

11 May, 2011

Approval for FDI in Limited Liability Partnership firms

The Cabinet Committee on Economic Affairs today approved the proposal to amend the policy on allowing Foreign Direct Investment (FDI) in Limited Liability Partnership (LLP) firms.

The FDI in LLPs will be implemented in a calibrated manner, beginning with the 'open' sectors where monitoring is not required, subject to the following conditions:

(a) LLPs with FDI will be allowed, through the Government approval route, in those sectors/activities where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance related conditions.

(b) LLPs with FDI will not be allowed to operate in agricultural/plantation activity, print media or real estate business.

(c) LLPs with FDI will not be eligible to make any downstream investments.

There are also further following conditions relating to funding, ownership and management of LLPS:

I. Funding of LLPs:

(a) An Indian company, having FDI, will be permitted to make downstream investment in LLPs only if both the company, as well as the LLP are operating in sectors where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance related conditions.

(b) Foreign Capital participation in the capital structure of the LLPs will be allowed only by way of cash considerations, received by inward remittance, through normal banking channels, or by debit to NRE/FCNR account of the person concerned, maintained with an authorized dealer/authorized bank; and

(c) Foreign Institutional Investors (FIIs) and Foreign Venture Capital Investors (FVCIs) will not be permitted to invest in LLPs. LLPs will also not be permitted to avail External Commercial Borrowings (ECBs.)

II. Ownership and management of LLPs:

(a) For the purpose of determination of the designated partners in respect of LLPs with FDI, the term "resident in India" would have the meaning, as defined for "person resident in India", under Section 2(v) (i) (A) & (B) of the Foreign Exchange Management Act, 1999;

(b) In case the LLP has a body corporate as a designated partner, the body corporate should only be a company registered under the Companies Act and not any other body, such as an LLP or a trust.

III. Conversion of a company with FDI into an LLP will be allowed only if the above stipulations are met and with the prior approval of FIPB/Government.

IV. The designated partners will be responsible for compliance with the above conditions and liable for all penalties imposed on the LLP for their contravention.

Presently, FDI is allowed in Indian companies. It is allowed in a firm or a proprietary concern, subject to certain conditions. FDI in a trust is also allowed with prior Government approval, provided it is a Venture Capital Fund (VCF).

The CCEA's approval will benefit the Indian economy by attracting greater FDI, creating employment and bringing in international best practices and latest technologies in the country.

The Limited Liability Partnership Act, 2008 (LLP Act) was notified in April, 2009. With the passage of this Act, a new hybrid entity, incorporating the features of a body corporate and a partnership, can now be formed for the purpose of undertaking business in India.
