DEWAN P.N. CHOPRA & CO.

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FDI POLICY IN INDIA: RECENT RELAXATION OF NORMS

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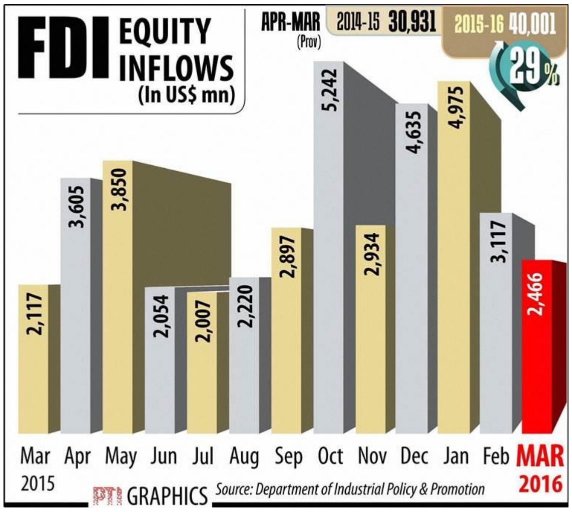

The Union Government of India radically liberalized the FDI regime on June 20, 2016, with the objective of providing major impetus to employment and job creation in India. This was the second major set of reforms after changes were announced in November 2015. Post these amendments[1], most sectors shall be able to receive Foreign Direct Investment (FDI) under the automatic approval route, except a few sectors on a negative list. As a result, India is now the most open economy in the world for FDI and has been rated as Number 1 FDI Investment Destination by several International Agencies.[2]

The recent changes introduced seek to further simplify the regulations governing FDI in the country and make India an even more attractive destination for foreign investors. The amendments include increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment in India. The details of the amendments along with their implications are highlighted below:

Sector	Proposed FDI Regime	Existing FDI Regime	Probable Impacts
Defence	Up to 49% FDI via Automatic Route; beyond 49% via Government Approval. The condition of access to state- of – art technology has been done away with. FDI limit for defence sector has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959.	49% FDI for foreign entities under Automatic Route; beyond 49% on Government Approval on a case-by-case basis subject to access to state-of-the-art technology.	The move is aimed at boosting the domestic defence industry, which currently imports up to 70 per cent of its military hardware.

[1] These amendments are proposed by the Central Government and will come into force on the date of notification by the Reserve Bank of India.

[2] As per the Press Release dated June 20, 2016, issued by Press Information Bureau, Government of India, Prime Minister's Office.

Pharmaceuticals		74% FDI through Automatic Route in Brownfield; beyond 74% via Government Approval.	100% FDI in Brownfield through Government Approval	More Private Equity deals expected as the new regulation clears uncertainty over FIPB Approvals.
Aviation	**Brownfield Airport Projects**	100% FDI allowed via Automatic Route	74% FDI allowed via Automatic Route; beyond 74% via Government Approval	The liberalization should attract foreign investors & help boost airport development and modernization
	Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline and Regional Air Transport Service	49% FDI allowed via Automatic Route; beyond 49% via Government Approval for Foreign Entities	49% FDI for Foreign entities via Automatic Route	Local Airlines may attract more capital
Broadcast	**Cable Networks**	100% FDI allowed via Automatic Route	49% FDI allowed via Automatic Route; beyond 49% via Government Approval	Liberalization creates opportunities for more investment - however, no major positive impact on FDI expected till cross-media ownership cap is removed.
	Direct to Home (DTH)	100% FDI allowed via Automatic Route	49% FDI allowed via Automatic Route; beyond 49% via Government Approval	
	Headend-in-the sky (HITS)	100% FDI allowed via Automatic Route	49% FDI allowed via Automatic Route; beyond 49% via Government Approval	
Food Products Manufactured/ Produced in India		Up to 100% via Government Approval. It will include trading in Food Products including through e-commerce, in respect of Food Products manufactured/ produced in India.	Earlier there was no separate regulation for Food Products Manufactured/ Produced in India. It was a part of Single Brand and Multi-Brand Retail Trading.	This may lead to large MNCs such as Wal-Mart, which have cash and carry wholesale operations and are ruled by the Multi Brand Retail Policy to consider Food Retail in India.
Private Security Agencies		Up to 49% via Automatic Route; beyond 49% and up to	Up to 49% via Government Approval	Faster growth of Indian Private Security Services Industry.

	74% via Government Approval.		
Animal Husbandry	FDI in Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture and Apiculture is allowed 100% under Automatic Route. The requirements of controlled conditions have been done away with.	FDI in Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture and Apiculture is allowed 100% under Automatic Route under controlled conditions.	Ease of conditions may result in additional investments
Single Brand Retail Trading	Relaxed local sourcing norms up to three years and a relaxed sourcing regime for another five years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology.	Companies opening wholly owned stores in India were required to comply with local sourcing norms of 30% within 5 years of their first store opening.	It may further incentivize MNCs such as Apple to open exclusive stores in India.

Further, for establishment of branch office, liaison office or project office or any other place of business in India, if the principal business of the applicant is Defence, Telecom, Private Security or Information and Broadcasting, it has been decided that approval of Reserve Bank of India or separate security clearance would no longer be required in cases where FIPB approval or license / permission by the concerned Ministry / Regulator has already been granted.

As on date, FDI continues to be prohibited in atomic energy, lottery, gambling, real estate and Real Estate Investments Trusts (REIT) and Railway operations.

This liberalization and simplification of the FDI policy is expected to facilitate the ease of doing business in the country is expected to seal India's position as the most attractive FDI destination in the world & is expected to lead to even higher levels of FDI inflows into the country.

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