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File No. AV.14027/1/2003-AT(I)

The following guidelines for foreign equity participation in the air transport services as amended and approved by the Ministry of Civil Aviation vide their letter No. AV13011/10/96-DT dated 28-02-2013 are issued for information, guidance and necessary action.

This supersedes AIC 7/2008 dated 30th June, 2008.



(Arun Mishra)

Director General of Civil Aviation

GUIDELINES FOR FOREIGN DIRECT INVESTMENT IN THE CIVIL AVIATION SECTOR

The Civil Aviation sector, inter-alia, includes Airports, Scheduled and Non-Scheduled domestic passenger airlines sector, cargo airlines, Helicopter services/ Seaplane services, Ground Handling Services, Maintenance and Repair organizations, Flying training institutes, and Technical training institutions. The present policy of FDI in the Civil Aviation sector covers all Services mentioned above.

The Existing policy however prohibits FDI by foreign airlines directly or indirectly in the equity of scheduled and non scheduled passenger airlines. The Government of India has reviewed the position in this regard and decided to permit foreign airlines also to invest, in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid up capital vide the Press Note issued by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry New Delhi dated 20th September, 2012 (Press Note No.6/2012). However, the revised policy is not applicable to Air India.

2. Definition:

The policy for FDI in the Civil Aviation Sector would be subject to the Aircraft Act, 1934 and Aircraft Rules, 1937 as amended from time to time, Civil Aviation Requirements, and Aeronautical Information Circulars as notified by the Ministry of Civil Aviation. In terms of these Rules/Circulars:-

(a) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

(b) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or appertaining thereto;

(c) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights.

(d) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward.

(e) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;

(f) "Foreign Airline" means an Airline, who has been issued with an Air Operator Certificate by a State other than India to carry out specified commercial air transport operations.

(g) "Ground Handling" means (i) ramp handling , (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

(h) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;

(i) "Scheduled air transport service", means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, each flight being open to use by members of the public.

(j) "Non-Scheduled Air Transport service" means an air transport service, other than a scheduled air transport service as defined in para (i) above, being operated for carriage of passengers/mail/goods. It also includes charter operations.

(k) Charter Operation means an operation for hire and reward in which the departure time, departure and arrival locations are specially negotiated and agreed with the customer or the customer's representative for entire aircraft. No ticket is sold to individual passenger for such operation.

(l) "Cargo" airlines would mean such airlines which meet the conditions as given in the Civil Aviation Requirements issued by the Ministry of Civil Aviation.

(m) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;

3. Policy for FDI in Civil Aviation sector

3.1 Airports: As per the policy notified vide Press Note 4 (2006)-

- (a) Greenfield projects- FDI upto 100% is allowed under the automatic route.
- (b) Existing projects-FDI upto 74% is allowed through automatic route and beyond that and upto 100%, with prior approval of the Government.

3.2 Air Transport Services:

(a) Air Transport Services would include Domestic Scheduled Passenger Airlines, Non-Scheduled Airlines, Chartered Airlines, Cargo Airlines, helicopter and seaplane services.

3.2.1 FDI ceiling in Air Transport Services are as under:

(a) FDI by Foreign Institution other than Foreign airlines:

(i) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline - FDI up to 49% and investment by Non-resident Indians (NRI) up to 100% allowed on the automatic route.

(ii) Non-Scheduled Air Transport Service/Non-Scheduled airlines, Chartered Airlines- FDI up to 74%, in which 49% is allowed through automatic route and beyond that and upto 74% with Government approval. Investment by Non-resident Indians (NRI) up to 100% is allowed through automatic route.

(b) FDI with Foreign airlines:

Foreign airlines are also, henceforth allowed to invest, in the capital of Indian companies operating scheduled and non-scheduled air transport passenger services, upto the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:

- (i) It would be made under the Government approval route;
- (ii) The 49% limit will subsume FDI and FII investment;
- (iii) The investments so made would need to comply with the relevant and applicable regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations.
- (iv) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment; and
- (v) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.

(c) Only such Scheduled Passenger Operators and Non Scheduled Passenger Operators which are companies registered under the Companies Act, 1956 can avail FDI by foreign airlines.

(d) Cargo Airlines- FDI up to 74%, in which 49% is allowed through automatic route and beyond that and upto 74% with Government approval. Investment by Non-resident Indians (NRI) up to 100% is allowed through automatic route.

(e) Helicopter services/seaplane services requiring DGCA approval- FDI up to 100% allowed on the automatic route.

