 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.
15. In respect of the companies in the infrastructure/services sector where there is a prescribed cap for foreign investment, only the direct investment should be considered for the prescribed cap and foreign investment in an investing company should not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49 per cent and the management of the investing company is with the Indian owners.
16. No condition specific to the letter of approval issued to a foreign investor would be changed or additional condition imposed subsequent to the issue of a letter of approval. This would not prohibit changes in general policies and regulations applicable to the industrial sector.
17. Where in case of a proposal (not being 100% subsidiary) foreign direct investment has been approved up to a designated percentage of foreign equity in the joint venture company the percentage would not be reduced while permitting induction of additional capital subsequently. Also in the case of approved activities, if the foreign investor(s)

concerned wished to bring in additional capital on later dates keeping the investment to such approved activities, FIPB would recommend such cases for approval on an automatic basis.

18. As regards proposal for private sector banks, the application would be considered only after "in principle" permission is obtained from the Reserve Bank of India (RBI).
19. The restrictions prescribed for proposals in various sectors as obtained, at present, are given in the annexure - IV and these should be kept in view while considering the proposals.

### SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sl. No.	Sector	Guidelines
1.	Airports	Up to 100%, with FDI beyond 74% requiring Government approval
2.	Atomic minerals	<p>The following three activities are permitted to receive FDI/NRI 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):</p> <ol style="list-style-type: none"> <li>a. Mining and mineral separation</li> <li>b. Value addition per se to the products of (a) above</li> <li>c. Integrated activities [comprising of both (a) and (b) above.]</li> </ol> <p>The following FDI participation is permitted:</p> <ol style="list-style-type: none"> <li>(i) Up to 74% in both pure value addition and integrated projects</li> <li>(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%</li> <li>(iii.) In exceptional cases, FDI beyond 74% will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval</li> </ol>
3.	Agriculture (including Plantation)	<p>No FDI/NRI Investment is permitted other than Tea sector. FDI, permitted up to 100% in Tea sector, including tea plantations, with prior Government approval and subject to following conditions:</p> <ul style="list-style-type: none"> <li>● Compulsory divestment of 26% equity in favour of Indian partner/Indian public within a period of five years, and</li> <li>● Prior State government approval required in case of any future land use change.</li> </ul> <p>The above dispensation would be applicable to all fresh investments (FDI) made in this sector.</p>

Sl. No.	Sector	Guidelines
4.	Advertising and films	<p>a) Advertising sector FDI up to 100% allowed on the automatic route</p> <p>b) Film sector (film production, exhibition and distribution including related services/products) FDI up to 100% allowed on the automatic route with no entry-level condition</p>
5.	Broadcasting	<p>Broadcasting</p> <p>a) TV Software Production 100% foreign investment allowed subject to:</p> <ul style="list-style-type: none"> <li>(i) all future laws on broadcasting and no claim of any privilege or protection by virtue of approval accorded, and</li> <li>(ii) not undertaking any broadcasting from Indian soil without Government approval</li> </ul> <p>b) Setting up hardware facilities, such as uplinking, HUB, etc. Private companies incorporated in India with permissible FII/ NRI/PIO equity within the limits (as in the case of telecom sector FDI limit up to 49% inclusive of both FDI and portfolio investment) to set up uplinking hub (teleports) for leasing or hiring out their facilities to broadcasters</p> <p><b>Foot note:</b> As regards satellite broadcasting, all TV channels irrespective of management control to uplink from India provided they undertake to comply with the broadcast (programme &amp; advertising) code</p> <p>c) Cable Network Foreign investment allowed up to 49% (inclusive of both FDI and portfolio investment) of paid up share capital. Companies with minimum 51% of paid up share capital held by Indian citizens are eligible under the Cable Television Network Rules (1994) to provide cable TV services</p> <p>d) Direct-to-Home Company with a maximum of foreign equity including FDI/NRI/ FII of 49% would be eligible to obtain DTH License. Within the</p>

Sl. No.	Sector	Guidelines
		<p>foreign equity, the FDI component not to exceed 20%</p> <p>e) Terrestrial Broadcasting FM</p> <p>The licensee shall be a company registered in India under the Companies Act. All share holding should be held by Indians except for the limited portfolio investment by FII/NRI/PIO/OCB subject to such ceiling as may be decided from time to time. Company shall have no direct investment by foreign entities, NRIs and OCBs. As of now, the foreign investment is permissible to the extent of 20% portfolio investment</p> <p>f) Terrestrial TV</p> <p>No private operator is allowed in terrestrial TV transmission</p>
6.	Coal & Lignite	<p>Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI up to 100%</p> <p>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</p> <p>iii. FDI up to 74% is allowed for exploration or mining of coal or lignite for captive consumption</p> <p>iv. In all the above cases, FDI is allowed up to 50% under the automatic route subject to the condition that such investment shall not exceed 49% of the equity of a PSU</p>
7.	Domestic Airlines	<p>(Detailed guidelines have been issued by Ministry of Civil Aviation) In the domestic Airlines</p> <p>i) FDI up to 40% permitted subject to no direct or indirect equity participation by foreign airlines</p> <p>ii) 100% investment by NRIs</p> <p>iii) The automatic route is not available</p>

