REPORT OF THE COMMITTEE ON LIBERALISATION OF FOREIGN INSTITUTIONAL INVESTMENT

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS

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Preface

Following the Budget 2002-2003 announcement by the Finance Minister regarding relaxation of investment limits for Foreign Institutional Investors (FIIs) from the sectoral limits on foreign direct investment, a committee was set up to examine the issues. The committee, which was reconstituted twice, has made certain recommendations after due consultations with the administrative Ministries, FICCI, CII and SEBI. These recommendations contained in this report, I believe, will help in increasing investment in the country and facilitating growth.

I would like to thank Shri U.K. Sinha and Shri Umesh Kumar, members of the Committee for their active participation and valuable contribution.

Dr. Shashank Saksena, Joint Director (SE) and Shri P.R. Suresh, OSD(CM &I) of the Department of Economic Affairs, assisted the Committee in its work and on behalf of the Committee, I would like to place on record our appreciation.

Ashok K. Lahiri
Chairman

Executive Summary

Following the announcement by the Government in the Budget 2002-03 that suggested that foreign institutional investors' (FII) portfolio investments would not be subject to the sectoral limits for foreign direct investment except in specified sectors, a Committee was constituted with representation from the Department of Economic Affairs as well as the Department of Industrial Policy and Promotion.

The Committee was reconstituted twice. After the second reconstitution, the Committee had 5 meetings, the last being held on June, 24, 2004. The report gives an evolution of FII policy in India, examines the pros and cons of FII investment, especially in an era with no balance of payment pressures, and also provides a perspective on FII investment restrictions in peer countries in Asia. The recommendations are as follows:

A. (i) In general, FII investment ceilings, if any, may be reckoned over and above prescribed FDI sectoral caps. The 24 per cent limit on FII investment imposed in 1992 when allowing FII inflows was exclusive of the FDI limit. The suggested measure will be in conformity with this original stipulation.

(ii) Special procedure for raising FII investments beyond 24per cent upto the FDI limit in a company may be dispensed with by amending the relevant SEBI (FII) Regulations.

(iii) In order to provide dispersed investments and prevent concentration, the existing limit of 10per cent by a FII in a single company may continue.

B Recommendations in para A above would apply, in general, to all sectors. Specific recommendations are being made for the following sectors with overall composite caps :

a. Telecom services.

b. Defence production

c. Public sector banks.

d. Insurance companies.

FII investments are currently not permitted in print media, sectors which are not yet opened for private investment and in gambling, betting, lottery. The Committee recommends the same may continue.

FDI investment in retail trading is prohibited. FII investments, however, are permitted up to 24 per cent in all listed companies, except in print media companies. The Committee recommends the same may continue as this would help in developing supply chains in a wide range of products including that of agriculture.

I. Introduction

In his Budget Speech on February 28, 2002, the Finance Minister announced that: "Foreign Institutional Investors (FIIs) can invest in a company under the portfolio investment route beyond 24 per cent of the paid-up capital of the company with the approval of the general body of the shareholders by a special resolution. I propose that now FII portfolio investments will not be subject to the sectoral limits for foreign direct investment except in specified sectors. Guidelines in this regard will be issued separately."

2. Following this announcement, with the approval of Finance Minister, a committee was set up on March 13, 2002 to identify the sectors in which FIIs' portfolio investments will not be subject to the sectoral limits for Foreign Direct Investment (FDI). The Committee comprised the following:

(i) Dr. Rakesh Mohan,Adviser to Union Finance Minister - Chairman
(ii) Sh. G.S. Dutt, Joint Secretary, Dept. of Economic Affairs - Member
Ministry of Finance, Government of India
(iii)Sh. M.S. Srinivasan, Joint Secretary, Dept. of Industrial - Member
Policy and Promotion, Government of India

3. The terms of reference for the committee were: a) identify the sectors in which FII portfolio investments will not be subject to the sectoral limits for Foreign Direct Investment; and b) consultation with the administrative Ministries concerned in this regard to identify such sectors.

