

Government issues minimum capitalisation norms for FDI in unregistered/unregulated financial services entities

Summary

The Ministry of Finance (MoF), has vide its recent press release¹, prescribed minimum capital requirements for Foreign Direct Investment (FDI) in 'other financial services' activities which are unregulated or partially regulated by any financial sector regulator (and in which FDI is allowed under government route).

Background

Reserve Bank of India (RBI) had vide its notification² in 2016 allowed 100 per cent FDI under automatic route in the financial services activity regulated by financial sector regulators i.e. RBI, SEBI, IRDA, PFRDA or any other financial sector regulator. It had been specified that FDI in other financial services, which are not regulated or partially regulated, (or 'where there is a doubt of regulatory oversight') shall come under government approval route.

Minimum capitalisation norms for FDI

Activities	Minimum Capitalisation
Fund-based Activity (such as merchant banking, stock broking, asset management, venture capital, housing finance, credit card business, micro credit, and rural credit)	USD 20 mn

¹ Press Release dated 16th April 2018 (Release ID: 1529264)

² Notification No. FEMA.375/2016-RB dated 9 September 2016

Activities	Minimum Capitalisation
Non-fund based Activity (such as investment advisory services, financial consultancy, forex broking, money changing business, and credit rating agencies)	USD 2 mn

Our comments

The press release issued by MoF has now prescribed the minimum capital norms for unregulated/partially regulated financial service activity entities which was previously not provided in the Consolidated FDI Policy Circular of 2017.

However, the press release throws up some grey areas and issues. For instance, most of the fund-based activities (merchant banking, leasing & finance, venture capital, housing finance, etc.) are already regulated by regulators like SEBI, RBI etc. and hence cannot be considered as unregulated financial services. Moreover, it is not clear whether minimum capital will be required irrespective of the percentage of FDI coming in. It is hoped that these concerns will get appropriately addressed and clarity provided when DIPP/RBI issue the requisite press note/notification for giving effect to this policy announcement.



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