

# ***Ministry of Finance issues framework for obtaining government approval post abolition of Foreign Investment Promotion Board***

*June 07, 2017*

## ***In brief***

The Union Cabinet on 24 May, 2017, had approved the abolition of the Foreign Investment Promotion Board (FIPB). Upon abolition, the process for approving foreign investment was proposed to be dealt with by the concerned administrative ministries/ department. In this regard, the Ministry of Finance (MoF) on 05 June, 2017, has issued an Office Memorandum, listing the concerned administrative ministry/ department for 11 notified sectors/ activities requiring government approval under the Foreign Direct Investment (FDI) policy.

## ***In detail***

### ***Administrative ministries responsible going forward to accord approval under the FDI policy***

<b><i>S. No.</i></b>	<b><i>Sector/ Activity</i></b>	<b><i>Administrative ministry/ department</i></b>
1.	Mining	Ministry of Mines
2.	Defence	Department of Defence Production, Ministry of Defence
2A.	Cases relating to FDI in small arms	Ministry of Home Affairs (MHA)
3.	Broadcasting	Ministry of Information and Broadcasting (MIB)
4.	Print media	MIB
5.	Civil aviation	Ministry of Civil Aviation
6.	Satellites	Department of Space
7.	Telecom	Department of Telecommunications, Ministry of Communications
8.	Private security agencies	MHA
9.	Trading (single and multi-brand and food products retail trading)	Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce & Industry

S. No.	Sector/ Activity	Administrative ministry/ department
10A.	Financial services not regulated by a regulator or if there is more than one regulator or in respect of which there is doubt about the regulator. (As per FDI policy)	Department of Economic Affairs (DEA), MoF
10B.	Banking (public and private) (As per FDI Policy)	Department of Financial Services, MoF
11.	Pharmaceuticals	Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers

**Cases not falling under the automatic route of FDI policy, in which DIPP will be the administrative ministry**

- Investments by non-resident Indians (NRIs)/ export oriented units (EOUs).
- Issue of equity shares against import of capital goods/ machinery/ equipment (excluding second-hand machinery).
- Issue of equity shares against pre-operative/ pre-incorporation expenses (including payments of rent, etc.).
- Where there is doubt about the administrative ministry concerned, the DIPP shall identify the concerned administrative ministry/ department.
- Concurrence of DIPP mandatory for applications proposed to be rejected by the administrative ministry or where approval is proposed, subject to additional conditions not provided in the FDI policy.

**Cases in which the DEA will be the administrative ministry/ department**

- Investment into core investment company or an Indian company engaged only in the activity of investing in the capital of other Indian company(ies).

- Investing company irrespective of the sector in which the investment is being made.

**Approval required from MHA**

- For matters under the automatic route, where the investments are from countries of concern, it will be processed by the MHA.
- Cases under approval route requiring security clearance may be processed by the nodal administrative ministries/ department in consultation with MHA.

**Standard operating procedure (SoP)**

- DIPP to issue SoP to help administrative ministries process FDI proposals.
- The SOP shall involve the process of inter-ministerial consultations for the examination of FDI proposals, where necessary.
- SoP to recognise that ordinarily, FDI applications, including those related to NRI/ EOU, food processing, single brand retail trading (SBRT) and multi brand retail trading (MBRT) to be decided in 60 days.

**Administrative handover**

- All pending FIPB applications, past and existing files of matters

handled by FIPB shall be transferred to the respective administrative ministry/ department by the DIPP.

- Monitoring of compliance of conditions under the FDI approvals, including the past cases approved by FIPB, shall be done by the concerned administrative ministries/ departments.
- All past, present and future litigations and liabilities, in various courts and adjudicatory forums in relation to the approvals of the government shall be handled by the respective administrative ministry/ department.
- RTI applications and appeals pending with the FIPB Secretariat shall be transferred to the respective administrative ministry/ department.
- The management and responsibility for running the website, i.e., fipb.gov.in. shall be transferred to the DIPP.
- A joint quarterly review meeting will be undertaken by a committee co-chaired by the Secretary, DEA and the Secretary, DIPP on pendency of proposals with the government. The secretary of the concerned administrative ministry/ department may

also be invited to attend the meeting.

- The applications requiring approval of the government shall continue to be received by the existing FIPB portal, the oversight of which shall

be transferred to the DIPP from the DEA within four weeks.

- The administrative ministry/ department will seek approval of the Minister-in-charge/ Cabinet Committee

on Economic Affairs (CCEA) on the application, as per the existing FDI policy.

***Let's talk***

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor.

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