

consultation with the Forward Markets Commission by the Central Government, but does not include securities.

5.21.3 Policy for foreign investment in Commodity Exchanges

- (i) There is composite ceiling of 49% for foreign investment under Government route as follows:
 - (a) Investment upto 26% as Foreign Direct Investment (FDI) under the FDI Scheme incorporated as Schedule 1 under regulation 5 (1) of the Foreign Exchange Management (Transfer or Issue of Security By a Person Resident Outside India) Regulations, 2000 (FEMA Regulations)
 - (b) Investment upto 23% by registered FII under the Portfolio Investment Scheme incorporated as Schedule 2 under Regulation 5(2) of the FEMA Regulations,
- (ii) FII purchases shall be restricted to secondary market only.
- (iii) No foreign investor/ entity, including persons acting in concert, will hold more than 5% of the equity in these companies.

✓ 5.22 Construction and maintenance

5.22.1 100% FDI is allowed under the automatic route in Construction and maintenance of roads, rail-beds, bridges, tunnels, pipelines, ropeways, runways, waterways & water reservoirs, hydroelectric projects, power plants and industrial plants.

5.22.2 100 % FDI is allowed under the automatic route in construction and maintenance of Roads and highways offered on BOT basis including collection of toll.

5.22.3 100 % FDI is allowed under the automatic route in construction and maintenance of Rural Drinking Water Supply Projects, Package Water Treatment Plants, Rain and Rain Water Harvesting Structures, Waste-Water Recycling And Re-Use Techniques And Facilities, Rain-Water Re-Charging And Re-Use Techniques Of Ground Water.

5.22.4 **Ports and Harbours:** 100% FDI is allowed under the automatic route for:

- (i) Leasing of existing assets of ports
- (ii) Construction/creation and maintenance of assets such as-container terminals bulk/break bulk/multipurpose and specialized cargo berths, warehousing, container freight stations, storage facilities and tank farms, cranes/ handling equipment, setting up of captive power plants, dry docking and ship repair facilities.
- (iii) Leasing of equipment for port handling and leasing of floating crafts

(iv) Captive facilities for port based industries.

5.22.5 FDI upto 100% is permitted on the automatic route for **Mass Rapid Transport Systems** in all Metropolitan Cities including associated commercial development of real estate. The conditions at para 5.23.1, 5.23.2 and 5.23.3 would not apply.

5.23 Development of Townships, Housing, Built-up infrastructure and Construction-development projects.

5.23.1 FDI up to 100% under the automatic route in 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) is allowed subject to the following guidelines:

Minimum area to be developed under each project would be as under:

- (i) In case of development of serviced housing plots, a minimum land area of 10 hectares
- (ii) In case of construction-development projects, a minimum built-up area of 50,000 sq.mts
- (iii) In case of a combination project, any one of the above two conditions would suffice

5.23.2 The investment would further be subject to the following conditions:

- (j) 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.
- (ii) Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.

5.23.3 At least 50% of the 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 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.

5.23.4 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.

5.23.5 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.

5.23.6 The State Government/ Municipal/ Local Body concerned, which approves the building / development plans, would monitor compliance of the above conditions by the developer.

5.23.7 The conditions as at paras 5.23.1, 5.23.2 and 5.23.3 would not apply to Hotels & Tourism, Hospitals and SEZ's.

5.23.8 For investment by NRIs, the conditions at paras 5.23.1, 5.23.2 and 5.23.3 would not apply.

5.23.9 100% FDI is allowed under the automatic route in development of Special Economic Zones (SEZ) without the conditionalities at paras 5.23.1, 5.23.2 and 5.23.3 above. This will be subject to the provisions of Special Economic Zones Act 2005 and the SEZ Policy of the Department of Commerce.

5.23.10 FDI is not allowed in Real Estate Business.

5.24 Courier services for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898.

5.24.1 100% FDI is allowed under the Government route.

