

No. 1/8/2016-~~FC-1~~FDI
Policy Government of
India
Ministry of Commerce & Industry
Department of Industrial Policy &
Promotion

~~29th of June, 2017~~9th November, 2020

Standard Operating Procedure (SOP) for Processing FDI Proposals

I. Online Filing of Application

1. Proposals for foreign investment in sectors/activities requiring Government approval as per the Consolidated FDI Policy ~~Circular of 2016, as amended from time to time,~~ dated 15.10.2020, as amended from time to time (**FDI Policy**) and **Foreign Exchange Management (Non-Debt Instrument) Rules, 2019** dated 17.10.2019, as amended from time to time (**FEM Non-Debt Instrument Rules 2019**) would be filed online ~~on~~through the ~~revamped FIPB portal, rechristened as~~ Foreign Investment Facilitation Portal (**FIFP**).
2. The applicant would be required to submit the proposal for foreign investment in terms of the guidelines and requirements under the FDI Policy, Standard Operating Procedure for processing FDI proposals, as amended from time to time (SOP) and FIFP. The applicant shall make the application as per the format as available on and requirements under the portal FIFP and upload documents as per the list at **Annexure-1**.
3. After ~~the proposals area~~ proposal is filed online, ~~DIPP~~DPIIT will identify the concerned Administrative Ministry/Department and e-transfer the proposal within two (02) days to the concerned Administrative Ministry/Department (**Competent Authority**) ~~within 2 days~~for processing and disposal of the case.
- 3.1 In case of digitally signed applications, the applicant is not required to submit any physical copy with the ~~competent authority. For~~Competent Authority. However, for applications which are not digitally signed, ~~DIPP~~DPIIT would inform the applicant through online communication to submit one signed physical copy of the proposal to the Competent Authority. Applicant would be required to submit the signed physical copy of the application within ~~5~~seven (7) days of such communication from ~~DIPP~~DPIIT. If no physical copy of the application is received within seven (07) days of the said communication, additional seven (07) days may be provided by Competent Authority to submit the physical copy of the application. In case the signed physical copy of the application is not submitted to the Competent Authority within fourteen (14) days of the initial communication from

[DPIIT to the applicant, the proposal would be treated as closed.](#)

3.2 Calculation of time limits for disposal of applications would be with reference to the date of filing of online application. However, if the signed physical copy [of the application](#) is not filed with the Competent Authority within [707 \(seven\)](#) days of the communication from ~~DIPP~~[DPIIT to the applicant](#), the date of filing of the physical application would be reckoned as the reference date for calculation of time limits.

II. Competent Authorities for Approval / [Rejection](#) of Foreign Investment

- Following are the Competent Authorities for grant of ~~approval~~ [for Approval/Rejection of](#) foreign investment ~~for sectors/activities~~[proposals](#) requiring Government approval:

S. No.	Activity/ sector	Administrative Ministry/ Department
(i)	Mining	Ministry of Mines
(ii)	Defence	
	a) Items requiring Industrial Licence under the Industries (Development & Regulation) Act, 1951, and/or Arms Act, 1959 for which the powers have been delegated by Ministry of Home Affairs to DIPP DPIIT	Department of Defence Production, Ministry of Defence
	b) Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959	Ministry of Home Affairs
(iii)	Broadcasting	Ministry of Information & Broadcasting
(iv)	Print Media and Digital Media	
(v)	Civil Aviation	Ministry of Civil Aviation
(vi)	Satellites	Department of Space
(vii)	Telecommunication	Department of Telecommunications
(viii)	Private Security Agencies	Ministry of Home Affairs