Note: Foreign Airlines are also allowed to participate in the equity of companies operating cargo airlines, helicopter and sea-plane services, as per the limits and entry routes mentioned above.

3.3 FDI ceilings in other services under Civil Aviation sector

(a) Ground Handling Services- FDI up to 74%, in which 49% is allowed through automatic route and beyond that and upto 74% with Government approval. Investment by Non-resident Indians (NRI) up to 100% is allowed through automatic route. This will be subject to sectoral regulations and security clearance.

(b) Maintenance and Repair organizations: Flying Training Institutes; and Technical Training Institutions – FDI, up to 100% allowed on the automatic route.

Note: Investment by Persons of Indian Origin (PIOs)/Overseas Citizens of India (OCIs) in Civil Aviation Sector is counted towards foreign investment and in all such cases, the FDI limit contained in FDI policy shall be followed.

4. Guidelines

It has, therefore, become necessary that guidelines for interpretation of indirect investment by foreign investing institution/entity/ airlines, which are in conformity with the provisions of the Aircraft Act 1934 and Aircraft Rules, 1937, and the existing Air Transport Policy be promulgated.

Accordingly, the following guidelines are issued with the approval of the Government–

1. **Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline**

1.1 Permission to operate Scheduled Air Transport Services/Domestic Scheduled Passenger Airline will be granted either –

(i) to a citizen of India; or

- (ii) to a company or a body corporate provided that –
 - (a) it is registered and has its principal place of business within India;
 - (b) its Chairman and at least two-thirds of its Directors are citizens of India;
and
 - (c) its substantial ownership and effective control is vested in Indian nationals.

- 1.2 The positions of the Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO) and/or Chief Operating Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA).

- 1.3 An applicant shall be required to furnish full and detailed information with regard to the shareholding of any airline in the foreign investing institution/entity, if any, and composition of the Board of Directors and senior management of the said foreign investing institution/entity, and shall submit information of changes, if any.

- 1.4 While the foreign investing institution/entity including foreign airlines, which seeks to hold equity in the Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline may have representation on the Board of Directors of the Company, such representation shall not exceed 1/3rd of the total.

- 1.5 A Scheduled Air Transport Service/Domestic Scheduled Passenger Airline other than those who have FDI by foreign airlines shall not enter into an agreement with a foreign airline, which may give such foreign airline, the right to interfere in the management of the domestic operator.

- 1.6 A Scheduled Air Transport Service/Domestic Scheduled Passenger Airline may enter into financial arrangements with a bank and/or other financial institutions including foreign airline for the purpose of lease-finance, hire-purchase or other loan arrangements.

- 1.7 A Scheduled Air Transport Service/Domestic Scheduled Passenger Airline will also be permitted to get maintenance, overhaul, repair works done and training of pilots/engineers conducted either at the facilities available with other airlines or those certified by the Director General of Civil Aviation on such terms as may be prescribed.

- 1.8 An applicant who seeks permission for Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline will be required to give a declaration that he fulfills all the requirements mentioned in the above guidelines and in case of any change, he shall notify the competent authority within one month of such change. In addition, the applicant will be required to furnish such a declaration every year.

- 1.9 A Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline which furnishes wrong information in respect of any of the above prescribed

guidelines at any stage shall be liable for suspension/cancellation of his Operating Permit.

- 1.10 All foreign nationals likely to be associated as a result of investment by foreign airlines shall be cleared from security view point before deployment.
- 1.11 All technical equipment that might be imported into India as a result of investment by foreign airlines shall require clearance from the relevant authority in the Ministry of Civil Aviation.

2. Non-scheduled Air Transport Service/Non-Scheduled airlines/Chartered Airlines.

- 2.1 Permission to operate Non-scheduled Air Transport Service/Non-Scheduled airlines/Chartered Airlines, will be granted either-
 - (i) to a citizen of India; or
 - (ii) to a company or a body corporate provided that it is registered and has its principal place of business within India;
- 2.2 The majority of Directors on the Board of the Company shall be Indian citizens;
- 2.3 The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO) and/or Chief Operating Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.
- 2.4 An applicant shall be required to furnish full and detailed information with regard to the shareholding of any airline in the foreign investing institution/entity, if any, and composition of the Board of Directors and senior management of the said foreign investing institution/entity, and shall submit information of changes, if any.
- 2.5 Non-scheduled Air Transport Service/ Non-Scheduled airlines, Chartered Airlines other than those who have FDI by foreign airlines shall not enter into agreement with a foreign airline which may give such foreign airline the right to interfere in the management of the domestic operator.
- 2.6 Non-scheduled Air Transport Service/ Non-Scheduled airlines, Chartered Airlines, may enter into financial arrangements with a bank and/or other financial institutions including foreign airline for the purpose of lease-finance, hire-purchase or other loan arrangements.
- 2.7 An applicant who seeks permission for Non-scheduled Air Transport Service/ Non-Scheduled airlines/Chartered Airlines, will be required to give a declaration that he fulfills all the requirements mentioned in the above guidelines and in case of any change, he shall notify the competent authority

within one month of such change. In addition, the applicant will be required to furnish such a declaration every year.

