

Newsflash dated October 01, 2010

www.aralaw.com

ABOUT US	LEGAL EYES	NEWS FLASH	IN THE NEWS
--------------------------	----------------------------	----------------------------	-----------------------------

FDI Circular 2 of 2010

The Government has on September 30, 2010 issued Circular 2 of 2010 (“ [Circular 2](#)”) which shall be effective from October 1, 2010 which incorporates changes effected in the FDI policy post Circular 1 of 2010 (“ [Circular 1](#)”). Some of the key changes brought about by the new circular are as follows:

Wholesale Trading. [Circular 2](#) has relaxed the earlier stipulation under Circular 1 that sale by the wholesale trading entity to group entities should be only for the internal use of such group entities. However, the condition that sale to group entities should not exceed 25% of the total turnover of the wholesale trading entity continues to apply.

Infrastructure and Construction-development Sector. As mentioned in Circular 1, the original investments made by the non-resident investor in township development/construction development sector continues to be locked-in for a period of three years from the date of original investment. Circular 2 has now clarified that (i) the term ‘ original investment’ connotes the entire FDI amount brought in and (ii) the lock-in period commences from the date of receipt of each installment / tranche of FDI or from the date of completion of minimum capitalization, whichever is later. In essence Circular 2 seems to clarify that the lock-in period would not get extended beyond three years period for excess contribution made by the non-resident investor.

Calculation of minimum capitalization Circular 2 also clarifies that the ‘ share premium’ portion of the FDI by a non-resident investor shall be included for the purpose of meeting minimum capitalization norms in case of issue of fresh equity.

Capital. Circular 1 stated that instruments like warrants and partly paid shares would not be considered as capital. Circular 2 further states that issue of warrants and partly paid shares would be subject to prior approval of the Government.

Downstream Investment. In relation to downstream investments, it has been clarified by Circular 2 that ‘ operating cum investing companies’ and ‘ investing companies’ can utilize internal accruals for the purpose of such downstream investment.

[\[TOP\]](#)



CONTACT US	SUBSCRIBE	UNSUBSCRIBE	DISCLAIMER
----------------------------	---------------------------	-----------------------------	----------------------------