(ix) (a)	<p><u>Applications arising out of Press Note 3 of 2020 dated 17.04.2020 read with Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2020 dated 22.04.2020 as under:</u></p> <p>(A) <u>investments from an entity of a country</u></p>	<p><u>Concerned Administrative Ministry/Department</u> <u>as</u> <u>identified by the DPIIT</u></p>
	<p><u>which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.; and/ or</u></p> <p>(B) <u>transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction/ purview of Para 3.1.1(a) of the FDI Policy.</u></p>	
(ix)(b)	<p>Applications involving investments from Countries of Concern which presently include Pakistan and Bangladesh <u>Cases pertaining to Government approval route</u> <u>sectors/activities</u>, requiring security clearance as per the extant FEMA 20 <u>Regulations</u>, FDI Policy and security guidelines, <u>as</u> amended from time to time</p>	<p><u>Nodal Administrative Ministries / Departments</u></p>
(x)	<p>Trading (Single, Multi brand and Food Product Retail Trading)</p>	<p>Department of Industrial Policy & for <u>Promotion of Industry and Internal Trade</u></p>
(xi)	<p>FDI proposals by Non-Resident Indians (NRIs)/ Export Oriented Units (EOUs)</p>	

	requiring approval of the Government	<u>Concerned Administrative Ministry / Department as identified by the DPIIT.</u>
(xii)	Application relating to issue of equity shares under the FDI policy <u>Policy</u> under the Government route for import of capital goods/machinery/ equipment (excluding second-hand machinery)	Department of Industrial Policy & Promotion
(xiii)	Applications relating to issue of equity shares for pre-operative/pre-incorporation expenses (including payments of rent etc.)	
(xiv)	Financial services which are not regulated by any Financial Sector Regulator or where only part of the financial services activity is regulated or where there is doubt regarding the regulatory oversight	Department of Economic Affairs
	<u>regulated or where there is doubt regarding the regulatory oversight</u>	<u>Department of Economic Affairs</u>
(xv)	Applications for foreign investment into a Core Investment Company or an Indian company engaged only in the activity of investing in the capital of other Indian Company/ies	
(xvi)	Banking (Public and Private)	Department of Financial Services
(xvii)	Pharmaceuticals	Department of Pharmaceuticals

2. In respect of sectors/activities which are presently under the automatic route but required Government approval earlier as per the extant policy during the relevant period, concerned administrative Ministry/Department, as identified by DPIIT, would be the Competent Authorities for the grant of post-facto approval for foreign investment. Further, the concerned administrative Ministry/Department, as identified by the DPIIT, would be the Competent Authority in respect of proposals requiring prior Government approval pursuant to any amendment(s) under the FDI Policy and/or FEM Non-Debt Instrument Rules 2019 or any other reason.

3. In respect of applications in which there is a doubt as to which is the concerned

Administrative Ministry/Department, ~~DIPP~~DPIIT shall identify the Administrative Ministry/Department where the application will be processed for decision.

III. Procedure for Processing of Applications Seeking Approval for Foreign Investment

1. Competent Authorities shall not replicate an inter-Ministerial body in respective Ministries/Departments to grant approval for foreign investment. ~~New~~The regime for disposal of foreign investment proposals needs to be simpler in execution and expeditious in disposal.
2. Once ~~the~~a proposal is received, same shall be circulated online within ~~2~~two (02) days by ~~DIPP~~DPIIT to Reserve Bank of India (RBI) for comments from ~~FEMA~~the perspective of Foreign Exchange Management Act, 1999 (42 of 1999) and rules/regulations thereunder (FEMA). Proposals for foreign investment ~~in sectors~~ requiring security clearance would additionally be referred to Ministry of Home Affairs (MHA) for comments. Further, all proposals would be forwarded to Ministry of External Affairs (MEA) ~~and Department of Revenue (DoR)~~ for information. MEA ~~and DoR~~ may give their comments within the stipulated time period, wherever necessary. All comments will be given directly to the concerned Administrative Ministry/Department.
3. Following proposals will require security clearance from ~~Ministry of Home Affairs~~MHA:
 - i. Investments in Broadcasting, Telecommunication, Satellites - establishment and operation, Private Security Agencies, Defence, Civil Aviation and Mining & mineral separation of titanium bearing minerals and ores, its value addition and integrated activities.
 - ii. Applications arising out of Press Note 3 of 2020 dated 17.04.2020 read with Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2020 dated 22.04.2020 as under:
 - a) ~~Investments from Pakistan and Bangladesh~~investments from an entity of a country which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment; and/or
 - b) transfer of ownership of any existing or future FDI in an entity in India,

restriction/purview of Para 3.1.1(a) of the FDI Policy.

