FDI Allowed via Partly Paid Shares Warrants

Prior govt nod not required for raising money via these instruments in areas where FDI is allowed under automatic route

The government has decided to consider foreign investments in partly paid shares and warrants eligible instruments under the foreign direct investment policy, bringing greater flexibility in their use to raise capital.

“The government has reviewed the extant FDI policy...to allow partly paid shares and warrants as eligible capital instruments for the purpose of the FDI policy, “the department of industrial policy and promotion (DIPP) said on Tuesday in a notification amending the consolidated FDI policy circular 2015.

Till now warrants and partly paid shares could be issued to foreign investors only after approval through the government route.

Bringing them under eligible foreign investment instruments means that prior government permission will not be required for raising money through these instruments in sectors where FDI is allowed under the automatic route. “DIPP has synchronised its rules with the RBI guidelines, which was treating it (partly paid shares and warrants) as capital instruments already . It is a good step as it removes another ambiguity and brings such FDI under automatic route,“ said Devraj Singh, executive director-tax and regulatory services, at EY. The government has also inserted a new clause in the policy that says: “An Indian company may issue warrants and partly paid shares to a person resident outside India subject to terms and conditions stipulated by the Reserve Bank of India in this behalf, from time to time.“

In another step towards improving ease of doing business in the country , the DIPP , in a separate note, clarified that facility sharing agreements within two group companies will not be treated as real estate business provided the arrangements are at arm's length price. DIPP has also added the condition that in accordance with the relevant provisions of the Income Tax Act 1961 the annual lease rent earned by the lessor company should not exceed 5% of its total revenue. Madan Sabnavis, chief economist at CARE Ratings, the notifications were in line with the government's move to remove hindrances at policy levels for investors.

“FDI in the country has been increasing because of such steps now being taken,“ he said. India has attracted FDI of $9.5 billion in April June, up 31% over the corresponding period last year, even as the government relaxed FDI norms in various sectors including the railways, medical devices, insurance and pension, construction and defence.

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