

Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
FDI Policy Section

Press Note No. 2 (2020 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on Civil Aviation.

1. Present Position

5.2.9 Civil Aviation

5.2.9.1 Airports

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

5.2.9.2 Air Transport Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%

(2)Non-Scheduled Air Transport Services	100%	Automatic
(3)Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

5.2.9.3 Other services under Civil Aviation sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1)Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic
(2)Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

Definitions: The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

For the purposes of the Civil Aviation sector:

- (i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;
- (ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto;
- (iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights;

- (iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;
- (v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;
- (vi) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;
- (vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public;
- (viii) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service;
- (ix) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;
- (x) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

Other Conditions

- (a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services.
- (b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.
- (c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:
 - (i) It would be made under the Government approval route.

- (ii) The 49% limit will subsume FDI and FPI investment.
- (iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations.
- (iv) A Scheduled Operator's Permit can be granted only to a company:
 - a) that is registered and has its principal place of business within India;
 - b) the Chairman and at least two-thirds of the Directors of which are citizens of India; and
 - c) the substantial ownership and effective control of which is vested in Indian nationals.
- (v) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment; and
- (vi) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.
- (d) In addition to the above conditions, foreign investment in M/s Air India Ltd. shall be subject to the following conditions:
 - (i) Foreign investment(s) in M/s Air India Ltd., including that of foreign airline(s), shall not exceed 49% either directly or indirectly.
 - (ii) Substantial ownership and effective control of M/s Air India Ltd. shall continue to be vested in Indian Nationals.

Note: (i) The FDI limits/entry routes, mentioned at paragraph 5.2.9.2 (1) and 5.2.9.2 (2) above, are applicable in the situation where there is no investment by foreign airlines.

- (ii) The dispensation for NRIs regarding FDI up to 100% will also continue in respect of the investment regime specified at para (c)(ii) above.

2. Revised Position

The Government of India has reviewed the extant FDI policy on Civil Aviation and the policy will now be read as under:

5.2.9 Civil Aviation

5.2.9.1 Airports

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

5.2.9.2 Air Transport Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service*/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
(2) Non-Scheduled Air Transport Services	100%	Automatic
(3) Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

**As per Schedule XI of Aircraft Rules, 1937, Air Operator Certificate to operate Scheduled air transport services (including Domestic Scheduled Passenger Airline or*

Regional Air Transport Service) may be granted to a company or a body corporate provided that: -

- (a) it is registered and has its principal place of business within India;
- (b) the Chairman and at least two-thirds of its Directors are citizens of India; and
- (c) its substantial ownership and effective control is vested in Indian nationals

5.2.9.3 Other services under Civil Aviation sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1)Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic
(2)Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

Definitions: The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

For the purposes of the Civil Aviation sector:

- (i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;
- (ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto;
- (iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights;

- (iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;
- (v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;
- (vi) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;
- (vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public;
- (viii) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service;
- (ix) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;
- (x) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

Other Conditions

- (a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services.
- (b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.
- (c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:
 - (i) It would be made under the Government approval route,

- (ii) The 49% limit will subsume FDI and FII/FPI investment,
 - (iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations,
 - (iv) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment and
 - (v) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.
- (d) In addition to the above conditions, foreign investment in M/s Air India Ltd. shall be subject to the following conditions:
- (i) Foreign investment(s) in M/s Air India Ltd., including that of foreign airline(s) shall not exceed 49% either directly or indirectly except in case of those NRIs, who are Indian Nationals, where foreign investment(s) is permitted up to 100% under automatic route.
 - (ii) Substantial ownership and effective control of M/s Air India Ltd. shall continue to be vested in Indian Nationals as stipulated in Aircraft Rules, 1937.
- (e) FDI in Civil Aviation is subject to provisions of Aircraft Rules, 1937, as amended from time to time.

Note:

- (i) The FDI limits/entry routes mentioned at paragraph 5.2.9.2(1) and 5.2.9.2 (2) above, are applicable in the situation where there is no investment by foreign airline. Any investment by foreign airline(s) in companies operating in Air Transport Services, including in M/s Air India Limited, shall be subject to para (b) and (c) above.

- (ii) The dispensation for those NRIs, who are Indian Nationals, regarding FDI up to 100% will also continue in respect of the investment regime specified at para (c) (ii) and (d) above.

3. The above decision will take effect from the date of FEMA notification.

Manmeet Kaur Nanda
19.3.2020

(Manmeet Kaur Nanda)

Joint Secretary to the Government of India

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For suitably incorporating the policy changes in Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 and the relevant schedules thereof.