4. Specific issues of proposals requiring clarification from the point of view of FDI ~~policy~~Policy may be referred to ~~DIPP~~DPIIT for clarification with the approval of Secretary of the concerned Administrative Ministry/Department. Consultation with ~~DIPP~~DPIIT will hence be need based and not routine ~~and/or~~ regular. ~~DIPP~~DPIIT will provide clarification within ~~15-days~~two (02) weeks on specific issues of FDI ~~policy~~Policy as may be referred by the Competent Authority.
5. Consultation with any other Ministry/Department will require full justification and approval of ~~the~~ Secretary of the concerned Administrative Ministry/Department. Further, in order to take appropriate decision on delayed FDI proposals and those escalated by the processing Ministry/Department concerned for quicker disposal, an inter-ministerial committee has been constituted, consisting of Secretaries from Department for Promotion of Industry and Internal Trade, Department of Economic Affairs, Ministry of Corporate Affairs, Ministry of Home Affairs, concerned administrative Ministry/ Department and representatives from RBI and NITI Aayog to examine and guide the concerned Administrative Ministry/department to process such proposals for timely disposal.
6. Ministries/Departments consulted on the proposal shall upload their comments on the portal within ~~4~~four (04) weeks from the online receipt of the proposal. In case comments of consulted Ministries/Departments/Regulatory Bodies are not received within the stipulated time, it would be presumed that they have no comments to offer. Comments by ~~Ministry of Home Affairs~~MHA on proposals for investment in sectors requiring security clearance would be provided to the Competent Authority within ~~6~~six (06) weeks from the online receipt of such proposals. In cases where MHA is not in a position to provide its comments with ~~6~~six (06) weeks, it will intimate the concerned administrative Ministry/Department of the expected time frame within which MHA would be able to give its comments.
7. The Competent Authority shall, within ~~1~~one (01) week, scrutinize the proposal and documents attached therewith and ask the applicant for relevant additional information/documents, if so required. All such queries shall be made online/emailed to the applicant so as to avoid delay. If no clarifications to the queries are received within ~~1~~one (01) week, the applicants shall be reminded to expedite their clarifications within next seven (07) days, failing which a final reminder may be issued to the applicant to provide the information in seven (07) days before closing the application due to incomplete/inadequate information/documents from the applicant. To the extent possible, all queries to the applicant shall be raised by the competent authority in the initial communication itself. Time taken by the applicant in addressing the queries raised by the Competent Authority will be excluded from the time limits for disposal of proposal.

8. While examining the proposals, adequate care has to be exercised keeping in view the ~~extant~~ FDI Policy, Press Notes, FEMA/RBI Notifications/Guidelines issued from time to time. The Competent Authority should take into consideration the sectoral requirements and the sectoral policies vis-à-vis the proposals.
9. Once the proposal is complete in all respects, which should not be later than six weeks/eight weeks (in cases where comments of ~~Ministry of Home Affairs~~ MHA have been sought from security clearance point of view) from the receipt of the proposal, the Competent Authority shall, within the next ~~two~~ four (04) weeks, process the proposal for decision and convey the same to the applicant. Approval/rejection letters will be sent online by the Competent Authority to the applicant, consulted Ministries/Departments and ~~DIPP~~ DPIIT.
10. In case of proposals involving total foreign equity inflow of more than Rs ~~5000~~ 5,000 crore, Competent Authority shall place the same for consideration of Cabinet Committee on Economic Affairs (CCEA) within the above timelines. After the receipt of the decision of ~~Cabinet Committee on Economic Affairs~~ CCEA, ~~approval~~ letter conveying decision shall be issued within ~~4~~ one (01) week.
11. In respect of proposals where the Competent Authority proposes to reject the proposals or in cases where conditions for approval are stipulated in addition to the conditions laid down in the FDI ~~policy~~ Policy or sectoral laws/regulations, concurrence of ~~DIPP~~ DPIIT shall compulsorily be sought by the Competent Authority within ~~8~~ ten (10) weeks/~~40~~ twelve (12) weeks (in cases where comments of ~~Ministry of Home Affairs~~ MHA have been sought from security clearance point of view) from the receipt of the proposal. The following may be noted by all administrative Ministries/ Departments:

