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- Background. Foreign direct investment in small scale industries (*SSI)* was capped at 24%. Further,

  (A) for SSI's engaged in items not reserved for manufacture by SSI sector could increase the foreign equity participation beyond 24% to the permitted sectoral caps, provided, (i) the company de-registered itself as small scale industry, and (ii) the company obtained industrial license or filed entrepreneur memorandum with Secretariat of Industrial Assistance, and

  (B) for companies engaged in items reserved for manufacture by SSI sector required prior FIPB approval for foreign equity participation beyond 24% and such approval was subject to certain conditions including an obligation to export a minimum of 50% of its annual production.

- MSMED Act. Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 was promulgated and it replaced the small scale industries with the definition of Micro and Small Enterprises (MSE), based on the investment in plant and machinery (for manufacturing sector) and equipments (for service sector). Currently there are 21 items reserved for manufacture by MSEs.

- Press Note 6 (2009). Press note 6(2009) dated September 4, 2009 was announced as a clarification on the foreign equity restrictions on investments in MSE, pursuant to the promulgation of MSMED Act. According to the press note:

  (A) for companies that are MSEs and/or engaged in items reserved for manufacture by MSE can have foreign equity participation as per the applicable sectoral caps, entry routes and other relevant sectoral guidelines, and

(B) for companies that are not MSEs but engaged in manufacture of items reserved for manufacture by MSE would require obtaining industrial license. Issue of industrial license (irrespective of foreign participation) will be subject to few conditions and in particular require the undertaking to export a minimum of 50% of the new or additional annual production (with respect to items reserved for MSE) within a maximum period of 3 years from the date of commencement of production. Further, any foreign investment in such companies beyond 24% will be subject to prior FIPB approval.

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Private Equity Team.

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