Sl. No.	Sector	Guidelines
8.	Defence & Strategic Industries	Foreign Direct Investment, including NRI investment, is permitted up to 26% with prior Government approval subject to licensing and security requirements. Detailed guidelines for participation of private sector and foreign investors in this sector are given in Appendix-IV.
9.	Drugs & Pharmaceuticals	FDI up to 100% is permitted on the automatic route for manufacture of drugs and pharmaceutical, provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology, and specific cell / tissue targeted formulations.
		FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology, and specific cell / tissue targeted formulations will require prior Government approval
10.	Establishment and Operation of satellite	FDI up to 74% is permitted with prior Government approval
11.	Hotels & Tourism	<p>100% FDI is permissible in the sector on the automatic route</p> <p>The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry include 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 organisations</p> <p>For foreign technology agreements, automatic approval is granted if</p> <ol style="list-style-type: none"> <li>i. up to 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architects, design, supervision, etc.</li> <li>ii. up to 3% of net turnover is payable for franchising and marketing/publicity support fee, and</li> <li>(iii) up to 10% of gross operating profit is payable for management fee, including incentive fee</li> </ol>

Sl. No.	Sector	Guidelines
12.	Housing & Real Estate	<p>No foreign investment is permitted in this sector except for development of integrated townships and settlements where FDI up to 100% is permitted with prior Government approval. NRIs are allowed to invest in the following activities</p> <ol style="list-style-type: none"> <li>a. Development of serviced plots and construction of built up residential premises</li> <li>b. Investment in real estate covering construction of residential and commercial premises including business centres and offices</li> <li>c. Development of townships</li> <li>d. City and regional level urban infrastructure facilities, including both roads and bridges</li> <li>e. Investment in manufacture of building materials, which is also open to FDI</li> <li>f. Investment in participatory ventures in (a) to (e) above</li> <li>g. Investment in housing finance institutions, which is also open to FDI as an NBFC</li> </ol>
13.	Investing companies in infrastructure/service sector	<p>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</p>
14.	Insurance	<p>FDI up to 26% in the Insurance sector is allowed on the automatic route subject to obtaining licence from Insurance Regulatory &amp; Development Authority (IRDA)</p>
15.	Lottery business, gambling & betting	<p>Government has reiterated prohibition of foreign direct investment (FDI) / Foreign technical collaboration (FTC) in any form in lottery business, gambling and betting sector.</p>
16.	Mass Rapid Metro Transit System	<p>FDI up to 100% is permitted on the automatic route in mass rapid transport system in all metros including associated real estate development</p>

Sl. No.	Sector	Guidelines
17.	Mining	<ul style="list-style-type: none"> <li>i For exploration and mining of diamonds and precious stones FDI is allowed up to 74% under automatic route</li> <li>ii. For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed up to 100% under automatic route</li> <li>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</li> </ul>
18.	Non-Banking financial companies	<p>FDI/NRI investments allowed in the following 19 NBFC activities shall be as per levels indicated below:</p> <ul style="list-style-type: none"> <li>i) Merchant banking</li> <li>ii) Underwriting</li> <li>iii) Portfolio Management Services</li> <li>iv) Investment Advisory Services</li> <li>v) Financial Consultancy</li> <li>vi) Stock Broking</li> <li>vii) Asset Management</li> <li>viii) Venture Capital</li> <li>ix) Custodial Services</li> <li>x) Factoring</li> <li>xi) Credit Reference Agencies</li> <li>xii) Credit rating Agencies</li> <li>xiii) Leasing &amp; Finance</li> <li>xiv) Housing Finance</li> <li>xv) Forex Broking</li> <li>xvi) Credit card business</li> <li>xvii) Money changing Business</li> <li>xviii) Micro Credit</li> </ul>

Sl. No.	Sector	Guidelines
		<p>xix Rural Credit</p> <p>(b) <u>Minimum Capitalisation Norms for fund based NBFCs:</u></p> <p>i) For FDI up to 51% - US\$ 0.5 million to be brought upfront</p> <p>ii) For FDI above 51% and up to 75% - US \$ 5 million to be brought upfront</p> <p>iii) For FDI above 75% and up to 100% - US \$ 50 million out of which US \$ 7.5 million to be brought upfront and the balance in 24 months</p> <p>(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</p> <p>(d) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US\$ 50 million as at (b) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital)</p> <p>(e) Joint Venture operating NBFC's that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow i.e. (b)(i) and (b)(ii) above</p> <p>(f) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard</p>
19.	Petroleum(Other than refining)	<p>Petroleum (Refining)</p> <p>a. Under the exploration policy, FDI up to 100% is allowed in both small and medium sized fields on the automatic route through (Other than Refining) competitive bidding; up to 60% for unincorporated JV; and up to 51% for incorporated JV with a No Objection Certificate for medium size fields</p> <p>b. For petroleum products pipeline , FDI is permitted up to 100% under automatic route</p>

Sl. No.	Sector	Guidelines
		<p>c. FDI is permitted up to 100% on automatic route in petroleum products marketing FDI upto 100% is permitted for Natural Gas/LNG Pipelines with prior Government approval</p> <p>e. 100% wholly owned subsidiary(WOS) is permitted for the purpose of market study and formulation</p> <p>f. 100% wholly owned subsidiary (WOS) is permitted for investment/Financing</p> <p>g. For actual trading and marketing, minimum 26% Indian equity is required over 5 years</p> <p>a. FDI is permitted up to 26% in case of public sector units (PSUs). PSUs will hold 26% (Refining) and balance 48% by public. Automatic route is not available</p> <p>b. In case of private Indian companies, FDI is permitted up to 100% under automatic route</p>
20.	Pollution Control and management	FDI up to 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route
21.	Postal services	FDI up to 100% is permitted in courier services with prior Government approval excluding distribution of letters, which is reserved exclusively for the state
22.	Power	Up to 100% FDI allowed in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment
23.	Print media	<p>The following FDI participation in Indian entities publishing News Papers and periodicals is permitted:</p> <p>(a) FDI up to 100% in publishing/printing scientific &amp; technical magazines, periodicals &amp; journals</p> <p>(b) FDI up to 26% in publishing News Papers and Periodicals dealing in News and Current Affairs subject to verification of antecedents of foreign investor, keeping editorial and management control in the hands of resident Indians and ensuring against dispersal of Indian equity.</p>

