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Foreign Direct Investment (FDI) Policy in Defence Sector

Government of India has issued Press Note 4 (2020 Series) on 17 September 2020 on FDI Policy in the defence sector and thereby, has amended certain provisions in the existing policy.

Background:

On May 16, 2020, the Government of India (“GOI”) announced policy reforms to fast-track investment efforts towards Atmanirbhar Bharat and enhance self reliance in defence production through the ‘Make in India’ initiative. It was also announced that FDI limit in defence manufacturing under automatic route will be raised from 49% to 74%.

In furtherance to the above, the Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, GOI has issued Press Note 4 (2020 series) dated 17 September 2020 (the ‘Press Note’) amending the Consolidated FDI Policy Circular of 2017 (‘FDI Policy’) on defence sector. This Press Note shall be effective from the date of the FEMA notification.

Highlights of the amendments in the FDI Policy as per the Press Note are summarised below.

Key amendments:

Foreign Investment in Defence Sector

FDI up to 74% permitted under automatic route for companies seeking new industrial licenses. FDI beyond 74% and up to 100% is under government route and shall be considered only wherever it is likely to result in access to modern technology or for other reasons to be recorded.

Additional conditions

FDI shall be subject to following performance linked conditions:

- Infusion of fresh foreign investment up to 49%, in a company not seeking industrial license or which already has government approval for FDI in defence, shall require mandatory submission of a declaration with the Ministry of Defence in case there is change in equity/shareholding pattern or transfer of stake by existing investor to new foreign investor for FDI up to 49%, within 30 days of such change. Proposals for raising FDI beyond 49% from such companies will require government approval.
- License applications will be considered by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, in consultation with Ministry of Defence and Ministry of External Affairs.
- Foreign investment in the sector shall be subject to security clearance by the Ministry of Home Affairs and as per the guidelines of the Ministry of Defence.

- Investee company should be structured to be self-sufficient in the areas of product design and development. The investee/ joint venture company along with the manufacturing facility, should also have maintenance and life cycle support facility of the product being manufactured in India.
- Foreign Investments in the defence sector shall be subject to scrutiny on grounds of national security and the GOI reserves the right to review any foreign investment in the defence sector that affects or may affect national security.

Conclusion:

The changes in the FDI Policy are aimed towards self-reliance in the defence sector and expand India's presence in international supply chains.

Source: [Press Note No. 4 \(2020 Series\) dated 17 September, 2020 issued by DPIIT](#)



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