

Corpsec Hotline

June 13, 2003

FOREIGN COMPANIES MAY NOT NEED NOC TO SET UP SUBSEQUENT VENTURES IN INDIA

As per the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 and Press Note No. 18 issued by the Government of India dated December 14, 1998, a foreign collaborator, which had or has an existing investment in / joint venture or tie-up with an Indian company and is now seeking to make an investment in another Indian company which is in the same or allied business as the first Indian company, is required to obtain permission from the Foreign Investment Promotion Board ("FIPB") and a no-objection certificate ("NOC") from the first Indian company. This requirement was only relaxed in the case of companies in the Information Technology ("IT") sector.

However, recently, in the case of Kennametal, the FIPB seems to have relaxed its stand on this issue. Kennametal had an existing joint venture with the Yash Birla group named as Birla Kennametal. Kennametal was also seeking to increase its stake in Widia India vide an open offer as part of its global acquisition of the promoter company of Widia India. Kennametal was unable to proceed with its open offer for the shares of Widia India due to refusal on the part of the Yash Birla group to issue an NOC for the same, which was required for such increase. The FIPB has however, on the recommendation of the Securities and Exchange Board of India ("SEBI"), permitted Kennametal to go ahead with its acquisition of Widia India, even in the absence of an NOC from the Yash Birla Group giving precedence to the interests of the shareholders of Widia India who will benefit as a result of the open offer. The decision of the FIPB has been submitted to the Finance Minister for formal approval.

This decision of the FIPB seems to indicate that they may consider granting an exemption from the requirement to obtain an NOC from the existing Indian company if a foreign collaborator is proposing a new venture in India, on a case by case basis.

Source: The Economic Times, Mumbai. June 12, 2003.

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

New Age of Franchising

June 20, 2025

Life Sciences 2025

June 11, 2025

The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Reimagining CSR: From Grant Giving to Blended Finance & Outcome Based Funding

June 16, 2025

Courts vs Bankruptcy code: The
JSW-Bhushan Saga

June 04, 2025

Vyapak Desai speaking on the
danger of deepfakes | Legally
Speaking with Tarun Nangia |
NewsX

April 01, 2025