Sl. No.	Sector	Guidelines
		The detailed guidelines had been issued by Ministry of Information and Broadcasting
24.	Private Sector Banking	74% from all sources on the automatic route subject to guidelines issued from RBI from time to time. Consolidated guidelines are given at Appendix-III
25.	Roads & Highways, Ports & Harbours	FDI up to 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours
26.	Telecommunication	<p>i) In basic, cellular, value added services and global mobile personal communications by satellite, FDI is limited to 49% subject to licensing and security requirements and adherence by the companies (who are investing and the companies in which the 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</p> <p>ii) In ISPs with gateways, radio-paging and end-to-end bandwidth, FDI is permitted up to 74% with FDI, beyond 49% requiring Government approval. These services would be subject to licensing and security requirements</p> <p>iii) No equity cap is applicable to manufacturing activities</p> <p>iv) FDI up to 100% is allowed for the following activities in the telecom sector :</p> <ol style="list-style-type: none"> <li>a. ISPs not providing gateways (both for satellite and submarine cables)</li> <li>b. Infrastructure Providers providing dark fibre (IP Category I)</li> <li>c. Electronic Mail; and</li> <li>d. Voice Mail</li> </ol> <p>The above would be subject to the following conditions:</p> <ol style="list-style-type: none"> <li>a. FDI up to 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world</li> <li>b. The above services would be subject to licensing and security requirements, wherever required</li> </ol>

Sl. No.	Sector	Guidelines
		<p>c. Proposals for FDI beyond 49% shall be considered by FIPB on case to case basis</p>
27.	Trading	<p>Trading is permitted under automatic route with FDI up to 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:-</p> <p>i. 100% FDI is permitted in case of trading companies for the following activities:</p> <ul style="list-style-type: none"> <li>● exports</li> <li>● bulk imports with ex-port/ex-bonded warehouse sales</li> <li>● cash and carry wholesale trading</li> <li>● 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 not for third party use or onward transfer/distribution/sales</li> </ul> <p>ii. The following kinds of trading are also permitted, subject to provisions of Foreign Trade Policy:</p> <ol style="list-style-type: none"> <li>a. Companies for providing after sales services (that is not trading per se)</li> <li>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</li> <li>c. Trading of hi-tech items/items requiring specialised after sales service</li> <li>d. Trading of items for social sector</li> <li>e. Trading of hi-tech, medical and diagnostic items</li> <li>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</li> <li>g. Domestic sourcing of products for exports</li> </ol>

Sl. No.	Sector	Guidelines
		<ul style="list-style-type: none"> <li data-bbox="769 302 1383 478">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</li> <li data-bbox="769 499 1383 751">i. FDI up to 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. FDI is not permitted in retail trading activity.</li> </ul>
28.	Township Development	FDI up to 100% is permitted for development of integrated townships including houses, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit system; and manufacture of building materials. Development of land and providing allied infrastructure will form an integral part of township's development. FDI in this sector would be permissible with prior Government approval. Detailed guidelines regarding investment in this sector are given at Appendix-V
29.	Venture Capital	Offshore Venture Capital Funds/Companies are allowed to invest in domestic Venture Capital Fund (VCF) and undertaking as well as other companies through the automatic route, subject only to SEBI Company (VCC) regulations and sector Venture Capital specific caps on FDI

## GUIDELINES FOR FOREIGN DIRECT INVESTMENT (FDI) IN THE BANKING SECTOR

1. Limit for FDI under automatic route in private sector banks
  - a. In terms of the Press Note no. 4 (2001 series) dated May 21, 2001 issued by Ministry of Commerce & Industry, Government of India, FDI up to 49% from all sources will be permitted in private sector banks on the automatic route, subject to conformity with the guidelines issued by RBI from time to time.
  - b. For the purpose of determining the above-mentioned ceiling of 49% FDI under the “automatic route” in respect of private sector banks, following categories of shares will be included.
    - (i) IPOs,
    - (ii) Private placements,
    - (iii) ADRs/GDRs, and
    - (iv) Acquisition of shares from existing shareholders [subject to (d) below]
  - c. It may be clarified that as per Government of India guidelines, issue of fresh shares under automatic route is not available to those foreign investors who have a financial or technical collaboration in the same or allied field. This category of investors requires FIPB approval.
  - d. It may be further clarified that, as per Government of India guidelines, automatic route is not applicable to transfer of existing shares in a banking company from residents to non-residents. This category of investors require approval of FIPB followed by “in principle” approval by Exchange Control Department (ECD), RBI. The “fair price” for transfer of existing shares is determined by RBI broadly on the basis of SEBI guidelines for listed shares and erstwhile CCI guidelines for unlisted shares. After receipt of “in principle” approval, the resident seller can receive funds and apply to ECD, RBI for obtaining final permission for transfer of shares.
  - e. Under the Insurance Act, the maximum foreign investment in an insurance company has been fixed at 26%. Application for foreign investment in banks, which have joint venture/subsidiary in insurance sector, should be made to RBI. Such applications will be considered by RBI in consultation with Insurance Regulatory and Development Authority (IRDA).
  - f. Foreign banks having branch presence in India are eligible for FDI in the private sector banks subject to the overall cap of 49% mentioned above with the approval of RBI.
  
2. Limit for FDI in public sector banks
 

FDI and portfolio investment in nationalised banks are subject to overall statutory limits of 20% as provided under Section 3 (2D) of the Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970/80. The same ceiling would also apply in respect of such investments in State Bank of India and its associate banks.