4. On December 27, 2002, the Committee was reconstituted with the following members:

(i)	Dr. Ashok K. Lahiri, Chief Economic Adviser	Chairman
(ii)	Sh. G.S. Dutt, Joint Secretary, Dept. of Economic Affairs, Ministry of Finance, Government of India	Member
(iii)	Sh. M.S. Srinivasan, Joint Secretary, Dept. of Industrial, Policy and Promotion, Government of India.	Member

5. The Committee met on February 11, 2003, and March 10, 2003. The Committee was reconstituted again on May 17, 2004 with the following members:

(i)	Dr. Ashok K. Lahiri, Chief Economic Adviser	Chairman
(ii)	Shri U.K. Sinha, Joint Secretary (Capital Markets), Dept. of Economic Affairs, Ministry of Finance, Government of India	Member
(iii)	Sri Umesh Kumar, Joint Secretary, Dept. of Industrial Policy and Promotions, Government of India.	Member

6. After the second reconstitution, the Committee had 5 meetings, the last being held on June, 24, 2004.

II. Evolution of FII Investment Policy

7. India embarked on a gradual shift towards capital account convertibility with the launch of the reforms in the early 1990s. Although foreign natural persons – except NRIs – are prohibited from investing in financial assets, such investments were permitted by FIIs and Overseas Corporate Bodies (OCBs) with suitable restrictions. Ever since September 14, 1992, when FIIs were first allowed to invest in all the securities traded on the primary and secondary markets, including shares, debentures and warrants issued by companies which were listed or were to be listed on the Stock Exchanges in India and in the schemes floated by domestic mutual funds, the holding of a single FII and of all FIIs, Non-resident Indians (NRIs) and OCBs in any company were subject to the limit of 5 per cent and 24 per cent of the company's total issued capital, respectively. Furthermore, funds invested by FIIs had to have at least 50 participants with no one holding more than 5 per cent to ensure a broad base and preventing such investment acting as a camouflage for individual investment in the nature of FDI and requiring Government approval.

8. Initially the idea of allowing FIIs was that they were broad-based, diversified funds, leaving out individual foreign investors and foreign companies. The only exception were the NRI and OCB portfolio investments through the secondary market, which were subject to individual ceilings of 5 per cent to prevent a possible "take over." Individuals were left out because of the difficulties in checking on their antecedents, and of their lack of expertise in market matters and relatively short-term perspective. OCB investments through the portfolio route have been banned since November, 2001.

9. In February, 2000, the FII regulations were amended to permit foreign corporates and high net worth individuals to also invest as sub-accounts of Securities and Exchange Board of India (SEBI)-registered FIIs. Foreign corporates and high net worth individuals fall outside the category of diversified investors. FIIs were also permitted to seek SEBI registration in respect of sub-accounts for their clients under the regulations. While initially FIIs were permitted to manage the sub-account of clients, the domestic portfolio managers or domestic asset management companies were also allowed to manage the funds of such sub-accounts and also to make application on behalf of such sub-accounts. Such sub-accounts could be an institution, or a fund, or a portfolio established or incorporated outside India, or a broad-based fund, or a proprietary fund, or even a foreign corporate or individual. So, in practice there are common categories of entities, which could be registered as both FIIs and sub-accounts. However, investment in to a sub-account is to be made either by FIIs, or by domestic portfolio manager or asset management company, and not by itself directly.

10. In view of the recent concerns of some unregulated entities taking positions in the stock market through the mechanism of Participatory Notes (PNs) issued by FIIs, the issue was examined by the Ministry of Finance in consultation with the Reserve Bank of India (RBI) and SEBI. Following this consultation, in January 2004, SEBI stipulated that PNs are not to be issued to any non-regulated entity, and the principle of "know your clients" may be strictly adhered to. SEBI has indicated that the existing non-eligible PNs,

will be permitted to expire or to be wound-down on maturity, or within a period of 5 years, whichever is earlier. Besides, reporting requirement on a regular basis has been imposed on all the FIIs.

11. The following entities, established or incorporated abroad, are eligible to be registered as FIIs: (a)Pension Funds, (b)Mutual Funds, (c)vestment Trusts, (d) Asset Management Companies, (e) Nominee Companies, (f) Banks, (g) Institutional Portfolio Managers, (h) Trustees, (i) Power of Attorney holders, (j) University funds, endowments, foundations or charitable trusts or charitable societies.

12. Besides the above, a domestic portfolio manager or domestic asset management company is now also eligible to be registered as an FII to manage the funds of sub-accounts.

