Cabinet approves changes in guidelines on investments from countries sharing land border with India

Cabinet approves changes in FDI policy to provide for a definitive timeline for investments in critical sectors requiring approval under PN3

The amendments in the FDI Policy aim to unlock greater FDI inflows from global funds for startups and deep techs, take forward the agenda of ease of doing business

Expeditious decision in 60 days to help companies enter into collaborations to expand manufacturing in India

60 days decision/ approval timeline to help companies enter into joint ventures to access technologies, and integrate with global supply chains

Cabinet approved changes in FDI policy for investments from Land Bordering Countries will help manufacturing in electronic components, capital goods and solar cells

Posted On: 10 MAR 2026 7:17PM by PIB Delhi

The Union Cabinet chaired by Prime Minister Shri Narendra Modi has approved change in guidelines on investments from countries sharing land border with India (LBCs).

The existing policy has been reviewed and amended as follows:

a. **Incorporation of the definition and criteria for determination of 'Beneficial Owner' (BO)** –

   The amendment provides for a definition and criteria for determination of Beneficial Ownership that is widely used by investing community, under the Prevention of Money Laundering Rules, 2005.

The Beneficial Ownership test shall be applied at the level of the investor entity.

Investors with non-controlling LBC Beneficial Ownership of up to 10 percent shall be permitted under the automatic route as per the applicable sectoral caps, entry routes, attendant conditions. Such investments shall be subject to the reporting of relevant information/details by the investee entity to DPIIT.

b. **Expedited clearance of investments in specific sectors –**

Proposals for LBC investments in specified sectors/activities of manufacturing in capital goods, electronic capital goods, electronic components, polysilicon and ingot-wafer, shall be processed and decided within 60 days.

CoS under the Cabinet Secretary may also revise the list of specified sectors.

In these cases, the majority shareholding and control of the Investee entity will be with resident Indian citizen(s) and/or resident Indian entity(ies) owned and controlled by resident Indian citizen(s), at all times.

Background

In order to curb opportunistic takeovers/acquisitions of Indian companies due to the COVID-19 pandemic, Government had amended the extant FDI Policy vide Press Note 3(2020) dated 17.04.2020 (PN3). Pursuant to PN3, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Additionally, any transfer of ownership of any existing or future FDI in an entity in India resulting in the beneficial ownership falling within the aforesaid jurisdiction(s) also require Government approval.

Applicability of PN3 restrictions to cases where LBC investors may have only non-strategic, non-controlling interests was seen as adversely affecting investment flows from investors including global funds such as PE/ VC funds.

Benefits:

It is expected that the new guidelines will provide clarity and ease of doing business in India, and facilitate investments which can contribute towards greater FDI inflows, access to new technologies, domestic value addition, expansion of domestic firms and integration with global supply chain. This would help in leveraging and enhancing India's competitiveness as a preferred investment and manufacturing destination. Increased FDI inflows would supplement domestic capital, support the objectives of Atmanirbhar Bharat, and accelerate overall economic growth.

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MJPS