



REGULATORY

Legal Update: DPIIT Issues Revised SOP For Processing FDI Proposals

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Online filing requirements, security-clearance scrutiny, land-border investment reporting, revised approval timelines, conditional approvals, and transaction-readiness considerations.

Executive Takeaways

- The SOP makes Government-route FDI applications an entirely online, portal-driven process through the Foreign Investment Facilitation/NSWS Portal, with no physical document filing requirement.
- The DPIIT will route proposals to the relevant Administrative Ministry/Department and circulate them to RBI, MEA and, where applicable, MHA for comments or clearance.
- A structured 12-week outer processing framework applies in ordinary cases, subject to applicant-side delays and additional time where rejection or additional conditions are proposed.
- A specific land-border country framework now distinguishes between reporting-only cases and specified-sector approval cases eligible for a 60-day decision timeline.
- The document checklist is materially diligence-heavy, with detailed beneficial ownership, control-rights, sanctions/debarment, security clearance and group-structure disclosures.
- The approval format expressly places the compliance burden on the investee, preserves tax and FEMA scrutiny, and requires transaction agreements to conform to the approval letter.

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1. Background and Context

The Department for Promotion of Industry and Internal Trade has issued a Standard Operating Procedure dated 04 May 2026 for processing foreign direct investment proposals that require Government approval. The SOP is intended to operationalise Government-route filings under the Consolidated FDI Policy dated 15 October 2020, as amended from time to time, and the Foreign Exchange Management (Non-debt Instruments) Rules, 2019, as amended from time to time.

The legal significance of the SOP lies not merely in its procedural consolidation, but in its attempt to make the FDI approval process more predictable, paperless and accountable. For investors, investee companies, lenders, transaction counsel and compliance teams, the SOP should now be treated as a core transaction document whenever a proposed investment, transfer, restructuring, downstream investment or land-border-linked transaction falls outside the automatic route or triggers Government approval/reporting obligations.

2. Fully Online and Paperless Filing Architecture

The SOP confirms that proposals requiring Government approval must be filed online through the Foreign Investment Facilitation/NSWS Portal. The applicant must prepare and submit the application in the prescribed format along with the documents listed in Annexure I of the SOP. Where applicable, the applicant must also upload the Security Clearance Form prescribed in Annexure II of the SOP.

A notable feature is the express move towards a completely paperless process. Applicants are not required to file physical copies of documents for processing FDI proposals. This has two practical consequences. First, the quality, completeness and internal consistency of portal uploads will be central to approval timelines. Secondly, transaction teams should treat the digital application pack as the definitive record of the proposal, since the affidavit format requires the applicant to acknowledge that the application will be considered on the basis of the documents uploaded at the time of online submission.

3. Role of DPIIT, Competent Authority, RBI, MHA and MEA

After online filing, DPIIT is required to identify the concerned Administrative Ministry or Department and assign the proposal to the relevant Competent Authority within the prescribed timeline. The list of Competent Authorities continues to be linked to Chapter 4 of the FDI Policy. Administrative Ministries and Departments will also process applications seeking post-facto approval in terms of paragraph 4.1.2 of the FDI Policy.

The SOP also institutionalises multi-agency consultation. DPIIT will circulate proposals to RBI for comments from the perspective of FEMA and the rules or regulations framed thereunder. Proposals requiring security clearance will be referred to MHA. All proposals will be forwarded to MEA, which will provide comments or clearance for investments from countries sharing land border with India under paragraph 3.1.1 of the FDI Policy and in other cases wherever necessary.

The SOP is clear that comments or clearances from MHA, MEA and RBI must be uploaded directly on the Portal. For applicants, this means that regulatory responses, inter-departmental views and approval-stage queries are intended to be managed through the same digital workflow rather than through fragmented offline exchanges.

4. Security Clearance: Sectors and Land-Border Linked Applications

The SOP identifies two categories of proposals requiring security clearance from MHA. The first category covers investments in Broadcasting, Telecommunications, Space, Private Security Agencies, Defence, Civil Aviation, and mining and mineral separation of titanium-bearing minerals and ores, including value addition and integrated activities. The second category covers applications falling under Press Note 2 of 2026 dated 15 March 2026 read with the Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2026 dated 01 May 2026.

