

### **Liberalisation of FDI Norms: Construction, Railway Transport, Defence**

The Government has recently approved amendments to the Foreign Direct Investment (FDI) Policy, inter alia, the following: (a) relaxation of conditions for Construction Development Projects; (b) permitting FDI in certain activities of Railway Transport; and (c) increase in sectoral cap and relaxation of norms in Defence. Detailed provisions of the same are set out below for your reference

#### **A. RELAXATION OF FDI NORMS FOR CONSTRUCTION DEVELOPMENT PROJECTS**

100% Foreign Direct Investment (“**FDI**”) is permitted in the construction development sector under the automatic route subject to satisfaction of certain conditions. Department of Industrial Policy and Promotion (“**DIPP**”) vide Press Note No. 10 of 2014 dated December 3, 2014 (“**Press Note**”) has relaxed conditions for FDI in construction development projects.

Some of the key changes made by the Press Note are:

<b>Condition</b>	<b>Prior Position</b>	<b>Revised Position</b>
<i>Minimum area</i>	- Serviced Housing Plots: 10 hectares - Construction Development Projects: 20,000 sq. mts (floor area)	- Serviced Housing Plots: No minimum area - Construction Development Projects: 20,000 sq. mts (floor area)
<i>Minimum investment</i>	USD 10 million for WOS and USD 5 million for JVs	USD 5 million within 6 months of commencement of project.
<i>Lock in period</i>	3 years from investment	Completion of the project <sup>1</sup> or after the development of trunk infrastructure <sup>2</sup> .
<i>Sale of ‘developed projects’</i>	Completion certificate required.	No requirement for completion certificate
<i>Development of projects</i>	Minimum 50% project to be developed within 5 years of obtaining all clearances.	No requirement
<i>Exemption for Affordable Housing<sup>3</sup></i>	Not available	Projects committing at least 30% project cost for affordable housing are exempt from Minimum area and Minimum capitalization requirements.

<sup>1</sup> Completion of project to be determined as per the laws of Local/State Governments.

<sup>2</sup> Roads, water supply, street lighting, drainage and sewerage.

<sup>3</sup> Projects using at least 40% of FAR/FSI for dwelling unit of floor area of not more than 140 sq. mtr will be considered as Affordable Housing project. One-fourth of reserved FAR/FSI should be for houses of floor area not more than 60 sq mtr.

## **B. FOREIGN DIRECT INVESTMENT (“FDI”) GUIDELINES FOR RAILWAY TRANSPORT**

The Reserve Bank Of India (“**RBI**”) has *vide* its circular<sup>4</sup> dated December 8, 2014 has now permitted FDI in the following activities of the railway transport sector:

- a. Suburban corridor projects through PPP;
- b. High speed train projects;
- c. Dedicated freight lines;
- d. Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities;
- e. Railway Electrification;
- f. Signaling systems;
- g. Freight terminals;
- h. Freight terminals;
- i. Freight terminals Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line; and
- j. Mass Rapid Transport Systems.

The above follows the earlier review of the said policy by the Department of Industrial Policy and Promotion *vide* Press Note 8 (2014) dated August 27, 2014 which permitted 100% FDI under automatic route in the above activities. The said Press Note also provides that proposals involving FDI beyond 49% in security sensitive areas shall be brought before the Cabinet Committee on Security on case to case basis.

## **C. FOREIGN DIRECT INVESTMENT (“FDI”) GUIDELINES FOR DEFENCE**

The Reserve Bank of India (“**RBI**”) has *vide* its circular<sup>5</sup> dated December 8, 2014 has relaxed FDI norms in the defense sector.

The circular gives effect to the changes in the FDI Policy by Department of Industrial Policy and Promotion *vide* Press Note 8 (2014) dated August 27, 2014. Some of the changes brought forth therein were:

- a. Raising of FDI cap under approval route from 26% to 49%. Proposals above 49% will be considered on a case to case basis by the CCS if the investment is likely to result in access to modern and ‘state-of-art’ technology in the defence sector.
- b. Removing the prohibition of foreign portfolio investment by clarifying that the 49% limit is composite and includes both FDI and investments by FPIs/FIIs/NRIs/FVCIs/QFIs.
- c. Investments by FPIs/FIIs/NRIs/ QFIs to be under automatic route and to be capped at 24%.
- d. Indian control over the management of company.
- e. Removal of lock-in requirements

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<sup>4</sup> A.P.(DIR Series) Circular No.47

<sup>5</sup> A.P.(DIR Series) Circular No.46