11 (a) Wherein the FDI applications are incomplete i.e., either the applicant has not submitted requisite documents/ information or the applicant has not submitted the physical copy of the proposal: In such cases, the concerned Administrative Ministry/ Department need not seek concurrence of DPIIT for closure of the proposal. However, prior concurrence of DPIIT is required for rejecting the proposal after the applicant has submitted all necessary documents and the administrative Ministry/ Department, after examining the proposal, proposes to reject it. It should be noted that closure of FDI application will not amount to its rejection and is without prejudice to the applicant re-applying with all requisite documents. While closing the FDI applications, the applicant may be advised to apply afresh along with all requisite documents, if they so wish. The Competent Authority for the closure of the FDI proposal, due to inadequate/incomplete information/documents would be Secretary of the concerned Administrative Ministry/Department.

Government / FIPB approval, concurrence of DPIIT is being sought to reject such amendment applications and to ask the applicant to file a fresh application: In such cases, the applicant should not be asked to apply afresh, as all information about them except the amendment request and details connected thereto, are already with concerned Ministry/Department. An application filed through FIFP seeking amendment(s) to earlier approvals is to be considered as a valid application and this does not require a fresh application.

11 (c) Wherein NCLT / competent authority is yet to approve the scheme in respect of acquisition of shares under Scheme of Merger / Demerger / Amalgamation and concurrence of DPIIT is being sought to reject the application: From the foreign investment regulatory perspective, the acquisition of shares under scheme of mergers/demergers/ amalgamations of companies in India are laid down in Para 4 of Annexure-4 under the FDI Policy and Rule 19 of FEM Non-Debt Instrument Rules 2019. It may be noted that approval of NCLT/competent authority, as applicable, is a necessary pre-condition for issuance of shares consequent to a merger or amalgamation of two or more Indian companies or a reconstruction by way of demerger or otherwise of an Indian company.

Therefore, with regard to proposals involving mergers/demergers/amalgamations of companies in India, approval(s) of NCLT/competent authority as applicable and required under Companies Act, 2013 and rules thereunder and/or any other rules/regulations, needs to be obtained before the grant of FDI approval in such cases. In case the relevant approval(s) of NCLT/competent authority is not available, the applicant may be advised to resubmit the application along with requisite approval(s), when available. Till then, the application may be treated as closed.

11(d) Wherein the Competent Authority is seeking DPIIT's concurrence for conditions concerning compounding under FEMA provisions and / or compliance of laws / regulations of the land or court orders:

With regard to the above, it may be noted that:

(i) Imposition of any penal or compounding provisions for violation of FEMA rules/regulations with respect to the investee company or any of its upstream/downstream company(ies), can be done in accordance with the provisions under FEMA.

(ii) Requirement for compliance with regard to law of the land including sectoral laws / regulations etc. / judicial directions / quasi-judicial directions/security conditions and state local laws and regulations which have been imposed by respective authorities, are also a part of FDI Policy as provided under Para 3.7.1 therein.

Thus, the Competent Authority does not require the concurrence of DPIIT for imposition of such conditions.

12. Secretary, DPIIT is the competent authority for decision on cases referred by other Administrative Ministries/ Departments, seeking concurrence of DPIIT for rejection of the proposal/ stipulation of additional conditions in approval letter.
13. ~~12~~ Approval letters have to be issued by the Competent Authority in the format prescribed at **Annexure-2**.
14. ~~13~~ ~~DIPP~~ DPIIT and each of the Competent Authorities shall maintain a database on the proposals received along with details such as date of receipt, investor and investee company details, volume of foreign investment involved, and date of grant of approval/rejection letter.
15. If an applicant proposes to surrender an approval letter granted to the investee entity/investor, then concerned administrative Ministry/Department may accept the withdrawal of the approval letter after the applicant submits such declaration in original signed by the authorized representative of the applicant clearly explaining the reasons for such withdrawal/surrender. Further, an acknowledgement in this regard has to be sent to the applicant clearly indicating the date from which the approval letter stands withdrawn. A copy of the same should be marked to all the Government agencies/Regulators to which the original approval letter was marked. An applicant may also withdraw its FDI proposal, pending for decision, subject to submission of a duly authorized letter of withdrawal clearly explaining the reasons for such withdrawal addressed to the Competent Authority with a copy to DPIIT. However, subject to the preceding provisions on withdrawal of the approval letter, an applicant is not permitted to withdraw its FDI proposal after the decision is taken by Competent Authority on the FDI proposal.
16. **Compounding of Contraventions:** FDI is a capital account transaction and thus any violation of FDI regulations is covered by the penal provisions of FEMA. Provisions of Section 15 of Foreign Exchange Management Act, 1999 permit compounding of contraventions, and Foreign Exchange (Compounding Proceedings) Rules, 2000, as amended from time to time, lays down the basic framework for the compounding process. Administrative Ministries/ Departments are advised to refer to the Master Direction- Compounding of Contraventions under FEMA, 1999 FED Master Direction No.4/2015-16 issued by the RBI, as amended from time to time.