The security clearance form is extensive. It requires details of the investee company, investor companies, directors of the investee and investor, shareholders holding more than 10%, ultimate beneficial ownership, self-declaration regarding presence or operation in China and Pakistan, and details of criminal cases, if any, against the investee company or its directors. The practical lesson is clear: transactions with sensitive-sector exposure or land-border linkages will require early factual diligence on ownership, citizenship, control, management, criminal proceedings and prior approvals.

5. Query Management, Deemed No-Comments and Decision-Making Discipline

All consulted Ministries, Departments, RBI, MHA, MEA and other regulators or stakeholders are required to provide comments within the prescribed timeline. If comments are not received within that period, the SOP provides that it will be presumed that the relevant authority has no comments to offer. This deeming mechanism is important because it is designed to prevent indefinite administrative silence from stalling a proposal.

The Competent Authority must scrutinise the proposal and accompanying documents and, if required, seek additional information or documents from the applicant. All queries must be raised only through the Portal. The SOP also states that, to the extent possible, all queries should be raised in the initial communication itself. This is intended to reduce repeated, staggered requisitions and improve processing predictability.

6. Closure, Rejection, Withdrawal, Surrender and Rectification

The SOP draws an important distinction between closure and rejection. The Competent Authority is required to scrutinise the application within one week. If additional information or documents are required and the applicant does not respond within one

week, a reminder must be issued giving a further seven days. If the applicant still does not submit the required response without adequate reason, a final reminder must be issued for the next seven days. Thereafter, the application may be closed for reasons such as incompleteness or failure to address deficiencies despite reminders.

Closure is expressly stated not to amount to rejection and is without prejudice to the applicant applying afresh with all requisite documents. This distinction is commercially important because a closed application may reflect procedural incompleteness rather than an adverse decision on merits. The Competent Authority for closure due to inadequate or incomplete information or documents is the Secretary of the concerned Administrative Ministry or Department.

Where the Competent Authority proposes to reject a proposal or impose additional conditions beyond those in the FDI Policy or sectoral laws and regulations, DPIIT concurrence is compulsory. The SOP clarifies that DPIIT concurrence is not required for conditions concerning FEMA compounding or compliance with laws, regulations or court orders. Applicants may also withdraw a pending proposal by submitting an authorised withdrawal letter explaining reasons. Separately, an approval may be surrendered by the applicant, and typographical, grammatical or record-apparent errors in an approval letter may be rectified through a corrigendum approved by the concerned Secretary.

7. Compounding and FEMA Consequences

The SOP reiterates that FDI is a capital account transaction and that violation of FDI regulations is subject to FEMA penal provisions. It refers to Section 15 of FEMA, paragraph 3 of Annexure 5 of the FDI Policy and the Foreign Exchange (Compounding Proceedings) Rules, 2000 as the basic framework for compounding contraventions. Administrative Ministries and Departments are advised to refer to RBI Master Directions on compounding of contraventions under FEMA.

For transaction counsel, this reinforces that FDI approval analysis cannot be separated from FEMA reporting, pricing, mode of payment, downstream investment, transfer and compounding risk analysis. A Government approval letter does not cure prior contraventions unless the relevant FEMA framework is separately complied with or compounded where required.

8. Processing Timelines Under Annexure V

Annexure V prescribes a sequenced processing framework. The time taken by applicants to remove deficiencies or supply additional information is excluded. Additional time of two weeks is available to DPIIT for proposals proposed for rejection or where additional conditions are proposed by the Competent Authority.

Action point	Responsible stage	Time period	Cumulative period
Dissemination of proposal	DPIIT to concerned Ministries/Departments, RBI, MHA and MEA	2 days	–
Initial scrutiny and requisition	Competent Authority scrutiny and applicant queries	12 days	2 weeks
DPIIT clarification on specific FDI Policy issues	DPIIT	2 weeks	4 weeks
Comments by consulted authorities	MHA, MEA, RBI, regulators and other consulted stakeholders	6 weeks	8 weeks
Approval decision	Competent Authority	4 weeks	12 weeks

9. Land-Border Country Investments: Reporting and Approval Tracks

The SOP contains a dedicated Annexure VII for investments from countries sharing land border with India. It recognises a reporting framework for transactions or investments involving direct or indirect ownership by citizens or entities from land-border countries where cumulative ownership at the investor level is below the applicable threshold and satisfies the criteria under Section 2(fa) of the Prevention of Money Laundering Act, 2002 and Rule 9(3) of the PML Maintenance of Records Rules, 2005, and therefore does not require prior Government approval.