13. The FIIs can also invest on behalf of sub-accounts. The following entities are entitled to be registered as sub-accounts: i) an institution or fund or portfolio established or incorporated outside India, ii) a foreign corporate or a foreign individual.

14. FIIs registered with SEBI fall under the following categories:

(a) Regular FIIs – those who are required to invest not less than 70 per cent of their investment in equity-related instruments and up to 30 per cent in non-equity instruments.
(b) 100 per cent debt-fund FIIs – those who are permitted to invest only in debt instruments.

15. A Working Group for Streamlining of the Procedures relating to FIIs constituted in April, 2003 by the Government, inter alia, recommended streamlining of SEBI registration procedure, and suggested that dual approval process of SEBI and RBI be changed to a single approval process of SEBI. This recommendation has since been implemented.

16. Forward cover in respect of equity funds for outstanding investments of FIIs over and above such investments on June 11, 1998 was permitted. Subsequently, forward cover up to a maximum of 15 per cent of the outstanding position on June 11, 1998 was also permitted. This 15 per cent limit was liberalized to 100 per cent of portfolio value as on March 31, 1999 in January 2003.

17. Like in other countries, the restrictions on FII investment have been progressively liberalized. From November 1996, any registered FII willing to make 100 per cent investment in debt securities were permitted to do so subject to specific approval from SEBI as a separate category of FIIs or sub-accounts as 100 per cent debt funds. Such investments by 100 per cent debt funds were, however, subject to fund-specific ceilings specified by SEBI and an overall debt cap of US$ 1-1.5 billion. Moreover, investments were allowed only in debt securities of companies listed or to be listed in stock exchanges. Investments were free from maturity limitations.

18. From April 1998, FII investments were also allowed in dated Government securities. Treasury bills being money market instruments were originally outside the ambit of such investments, but were subsequently included from May, 1998. Such investments, which are external debt of the Government denominated in rupees, were encouraged to deepen the debt market. From April, 1997, the aggregate limit for all FIIs, which was 24 per cent, was allowed to be increased up to 30 per cent by the Indian company concerned by passing a resolution by its Board of Directors followed by a special resolution to that effect by its General Body.

19. While permitting foreign corporates/high net worth individuals in February, 2000 to invest through SEBI registered FII/domestic fund managers, it was noted that there was a clear distinction between portfolio investment and FDI. The basic presumption is that FIIs are not interested in management control. To allay fears of management control being exercised by portfolio investors, it was noted that adequate safety nets were in force, for example, (i) transaction of business in securities on the stock exchanges are only through stock brokers who have been granted a certificate by SEBI, (ii) every transaction is settled through a custodian who is under obligation to report to SEBI and RBI for all transactions on a daily basis, (iii) provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (iv) monitoring of sectoral caps by RBI on a daily basis.

20. In 1998, the aggregate portfolio investment limits of NRIs/PIOs/OCBs and FIIs were enhanced from 5 per cent to 10 per cent and the ceilings of FIIs and NRIs/OCBs were declared to be independent of each other.

21. Aggregate FII portfolio investment ceiling was enhanced from 30 per cent to 40 per cent of the issued and paid up capital of a company [March 01 2000]. The enhanced ceiling was made applicable only under a special procedure that required approval by the Board of Directors and a Special Resolution by the General Body of the relevant company. The FII ceiling under the special procedure was further enhanced [March 08 2001] from 40 per cent to 49 per cent. Subsequently, the FII ceiling under the special procedure was raised up to the sectoral cap in September, 2001.

III. Sectoral Caps

22. Quite apart from the ceilings on FII investment, there were and are ceilings on FDI, and in some cases, unified ceilings for nonresident investments. There are two types of ceilings on FII investment: statutory and administrative.

23. Currently non-resident investments in public sector banks and insurance sector are capped under Acts at 20 per cent and 26 per cent respectively. Accordingly, FDI plus portfolio investments by FIIs and NRIs are capped at 20 per cent and 26 per cent under the above statutes.

24. There are also sectors where administrative caps for non-resident investments have been prescribed. In these sectors (viz. telecom services, media, private sector

banks) FDI plus portfolio investments by FIIs and NRIs cannot exceed the administrative caps fixed.

25. Caps can be of three types:

i) a separate cap on FDI,
ii) a separate cap on FII, and
iii) a composite caps on FDI and FII combined together.

