India | Tax & Regulatory | 4 August 2015

Regulatory Alert
Tracking change

Composite cap on foreign investment - Notified

Issue no: RA/14/2015

In this issue:

Background

With a move to simplify the Foreign Direct Investment (FDI) Policy, Union Cabinet had, on 16 July 2015, approved the implementation of "composite cap" for FDI, essentially doing away with the distinction between various foreign investment by FIIs, NRIs and other FDIs.

The detailed norms of composite cap for FDI has been issued by the Government of India (GOI) on 30 July 2015 vide Press Note 8 of 2015

Highlights of the Amendment

Composite cap for foreign investment

- An Indian company can now have (a) Indian capital and / or (b) foreign capital – without any further distinction between foreign capital which includes portfolio investment (FII / QFI / FPI), GDR, FCCB and FDI.
- Foreign investment will include all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under various schedules of Foreign Exchange Management Regulations for foreign investment in India.
- FCCBs and DRs[1] having underlying of instruments, being in the nature of debt, shall not be treated as foreign investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment

Portfolio investment

- The press release dated 16 July 2015 of GOI suggested that the portfolio investment up to aggregate foreign investment limit of 49% irrespective of the sectoral cap in a specified sector will be permitted without government approval, if such investment does not result in transfer of ownership and / or control of Indian entities from resident Indian citizens to non-resident entities.
- The above position has been further clarified by the Press Note 8 of 2015. It is provided that portfolio investment upto aggregate foreign investment level of 49% or sectoral /

[1] Foreign Currency Convertible Bond and Depository Receipts

statutory cap, whichever is lower, will be permitted under automatic route without complying with the sectoral conditions, if such investment does not result in transfer of ownership and / or control of Indian entities from resident Indian citizens to non-resident entities.

- This effectively mean that for sectors having sectoral cap of less than 49%, such as Territorial Broadcasting FM Radio can attract portfolio investment only up to 26% under the automatic route which is the sectoral cap.

  However, sectors like Construction Development: Townships, Housing, Built-up Infrastructure where FDI is permitted upto 100% under automatic route subject to compliance with the sectoral conditions, can now attract 49% portfolio investment without complying with the sectoral conditions.

Aspects clarified

- In Defence Sector, portfolio investment by FPIs/FIIs/NRIs/QFIs and investment by FVCI together shall not exceed 24% of the total equity of the investee/ joint venture Company under the automatic route.
- In Banking-Private sector, FII/FPI/QFI investment limit shall continue to be 49% of the total paid up capital of the Indian Company.
- There are no sub limits of portfolio / other foreign investment for commodity exchanges, credit information companies, infrastructure companies in the security market and power exchanges.
- Any existing foreign investment already made in accordance with the policy in existence would not require any modification to conform to these amendments.

Conclusion

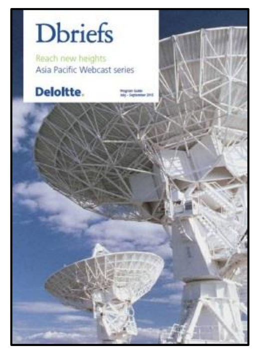
The move of having composite foreign investment cap is expected to boost foreign investment and ease of doing business in India.

Source: PIB press release dated 16 July 2015 issued by Union Cabinet, Government of India and Press Note 8 of 2015 series dated 30 July 2015 issued by Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.

Upcoming Dbriefs - Register

India's New Export Incentive Schemes: A Real Boost for Exporters of Goods and Services

Thursday, 27 August 2015, 11:30 AM – 12:30 PM IST



As a step further to raise the global competitiveness of the Indian manufacturing and service sectors, the new FTP has revamped various export incentives available to the exporters of goods and services. The two new schemes under the FTP, namely Merchandise Export from India Scheme (MEIS) and the Service Exports from India Scheme (SEIS), aim to provide benefits to all exporters doing business in India. For more information, visit the **Dbriefs** page.

Register now

Contacts

Ahmedabad
Heritage, 3rd Floor,
Near Gujarat Vidyapith,
Off Ashram Road,
Ahmedabad – 380 014.
Tel: + 91 (079) 2758 2542
Fax: + 91 (079) 2758 2551

Bangalore
Deloitte Centre, Anchorage II,
100/2, Richmond Road,
Bangalore 560 025.
Tel: +91 (080) 6627 6000
Fax: +91 (080) 6627 6010

Chennai
No.52, Venkatanarayana Road,
7th Floor, ASV N Ramana Tower,
T-Nagar,
Chennai 600 017.
Tel: +91 (044) 6688 5000
Fax: +91 (044) 6688 5050

Coimbatore
Shanmugha Manram
41, Race Course,
Coimbatore
Tamil Nadu - 641018
Tel: + 91 (0422) 439 2801
Fax: +91 (0422) 222 3615

Delhi/Gurgaon
Building 10,
Tower B, 7th Floor,
DLF Cyber City,
Gurgaon 122 002
Tel : +91 (0124) 679 2000
Fax : + 91 (0124) 679 2012

Hyderabad
1-8-384 and 385, 3rd Floor,
Gowra Grand S.P.Road,
Begumpet,
Secunderabad – 500 003.
Tel: +91 (040) 6603 2600
Fax:+91 (040) 6603 2714

Kolkata
Bengal Intelligent Park Building Alpha,
1st floor, Block EP and GP Sector V,
Salt Lake Electronics Complex,
Kolkata - 700 091.
Tel : + 91 (033) 6612 1000
Fax : + 91 (033) 6612 1001

Mumbai
Indiabulls Finance Centre,
Tower 3, 28th Floor,
Elphinstone Mill Compound,
Senapati Bapat Marg, Elphinstone (W),
Mumbai – 400013
Tel: + 91 (022) 6185 4000
Fax: + 91 (022) 6185 4101

Pune
106, B-Wing, 7th Floor,
ICC Trade Tower,
Senapati Bapat Road,
Pune – 411 016.
Tel: + 91 (020) 6624 4600
Fax: +91 (020) 6624 4605

Home | Add Deloitte as a safe sender

Follow us on:

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India Private Limited (DTTIPL) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites). DTTIPL is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sources. None of DTTIPL, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this material, rendering professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.
No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

© 2015 Deloitte Touche Tohmatsu India Private Limited. Member of Deloitte Touche Tohmatsu Limited.