

Liberalization of FDI norms in Construction Development Sector

October 31, 2014

In brief

The Union Cabinet, chaired by the Prime Minister, Shri Narendra Modi, has approved a proposal for amending the existing Foreign Direct Investment (FDI) policy on 'Construction Development Sector', permitted up to 100% under automatic route, in line with the Budget announcement on July 10, 2014.

In detail

Key Amendments

- No minimum land area requirement for serviced plots
- For construction-development projects, area requirement linked to floor area as against built-up area.
- Minimum FDI window of 6 months to start from the date of approval of the building plan/ layout plan by the relevant statutory authority
- EXIT permitted under automatic route after completion of project or after 3 years from date of final investment subject to development of trunk infrastructure
- Foreign Investment Promotion Board approval on a case to case basis for transfer
- By a non-resident investor to another non-resident investor
- Repatriation of FDI before the completion of the project
- Project constituting minimum 30 percent of the total project cost for low cost affordable housing exempted from minimum area and FDI requirements.

Comparative analysis

Particulars	Existing policy	Revised policy
Minimum area requirement	Serviced plots – 10 hectares Construction-development projects- built up area of 50,000 sq mts	Serviced plots - No minimum area requirement Construction development projects - floor area of 20,000 sq mts
Minimum FDI	US \$10 million for wholly owned subsidiaries US \$ 5 million for joint ventures	US \$ 5 million in all cases
Time limit for induction of minimum FDI	6 months of commencement of business of the Company	6 months of commencement of project i.e. from the approval date of the building plan/ layout plan by the relevant statutory authority

Particulars	Existing policy	Revised policy
Time limit for induction of minimum FDI	6 months from commencement of business of the Company	6 months from commencement of project i.e. from the approval date of the building plan/ lay out plan by the relevant statutory authority
Cut-off date for balance investment	No Limit	Subsequent tranches of FDI can be brought till the period of ten years from the commencement of the project or before the completion of the project, whichever expires earlier.
Exit under automatic route	3 years from completion of minimum capitalisation or from the date of receipt of each installment/ tranche of FDI, whichever is later	Completion of project or after 3 years from date of final investment subject to subject to development of trunk infrastructure
Repatriation of FDI/ NR-NR transfer of stake	Not provided in the regulation	Approval route (on case to case basis)
Exceptions/ Exclusions	Hotels and tourist resorts; investment by NRIs not subject to minimum land, capital and exit conditions.	Same as earlier with the addition of a project with 30% cost allocation for low cost affordable housing.
100 percent FDI under the automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres.		

The takeaway

This new initiative will boost funds in starved sectors and will meet the Government agendas of housing for all and job enhancement. By reducing the minimum area and capital requirement, this sector will attract small investors and larger penetration in tier-2 and tier-3 cities. Additionally, a window has been given for exit by foreign investors before completion of projects. However, due to ambiguity in domestic regulation on what could constitute completion of project, there could be a risk exposure to foreign investors.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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