### 3. Voting rights of foreign investors

In terms of the statutory provisions under the various banking acts, the voting rights, when exercised, which are stipulated as under:

Private sector banks – [Section 12 (2) of Banking Regulation Act, 1949]

No person holding shares, in respect of any share held by him, shall exercise voting rights on poll in excess of ten per cent of the total voting rights of all the share holders

Nationalised Banks – [Section 3(2E) of Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970/80]

No shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of any shares held by him in excess of one per cent of the total voting rights of all the share holders of the nationalised banks

State Bank of India (SBI) – (Section 11 of State Bank of India Act, 1955)

No shareholder, other than RBI, shall be entitled to exercise voting rights in excess of ten per cent of the issued capital (Government, in consultation with RBI can raise the above voting rate to more than ten per cent).

SBI Associates – [Section 19(1)&(2) of SBI (Subsidiary Bank) Act, 1959]

No person shall be registered as a shareholder in respect of any shares held by him in excess of two hundred shares.

No shareholder, other than SBI, shall be entitled to exercise voting rights in excess of one per cent of the issued capital of the subsidiary bank concerned.

### 4. Approval of RBI and reporting requirements

(i) Under extant instructions, transfer of shares of 5 per cent and more of the paid-up capital of a private sector banking company, requires prior acknowledgments of RBI. For FDI of 5 per cent and more of the paid-up capital, the private sector banking company has to apply in the prescribed form to the Department of Banking Operations and Department in the Regional office of RBI, where the bank's Head Office is located.

(ii) Under the provisions of FEMA 1999, any fresh issue of shares of a banking company, either through the automatic route or with the specific approval of FIPB, does not require further approval of Exchange Control Department (ECD) of RBI from the exchange control angle. The Indian banking company is only required to undertake 2-stage reporting to the ECD as follows:

- a. In the first stage, the Indian company has to submit a report within 30 days of the date of receipt of amount of consideration indicating the name and address of foreign investors, date of receipt of funds and their rupee equivalent, name of bank through whom funds were received and details of Government approval, if any.

- b. In the second stage, the Indian banking company is required to file within 30 days from the date of issue of shares, a report in form FC-GPR together with a certificate from the Company Secretary of the concerned company certifying that various regulations have been complied with. The report will also be accompanied by a certificate from a Chartered Accountant indicating the manner of arriving at the price of the shares issued.

5. Conformity with SEBI Regulations and Companies Act provisions

Wherever applicable, FDI in banking companies should conform to the provisions regarding shareholding and share transfer, etc. as stipulated by SEBI, Companies Act, etc.

6. Disinvestments by Foreign Investors

In terms of regulation 10 and 11 of RBI Notification No. FEMA/20/2000-RB dated May 3, 2000 issued under FEMA 1999; disinvestments by foreign investors would be governed by the following:

- (i) Sale of shares by non-residents on a stock exchange and remittance of the proceeds thereof through an authorized dealer does not require RBI approval.
- (ii) Sale of shares by private arrangement requires RBIs prior approval. RBI grants permission for sale of shares at a price that is market related and is arrived at in terms of guidelines indicated in Regulation 10 above.

7. All commercial banks, which either have foreign investments or intending to have foreign investments, need to observe the above guidelines.

## GUIDELINES FOR LICENSING PRODUCTION OF ARMS & AMMUNITIONS

In pursuance of the Government decision to allow private sector participation up to 100% in the defence industry sector with foreign direct investment (FDI) permissible up to 26%, both subject to licensing as notified vide Press Note No. 4 (2001 series), the following guidelines for licensing production of arms and ammunitions are hereby notified:

1. 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.
2. Cases involving FDI will be considered by the FIPB and licences given by the Department of Industrial Policy & Promotion in consultation with Ministry of Defence.
3. The applicant should be an Indian company / partnership firm.
4. The management of the applicant company / partnership should be in Indian hands with majority representation on the Board as well as the Chief Executive of the company / partnership firm being resident Indians.
5. Full particulars of the Directors and the Chief Executives should be furnished along with the applications.
6. The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market. Preference would be given to original equipment manufacturers or design establishments, and companies having a good track record of past supplies to Armed Forces, Space and Atomic energy sectors and having an established R & D base.
7. There would be no minimum capitalization for the FDI. A proper assessment, however, needs to be done by the management of the applicant company depending upon the product and the technology. The licensing authority would satisfy itself about the adequacy of the net worth of the foreign investor taking into account the category of weapons and equipment that are proposed to be manufactured.
8. There would be a three-year lock-in period for transfer of equity from one foreign investor to another foreign investor (including NRIs & OCBs with 60% or more NRI stake) and such transfer would be subject to prior approval of the FIPB and the Government.
9. The Ministry of Defence is not in a position to give purchase guarantee for products to be manufactured. However, the planned acquisition programme for such equipment and overall requirements would be made available to the extent possible.

