

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
(FC-I Section)

Press Note No. 10 (2014 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on the Construction Development Sector- amendment to 'Consolidated FDI Policy Circular 2014'.

1.0 Present position:

Paragraph 6.2.11 of the 'Consolidated FDI Policy Circular of 2014', effective from 17th April, 2014, relating to Construction Development Sector, presently reads as below:

Sl. No.	Sector/Activity	% of Equity/ FDI Cap	Entry Route
6.2.11	Construction Development: Townships, Housing, Built-up infrastructure		
6.2.11.1	Townships, housing, built-up infrastructure and construction-development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure)	100%	Automatic
6.2.11.2	<p>Investment will be subject to the following conditions:</p> <p>(1) Minimum area to be developed under each project would be as under:</p> <p style="padding-left: 20px;">(i) In case of development of serviced housing plots, a minimum land area of 10 hectares.</p> <p style="padding-left: 20px;">(ii) In case of construction-development projects, a minimum built-up area of 50,000 sq.mts.</p> <p style="padding-left: 20px;">(iii) In case of a combination project, any one of the above two conditions would suffice.</p> <p>(2) Minimum capitalization of US \$10 million for wholly owned subsidiaries and US \$ 5 million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company.</p> <p>(3) Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. Original investment means the entire amount brought in as FDI. The lock-in period of three years will be applied from the date of receipt of each installment/tranche of FDI or from the date of completion of minimum capitalization, whichever is later. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.</p> <p>(4) At least 50% of each such project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor/investee company would not be</p>		

	<p>permitted to sell undeveloped plots. For the purpose of these guidelines, "undeveloped plots" will mean where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body/service agency before he would be allowed to dispose of serviced housing plots.</p> <p>(5) The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/Local Body concerned.</p> <p>(6) The investor/investee company shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-laws/regulations of the State Government/ Municipal/Local Body concerned.</p> <p>(7) The State Government/Municipal/Local Body concerned, which approves the building/development plans, would monitor compliance of the above conditions by the developer.</p> <p>Note:</p> <p>(i) The conditions at (1) to (4) above would not apply to Hotels & Tourism, Hospitals, Special Economic Zones (SEZs), Education Sector, Old Age Homes and investment by NRIs.</p> <p>(ii) FDI is not allowed in Real Estate Business.</p>
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2.0 Revised position:

The Government of India has reviewed the FDI policy in this regard. Paragraph 6.2.11 of 'Consolidated FDI Policy Circular of 2014' will now read as under:

Sl. No.	Sector/Activity	% of Equity/ FDI Cap	Entry Route
6.2.11	Construction Development: Townships, Housing, Built-up infrastructure		
6.2.11.1	Construction-development projects (which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships)	100%	Automatic
6.2.11.2	Investment will be subject to the following conditions: (A) Minimum area to be developed under each project would be as under: <ol style="list-style-type: none"> i. In case of development of serviced plots, no minimum land area requirement. ii. In case of construction-development projects, a minimum floor area of 20,000 sq. meter. 		

(B) Investee company will be required to bring minimum FDI of US\$ 5 million within six months of commencement of the project. The commencement of the project will be the date of approval of the building plan/lay out plan by the relevant statutory authority. Subsequent tranches of FDI can be brought till the period of ten years from the commencement of the project or before the completion of project, whichever expires earlier.

(C) (i) The investor will be permitted to exit on completion of the project or after development of trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage.

(ii) The Government may, in view of facts and circumstances of a case, permit repatriation of FDI or transfer of stake by one non-resident investor to another non-resident investor, before the completion of project. These proposals will be considered by FIPB on case to case basis inter-alia with specific reference to Note (i).

(D) The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/Local Body concerned.

(E) The Indian investee company will be permitted to sell only developed plots. For the purposes of this policy "developed plots" will mean plots where trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage, have been made available.

(F) The Indian investee company shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-laws/regulations of the State Government/ Municipal/Local Body concerned.

(G) The State Government/ Municipal/ Local Body concerned, which approves the building / development plans, will monitor compliance of the above conditions by the developer.

Note:

(i) It is clarified that FDI is not permitted in an entity which is engaged or proposes to engage in real estate business, construction of farm houses and trading in transferable development rights (TDRs).

"Real estate business" will have the same meaning as provided in FEMA Notification No. 1/2000-RB dated May 03, 2000 read with RBI Master Circular i.e. dealing in land and immovable property with a view to earning profit or earning income therefrom and does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships.

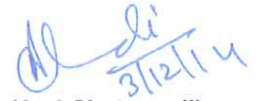
(ii) The conditions at (A) to (C) above, will not apply to Hotels & Tourist resorts; Hospitals; Special Economic Zones (SEZs); Educational Institutions, Old Age Homes and Investment by NRIs.

(iii) The conditions at (A) and (B) above, will also not apply to investee/joint venture companies which commit at least 30 percent of the total project cost for low cost affordable housing.

(iv) An Indian company, which is the recipient of FDI, shall procure a certificate from an architect empanelled by any Authority, authorized to sanction building plan to the effect that

<p>the minimum floor area requirement has been fulfilled.</p> <p>(v) 'Floor area' will be defined as per the local laws/regulations of the respective State governments/Union territories.</p> <p>(vi) Completion of the project will be determined as per the local bye-laws/ rules and other regulations of State Governments.</p> <p>(vii) Project using at least 40% of the FAR/FSI for dwelling unit of floor area of not more than 140 square meter will be considered as Affordable Housing Project for the purpose of FDI policy in Construction Development Sector. Out of the total FAR/FSI reserved for Affordable Housing, at least one-fourth should be for houses of floor area of not more than 60 square meter.</p> <p>(viii) It is clarified that 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres.</p>

3.0 The above decision will take immediate effect.


3/12/14

(Atul Chaturvedi)

Joint Secretary to the Government of India

D/o IPP File No.: 5/14/2013-FC-I dated: 3rd December, 2014

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