IV. Time Limits

S.No.	Action Points	Time Period	Cumulative Time Period
(i)	Dissemination of Investment Proposal <u>proposal</u> by DIPP <u>DPIIT</u> to the Concerned Ministry/Department	2 <u>Two</u> (02) days	One (01) Week
(ii)	Time for submission of signed physical copy of the proposal <u>from the date of online submission</u> by applicant to the Competent Authority, if	5 <u>One</u> (01) <u>Week</u>	

(iii)	Initial scrutiny of the proposal and documents attached therewith, and seeking relevant additional information/documents from the applicant	One <u>(01)</u> Week	Two Weeks	<u>(02)</u>
(iv)	Time limit for submission of clarification by DIPP <u>DPIIT</u> on specific issues of FDI policy <u>Policy</u>	Two <u>(02)</u> Weeks	Four Weeks	<u>(04)</u>
(v)	Time limit for Submission <u>submission</u> of Comments <u>comments</u> by Consulted <u>consulted</u> Ministry/ Department/ RBI/ Any <u>Regulator/any</u> Other Stakeholder	Four <u>(04)</u> Weeks	Six Weeks	<u>(06)</u>
(vi)	Time limit for submission of Comments <u>comments</u> by Ministry of Home Affairs <u>MHA</u> on proposals requiring security clearance	Six <u>(06)</u> Weeks	Eight Weeks	<u>(08)</u>
(vii)	Time limit for approval on proposals by Competent Authority for grant of approval	Two <u>Four</u> <u>(04)</u> Weeks		
	Proposals not requiring security clearance		Eight <u>Ten</u> Weeks	<u>(10)</u>
	Proposal Requiring security clearance		Ten <u>Twelve</u> Weeks	<u>(12)</u>

Note:

- (i) Additional time of ~~2~~two (02) weeks will be given to ~~DIPP~~DPIIT for consideration of those proposals which are proposed for rejection or where additional conditions which are not provided in the FDI ~~policy~~Policy are proposed to be imposed by the Competent Authority.
- (ii) Time limits allocated exclude the time taken by applicants in removing deficiencies in the proposals/supplying additional information as may be required by the Competent Authority.

V. Monitoring & Review

1. Competent Authorities will hold a regular monthly review on the foreign investment proposals pending with them.
2. ~~Joint quarterly review~~Regular Review meeting, ~~convened by DIPP, will be held under the co-chairmanship of Secretary, DIPP and Secretary, DEA~~ on pendency of FDI proposals with Government concerned Administrative Ministry(ies)/Department(s) would be convened by Secretary, DPIIT, periodically every four (04) to six (06) weeks. The Secretary of the concerned Administrative Ministry/Department may also attend the meeting.
3. Administrative Ministries/Departments should update the information regarding date of physical receipt of the application and update the decisions taken on the portal.
4. Administrative Ministries/Departments should furnish a fortnightly report on pending proposals. Also, administrative Ministries / Departments should maintain a

[updated database of all proposals dealt by them.](#)