10. The capacity norms for production will be provided in the licence based on the application as well as the recommendations of the Ministry of Defence, which will look into existing capacities of similar and allied products.
11. Import of equipment for pre-production activity including development of prototype by the applicant company would be permitted.
12. Adequate safety and security procedures would need to be put in place by the licensee once the licence is granted and production commences. These would be subject to verification by authorized Government agencies.
13. The standards and testing procedures for equipment to be produced under licence from foreign collaborators or from indigenous R & D will have to be provided by the licensee to the Government nominated quality assurance agency under appropriate confidentiality clause. The nominated quality assurance agency would inspect the finished product and would conduct surveillance and audit of the Quality Assurance Procedures of the licensee. Self-certification would be permitted by the Ministry of Defence on case to case basis, which may involve either individual items, or group of items manufactured by the licensee. Such permission would be for a fixed period and subject to renewals.
14. Purchase preference and price preference may be given to the Public Sector organizations as per guidelines of the Department of Public Enterprises.
15. Arms and ammunition produced by the private manufacturers will be primarily sold to the Ministry of Defence. These items may also be sold to other Government entities under the control of the Ministry of Home Affairs and State Governments with the prior approval of the Ministry of Defence. No such item should be sold within the country to any other person or entity. The export of manufactured items would be subject to policy and guidelines as applicable to Ordnance Factories and Defence Public Sector Undertakings. Non-lethal items would be permitted for sale to persons / entities other than the Central or State Governments with the prior approval of the Ministry of Defence. Licensee would also need to institute a verifiable system of removal of all goods out of their factories. Violation of these provisions may lead to cancellation of the licence.
16. Government decision on applications to FIPB for FDI in defence industry sector will be normally communicated within a time frame of 10 weeks from the date of acknowledgment by the Secretariat for Industrial Assistance in the Department of Industrial Policy & Promotion.

## GUIDELINES FOR FDI IN DEVELOPMENT OF INTEGRATED TOWNSHIP INCLUDING HOUSING AND BUILDING MATERIAL

Government vide Press Note No. 4 (2001 series) permitted FDI up to 100% for development of integrated townships, including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit systems and manufacture of building materials. Development of land and providing allied infrastructure will form an integrated part of township's development.

2. FDI in the development of integrated townships will be subject to the following guidelines:
- i) The foreign company intending to invest, shall be registered as an Indian Company under Companies Act 1956 and will henceforth be allowed to take up land assembly and its development as a part of Integrated Township Development. All such cases would be processed by FIPB on the recommendation of Ministry of Urban Development & Poverty Alleviation and other concerned Ministries / Departments. Ministry of Urban Development & Poverty Alleviation will develop an exclusive cell to deal with such cases.
  - ii) The core business of the company seeking to make investment should be integrated township development with a record of successful execution of such projects elsewhere.
  - iii) The minimum area to be developed by such a company should be 100 acres for which norms and standards are to be followed as per local bylaws / rules. In the absence of such bylaws / rules, a minimum of two thousand dwelling units for about ten thousand population will need to be developed by the investor.
  - iv) The investing foreign company should achieve clear milestones once their proposal has been approved.
    - a) The minimum capitalisation norm shall be US\$ 10 million for a wholly owned subsidiary and US\$ 5 million for joint ventures with Indian partner/s. The funds would have to be brought in upfront.
    - b) A minimum lock-in period of three years from completion of minimum capitalisation shall apply before repatriation of original investment is permitted.
    - c) A minimum of 50% of the integrated project development must be completed within a period of five years from the date of possession of the first piece of land. However, if the investor intends to exit earlier due to reasons beyond his control, it shall be decided by FIPB on a case-to-case basis.
  - v) Conditions regarding the use of land for commercial purposes, development charges, external development charges and other charges as laid down in Master Plan / Bylaws, preparation of layout and building plan, development of internal and peripheral development, development of other infrastructure facilities including the trunk services etc., will be the responsibility of the investor as per planning norms and standards on similar lines as those applicable to local investors. In the absence of such standards and norms, every State Government may decide their own conditions for which the Urban Development Plan Formulation and Implementation guidelines circulated by the Ministry of Urban Development & Poverty Alleviation may serve as a guiding principle.

- vi) Land with assembled area for peripheral services such as police stations, milk booths will be handed over free of cost to the Government / local authority / agency as the case may be.
- vii) The Developer will retain the lands for community services such as (i) schools (ii) shopping complex (iii) community centres (iv) ration shop (v) hospital / dispensary. These services will be developed by developer himself and shall be made operational before the houses are occupied.
- viii) The developer, after properly developing playgrounds, park, will make it available to the local authorities free of cost.
- ix) The developer will ensure the norms and standards as applicable under local laws / rules.
- x) For companies investing in Special Economic Zones, Foreign Investment Promotion Board may accord exemption to any of the above mentioned conditions on a case-to-case basis. This will, however, be an interim measure till guidelines are evolved in due course in a need based manner.

**LIST OF CITIES WITH POPULATION OF 10 LAKHS (1 MILLION)  
AND ABOVE ACCORDING TO THE PROVISIONAL  
RESULTS OF 1991 CENSUS**

**Name of the Cities**

1. Greater Mumbai U.A.
2. Kolkata U.A.
3. Delhi U.A.
4. Chennai U.A.
5. Hyderabad U.A.
6. Bangalore U.A.
7. Ahmedabad U.A.
8. Pune U.A.
9. Kanpur U.A.
10. Nagpur U.A.
11. Lucknow U.A.
12. Surat U.A.
13. Jaipur U.A.
14. Kochi U.A.
15. Coimbatore U.A.
16. Vadodara U.A.
17. Indore U.A.
18. Patna U.A.
19. Madurai U.A.
20. Bhopal M.C.
21. Visakhapatnam, U.A.
22. Varanasi U.A.
23. Ludhiana M.C.

