

Dated <sup>th</sup> 27 April, 2018

**Clarification on Standard Operating Procedure (SOP) for processing FDI Proposals**

Para 11 of SOP for processing FDI Proposals issued by Department of Industrial Policy & Promotion dated 29<sup>th</sup> June 2017 reads as follows:

“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 or sectoral laws/regulations, concurrence of DIPP shall compulsorily be sought by the Competent Authority within 8 weeks/10 weeks (in cases where comments of Ministry of Home Affairs have been sought from security clearance point of view) from the receipt of the proposal.”

References have been received in DIPP, whereby the competent authorities (concerned administrative Ministries/ Departments), while considering approval of FDI Proposals, are seeking DIPP's concurrence for conditions which are concerning to compounding under FEMA provisions and/or compliance of laws/ regulations of the land or court orders.

In this regard, it is hereby stated that:

- a) Imposition of any penal or compounding provisions, for violation of FEMA regulations with respect to the investee company or any of its upstream/ downstream company is within the mandate of FDI Policy as per Para 3 of Annexure 6 of Consolidated FDI Policy 2017.
- b) Requirement for compliance with regard to law of the land including sectoral laws/ regulations etc./ judicial directions /quasi-judicial directions which have been imposed by respective authorities, are also a part of FDI Policy as provided under Para 3.7.1 of consolidated FDI Policy 2017.

Thus the concerned administrative Ministry/Department dealing with the FDI proposal is the competent authority, as notified in Chapter-4 of consolidated FDI Policy 2017 in respect of imposing the above conditions, and imposition of such conditions does not require the concurrence of DIPP.

However, in cases where the Competent Authority proposes additional conditions beyond FDI Policy or beyond rules/regulations of the country or in case of rejection, such proposals may be mandatorily referred to DIPP for concurrence.