Annexure-1

List of Documents

S.No.	Document
1.	<p>Certificate of Incorporation (CoI) of the Investee & Investor Companies/ Entities*</p> <p>(Investee company may be a proposed entity and may not be incorporated). In case of such unincorporated investee entities, a declaration may be obtained from the applicant that the investee entity is unincorporated (yet to be incorporated) and the same will be incorporated after obtaining the approval of the FDI by the Government. The applicant shall be required to submit a copy of the Certificate of Incorporation of the investee entity within sixty (60) days of the issue of approval letter by the Competent Authority] [In case Foreign Investor(s) do not have a CoI as per the laws of their country, documents equivalent to CoI and a declaration along with the necessary regulation/circular/order to that effect shall also be provided]</p>
2.	<p>Memorandum of Association (MOAMoA) of the Investee & Investor Companies/ Entities*</p> <p>[In case of a yet to be incorporated Investee entity, a draft MoA shall be sought, wherein objects of the entity in support of the proposed business activities are specified. The applicant shall be required to submit a copy of the MoA of the investee within sixty (60) days of the issue of approval letter by the Competent Authority.</p> <p>In case Foreign Investor(s) are not required to have a separate MoA and AoA as per the laws of their country, foreign investors may provide documents equivalent to MoA and a declaration along with the necessary regulation/circular/order to that effect shall be provided.]</p>
3.	<p>Board Resolution of the Investee & Investor Companies/Entities*</p>
	<p>[In case of an unincorporated Investee entity (yet to be incorporated), a letter of authority/consent by the proposed shareholders /promoters]</p>

	<u>/directors/partners of the Indian investee entity in support of the application shall be provided]</u>
4.	Audited Financial Statement of Last Financial Year of the Investee & Investor Companies/Entities* <u>[In case of an unincorporated Investee entity (yet to be incorporated) or where an incorporated Investee entity has not completed a single audit cycle at the time of filing the application, a declaration to that effect may be provided by the applicant. In case Foreign investor(s) is/are exempted from the audit requirement under any special law of a Country; a declaration along with the necessary regulation/circular/order to that effect shall be provided]</u>
5.	Article of Association (<u>AoA</u>) of the Investee & Investor Companies/Entities* <u>[In case of an unincorporated Investee entity (yet to be incorporated) Investee entity, a draft AoA wherein internal laws / by-laws of the entity are specified, shall be provided by the applicant. However, the applicant shall be required to submit a copy of the AoA of the investee entity within sixty (60) days of the issue of approval letter by the Competent Authority] In case Foreign Investors are not required to have a separate MoA and AoA as per the laws of their country, foreign investors may provide documents equivalent to AoA and a declaration along with the necessary regulation/circular/order to that effect shall be provided.]</u>
6.	List of Names and addresses of all foreign <u>investors</u> /collaborators along with Passport Copy / Identification Proof of the Investor Company/Entity*
<u>7.</u>	<u>Details of ownership and control of Investee & Investor Companies/Entities. Details of significant beneficial owners of the Investee & Investor Entities* as prescribed under the Companies Act, 2013 and rules thereunder, shall also be provided.</u>
<u>7.8.</u>	Diagrammatic representation of the flow and funds from the original investor to the investee company and Pre and Post shareholding pattern of the Investee Company*
<u>8.9.</u>	Affidavit stating that all information provided in hard copy and online are the same and correct*
<u>9.10.</u>	Signed <u>executed</u> copy(ies) of the <u>Investment Agreement</u> /JV agreement/shareholders <u>agreement/share transfer</u> agreement/ technology transfer/trademark/brand assignment agreement (as applicable), in case