The reporting obligations under Annexure VII are in addition to, and do not replace, existing FEMA reporting obligations. The onus of reporting is placed on the Indian investee entity or resident Indian transferor/transferee, as the case may be. Reporting must be made on the Portal prior to inward remittance of foreign capital or, where no remittance is involved, prior to execution of

the relevant transaction, including issuance or transfer of capital instruments.

For certain land-border country investments requiring Government approval, the SOP creates an expedited track. Where land-border investors invest individually or cumulatively, whether acting together or otherwise, and hold up to 49% of capital or voting rights in an Indian investee engaged in specified Schedule II sectors, and majority shareholding and control remain with resident Indian citizens or resident Indian entities owned and controlled by resident Indian citizens at all times, the decision must be conveyed within 60 days from the date of filing.

10. Schedule II Specified Sectors Eligible for the 60-Day LBC Approval Route

Sector/activity	Illustrative coverage under Schedule II
Capital goods manufacturing	Heavy electrical industries, machine tools, insulation items, castings and forgings, boiler-related alloy steel pipes and tubes, transformer insulation and related machinery.
Electronic capital goods and electronic component manufacturing	PCBA assembly, display modules, camera modules, sensors, passive and electromechanical components, li-ion batteries and cells, PCBs, chargers, cables, wearables, hearables, printers and scanners.
Polysilicon and ingot/wafers	Manufacturing of polysilicon, ingots and wafers.
Advanced battery components	Batteries and accumulators, battery energy storage systems, cathode/anode active materials, electrolytes, separators, battery-grade foils, binders and emerging battery-technology components.
Rare earth permanent magnets	Rare earth metal, alloy and magnet-making facilities, including technology and plant and machinery, and use of permanent magnets in wind turbine generators.
Rare earth processing	Rare earth processing activities specified in Schedule II.

11. Application Pack: Documentation and Diligence Readiness

Annexure I materially expands the importance of pre-filing diligence. Applicants should not treat the portal application as a clerical exercise. A defensible filing pack should be compiled before submission, particularly where the transaction involves complex fund structures, upstream ownership, shareholder rights, prior approvals, downstream investments, technology arrangements or land-border country sensitivities.

Document category	Key requirements / practical focus
Authorisation and proposal summary	Authorisation letter; summary on background, business model, beneficial ownership, transaction particulars, reasons for approval, benefits, projected investment and ownership/control.
Structure and flow documents	Pre- and post-transaction shareholding pattern; flow of funds; group/organisational chart with inter-se shareholding and place of incorporation/registration/citizenship/residency.
Beneficial ownership and control	Details of LBC beneficial owners, upstream investors, directors, investment committee members, general partners, limited partners, key managerial personnel, control rights, veto rights and board appointment rights; SBO details under Companies Act, 2013.
Investee and investor constitutional documents	Certificates of incorporation, MoA, AoA, board resolutions and audited financial statements; special declarations where entities are yet to be incorporated or equivalent foreign documents are used.
Past approvals and FEMA reporting	Copies of past Government/FIPB/SIA/RBI approvals, rejections, closures or withdrawals; reporting documents for existing foreign investment; Form DI and downstream intimation where applicable.
Transaction documents and valuation	Executed investment/JV/shareholders/share transfer/technology transfer/trademark/brand assignment documents; NCLT/competent authority approvals where relevant; valuation certificate on arm's length basis where applicable.
Regulatory undertaking and consents	Undertaking that relevant parties are not on negative, caution, debarment or sanctions lists by Governments, international organisations or regulators/investigative agencies such as SEBI, RBI, SFIO, ED, CBI and Income Tax Department; third-party consents and NoCs.

