



Tax alert: Ministry of Finance amends Foreign Exchange Management (Non-debt Instruments) Rules, 2019

4 May 2026

Ministry of Finance has notified amendments to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (NDI Rules) vide notifications of Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2026, dated 1 May 2026 and Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2026 dated 2 May 2026.

The above notifications have made effective-

- the decision taken by the Union Cabinet on 10 March 2026 followed by issue of Press Note 2 (2026 Series) dated 15 March 2026 amending FDI Policy regarding relaxation in the Foreign Direct Investment (FDI) from countries sharing land borders with India (LBC) and
- the announcement made in the Union Budget 2026 on 1 February 2026 regarding 100% FDI in Indian insurance company under automatic route.

In a nutshell



- Definition and criteria for determination of Beneficial Owner aligned with the Prevention of Money Laundering (Maintenance of Records) Rules, 2005



- Investments into India from an investor entity having any direct or indirect ownership by a citizen or an entity of a LBC; and not requiring prior government approval will be under the automatic route, subject to applicable sectoral cap, other conditions and reporting requirement as may be specified by RBI.



- 100% FDI permitted in Indian insurance company under automatic route from the earlier limit of 74%.
- The condition of majority of Directors, majority of Key Management Persons as Resident Indian Citizens in Indian insurance company has been removed.



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A summary of the amendments to NDI Rules:

RELAXATION IN FOREIGN DIRECT INVESTMENT (FDI) FROM COUNTRIES SHARING LAND BORDERS WITH INDIA (LBC)

To curb opportunistic takeovers / acquisitions of Indian companies by foreign investors in the light of current COVID-19 pandemic, the Department for Promotion of Industry and Internal Trade (DPIIT) has issued a Press Note No. 3 (2020 Series) dated 17 April 2020, whereby investment from entities based in countries which share land borders with India (or) where the beneficial owner of an investment in India is situated in or is citizen of such country, shall be under Government approval route.

Government has been reviewing the aforesaid restrictions, and the Union Cabinet of India had announced relaxation for investments from LBC vide a press release on 10 March 2026, followed by issue of a Press Note 2 (2026 Series) dated 15 March 2026 amending the FDI Policy. A summary of amendments is given below:

- Following cases of foreign investments in India are permitted only under the Government route:
 - Investor is an entity or a citizen of LBC.
 - *Beneficial owner of an investment is a citizen of LBC*: "Beneficial Owner" will have same meaning as defined in the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. Beneficial Owner is the natural person(s), who
 - acting alone or together with one or more juridical person, has a "controlling ownership interest" – i.e. ownership of (or) entitlement of > 10% of shares / capital / profits of the company (> 10% of capital / profits of the partnership); or
 - exercise "control" through other means, i.e. right to appoint majority of the directors or control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.
 - *Beneficial ownership of an investment is vested in LBC*: Beneficial ownership of an investment shall be construed to be vested in LBC, where
 - a citizen of a country of LBC; or
 - an entity incorporated or registered in LBC,
has the ability to directly or indirectly, individually or cumulatively with any another citizen or entity, independently or collectively with any another citizen or entity, whether acting together or otherwise, hold rights or entitlements –
 - > 10% of shares / capital / profits of the Company or > 10% of capital / profits of the Partnership; or
 - which enables such citizen or entity or both to exercise "control" over the investor entity referred above; or
 - which enables such citizen / entity or both to exercise ultimate effective control over the Investee entity in any manner.
- In case of transfer of ownership in an Indian entity resulting in beneficial ownership falling within 1) above, such transfer will also require prior approval of the Government.
- It has been clarified that any issue or transfer of "participating interest or right" in an oilfield by Indian companies to a person resident outside India would be treated as foreign investment and shall comply with the above conditions.
- Investments into India from an Investor entity having any direct or indirect ownership by a citizen or an entity of a LBC; and not requiring prior Government approval will be under the automatic route, subject to applicable sectoral cap, other conditions and reporting requirement as may be specified by RBI.

RELAXATION IN FDI IN INDIAN INSURANCE COMPANY

FDI was allowed under automatic route in Indian insurance company up to 74%. The Government has increased the same to 100% under automatic route by amendment in the NDI Rules. Following is the summary of the amendment.

- **Indian Insurance Company:**

- 100% FDI permitted in Indian insurance company under automatic route from the earlier limit of 74%. The condition of majority of Directors, majority of Key Management Persons as Resident Indian Citizens in Insurance Company, has been removed. However, the condition of at least one among the Chairperson of the Board, Managing Director and Chief Executive Officer to be Resident Indian Citizens has been retained.
- FDI Cap in Life Insurance Corporation of India (LIC) continues to be 20% under the automatic route.

- **Insurance Intermediaries** where 100% FDI is already permitted under the automatic route, has been expanded to include managing general agents and insurance repositories.

Comments:

Both the amendments in NDI Rules are effective from 2 May 2026 i.e. date of publication in the official gazette. The amendments seek to provide clarity to investors, facilitate ease of doing business and support higher FDI inflows including global funds such as PE/ VC funds, which have limited investors from LBC. Any direct investment from LBC will require Government approval regardless of whether it is less than or equal to 10%. Earlier the restriction was applicable where the beneficial owner of an investment was situated in or a citizen of LBC. The amendment has provided clarity by deleting the words “situated in” and narrowing the reference to “an entity or a citizen of a country, which shares land border with India, or where the beneficial owner of an investment into India is a citizen of any such country”.

Union Cabinet had announced expedited approval for FDI from LBC in specified manufacturing sectors (capital goods, electronic capital goods, electronic components, polysilicon and ingot-wafer) within 60 days, provided the majority shareholding and control of the investee entity always remains with resident Indian citizens or Resident Indian-owned and controlled entities. The same was mentioned in the Press Note 2 (2026). While there is no mention of such expedited approval process in the amended NDI Rules, the same may be followed by the Government while reviewing the application.

Further, 100% FDI in Indian insurance company under automatic route has opened up the sector and shall attract more foreign players. The sector will see more M&A activities in existing insurance company joint ventures.

Source: Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2026 (Notification S.O. 2174(E) dated 1 May 2026) and Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2026 (Notification S.O. 2186(E) dated 2 May 2026).



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