

Revisions to the FDI Policy of India

The Department of Industrial Policy and Promotion, Ministry of Commerce and Industry of the Government of India has issued the following revisions to the FDI Policy in Press Notes No. 4, 5 and 6 (2013 Series), all of which are dated 22 August, 2013.

Sector	Present position	Revised position
Single brand product retail trading	100% Government route - Only one non-resident entity may undertake single brand retail trade.	100% (Automatic route up to 49%, Government route above 49% to 100%) - More than one non-resident entity may undertake single brand retail trade. - For FDI up to 49% (where no Government approval is required), certain filings are required to be made with the Reserve Bank of India.
Multi brand retail trading	51% Government route - At least 50% of total FDI brought in shall be invested in 'backend infrastructure' within 3 years of the first tranche of FDI. - As regards the 30% sourcing requirement, foreign retailers shall source from 'small industries' having total investment in plant and machinery not exceeding USD 1 million. If this valuation is exceeded at any point in time, the industry shall not qualify as a 'small industry'. - Stores shall be set up stores in cities having a certain population.	51% Government route (unchanged) - At least 50% of total FDI brought in the first tranche of USD 100 million shall be invested in 'backend infrastructure' within 3 years. - As regards the 30% sourcing requirement, foreign retailers may source from 'micro, small and medium industries' having total investment in plant and machinery not exceeding USD 2 million. The 'small industry' status shall be reckoned only at the time of engagement with retailer and shall be maintained even if it subsequently outgrows said investment of USD 2 million. - The State Government is granted the discretion to allow retailers to set up stores even in cities having a population less than the prescribed limits.
Telecom services	74% (Automatic route up to 49%, Government route above 49% to 74%)	100% (Automatic route up to 49%, Government route above 49% to 100%)
Petroleum and Natural Gas	49% Government route	49% Automatic route

Defence	26% Government route	Government route up to 26%. Above 26% to Cabinet Committee on Security (CCS) on case to case basis, which ensure access to modern and state-of-art technology in the country.
Courier services	100% Government route	100% Automatic route
Asset reconstruction companies	74% Government route	100% (Automatic route up to 49%, Government route above 49% to 100%)
Commodity exchanges	49% Government route	49% Automatic route
Credit information companies	49% Government route	74% Automatic route
Infrastructure companies in the securities market	49% Government route	49% Automatic route
Power exchanges	49% Government route	49% Automatic route

*Revised definition of ‘control’:

The definition of ‘control’ has been expanded in order to align it with the definition of ‘control’ under the Substantial Acquisition of Shares and Takeovers Regulations, 2011 and the proposed Companies Bill, 2012. The revised definition is as follows:

‘Control’ shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.