



FDI Policy Amended to incorporate 100% FDI in Insurance Intermediaries

The Government of India had increased the foreign direct investment (“FDI”) limit in insurance intermediaries to 100% by notifying the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019 (“Foreign Investment Amendment Rules”) on September 2, 2019. Further, on October 30, 2019, the Insurance Regulatory and Development Authority of India (“IRDAI”) notified the IRDAI (Insurance Intermediaries) (Amendment) Regulations, 2019 (“IRDAI Amendment Regulations”), by way of which the ‘Indian ownership and control’ requirement was removed entirely for insurance intermediaries and certain additional clarifications were provided with respect to insurance intermediaries with majority foreign investors.

Now, the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry released Press Note No. 1 (2020 series) (“Press Note”) on February 21, 2020 to amend the Consolidated FDI Policy of 2017 (“FDI Policy”) and incorporate the changes made by the Foreign Investment Amendment Rules.

Key Features of the Press Note

- The Press Note reiterates that FDI up to 100% is permitted for intermediaries or insurance intermediaries including insurance brokers, re-insurance brokers, insurance consultants, corporate agents,

third party administrators, surveyors and loss assessors and such other entities as may be notified by the IRDAI.

- The FDI proposals for these insurance intermediaries would be under the automatic route, subject to verification by the IRDAI.
- The Press Note also expressly clarifies that the ‘Indian owned and controlled’ requirement is no longer applicable to insurance intermediaries.
- The extant requirements of the Reserve Bank of India (“RBI”) and the Securities and Exchange Board of India continue to apply to foreign portfolio investment in insurance intermediaries. Further, any increase in FDI remains subject to the RBI’s pricing guidelines.
- Insurance intermediaries with majority shareholding by foreign investors, are required to provide undertakings similar to those under the Foreign Investment Amendment Rules.

Though not specifically mentioned in the Press Note, the additional conditions, (i) requiring a majority of directors and key management persons to be resident Indian citizens, and (ii) imposing limits on payments to related parties, which were prescribed under the IRDAI Amendment Regulations, will also apply to insurance intermediaries with majority shareholding by foreign investors.

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The Press Note has also been forwarded to the RBI and the Department of Economic Affairs for suitably incorporating policy changes in the Foreign Exchange Management (Non-Debt Instrument) Rules, 2019. Thus, the

Foreign Exchange Management (Non-Debt Instrument) Rules, 2019, will also be amended shortly to incorporate the above changes, to ensure uniformity in all laws pertaining to the FDI regime of insurance intermediaries.

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