

## Corpsec Hotline

March 13, 2008

### PRESS NOTES OF 2008 UNVEILED

The Department of Industrial Policy and Promotion (“DIPP”) on March 12, 2008 issued series of Press Notes further liberalizing the foreign investment norms. Given below are the highlights of the press notes of 2008 series:

- Credit information Companies (Press Note 1 of 2008)
- Commodity Exchanges (Press Note 2 of 2008)
- Industrial Parks (Press Note 3 of 2008)
- Civil Aviation Sector (Press Note 4 of 2008)
- Petroleum & Natural Gas Sector (Press Note 5 of 2008)
- Titanium Bearing Minerals and Ores (Press Note 6 of 2008)

#### Credit Information Companies

Foreign investment through Foreign Direct Investment (“FDI”) route together with investments by Registered Foreign Institutional Investors (“FIIs”) in credit information companies is now allowed up to 49% with prior approval of Government and regulatory clearance from Reserve Bank of India. FIIs under the Portfolio Investment Scheme are now permitted to make investment up to 24% only in credit information companies listed at Stock Exchanges subject to overall cap of 49% of foreign investment in such companies and other conditions as laid down in the said Press Note.

Earlier 'Credit Reference Agencies' in the FDI Policy formed part of the list of Non Banking Finance Companies (NBFC) activities where 100% FDI was allowed under automatic route. Now, the said list is amended and Credit Rating Agencies is deleted from the list.

#### Commodity Exchanges

Foreign investment through FDI route together with investments by FIIs in Commodity Exchanges is now allowed up to 49% with prior approval of Government. Out of which, FDI up to 26% is permitted and investment by registered FIIs under Portfolio Investment Scheme is restricted up to 23%. It has been laid down that a single foreign investor/ entity, including persons acting in concert cannot acquire more than 5% of equity in these companies.

#### Industrial Parks

FDI up to 100% is allowed under the automatic route for both in setting up and in established Industrial Parks. It has been now clarified that conditions of Press Note 2 of 2005 applicable to construction and development projects will not be applicable for Industrial Parks subject to following conditions:

1. Industrial Park would comprise of a minimum of 10 units and no single unit shall occupy more than 50% of the allocable area;
2. The minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.

#### Civil Aviation Sector

Earlier under Press note 4 of 2006, FDI norms were provided for Airports and Air Transport Services. Air Transport Services norms are now extended to other services under the Civil Aviation Sector viz. Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services / Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

Under Air Transport Services, following FDI ceilings have been introduced:

1. Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline - FDI up to 49% and investment by NRI up to 100% allowed under the automatic route.
2. Non-Scheduled Air Transport Service/ Non-Scheduled airlines, Chartered airlines, and Cargo airlines- FDI up to 74% and investment by NRI up to 100% allowed under the automatic route.
3. Helicopter services/seaplane services requiring Directorate General of Civil Aviation approval- FDI up to 100% allowed on the automatic route.

Further, under Civil Aviation sector, following FDI ceilings in other services have been introduced:

1. Ground Handling Services- FDI up to 74% and investment by NRI up to 100% allowed under the automatic route, subject to sectoral regulations and security clearance.

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2. Maintenance and Repair organizations; flying training institutes; and technical training institutions - FDI up to 100% allowed under the automatic route.

## Petroleum & Natural Gas Sector

The FDI norms for Petroleum & Natural Gas sector are governed by Press Note 1 of 2004 and Press Note 4 of 2006. The said norms are relaxed *vide* this Press Note and now the ceiling on foreign investment in public sector petroleum refining as per earlier Press Notes has been raised from 26% to 49% and the condition of compulsory divestment of up to 26% equity in favour of Indian partner(s)/public within 5 years for actual trading and marketing of petroleum products is done away with.

## Mining of Titanium Bearing Minerals & Ores

Earlier FDI up to 74% was permitted with prior Government approval, whereas now 100% foreign investment in mining and mineral separation of titanium-bearing minerals and ores is allowed with prior Government approval.

The newly introduced changes under the Press Notes provide for some relaxation / clarifications of FDI in various sectors which is a positive move. But there are some sectors such as real estate and retail wherein certain clarifications should have been made to clear the ambiguities but are not covered under the current issue of Press Notes.

*Source:* Department of Industrial Policy and Promotion:

- [Press Note 1 of 2008](#),
- [Press Note 2 of 2008](#),
- [Press Note 3 of 2008](#),
- [Press Note 4 of 2008](#),
- [Press Note 5 of 2008](#) and
- [Press Note 6 of 2008](#).

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You can direct your queries or comments to the authors

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**Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business**

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