

No. DPE/13(12)/10-Fin.
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhavan
Block No. 14, CGO Complex
Lodhi Road New Delhi-110003

Dated: 4th August, 2016

OFFICE MEMORANDUM

Subject: Raising of limit for investment by FPIs in Central Public Sector Enterprise (CPSEs) from 24% to 49%-regarding.

The undersigned is directed to forward herewith a copy of the Department of Economic Affairs, Ministry of Finance O.M No 10/1/2016-FIU, Dated 21st July, 2016 on the subject mentioned above.

2. All the Administrative Ministries/Departments are requested to issue suitable instructions to CPSEs under their administrative control for strict compliance.



(Kalyani Mishra)

Director

Tel: 24362061

Encl. : As above

To

1. All Secretaries of Administrative Ministries/Departments.
2. Chief Executive of CPESs.
3. Department of Economic Affairs w.r.t. their O.M No 10/1/2016-FIU) Dated 21st July, 2016

urgent

F. No. 10/1/2016-FIU
Government of India
Ministry of Finance
Department of Economic Affairs
(Investment Division)

North Block, New Delhi

Dated 21 July, 2016

OFFICE MEMORANDUM

Subject: Raising of limit for investment by FPIs in Central Public Sector Enterprises (CPSEs) from 24% to 49%- regarding.

The undersigned is directed to refer DPE's O.M. No. DPE/3(12)/2010-Fin dated 10.5.2016 and 19.4.2016 and to say that DEA had consulted DIPP, DPE, MoCA, and DIPAM on the proposed instruction to be issued for implementation of the captioned Budget (2016-17) announcement. Based on the consultation, the following has been finalized:

2. In terms of Schedule 2 or Schedule 2A of FEMA Notification 20/2000-RB dated 3.5.2000 (hereafter referred as FEMA 20), Foreign Institutional Investors (FIIs) and Foreign Portfolio Investors (FPIs), respectively may invest in an Indian company under portfolio investment route upto a limit 24% of paid up equity capital of the Indian company. Thus 24% was the default limit for FII/FPI investment until issue of FEMA Notification 354 dated October 30,2015. The FEMA Notification 354 dated October 30,2015 which amended FEMA 20 introduced the concept of composite cap i.e. total foreign investment shall include all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under Schedule 1 (FDI), Schedule 2 (FII), Schedule 2 A (FPI), Schedule 3 (NRI-Portfolio Investment), Schedule 6 (FVCI), Schedule 8 (QFI) , Schedule 9 (LLP) and Schedule 10 (IDRs) of FEMA Notification 20. It also provided that portfolio investment upto aggregate foreign investment level of 49% or sectoral /statutory cap whichever is lower will not be subject to either Government approval or compliance of sectoral conditions, as the case may be, if such investment does not result in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities. Other foreign investments will be subject to condition of Government approval and compliance of sectoral conditions, as laid down in the FDI policy.

3. Thus, the extant FDI policy already allows FPI investment up to 49% of paid up equity capital in all sectors except defence sector and public sector banks. Post this amendment in FEMA 20, FPI investment can be raised beyond 24% and upto 49% of paid up equity capital or the sectoral cap, as applicable, by the Indian company without the need for Government approval, provided there is no transfer of ownership from Resident to Non-Resident. The Indian company concerned has to only have a resolution passed by its Board of Directors followed by passing of a special resolution to that effect by its General Body.

