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AMENDMENTS IN FDI POLICY ON PARTLY PAID SHARES AND WARRANTS

The Department of Industrial Policy and Promotion has recently issued a press note on 15 September 2015 to amend the consolidated foreign direct investment policy dated 12 May 2015 (“**FDI Policy**”) permitting Indian Companies to issue partly paid shares and warrants as eligible capital instruments for the purpose of foreign direct investment (“**FDI**”).

The key points of the Press Note are as follows –

1. The definition of ‘*Capital*’ has been amended to insert the ‘*warrants*’. The revised definition of Capital stated that “*Capital means equity shares; fully, compulsorily and mandatorily convertible preference shares; fully, compulsorily and mandatorily convertible debentures and warrants*”.

The press note further clarifies that the equity shares issued in accordance with the provisions of the Companies Act, 2013 (“**Act**”), as applicable, shall include equity shares that have been partly paid. Preference shares and convertible debentures are required to be fully paid, and should be mandatorily and fully convertible. Further, ‘*warrant*’ includes share warrant issued by an Indian Company in accordance of provisions of the Act.

2. An additional clause is inserted in the FDI Policy to state that an Indian company may issue warrants and partly paid shares to a person resident outside India, subject to terms and conditions as stipulated by the Reserve Bank of India in this behalf, from time to time.

ALMT ANALYSIS

This press note is another welcome initiative by the Government of India by amending the definition of ‘*Capital*’ under the FDI Policy and allowing the Indian companies to issue *warrants* and *partly paid-up equity shares* under the automatic route subject to the sectoral cap limit. Earlier the Indian companies were required to take the Government approval for issuing the *warrants* and *partly paid shares* to a person resident outside India which is now not required.

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This measure will ensure more ease and alternative options to the Indian companies for raising money through partly paid shares and warrants.

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