

## **DPIIT issues press note regarding revision of FDI limits in the Defence sector**

On 17 September 2020, the Department for Promotion of Industry and Internal Trade (DPIIT) released Press Note No.4 (2020 series) in relation to review of Foreign Direct Investment (FDI) in Defence Sector. As per the Press Note:

(a) While 100% FDI is permitted in the Defence sector, FDI up to 74% under the automatic route shall now be permitted and government route beyond 74%, wherever it is likely to result in access to modern technology or for other reasons to be recorded.

(b) FDI up to 74% under automatic route shall be permitted for companies seeking new industrial licenses. Further, 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 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 prior Government approval.

(c) Licence applications will be considered by the DPIIT, Ministry of Commerce & Industry, in consultation with Ministry of Defence and Ministry of External Affairs.

(d) Foreign investment in the sector is subject to security clearance by the Ministry of Home Affairs and as per guidelines of the Ministry of Defence.

(e) The 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.

(f) Foreign investments in the Defence Sector shall be subject to scrutiny on grounds of National Security and Government reserves the right to review any foreign investment in the Defence Sector that affects or may affect national security.



(g) This press note will come into effect from the date of the FEMA notification.

The position so far (i.e. till the aforementioned press note comes into effect) is that, while 100% FDI is permitted in the Defence sector, upto 49% FDI is permitted under the automatic route and FDI beyond 49% is permitted under the government route wherever it was likely to result in access to modern technology or for other reasons to be recorded.

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We continue business as usual and our attorneys and staff are available to provide our clients uninterrupted service. Please do not hesitate to reach out with questions or concerns at any time. We hope that you and your family remain healthy and safe throughout this global health challenge.

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