

Corpsec Hotline

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FOREIGN / TECHNICAL COLLABORATIONS BY FOREIGN COMPANIES HAVING PREVIOUS VENTURES / TIE-UP, NOW UNDER AUTOMATIC ROUTE

The Indian Government has, with a view to further liberalize foreign direct investment, notified vide Press Note No.1 dated January 12, 2005 that any new proposal for foreign investment or technical collaboration by a foreign investor, who has or had any previous joint venture or technology transfer / trademark agreement in the same or allied field in India, will be allowed under the automatic route. This route is however subject to the sectoral policies.

The said Press Note No. 1 has narrowed down the scope of the earlier Press Note No.18 (of 1998) which was applicable to the 'same' and 'allied' field. The Press Note No. 1 now requires prior Government approval only in cases where the foreign investor has an existing joint venture or technology transfer or trademark agreement in the 'same' field. The onus to provide requisite justification as also proof that the new proposal would or would not jeopardise the existing joint venture or other stakeholders would lie equally on the foreign investor or technology supplier and the Indian partner.

Even if the foreign investment is falling in the 'same' field, the Government has carved out following exceptions, for which no prior Government approval is required:

- Investments are made by Venture Capital Funds registered with the Securities Exchange Board of India.
- The existing joint-venture investment by either parties is less than 3%.
- The existing joint-venture or collaboration is defunct or sick.

Hopefully, the changes envisaged through the implementation of Press Note 1 would create the balance in achieving a liberalized environment in India and at the same time protecting to the joint-venture partners to safeguard their interests.

You can direct your queries or comments to [Siddharth Shah](#) or [Kishore Joshi](#)

Source: Press Note No.1 (2005 Series) dated January 12, 2005

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