Note: U.A. = Urban Area    M.C. = Municipal Corporation

**DETAILS OF SELECTED AGENCIES/ DEPARTMENTS INVOLVED WITH VARIOUS CLEARANCES/APPROVALS AND THEIR WEB-SITES**

Subject Matter	Concerned Ministry/Department of Govt. of India	Website address
Industrial Entrepreneur Memorandum for delicensed industries	Department of Industrial Policy & Promotion, SIA	<a href="http://dipp.nic.in">http://dipp.nic.in</a>
Industrial Entrepreneur Memorandum for delicensed industries	Department of Industrial Policy & Promotion, SIA	<a href="http://dipp.nic.in">http://dipp.nic.in</a>
Approval for Industrial License / carry-on-business License	Department of Industrial Policy & Promotion, SIA	<a href="http://dipp.nic.in">http://dipp.nic.in</a>
Approval for Technology Transfer: (i) Automatic route (ii) Government approval (PAB)	Reserve Bank of India Department of Industrial Policy & Promotion, SIA	<a href="http://www.rbi.org.in">http://www.rbi.org.in</a> <a href="http://dipp.nic.in">http://dipp.nic.in</a>
Approval for financial collaboration: (i) Automatic route (ii) Government approval (FIPB)	Reserve Bank of India Department of Economic Affairs	<a href="http://www.rbi.org.in">http://www.rbi.org.in</a> <a href="http://finmin.nic.in">http://finmin.nic.in</a>
Approval of Industrial Park (i) Automatic route (ii) Non-Automatic route (Empowered Committee)	Department of Industrial Policy & Promotion, SIA Department of Industrial Policy & Promotion, SIA	<a href="http://dipp.nic.in">http://dipp.nic.in</a> <a href="http://dipp.nic.in">http://dipp.nic.in</a>
Registration as a company & certificate of commencement of business	Ministry of Company Affairs (Registrar of Companies)	<a href="http://dca.nic.in">http://dca.nic.in</a>
Matters relating to FDI policy and its promotion and facilitation as also promotion and facilitation of investment by Non- resident Indians (NRIs) and Overseas Corporate Bodies (OCBs)	Department of Industrial Policy & Promotion, SIA	<a href="http://dipp.nic.in">http://dipp.nic.in</a>

Subject Matter	Concerned Ministry/Department of Govt. of India	Website address
Matters relating to Foreign Exchange	Reserve Bank of India	<a href="http://www.rbi.org.in">http://www.rbi.org.in</a>
Matters relating to Taxation Matters relating to Direct Taxation Matters relating to Excise & Customs	Department of Revenue Central Board of Direct Taxes Central Board of Excise & Custom	<a href="http://finmin.nic.in">http://finmin.nic.in</a> <a href="http://incometaxindia.gov.in">http://incometaxindia.gov.in</a> <a href="http://www.cbec.gov.in">http://www.cbec.gov.in</a>
Matters relating to Industrial Relations	Ministry of Labour	<a href="http://labour.nic.in">http://labour.nic.in</a>
Import of Goods	Directorate General of Foreign Trade	<a href="http://dgft.delhi.nic.in">http://dgft.delhi.nic.in</a>
Matters relating to Environment & Forest clearance	Ministry of Environment and Forests	<a href="http://envfor.nic.in">http://envfor.nic.in</a>
Overseas investment by Indians	India Investment Centre, Department of Economic Affairs	<a href="http://iic.nic.in">http://iic.nic.in</a>
Allotment of land/Shed in Industrial areas, acquisition of land, change in land use, approval of building plan, release of water connection etc.	Departments Concerned of State Governments	Web site address of the state/UT is given at ANNEXURE-IX

## WEBSITE ADDRESSES OF IMPORTANT MINISTRIES/DEPARTMENTS

Biotechnology, Ministry of	-	<a href="http://dbtindia.nic.in">http://dbtindia.nic.in</a>
Bureau of Indian Standards	-	<a href="http://www.bis.org.in">http://www.bis.org.in</a>
Chemicals & Petrochemicals, Ministry of	-	<a href="http://chemicals.nic.in">http://chemicals.nic.in</a>
Civil Aviation, Ministry of	-	<a href="http://civilaviation.nic.in">http://civilaviation.nic.in</a>
Commerce, Department of	-	<a href="http://commerce.nic.in">http://commerce.nic.in</a>
Coal, Ministry of	-	<a href="http://coal.nic.in">http://coal.nic.in</a>
Company Affairs, Department of	-	<a href="http://dca.nic.in">http://dca.nic.in</a>
Education, Department of	-	<a href="http://www.education.nic.in">http://www.education.nic.in</a>
Environment and Forests, Ministry of	-	<a href="http://envfor.nic.in">http://envfor.nic.in</a>
Explosives, Department of	-	<a href="http://explosives.nic.in">http://explosives.nic.in</a>
External Affairs, Ministry of	-	<a href="http://www.meaindia.nic.in">http://www.meaindia.nic.in</a>
Finance, Ministry of	-	<a href="http://finmin.nic.in">http://finmin.nic.in</a>
Foreign Trade, Directorate General of,	-	<a href="http://dgft.delhi.nic.in">http://dgft.delhi.nic.in</a>
Heavy Industries, Department of	-	<a href="http://dhi.nic.in">http://dhi.nic.in</a>
Industrial Policy & Promotion, Department of	-	<a href="http://dipp.nic.in">http://dipp.nic.in</a>
Information and Broadcasting, Ministry of	-	<a href="http://pib.nic.in">http://pib.nic.in</a>
Information Technology, Department of	-	<a href="http://www.mit.gov.in">http://www.mit.gov.in</a>
Labour, Ministry of	-	<a href="http://labour.nic.in">http://labour.nic.in</a>
Mines, Department of	-	<a href="http://mines.nic.in">http://mines.nic.in</a>
Non-conventional Energy Sources, Ministry of	-	<a href="http://mnes.nic.in">http://mnes.nic.in</a>
Patents, Designs and Trademarks, Office of the Controller General of	-	<a href="http://patentoffice.nic.in">http://patentoffice.nic.in</a>
Petroleum and Natural Gas, Ministry of	-	<a href="http://petroleum.nic.in">http://petroleum.nic.in</a>
Power, Ministry of	-	<a href="http://powermin.nic.in">http://powermin.nic.in</a>
Railways, Ministry of	-	<a href="http://www.indianrailways.gov.in">http://www.indianrailways.gov.in</a>
Reserve Bank of India	-	<a href="http://www.rbi.org.in">http://www.rbi.org.in</a>
Road Transport & Highways, Ministry of	-	<a href="http://morth.nic.in">http://morth.nic.in</a>
Shipping, Ministry of	-	<a href="http://shipping.nic.in">http://shipping.nic.in</a>
Small Scale Industries & Agro and Rural Industries, Ministry of	-	<a href="http://ssi.nic.in">http://ssi.nic.in</a>
Statistics and Programme Implementation, Ministry of	-	<a href="http://mospi.nic.in">http://mospi.nic.in</a>
Telecommunication, Department of	-	<a href="http://www.dotindia.com">http://www.dotindia.com</a>
Textiles, Ministry of	-	<a href="http://texmin.nic.in">http://texmin.nic.in</a>
Tourism, Ministry of	-	<a href="http://tourismofindia.com">http://tourismofindia.com</a>
Urban Development, Ministry of	-	<a href="http://urbanindia.nic.in">http://urbanindia.nic.in</a>
Water Resources, Ministry of	-	<a href="http://wrmin.nic.in">http://wrmin.nic.in</a>

