

**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Industrial Policy & Promotion**  
**(FC-I Section)**

**Press Note No. 2 (2012 Series)**

**Subject:** Downstream investment by a banking company incorporated in India, which is owned and/or controlled by non-residents/ a non-resident entity/non-resident entities - Insertion of a Note below paragraph 3.10.4.1 of 'Circular 1 of 2012-Consolidated FDI Policy'

**1.0 Present Position:**

- 1.1 Paragraph 3.10.4.1 of 'Circular 1 of 2012- Consolidated FDI Policy' dated 10.04.2012, relating to downstream investment by an Indian company, which is owned and/or controlled by non -resident entity/ies, states as under:

*Downstream investment by an Indian company, which is owned and/ or controlled by non-resident entity/ies, into another Indian company, would be in accordance/compliance with the relevant sectoral conditions on entry route, conditionalities and caps, with regard to the sectors in which the latter Indian company is operating.*

- 1.2 Paragraph 4.1.3(ii) of the abovementioned Circular *interalia* states as under:

**Counting of indirect foreign Investment:**

*(a) The foreign investment through the investing Indian company would not be considered for calculation of the indirect foreign investment in case of Indian companies which are 'owned and controlled' by resident Indian citizens and/or Indian Companies which are owned and controlled by resident Indian citizens.*

*(b) For cases where condition (a) above is not satisfied or if the investing company is owned or controlled by 'non resident entities', the entire investment by the investing company into the subject Indian Company would be considered as indirect foreign investment, provided that, as an exception, the indirect foreign investment in only the 100% owned subsidiaries of operating-cum-investing/investing companies, will be limited to the foreign investment in the operating-cum-investing/ investing company.*

**2.0 Revised Position:**

The Government of India has reviewed the policy relating to calculation of downstream investments by a banking company incorporated in India, which is owned and/or controlled by non-residents/ a non-resident entity/non-resident entities.

- 3.0 Accordingly, the following amendment is made in 'Circular 1 of 2012- Consolidated FDI Policy', dated 10.04.2012, issued by the Department of Industrial Policy & Promotion:

**Insertion of a Note below paragraph 3.10.4.1:**

A new Note below paragraph 3.10.4.1 is inserted as below:

**Note: Downstream investment/s made by a banking company, as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949, incorporated in India, which is owned and/or controlled by non-residents/ a non-resident entity/non-resident entities, under Corporate Debt Restructuring (CDR), or other loan restructuring mechanism, or in trading books, or for acquisition of shares due to defaults in loans, shall not count towards indirect foreign investment. However, their 'strategic downstream investment' shall count towards indirect foreign investment. For this purpose, 'strategic downstream investments' would mean investment by these banking companies in their subsidiaries, joint ventures and associates.**

- 4.0 The above decision will take immediate effect.

  
(Anjali Prasad)

**Joint Secretary to the Government of India**

D/o IPP File No.: 12/7/2008-FC-I dated: 31<sup>st</sup> July, 2012

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