	there are existing ventures
10.11	Board resolution of any joint venture company
11.12	Certificates of Incorporation and charter documents of any joint venture/company which is a party to the proposed transaction
12.13	Copy(ies) of <u>reporting compliances in respect</u> of Downstream Intimation Investment(s)
13.14	Copy of relevant past <u>Government/FIPB/SIA/RBI</u> approvals, connected with the current proposal (in case of amendment proposal)
14.15	<u>Copy(ies) of Foreign Inward Remittance Certificate (FIRCs) in case investment has already come in and in case (FIRCs) along with relevant reporting forms in cases of post-facto approval and cases involving existing/past foreign investment(s)</u>
15.16	In the cases of investments by entities which themselves are pooled investment funds, the details such as names and addresses of promoters, investment managers, <u>trustee</u> as well as all the contributors to <u>sponsors of</u> the investment fund
16.17	List of the <u>existing/proposed</u> downstream companies of the Indian company and the details of the equity held investment(s) by the Indian Company <u>Investee entity</u> along with the details of the activities <u>sector(s)/activity(ies) of such downstream entity(ies). The details of shareholding/capital contribution by the companies</u> Indian Investee entity in such downstream entity(ies) shall also be <u>provided.</u>
18.	<u>Approval(s) of NCLT/competent authority in respect of proposals involving mergers/demergers/amalgamations as applicable and required under Companies Act, 2013 and rules thereunder and/or any other rules/regulations</u>
17.	High Court order in case of a scheme of arrangement
18.19	Valuation certificate as approved by a Chartered Accountant <u>required in the FDI Policy and FEM Non-Debt Instrument Rules 2019 and the same should be on arm's length basis.</u>
19.20	Non-compete clause certificate of the investor and investee company in case of investment in pharmaceutical sector (As per Annexure 10 of Consolidated FDI Policy Circular of 2016), and as amended from time to time
20.21	Certificate of statutory auditors as mandated in the FDI policy Policy, as

.	applicable
<u>22.</u>	<u>Letter of authorization by the applicant in favour of the person(s) filing the application</u>
<u>23.</u>	<u>Filled-in Security Clearance Form available at FIFP where security clearance of MHA is required as per para III(3) above.</u>

* denotes mandatory documents

Annexure-2

[Note: In case documents provided by the applicant are in foreign language then the said document/language should be apostilled and translated into English language.]

**Approval Letter
Format**

F.No.-
Government of
India Ministry
Department

~~..... Bhawan, New Delhi- 110 011~~

~~Dated, 20..~~

..... Bhawan, New Delhi- 110 011 Dated
,20..

Applicant Address

.....

..... Subject:

Sir,

I

a
m
d
i
r
e
c
t
e
d
t
o
r
e
f
e
r
t
o
t
h
e
a
b
o
v
e
m

e
n
t
i
o
n
e
d
a
p
p
l
i
c
a
t
i
o
n
a
n
d
d
t
o
c
o
n
v
e
y
t
h
e
a
p
p
r
o
v
a
l
o
f
G
o
v
e
r
n
m
e

n
t
o
f
I
n
d
i
a
t
o
y
o
u
r
p
r
o
p
o
s
a
l
,
s
u
b
j
e
c
t
t
o
t
h
e
f
o
l
l
o
w
i
n
g
t
e
r
m
s
a

n
d
c
o
n
d
i
t
i
o
n
s
:

1. (a)

Name and address of the foreign investors

...Name.....
.
...Address.....

(b)

Name and address of the ~~implem~~
~~enti~~
~~ng~~
Inv
este
e
co
mp
any

...Name...
.....Address...

2. Item(s) of manufacture/ activity Existing:
covered by the foreign collaboration Proposed

:

3. Location:

4. Foreign Investment: The total foreign investment is upto X%. XYZ Pte Ltd, , will hold% of shares and ABC will hold ...% of shares.

5. [Amount of FDI inflow:](#)

6. ~~5~~The above approval is subject to the following conditions:

- (i) FDI policy conditionalities and other Sectoral Regulations/Guidelines.
- (ii) Claim of any tax relief under the Income-tax Act, 1961 or the relevant DTAA will be examined independently by the tax authorities to determine the eligibility and extent of such relief and the approval of ABC Deptt. by itself will not amount to any recognition of eligibility for giving such relief.
- (iii) ABC Deptt approval by itself does not provide any immunity from tax investigations to determine whether specific or general anti-avoidance Rules apply.
- (iv) The fair market value of various payments, services, assets, shares etc., determined in accordance with ~~ABC Deptt~~ FEMA Rules/Regulations or any other applicable rules/regulations/guidelines, shall be examined by the tax authorities under the tax laws and rules in force and may be varied accordingly for tax purposes; and
- (v) The taxation of dividend, future capital gains on alienation of shares by the foreign investor, interest income and income of any other nature shall be examined by the field formation in accordance with the provisions of Income-tax Act, 1961 and DTAA applicable to the facts of the case.

