

No.5 (11)/2009-FC
Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion

Udyog Bhavan, New Delhi,
Dated the 16th November, 2009.

OFFICE MEMORANDUM

Subject: Liberalization of the policy on foreign direct investment (FDI) in township, housing, built-up infrastructure and construction-development projects-removal of condition on repatriation period for original investment.

Please find enclosed a copy of the draft note for CCEA containing a proposal for review of cases requiring prior approval of the Liberalization of the policy on foreign direct investment (FDI) in township, housing, built-up infrastructure and construction-development projects-removal of condition on repatriation period for original investment.

2. It is requested that comments on the draft note may kindly be furnished at the earliest, preferably within a fortnight.

Deepak Narain
(Deepak Narain)
Director
011 – 2306 3345

To

1. Department of Economic Affairs,
Ministry of Finance,
(Shri Ashok Chawla, Secretary),
North Block, New Delhi.
2. Planning Commission,
(Ms. Sudha Pillai, Secretary),
Yojana Bhavan, New Delhi.
3. Ministry of Urban Development
(Dr. M. Ramachandran, Secretary)
Nirman Bhavan, New Delhi.
4. Ministry of Housing & Urban Poverty Alleviation
(Ms. Kiran Dhingra, Secretary)
Nirman Bhavan, New Delhi.
5. Prime Minister's Office,
(Ms. Vini Mahajan, Joint Secretary),
South Block, New Delhi.

New Delhi: dated November, 2009

DRAFT NOTE FOR CONSIDERATION OF THE CCEA

Subject: Liberalisation of the policy on foreign direct investment (FDI) in townships, housing, built-up infrastructure and construction-development projects-removal of condition on repatriation period for original investment

1.0 INTRODUCTION

1.1 The integrated townships sector was opened up for Foreign Direct Investment (FDI) and the FDI policy for the sector was notified vide Press Note 4 (2001 Series) dated 21.5.2001 (copy enclosed at Annex- I).

1.2 Vide Press Note 3(2002) dated 4.1.2002 (copy at Annex- II), FDI in the development of integrated townships, including housing and building material, was subjected to a number of conditions, including, *interalia*:

(i) development of 100 acres as minimum area

(ii) development of a minimum of 2000 dwelling units for about 10,000 population to be developed by the investor, in the absence of local bylaws/rules laying down norms and standards for development

(iii) a minimum capitalization of US\$10 million for a wholly owned subsidiary and US\$5 million for joint ventures with Indian partner/s, with the funds to be brought in up-front

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(iv) a minimum lock-in period of three years from completion of minimum capitalization before repatriation of original investment could be permitted and (v) a minimum of 50% of the integrated project development to be completed within a period of 5 years from the date of possession of the first piece of land. However, if the investor intended to exit earlier, due to reasons beyond his control, it would be decided by FIPB on a case-to-case basis.

1.3 The policy was reviewed and vide Press Note 2(2005) dated 3.3.2005 (copy enclosed at Annex-III), FDI up to 100% was allowed on the automatic route, not only for integrated township development, but also for 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 and city and regional level infrastructure). The conditions prescribed for FDI include, *inter-alia*:

- (i) Minimum area to be developed under each project for serviced housing plots to be 10 hectares
- (ii) Minimum area to be developed in the case of construction development projects to be 50000 sq. meters of built-up area
- (iii) Minimum capitalization of US\$ 10 million for a wholly owned subsidiary and US\$ 5 million for joint ventures. The funds would have to be brought in within six months of commencement of business of the Company.

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- (iv) No repatriation of original investment before a period of 3 years from completion of minimum capitalisation. However, the investor could be permitted to exit earlier, with prior approval of the Government through the FIPB.

1.4 Subsequently, vide Press Note 2(2006) and Press Note 4(2006), NRI investment, SEZs, Hotels & Hospitals were exempted from the applicability of Press Note 2(2005). [Copies of Press Notes 2(2006) and 4(2006) are at Annex- IV & V].

2. RATIONALE FOR REVIEW

2.1 The construction development sector has very high investment potential and there is a demand for capital into this activity. This is also a sector with substantial potential for generation of employment. The policy liberalization brought about in 2005 resulted in an increase of FDI inflow into the Construction Development sector from US\$ 151 million in FY 2005-06 to US\$ 2.03 billion in FY 2008-09, whereas the sector had received FDI of only US \$ 284 million between the FYs 2000-01 to 2004-05. Infrastructure development in the construction-development sector is a key area of focus and the Government has initiated various schemes for this purpose. Urbanization has been an important driver of real estate growth in India. According to estimates, the urban population of India will continue to grow at a rate of 2.5% per annum for the next two and a half decades, doubling to 600

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million people by 2030. The shortage of housing in the country's urban areas has increased from 10.56 million in 2001 to 24.71 million in 2007.

2.2 The condition of imposing a minimum period of three years from completion of minimum capitalisation, before permitting repatriation of original investment, was kept as a cautionary measure as the sector was being opened up for FDI and as in many other sectors, there were initial apprehensions of speculative investments in this sector. Such a condition does not exist in any other sector, except defence. It may be noted that there is no lock in condition for portfolio investments. Based on experience, the condition does not appear necessary and as a part of the ongoing process of liberalisation, it is proposed to dispense with this requirement.

3. PRESENT PROPOSAL

3.1 With a view to further encouraging flow of FDI into the construction-development sector by further liberalisation, it is proposed to remove the condition of minimum period for repatriation of the original investment, imposed under paragraph b(ii) of Press Note 2 (2005).

3.2 All other conditions specified in Press Note 2(2005) would continue to be applicable for such projects.

**4.0 CONSULTATION WITH CONCERNED MINISTRIES/
DEPARTMENTS.**

The proposal has been circulated to the Ministry of Urban Development, Ministry of Housing and Urban Poverty Alleviation, Department of Economic Affairs and Planning Commission, whose comments are at *Annexure (to be enclosed upon receipt)*.

5.0 APPROVAL SOUGHT

5.1 Approval of the CCEA is sought to liberalise the policy for FDI in the Construction Development projects as detailed in paragraph 3 above.

6.0 A copy of the CCEA Note has also been forwarded to the PMO.

7.0 The implementation schedule is at **Appendix-1**.

8.0 This note has the approval of Minister of Commerce & Industry.

(GOPAL KRISHNA)
Joint Secretary to the Government of India
Telephone: 23062983

Appendix

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: Liberalisation of the policy on foreign direct investment (FDI) in the Construction development sector

Gist of decision Required	Project benefit/ Results	Time schedule for implementation/ manner of reporting to Cabinet Secretariat
<p>To make the following changes in the FDI policy for construction development projects:</p> <p>(i) to remove the condition of minimum period for repatriation of the original investment, imposed under paragraph b(ii) of Press Note 2 (2005)</p> <p>(ii) All other conditions specified in Press Note 2(2005) would continue to be applicable for such projects.</p>	<p>It will encourage FDI into the high priority construction-development sector.</p>	<p>On approval, the revised Press Note will be issued within a month.</p>

(GOPAL KRISHNA)
Joint Secretary to the Government of India
Telephone: 23062983