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# Important press note (P N 1/ 2010) Guidelines for review of cases which require prior approval of the Government of India for making foreign investment.

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## **Text of relevant press note:**

### **Guidelines for review of cases which require prior approval of the Government of India for making foreign investment**

*Press Note No. 1 (2010 Series), dated 25-3-2010*

Proposals for foreign investment under Government route i.e. requiring prior approval from the Government of India as laid down in the FDI policy from time to time, are considered by the Foreign Investment Promotion Board (FIPB) in Department of Economic Affairs (DEA), Ministry of Finance.

#### 2.0 Present Position

2.1 Presently, the recommendations of the FIPB on these proposals with total investment up to Rs. 600 crore are considered by the Finance Minister and those exceeding this amount, by the Cabinet Committee on Economic Affairs (CCEA). Prior to 18.2.2003, proposals of more than Rs. 600 crore were to be approved by the Cabinet Committee on Foreign Investment (CCFI).

2.2 The FIPB has also been considering proposals the following types of cases:

(a) Cases of entities whose activities had earlier required prior approval of FIPB/CCFI/ CCEA and who had, accordingly, earlier obtained prior approval of FIPB/CCFI/CCEA for their initial foreign investment but subsequently such activities/sectors have been placed under automatic route;

(b) Cases of entities whose activities had sectoral caps earlier and who had, accordingly, earlier obtained prior approval of FIPB/CCFI/CCEA for their initial foreign investment but subsequently such caps were removed or increased and activity placed under the automatic route;

(c) Cases where prior approval of FIPB/CCFI/CCEA had been obtained due to requirements of Press Note 18/1998 or Press Note 1 of 2005 and are now proposing additional foreign investment. These proposals related to foreign investment/ technical collaboration where the

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foreign investor has or had any previous joint venture or technology transfer/trademark agreement in the same or allied field in India.

### 3.0 Revised Position

3.1 The Government of India has reviewed the extant policy and it has been decided, with immediate effect, that the following approval levels shall operate for proposals involving FDI under the Government route i.e. requiring prior Government approval:

(a) The Minister of Finance who is in-charge of FIPB would consider the recommendations of FIPB on proposals with total foreign equity inflow of and below Rs.1200 crore.

(b) The recommendations of FIPB on proposals with total foreign equity inflow of more than Rs. 1200 crore would be placed for consideration of CCEA. The FIPB Secretariat in DEA will process the recommendations of FIPB to obtain the approval of Minister of Finance and CCEA.

(c) The CCEA would also consider the proposals which may be referred to it by the FIPB/ the Minister of Finance (in-charge of FIPB).

3.2 It has also been decided that companies may not require fresh prior approval of the Government i.e. Minister in-charge of FIPB/CCEA for bringing in additional foreign investment into the same entity, in the following cases:

(a) Cases of entities whose activities had earlier required prior approval of FIPB/CCFIICCEA and who had, accordingly, earlier obtained prior approval of FIPB/CCFIICCEA for their initial foreign investment but subsequently such activities/sectors have been placed under automatic route;

(b) Cases of entities whose activities had sectoral caps earlier and who had, accordingly, earlier obtained prior approval of FIPB/CCFIICCEA for their initial foreign investment but subsequently such caps were removed/increased and the activities placed under the automatic route; provided that such additional investment alongwith the initial/original investment does not exceed the sectoral caps; and

(c) The cases of additional foreign investment into the same entity where prior approval of FIPB/CCFIICCEA had been obtained earlier for the initial/original foreign investment due to requirements of Press Note 18/1998 or Press Note 1 of 2005 and prior approval of the Government under the FDI policy is not required for any other reason/purpose.