## WEBSITE ADDRESSES OF IMPORTANT MINISTRIES/DEPARTMENTS

Department of Industrial Policy & Promotion	-	<a href="http://dipp.nic.in">http://dipp.nic.in</a>
Ministry of Information and Broadcasting	-	<a href="http://pib.nic.in">http://pib.nic.in</a>
Department of Information Technology	-	<a href="http://www.mit.gov.in">http://www.mit.gov.in</a>
Ministry of Chemicals & Petrochemicals	-	<a href="http://chemicals.nic.in">http://chemicals.nic.in</a>
Department of Mines	-	<a href="http://mines.nic.in">http://mines.nic.in</a>
Ministry of Power	-	<a href="http://powermin.nic.in">http://powermin.nic.in</a>
Ministry of Biotechnology	-	<a href="http://dbtindia.nic.in">http://dbtindia.nic.in</a>
Ministry of Tourism	-	<a href="http://tourismofindia.com">http://tourismofindia.com</a>
Department of Commerce	-	Commerce, Department of
Directorate General of Foreign Trade	-	<a href="http://dgft.delhi.nic.in">http://dgft.delhi.nic.in</a>
Department of Explosives	-	<a href="http://explosives.nic.in">http://explosives.nic.in</a>
Ministry of Environment and Forests	-	<a href="http://envfor.nic.in">http://envfor.nic.in</a>
Department of Telecommunication	-	<a href="http://www.dotindia.com">http://www.dotindia.com</a>
Department of Education	-	<a href="http://www.education.nic.in">http://www.education.nic.in</a>
Ministry of Labour	-	<a href="http://labour.nic.in">http://labour.nic.in</a>
Ministry of Non-conventional Energy Sources	-	<a href="http://mnes.nic.in">http://mnes.nic.in</a>
Ministry of Petroleum and Natural Gas	-	<a href="http://petroleum.nic.in">http://petroleum.nic.in</a>
Ministry of Small Scale Industries & Agro and Rural Industries	-	<a href="http://ssi.nic.in">http://ssi.nic.in</a>
Ministry of Textiles	-	<a href="http://texmin.nic.in">http://texmin.nic.in</a>
Reserve Bank of India	-	<a href="http://www.rbi.org.in">http://www.rbi.org.in</a>
Ministry of Civil Aviation	-	<a href="http://civilaviation.nic.in">http://civilaviation.nic.in</a>
Ministry of Finance	-	<a href="http://finmin.nic.in">http://finmin.nic.in</a>
Department of Company Affairs	-	<a href="http://dca.nic.in">http://dca.nic.in</a>
Ministry of Railways	-	<a href="http://www.indianrailways.gov.in">http://www.indianrailways.gov.in</a>
Ministry of Coal	-	<a href="http://coal.nic.in">http://coal.nic.in</a>
Ministry of External Affairs	-	<a href="http://www.meaindia.nic.in">http://www.meaindia.nic.in</a>
Department of Heavy Industries	-	<a href="http://dhi.nic.in">http://dhi.nic.in</a>
Ministry of Statistics and Programme Implementation	-	<a href="http://mospi.nic.in">http://mospi.nic.in</a>
Ministry of Shipping	-	<a href="http://shipping.nic.in">http://shipping.nic.in</a>
Ministry of Road Transport & Highways	-	<a href="http://morth.nic.in">http://morth.nic.in</a>
Ministry of Water Resources	-	<a href="http://wrmin.nic.in">http://wrmin.nic.in</a>
Ministry of Urban Development	-	<a href="http://urbanindia.nic.in">http://urbanindia.nic.in</a>
Office of the Controller General of Patents, Designs and Trademarks	-	<a href="http://patentoffice.nic.in">http://patentoffice.nic.in</a>
Bureau of Indian Standards	-	<a href="http://www.bis.org.in">http://www.bis.org.in</a>