- 2.8 All foreign nationals likely to be associated as a result of investment by foreign airlines shall be got security cleared before deployment.
- 2.9 All technical equipment that might be imported into India as a result of investment by foreign airlines shall require clearance from the relevant authority in the Ministry of Civil Aviation.
- 2.10 Non-scheduled Air Transport Service/Non-Scheduled airlines/Chartered Airlines, who furnishes wrong information in respect of any of the above prescribed guidelines at any stage shall be liable for suspension/cancellation of his Operating Permit.

3. **Cargo Airlines (Scheduled and Non-Scheduled)**

- 3.1 An Air Cargo Operator's Permit can be granted only to:
 - (a) a citizen of India; or
 - (b) a group of individuals of Indian Nationality or a trust/society registered under the Societies Registration Act, 1860; or
 - (c) a Non-resident Indian (NRI)/Overseas Corporate Bodies (OCB); or
 - (d) a company registered under the Companies Act, 1956 , having its principle place of business within India and with or without foreign equity participation (excluding NRI equity) as approved by Government from time to time;
 - (e) the Central Government or a State Government or an undertaking owned or controlled by either of the said Governments.
- 3.2 The majority of Directors on the Board of the Company shall be Indian citizens;
- 3.3 The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO) and/or Chief Operating Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.
- 3.4 An applicant shall be required to furnish full and detailed information with regard to the shareholding of any airline in the foreign investing institution/entity, if any, and composition of the Board of Directors and senior management of the said foreign investing institution/entity, and shall submit information of changes, if any.

3.5 An applicant who seeks permission for Cargo Airlines, will be required to give a declaration that he fulfills all the requirements mentioned in the above guidelines and in case of any change, he shall notify the competent authority within one month of such change. In addition, the applicant will be required to furnish such a declaration every year.

3.6 Cargo Airlines, who furnishes wrong information in respect of any of the above prescribed guidelines at any stage shall be liable for suspension/cancellation of his Operating Permit.

4. Helicopter Services/Sea Plane Services

4.1 Permission to operate Non-scheduled Air Transport Helicopter Services/ Sea Plane Services will be granted either-

- (i) to a citizen of India; or
- (iii) to a company or a body corporate provided that it is registered and has its principal place of business within India;

4.2 The majority of Directors on the Board of the Company shall be Indian citizens;

4.3 The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO) and/or Chief Operating Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.

4.4 An applicant shall be required to furnish full and detailed information with regard to the shareholding of any airline in the foreign investing institution/entity, if any, and composition of the Board of Directors and senior management of the said foreign investing institution/entity, and shall submit information of changes, if any.

4.5 An applicant who seeks permission for Helicopter Services/Sea Plane Services, will be required to give a declaration that he fulfills all the requirements mentioned in the above guidelines and in case of any change, he shall notify the competent authority within one month of such change. In addition, the applicant will be required to furnish such a declaration every year.

4.6 Sea Plane Services, who furnishes wrong information in respect of any of the above prescribed guidelines at any stage shall be liable for suspension/cancellation of his Operating Permit.

5. **Maintenance and repair organizations, Flying Training institutes, and technical training institutes**

5.1 The foreign company planning to set up a maintenance and repair organization, flying training institute or a technical training institute shall have the option of being as an incorporated entity – by incorporating a company under the Companies Act, 1956 through a

- (i) Joint venture; or
- (ii) Wholly owned subsidiary

Foreign equity in such Indian company can be upto 100% depending on the requirements of the investor.

5.2 For registration and incorporation, an application should be filed with Registrar of Companies (ROC). Once a company has been incorporated as an Indian company, it is subject to Indian laws and regulations as applicable to other domestic Indian companies.

5.3 An applicant for obtaining approval for maintenance and repair organization, flying training institute or a technical training institute would need approval by DGCA subject to the fulfillment of the guidelines issued in this respect.

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