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Unlocking Opportunities: India's Game-Changing FDI Bonus Share Policy- DPIIT Press Note

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The Department for Promotion of Industry and Internal Trade (DPIIT) under the Ministry of Commerce and Industry, Government of India, has issued a significant clarification regarding the issuance of bonus shares to existing non-resident shareholders by Indian companies operating in sectors where Foreign Direct Investment (FDI) is prohibited vide Press Note No. 2 (2025 Series) dated 07.04.2025 which aims to provide clarity and ensure compliance with the existing FDI policy framework.

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Background of FDI Policy in India

Foreign Direct Investment (FDI) is central to the economic development of any country by bringing in capital, technology, and expertise. India has been actively promoting FDI across various sectors to boost its economy and enhance its global competitiveness. However, certain sectors are deemed strategically important or sensitive and are thus restricted or prohibited from receiving FDI. These prohibitions are in place to protect national interests, ensure economic stability, and safeguard sensitive industries.

The Clarification on Bonus Share Issuance

The recent clarification by DPIIT addresses a specific aspect of FDI policy related to bonus share issuance. According to the Consolidated FDI Policy Circular of 2020, dated 15.10.2020, and as amended from time to time, Indian companies are generally permitted to issue bonus shares to existing non-resident shareholders, subject to adherence to any sectoral caps. However, the situation becomes more complex when dealing with sectors where FDI is explicitly prohibited.

Key Points of the Clarification

1. Permissibility of Bonus Share Issuance:

An Indian company engaged in a sector or activity where FDI is prohibited is allowed to issue bonus shares to its pre-existing non-resident shareholders.

This permission is conditional upon the shareholding pattern of the pre-existing non-resident shareholders not changing as a result of the bonus share issuance.

2. Compliance with Applicable Rules:

The issuance of bonus shares must comply with all applicable rules, laws, regulations, and guidelines. This ensures that the process is transparent and adheres to the regulatory framework governing corporate governance and securities issuance in India.

3. Effective Date:

The clarification will be effective from the date of issuance of the applicable FEMA (Foreign Exchange Management Act) notifications. This means that companies and shareholders need to be aware of the specific FEMA notifications to ensure full compliance with the policy changes.

4. Implications for Companies and Shareholders:

This clarification by DPIIT has several important implications for both Indian companies and their non-resident shareholders:

Implication for Indian Companies:

- **Operational Flexibility:** Companies in FDI-prohibited sectors can now offer bonus shares to their existing non-resident shareholders without fear of violating FDI regulations. This provides them with greater operational flexibility and the ability to reward long-term investors.
- **Compliance Requirements:** Companies must ensure that the shareholding pattern of non-resident shareholders remains unchanged post the bonus share issuance. This requires careful planning and adherence to regulatory requirements to avoid

any compliance issues.

Implication for Non-Resident Shareholders:

- **Investment Security:** Non-resident shareholders can now confidently hold and benefit from bonus shares issued by Indian companies in FDI-prohibited sectors. This clarification enhances the security and attractiveness of their investments.
- **Regulatory Clarity:** The clarification provides a clear regulatory framework for non-resident shareholders, reducing ambiguity and potential legal risks associated with bonus share issuance.

Conclusion

The DPIIT's clarification on bonus share issuance in FDI-prohibited sectors is a significant step towards enhancing transparency and compliance in India's FDI policy. It balances the need to protect sensitive sectors from foreign investment while allowing companies to reward their existing non-resident shareholders. This move is expected to boost investor confidence and contribute to the overall stability and growth of the Indian economy. As always, it is crucial for companies and shareholders to stay informed about the latest policy updates and ensure full compliance with all applicable regulations.

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