Land-border declarations and affidavit	Declaration for proposals not requiring prior Government approval under paragraph 3.1.1(a) or 3.1.1(b), where applicable; notarised affidavit on Rs.100 stamp paper in the prescribed format.
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12. Approval Letter: Conditions That Matter in Practice

Annexure III of SOP prescribes the format of the approval letter. The standard conditions are commercially significant. They confirm that the approval remains subject to the FDI Policy, FEM (NDI) Rules, sectoral laws, tax scrutiny, anti-avoidance review, FEMA pricing and reporting, downstream investment rules, transfer rules, and other Central and State laws including FEMA, Income-tax Act, Companies Act, Prevention of Money Laundering Act, Industrial (Development and Regulation) Act and environmental laws.

The approval format states that the onus of compliance with sectoral or statutory caps and attendant conditions is on the investee. It also provides that no prior approval is required for an increase in the amount of foreign equity if there is no change in the approved percentage of foreign/NRI equity and total foreign equity is up to INR 5,000 crore, subject to notification to the Competent Authority within 30 days of receipt of funds and allotment of shares. In yet-to-be-incorporated cases, the certificate of incorporation, memorandum and articles must be submitted within 60 days of the approval letter.

The approval letter further requires any agreement executed between the foreign investor and Indian investee to conform with the conditions of the approval letter, and requires acknowledgement of acceptance of the terms and conditions within seven days of receipt.

13. Practical Implications for Investors, Investee Companies and Counsel

The SOP changes the practical rhythm of Government-route FDI filings. The principal risk is no longer only whether a proposal is legally eligible; it is whether the filing is complete, consistent and ready for security, beneficial ownership, tax, FEMA and sectoral review at the time of submission.

Investors and investees should build a pre-filing workstream that reconciles the investment agreement, cap table, valuation certificate, control rights, beneficial ownership disclosures, downstream investment position, past approvals and sectoral conditions before the portal application is filed. For fund structures, particular attention should be paid to investment managers, sponsors, general partners, limited partners, investment committee members and veto or control rights, especially where any land-border country nexus exists.

Counsel should also review transaction documents for consistency with expected approval conditions. Conditions precedent should include Government approval, security clearance where applicable, satisfactory FEMA reporting readiness, completion of beneficial ownership disclosures, negative-list/sanctions undertakings, and post-approval notification obligations. Long-stop dates should factor in the 12-week general timeline, the 60-day land-border specified-sector track where applicable, applicant-side query-response time and possible additional DPIIT concurrence time where rejection or additional conditions are proposed.

14. Compliance Action Points

Companies proposing Government-route FDI filings should immediately update their internal FDI checklists to align with Annexure I of the SOP. Particular focus should be placed on beneficial ownership, land-border country exposure, control rights, negative-list undertakings and security clearance forms.

Investee companies should designate a single authorised representative to manage portal filings and responses. Since all queries are to be raised through the Portal and the affidavit confirms reliance on uploaded documents, internal document control and version discipline will be critical.

Parties should prepare an approval-condition tracker for post-approval obligations, including acknowledgement within seven days, 60-day document submissions in yet-to-be-incorporated cases, 30-day notifications for permitted increases in foreign equity amount without percentage change, FEMA pricing/reporting filings and downstream investment compliances.

15. Concluding View

The SOP is a significant procedural development in India's FDI approval architecture. It does not alter the substantive sectoral rules by itself, but it materially affects how Government-route proposals must be prepared, filed, scrutinised and monitored. Its most important contribution is the creation of a more structured digital workflow, with defined inter-agency consultation, deemed no-comments, closure mechanics, DPIIT concurrence for rejection or additional conditions, and a dedicated framework for land-border country investments.

The practical message for market participants is straightforward: FDI approval strategy must begin before signing, not after filing. A proposal supported by a clean ownership chart, coherent transaction documents, robust beneficial ownership disclosures and a complete FEMA/sectoral analysis is more likely to move within the SOP timelines. Conversely, incomplete filings, inconsistent control-right disclosures and underdeveloped land-border country analysis may lead to closure, delay, additional conditions or regulatory scrutiny.

For more details, write to us at: contact@indialaw.in

Reference:

1. [\[DPIIT\] Standard Operating Procedure \(SOP\) for Processing Foreign Direct Investment\(FDI\) Proposals, 04.05.2026](#)

Related Practice Areas

Statutory And Regulatory Compliance