## WEBSITE ADDRESSES OF STATES/UTS

Andaman & Nicobar (UT)	-	<a href="http://andaman.nic.in">http://andaman.nic.in</a>
Andhra Pradesh	-	<a href="http://www.andhrapradesh.com">http://www.andhrapradesh.com</a>
Arunachal Pradesh	-	<a href="http://arunachalpradesh.nic.in">http://arunachalpradesh.nic.in</a>
Assam	-	<a href="http://assamgovt.nic.in">http://assamgovt.nic.in</a>
Bihar	-	<a href="http://bihar.hypermart.net">http://bihar.hypermart.net</a>
Chandigarh (UT)	-	<a href="http://chandigarh.nic.in">http://chandigarh.nic.in</a>
Chhattisgarh	-	<a href="http://chhattisgarh.nic.in">http://chhattisgarh.nic.in</a>
Dadra & Nagar Haveli (UT)	-	<a href="http://oidc.nic.in">http://oidc.nic.in</a>
Daman & Diu (UT)	-	<a href="http://daman.nic.in">http://daman.nic.in</a>
Delhi	-	<a href="http://delhigovt.nic.in">http://delhigovt.nic.in</a>
Goa	-	<a href="http://goagovt.nic.in">http://goagovt.nic.in</a>
Gujarat	-	<a href="http://gujaratindustry.gov.in">http://gujaratindustry.gov.in</a>
Haryana	-	<a href="http://haryana.nic.in">http://haryana.nic.in</a>
Himachal Pradesh	-	<a href="http://himachal.nic.in">http://himachal.nic.in</a>
Jammu & Kashmir	-	<a href="http://jammukashmir.nic.in">http://jammukashmir.nic.in</a>
Jharkhand	-	<a href="http://jharkhand.nic.in">http://jharkhand.nic.in</a>
Karnataka	-	<a href="http://www.kar.nic.in">http://www.kar.nic.in</a>
Kerala	-	<a href="http://www.keralagov.com">http://www.keralagov.com</a>
Lakshdweep (UT)	-	<a href="http://lakshadweep.nic.in">http://lakshadweep.nic.in</a>
Madhya Pradesh	-	<a href="http://mpgovt.nic.in">http://mpgovt.nic.in</a>
Maharashtra	-	<a href="http://www.maharashtra.gov.in">http://www.maharashtra.gov.in</a>
Manipur	-	<a href="http://manipur.nic.in">http://manipur.nic.in</a>
Meghalaya	-	<a href="http://meghalaya.nic.in">http://meghalaya.nic.in</a>
Mizoram	-	<a href="http://mizoram.nic.in">http://mizoram.nic.in</a>
Nagaland	-	<a href="http://nagaland.nic.in">http://nagaland.nic.in</a>
Orissa	-	<a href="http://orissagov.nic.in">http://orissagov.nic.in</a>
Pondicherry (UT)	-	<a href="http://pondicherry.nic.in">http://pondicherry.nic.in</a>
Punjab	-	<a href="http://punjabgovt.nic.in">http://punjabgovt.nic.in</a>
Rajasthan	-	<a href="http://www.rajasthan.gov.in">http://www.rajasthan.gov.in</a>
Sikkim	-	<a href="http://sikkim.nic.in">http://sikkim.nic.in</a>
Tamil Nadu	-	<a href="http://www.tn.gov.in">http://www.tn.gov.in</a>
Tripura	-	<a href="http://tripura.nic.in">http://tripura.nic.in</a>
Uttar Pradesh	-	<a href="http://www.upgovt.nic.in">http://www.upgovt.nic.in</a>
Uttanchal	-	<a href="http://www.uttaranchalassembly.org">http://www.uttaranchalassembly.org</a>
West Bengal	-	<a href="http://www.wbgov.com">http://www.wbgov.com</a>

## ADDRESSES FOR FILING APPLICATION ETC:

Sl.No.	Application for	Address for filing
1.	Industrial Licence/COB Licence	PR&C Section, SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi –11. India
2.	IEM	PR&C Section, SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi –11. India
3.	Monthly Production Returns	Jt.Director, Industrial Statistics Unit (ISU), Department of Industrial Policy & Promotion, Room No. 326, Udyog Bhavan, New Delhi –11. India Fax:011-23014564 E-mail: vishu@ub.nic.in
4.	FDI Application with NRI Investment & 100% EOU application	PR&C Section, SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi –11. India
5.	Foreign Technology Agreement under Government Approval	Project Approval Board, SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi –11. India
6.	Approval for Industrial Park, Model town/Growth Center under Government Approval	PR&C Section, SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi –11. India
7.	FDI under automatic route	Regional Office concerned of Reserve Bank of India (Addresses are available at RBI website)
8.	FDI application under government route	FIPB Unit, Department of Economic Affairs, Ministry of finance, North Block, New Delhi –110001. India
9.	For registration and incorporation of company	Registrar of companies, Department of Company Affairs, Ministry of finance, B Block, 2 <sup>nd</sup> floor, Paryavaran Bhavan, CGO complex, New Delhi –110003. India
10.	For setting up liaison / Project/ Branch office of a foreign company	Reserve bank of India, foreign Investment Division, Shaheed Bhagat Singh Road, Mumbai –400001, India

## CONTACT ADDRESSES:

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Fax: 011-23018356  
E-Mail: [julaniya@ub.nic.in](mailto:julaniya@ub.nic.in)
3. Director  
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Infrastructure Development Cell)  
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Fax: 011-23011770  
E-mail:
4. Director  
(Industrial Licensing & Technology  
Collaboration)  
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E Mail: [manchanda@ub.nic.in](mailto:manchanda@ub.nic.in)
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(Foreign Investment Implementation Authority)  
Tel: 011-23014212  
Fax: 011-23011950  
E-Mail: [sgarg@ub.nic.in](mailto:sgarg@ub.nic.in)
6. Public Relations Officer  
Entrepreneurs Assistance Unit SIA  
Udyog Bhavan, New Delhi – 110011  
Tel: 011-23014088  
E-Mail: [ipp\\_prc@ub.nic.in](mailto:ipp_prc@ub.nic.in)





**SIA**

**SECRETARIAT FOR INDUSTRIAL ASSISTANCE  
DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION  
MINISTRY OF COMMERCE & INDUSTRY, GOVT. OF INDIA  
NEW DELHI**