7. ~~6~~ Taxation of capital gains arising out of the proposed transaction shall be examined by the field formation.

8. ~~7~~ The pricing of ~~shares~~ capital instrument shall be in accordance with the RBI/SEBI guidelines. Mode of payment, documentation and reporting requirements shall be complied in terms of the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019; Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 and as stipulated by RBI from time to time.

9. All downstream investment(s) by [Name of the Indian investee] shall be made in compliance of the relevant sectoral conditions on entry route, conditionalities, caps and sectoral regulations and in compliance with Para 3.8.4 of the FDI Policy read with Rule 23 of the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, as applicable.

10. Transfer of capital instruments of [Name of the Indian investee] by or to a person resident outsider India shall be regulated in terms of Annexure 3 of FDI Policy read with Rule 9 of the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, as applicable.

11. ~~8~~ The above approval is subject to condition that, for opening the outlets, the company should register its outlets with the concerned authorities in the concerned States/ UTs and shall have to comply with prevailing regulations in every State/UT for setting up its outlets.

12. ~~9.~~ There would be no need for obtaining prior approval of ABC Deptt for increase in the amount of foreign equity, provided there is no change in the percentage of foreign/NRI equity already approved and the total foreign equity is upto Rs..... The company will notify such increase to the ABC Deptt within thirty days of receipt of funds as also allotment of shares to the non-resident shareholders.
13. ~~10.~~In case the proposed activity is not exempted from the provisions of Industrial (Development & Regulation) Act, 1951 and the Foreign Exchange Management Act, 1999, it will be your responsibility to obtain such clearances, as may be required under the said Acts.
14. ~~11.~~The location of the industrial project will be subject to Central or State Environmental laws or regulations, including local zoning and land use laws and regulations. In case the unit is to be setup in NCT of Delhi, it shall also conform to the locational policy of NCT of Delhi and directions of the Hon'ble Supreme Court in the matter.
15. ~~12.~~Adequate steps shall be taken to the satisfaction of the Government to prevent air, water and soil pollution. The anti-pollution measures to be installed should conform to the effluent and emission standards prescribed by the State Government in which the factory or the industrial undertaking is located.
16. ~~13.~~Import of capital equipments, components and raw materials will be allowed as per the import policy prevailing from time to time.
17. ~~14.~~This approval letter is made a part of the foreign collaboration agreement to be executed between you and the foreign collaborator and only those provisions of the agreement which are covered by this letter or which are not at variance with the provisions of this letter shall be binding on the Government of India or Reserve Bank of India.
18. ~~15.~~The agreement between the foreign investor(s) and the investee entity(ies) shall be subject to compliance of Indian Laws.
19. ~~16.~~ You shall ensure that your proposed investment approved vide this letter is in compliance with Prevention of Money Laundering Act, 2002, as amended from time to time.
20. ~~17.~~All remittances to the foreign collaborator shall be made as per the exchange rates prevailing on the day of remittance.
21. ~~18.~~The Administrative Ministry for this project is ABC Deptt.
22. ~~19.~~You are requested to acknowledge and confirm acceptance of the above terms and conditions to ABC Section of this Department.
23. ~~20.~~A copy of the collaboration agreement, signed by both parties may be furnished to the following authorities:
~~a.~~Administrative Ministry(s) / Department(s) as mentioned above.

~~h~~....., Department of ...Ministry,, New Delhi –Pin Code.

24. ~~24.~~ All future correspondence for amendments/changes in terms and conditions of the approval letter if required, etc. may be addressed to the ... Section of the Department, New Delhi –Pin Code
Email:

Your faithfully

Document comparison by Workshare 10.0 on Wednesday, 11 November 2020 11:50:02 PM

Input:	
Document 1 ID	file://Q:\52676\OLD SOP.pdf
Description	OLD SOP
Document 2 ID	file://Q:\52676\Regulations\SOP for processing FDI Proposals.pdf
Description	SOP for processing FDI Proposals
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
<u>Moved from</u>	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	245
Deletions	157
Moved from	1
Moved to	1
Style changes	0
Format changes	0
Total changes	404