5.24.2 This will be subject to existing Law i.e Indian Post Office Act 1898 and exclusion of activity relating to the distribution of letters.

5.25. Credit Information Companies (CIC)

5.25.1 Foreign investment in Credit Information Companies is subject to the Credit Information Companies (Regulation) Act, 2005.

5.25.2 Foreign investment consisting of FDI and FII upto 49% is permitted under the Government route, subject to regulatory clearance from RBI.

5.25.3 Investment by a registered FII under the Portfolio Investment Scheme would be permitted up to 24% only in the CICs listed at the Stock Exchanges, within the overall limit of 49% for foreign investment.

5.25.4 Such FII investment would be permitted subject to the conditions that:

- (a) No single entity should directly or indirectly hold more than 10% equity.
- (b) Any acquisition in excess of 1% will have to be reported to RBI as a mandatory requirement; and

(c) FIIs investing in CICs shall not seek a representation on the Board of Directors based upon their shareholding.

5.26 Health and Medical Services: 100% FDI is allowed under the automatic route

5.27 Hotels and Tourism related Industry

5.27.1 100% Foreign Investment is allowed under automatic route.

5.27.2 The terms hotel includes restaurants, beach resorts and other tourism complexes providing accommodation and /or catering and food facilities to tourists. The term tourism related industry includes:

- (i) Travel agencies, tour operating agencies and tourist transport operating agencies
- (ii) Units providing facilities for cultural, adventure and wildlife experience to tourists
- (iii) Surface, air and water transport facilities for tourists
- (iv) Convention/seminar units and organizations

5.28 Industrial Parks - both setting up and already established Industrial Parks

5.28.1 FDI up to 100% is permitted under the automatic route in Industrial Parks.

5.28.2 FDI up to 100% on the automatic route is allowed in Construction development projects, etc. prescribing therein, inter-alia, the conditions for minimum capitalization, minimum area requirements and lock-in of original investment as per para 5.23 above.

5.28.3 For the purposes of this chapter:

- (i) "Industrial Park" is a project in which quality infrastructure in the form of plots of developed land or built up space or a combination with common facilities, is developed and made available to all the allottee units for the purposes of industrial activity.
- (ii) "Infrastructure" refers to facilities required for functioning of units located in the Industrial Park and includes roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air conditioning.
- (iii) "Common Facilities" refer to the facilities available for all the units located in the industrial park, and include facilities of power, roads (including approach roads), water supply and sewerage, common effluent treatment, common testing, telecom services, air conditioning, common facility buildings, industrial canteens, convention/conference halls, parking, travel

desks, security service, first aid center, ambulance and other safety services, training facilities and such other facilities meant for common use of the units located in the Industrial Park.

(iv)“Allocable area” in the Industrial Park means-

(a) in the case of plots of developed land- the net site area available for allocation to the units, excluding the area for common facilities.

(b) in the case of built up space- the floor area and built up space utilized for providing common facilities.

(c) in the case of a combination of developed land and built-up space- the net site and floor area available for allocation to the units excluding the site area and built up space utilized for providing common facilities.

(v) “Industrial Activity” means manufacturing, electricity, gas and water supply, post and telecommunications, software publishing, consultancy and supply, data processing, database activities and distribution of electronic content, other computer related activities, Research and experimental development on natural sciences and engineering, Business and management consultancy activities and Architectural, engineering and other technical activities.

5.28.4 FDI up to 100% under the automatic route is allowed both in setting up new and in established industrial parks and would not be subject to the conditionalities applicable for construction development projects etc. spelt out in Para 5.23 above provided the Industrial Parks meet with the under-mentioned conditions:

(i) it would comprise of a minimum of 10 units and no single unit shall occupy more than 50% of the allocable area;

(ii) the minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.

5.29 Insurance

5.29.1 FDI up to 26% in the Insurance sector, as prescribed in the Insurance Act, 1999, is allowed under the automatic route.