



FDI



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MAJOR INITIATIVES ON IMPROVING 'EASE OF DOING BUSINESS' IN INDIA

The Government of India is constantly trying to encourage investments in India. In order to compliment these efforts the Department of Industrial Policy and Promotion (“DIPP”) has recently taken several initiatives to facilitate doing business in India.

This newsflash sets out the relevant changes and steps taken.

A. Industrial Licenses

1. The application for Industrial License (“IL”) and Industrial Entrepreneur Memorandum (“IEM”) can be made online. This will facilitate filing applications and online payment of service charges. Fourteen services are brought into one portal which will work as a single window portal.
2. Further, the application forms for IL and IEM have been simplified.
3. The initial validity period of IL has been increased to three years from two years in order to give the licensees enough time to procure land and obtain the necessary clearances/ approvals from authorities. In case the production has not commenced within three years of issue of IL, a further extension of two years would be granted provided certain requirements are fulfilled. However, if the business has not commenced for five years from the issue of the issue of the IL, the IL will lapse automatically.
4. Partial commencement of production is being treated as commencement of production of all the items included in the IL. This has removed the requirement of licensees to get their IL extended even though they have started part production.
5. The Ministry of Home Affairs (“MHA”) has stated that it will grant security clearance on IL applications within twelve weeks. In matters other than those concerning explosives and Foreign Investment Promotion Board, security clearances are valid for three years unless there is a change in composition of management or shareholding.
6. The DIPP has now adopted the new National Industrial Classification (“NIC”) 2008 instead of the old NIC 1987 for the purpose of classification for IL and IEM. The NIC

standard is an important business and industrial standard for industrial classification system. The change to NIC 2008 is to ensure a contemporary classification system.

7. In order to facilitate investment by investors and reply to their queries, the DIPP website has provided Frequently Asked Questions for grant of IL.

B. Export-Import Documents

1. Initially the documents required for export and import of goods was ranging upto eleven documents. Now the number of documents required for export and import of goods are limited to three documents.

C. Ministry of Defence (“MOD”)

1. The list of defence products requiring an IL has been issued. This list excludes large number of parts/ components, castings/ forgings etc. from the purview of an IL.

Further, products with dual use (i.e. having military as well as civilian applications), unless classified as defence item, will also not require an IL from the defence perspective. In case of these items only an IEM has to be filed.

2. The Department of Defence Production, MOD has issued ‘*Security Manual for Licensed Defence Industry*’. This has removed the requirement of an affidavit from applicants. Earlier, an affidavit signed before Judicial Magistrate was required from the applicant to confirm that they will comply with the safety & security guidelines/ procedures laid down by the MOD and Ministry of Home Affairs. The applicants were facing difficulties in obtaining such affidavit and this was causing severe delay in issue of IL, even after receipt of the approval of Licensing Committee.

D. Ministry of Corporate Affairs (“MCA”)

1. The Companies Amendment Act, 2015 (“**Amendment Act**”) has been passed. This Amendment Act amongst other important changes removes requirements of minimum paid-up capital and common seal for companies.
2. The MCA has introduced an integrated process for incorporation of a company. Now the applicants can apply for Director’s Identification Number (“**DIN**”) and company name availability simultaneously with the application for incorporation of a company. Earlier, the initial Directors were required to obtain a DIN and then the application for name availability could be made by the Director. Once the name approval was granted the incorporation application could be made. Hence, the integrated process will expedite the incorporation process.

E. Ministry of Environment and Forests (“MOEF”)

1. The process of applying for Environment and Forests clearances has been made online through MOEF portal.

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2. The requirement for Environment Assessment Report is required for industrial shed, school, college, hostel for education institution, only if the built-up area is above 20,000 square meters and up to 150,000 square meters.

F. Ministry of Labour and Employment (“Labour Ministry”)

1. The Labour Ministry has set up a unified portal for registration of Units for Labour Identification Number, reporting of Inspection, submission of returns and grievance redressal.
2. The registration with Employees Provident Fund Organization and Employees State Insurance Corporation (“**ESIC**”) has been automated. The ESIC registration number is being provided on a real-time basis.

G. Other initiatives

1. Pursuant to a comparative study of practices followed by the States in India for grant of clearance and ensuring compliances; six best practices were identified. These were circulated among all the States for peer evaluation and adoption.
2. The Ministry of Ministry of Micro Small and Medium Enterprises (“**MSMEs**”) has issued an order facilitating revival and rehabilitation of MSMEs, through a banker’s committee to enable MSMEs to seek standard as well as customized relief and concession and thereby revive itself.
3. A checklist with specific time-lines for processing all applications filed by foreign investors (in cases relating to retail trading/ Non-Resident Indian / Export Oriented Units), is placed on the DIPP website.
4. An Investor Facilitation Cell has been created to guide, assist and handhold investors during the entire life-cycle of the business.
5. The DIPP has requested all Secretaries of Government of India and Chief Secretaries of the States/Union Territories to simplify and rationalize the regulatory environment.
6. In Maharashtra the registration process of Value Added Tax (“**VAT**”) and professional tax has been merged into a single process with single ID. In Delhi the registration for VAT has been made online. Tax Information Network (“**TIN**”) allotment is done on a real-time basis and business can start immediately on receipt of TIN number.
7. The time required for giving a new electric connection in Mumbai has been reduced to twenty-one days from sixty seven days. The number of procedures for obtaining the connection is reduced to three from seven. The procedure for new electric connection in Delhi is simplified with reduced procedures and timelines.
8. The Delhi Municipal Corporation has launched online application process for grant of construction permits for residential and industrial buildings.

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CONCLUSION

The focus of the ‘*ease of doing business policy*’ is mainly on cutting out the tedious documentation and unnecessary paper work and getting the work done in a shorter time span. It was imperative to take steps to address the concerns and delays, to enable the industry to grow. This was a much needed step to simplify compliance and to make India more investor friendly.

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For further clarification and details on the above, you may write to the Exchange Control team, comprising of amongst others Mr. Vaishakh Kapadia (Partner) at vkapadia@almtlegal.com, Ms. Aditi Tralshawala (Associate) at atralshawala@almtlegal.com and Ms. Shatakshi Komal (Paralegal) at skomal@almtlegal.com.

ALMT Offices

Mumbai:

4th Floor, Express Towers
Nariman Point
Mumbai 400-021
India
Tel: +91 22 4001 0000
Email: mumbai@almtlegal.com

Bangalore:

2 Lavelle Road
1st Floor
Bangalore 560 001
India
Tel: +91 80 4016 0000
Email: bangalore@almtlegal.com

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