

FOREIGN INVESTMENT LIBERALISED IN INDIA'S SPACE SECTOR

By: Rukshad Davar, Partner and Head of M&A, and Bhavya Solanki, Associate, Majmudar & Partners, India

Recently, India's Union Cabinet [approved](#) a significant amendment (the “**FDI Amendment**”) to India’s [Foreign Direct Investment \(“FDI”\) Policy](#) (the “**FDI Policy**”) in the space sector. The FDI Amendment aims to open India’s space sector for foreign participation. This update discusses the FDI Amendment and analyses its implications.

FDI Amendment

Previously, the FDI Policy permitted FDI in the “establishment and operation” of satellites solely through the government approval route, subject to sectoral guidelines of the Department of Space or the Indian Space Research Organisation (ISRO).

The FDI Amendment now defines three (3) different categories of space activities, each with distinct foreign investment limits, as follows:

- (i) up to 49% under the automatic route for launch vehicles and associated systems or subsystems, and creation of spaceports for launching and receiving spacecraft;
- (ii) up to 74% under the automatic route for satellite manufacturing and operation, satellite data products, and ground segment and user segment; and
- (iii) up to 100% under the automatic route for manufacturing of components and systems/ sub-systems for satellites, and ground segment and user segment.

With respect to (i) and (ii), investments beyond the specified thresholds will continue to require government approval.

Key points

- (i) Ambiguities removed: The previous FDI Policy did not detail the various categories in the space industry and was broad-based. For instance, it did not specifically define or reference activities within the launch segment, which led to ambiguity. The FDI Amendment remedies this by specifically defining three (3) different categories and providing separate FDI limits for each of them. However, this raises an issue in respect of existing investments in the previously undefined sectors that may have surpassed the prescribed limits, and whether restructuring will be mandatory in them.
- (ii) Benefits of the automatic route: Government approvals for foreign investments have, typically, entailed delays impacting investment timelines. Additionally, they often come with other conditions. Now that many investments will come under the automatic route, these delays will get eliminated.

- (iii) National security concerns: The old framework limited foreign investments in the space sector due to concerns about national security and sovereignty. Now that the FDI Amendment segregates space-related businesses into three (3) categories, i.e., satellite launches, satellite manufacturing, and manufacturing satellite components, some of these concerns are mitigated. For example, as satellite launches may have strong linkages with the defence sector and propulsion technologies used in launch systems can have military applications, the FDI Policy restricts foreign investment in this area. However, in a bid to give a boost to the Make in India initiative and have more manufacturing be based in India, a foreign company can invest up to 100% in a facility that manufactures satellite components. The FDI caps ensure that Indian firms can exercise some control while still benefiting from foreign funding and technology transfer.

- (iv) Boost to investments: The FDI Amendment aligns with a series of state-led initiatives aimed at boosting investments in the space sector. These initiatives include: (i) opening up the sector to private participation in 2020 and establishing the Indian National Space Promotion and Authorization Centre (IN-SPACe) for regulatory activities; (ii) releasing the Indian Space Policy 2023 which encourages non-governmental entities (NGEs) to engage in various verticals ranging from launch vehicles to communications; and (iii) introducing the Telecommunications Act, 2023 (as discussed [here](#)) which repeals India's age-old telecommunication laws, adopts the administrative route for allocating satellite-based spectrum and lays the groundwork for global satellite-based broadband service providers.

Conclusion

India is already a well-recognized space-faring country, known for its cost-effective and efficient engineering practices. The FDI Amendment is a big step forward in attracting larger investments to India's space sector while giving some degree of strategic control to the Indian partners. The government aims to create a fair regulatory environment and encourage private entities to become global players rather than just suppliers to the Indian government. In addition, apart from access to global funds, FDI in this sector will also facilitate technology transfers into India allowing India to come up to speed with latest technology.

Looking ahead, the government should ensure investor rights protection and set up systems to resolve more smoothly disputes that may arise in this sector. Further, the government may also look into introducing production linked incentives (PLI) schemes for the space sector, which will benefit Indian space-tech startups and manufacturers.