

## **FEMA UPDATE- FDI IN LLPS**

### **FDI IN LLPS:**

Presently, FDI is allowed in Indian companies. It is allowed in a firm or a proprietary concern, subject to certain conditions. FDI in a trust is also allowed with prior Government approval, provided it is a Venture Capital Fund (VCF).

The CCEA's approval will benefit the Indian economy by attracting greater FDI, creating employment and bringing in international best practices and latest technologies in the country.

The Limited Liability Partnership Act, 2008 (LLP Act) was notified in April, 2009. With the passage of this Act, a new hybrid entity, incorporating the features of a body corporate and a partnership, can now be formed for the purpose of undertaking business in India. **Main features of Scheme as approved by Cabinet Committee**

1. FDI in LLPs will be implemented in calibrated manner beginning with the open sectors where no specific monitoring is required.
2. FDI in LLPs is allowed only through Government approval route and that too only on those sector/ activities where 100% FDI is allowed through automatic route. Thus in case 100% is allowed through approval route or less than 100% FDI is allowed through automatic route, LLPs can not have foreign direct investments.
3. No foreign direct investments are allowed in already banned sector such as agricultural/plantation activity, print media or real estate business, through LLPs also.
4. LLPs having FDI are not eligible for downstream investments.
5. An Indian Company having FDI, can make investments in LLPs only if both Indian Company and LLP are in 100% automatic activities/ sectors. Thus government approval route Indian Companies can not make any investments in LLPs.
6. Foreign Capital contribution in LLPs are allowed only by way of cash contribution through normal banking channels out of India or from transfer NRE/ FCNR account. No other way like capitalization of exports of goods/ services, adjustment against pre incorporation expenses etc are allowed in case of LLPs.
7. Foreign Institutional Investors (FIIs) and Foreign Venture Capital Investors (FVCIs) will not be permitted to invest in LLPs
8. LLPs will also not be permitted to avail External Commercial Borrowings (ECBs.)
9. Apart from person resident in India, only a Company registered under Indian Companies Act, can only be a designated partners. No other forms of body incorporated such as LLPs are allowed as designated partner. Such designating partner is liable for all compliances and penalties for contraventions.
10. Conversion of a company with FDI into an LLP will be allowed only if the above stipulations are met and with the prior approval of FIPB/Government