Separate caps on FDI and FII, in turn, can be of five types:

I) ban on both FDI and FII (e.g. lottery business, gambling and betting),
II) non-zero separate caps on both FDI and FII ([e.g., DTH-broadcasting]), [DTH has composite ceiling with a sub-ceiling for FDI at 20 per cent]
III) a composite non-zero cap on FDI and FII (banking, insurance, telecom,),
IV) ban on FDI with a non-zero cap on FII (e.g.,Terrestrial broadcasting FM, retail trading), and
V) ban on FII with a non-zero cap on FDI (e.g. print media).

26. For example, for private sector banks falling within the purview of the RBI's regulatory jurisdiction, no distinction is made either between different categories of non-resident investors or the nature of foreign investment, whether portfolio or FDI. Similarly, no distinction is made either between different categories of sub-sectors of FM radio broadcasting and satellite uplinking, cable network and Direct-to-home. The sectoral equity caps as of May 13, 2004 are given in Table 1 (at annex1).

27. In August, 2002, the Steering Group on Foreign Direct Investment headed by Shri N.K.Singh, Member, Planning Commission, submitted its report.[1] In this report, six reasons given for imposing caps and bans on FDI national security, culture and media, natural monopolies, monopoly power, natural resources, and transition costs, were discussed in some detail.

28. The Steering Group observed that while all governments prefer vital defence industries to be controlled by their own resident nationals, there was not much justification for restrictions on the production of civilian goods used by the defence forces, and production of those goods that are either imported or are banned for exports from developed countries for strategic reasons. On culture and media, the Steering Group observed that there was a need for true cultural globalization – not a one-way process of only India having access to the culture of the rest of the world but a two-way street – and in the field of current affairs and news programmes, editorial control must vest with Indian nationals and eventually could be replaced by limits on aggregate market share (25 – 49 per cent) that can accrue to foreign controlled news/current affairs companies taken together.

29. As regards natural monopolies, the Steering Group observed that in the absence of a proper regulatory system with the requisite expertise, "It can be argued that when such

[1] "Report of the Steering Group on Foreign Direct Investment", Planning Commission, Government of India, New Delhi, August 2002.

expertise does not exist in the regulatory system it may be better for monopoly profits to accrue to resident nationals than to foreigners. Though this argument has some validity in the short term it is a defeatist approach in the long term. Domestic monopolies are more likely to succeed in distorting the regulatory process in their favour ('regulatory capture') than foreign monopolies, because of their more intimate knowledge of and association with domestic political processes. Any such restrictions therefore must be temporary with continuous efforts made to improve regulatory structures and skills." On abuse of monopoly power, the Steering Group argued that foreign investment can in fact enhance domestic competition and any potential problem arising from a foreign producer with very high global share tying up with an existing domestic producer should be addressed under the Competition Law.

30. With ownership of natural resources, such as, the electro-magnetic spectrum and sites for dams and harbours vesting with the people and their Government, the Steering Group noted that if extraction of the resource rent, which arises from the difference between the market price and efficient costs of exploitation of the particular resource, is effectively designed to maximize such resource rent to Government through appropriate tax and auction systems there would be no need to discriminate between foreign and domestic investments.

31. Considerable difficulties were encountered in the monitoring of the sector-specific composite ceilings on foreign investment because of the problems in identifying the sector of investment merely by the name of the company and the existence of companies with diversified activities.

IV. Supply and Demand

32. Various supply and demand factors have made investing via institutions a rapidly growing sector in many developed countries.[2] There is enhanced supply of funds from investors to institutions because of the aging of population, funded pension systems, and growing wealth. Institutions are also able to give better services and attractive returns because of ease of diversification, better corporate governance, liquidity, deregulation and fiscal incentives. Given this background, there is likely to be a large and growing demand for Indian stocks by FIIs.

33. It is of some importance to note that the bouts of liberalization of the FII regime has coincided with pressure on the foreign exchange and balance of payments fronts, for example, in the aftermath of the 1991 crisis and around the 1997 East Asian crisis. Now that there is no apparent balance of payments problem, the critical question is whether there are any reasons for liberalizing the FII regime.

34. FIIs have a natural advantage in processing information. One of the problems noted for such investment in emerging markets consists in the lower amount of reliable and quality information available in such countries relative to developed ones. It can be

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[2] See E. Philip Davis: "Institutional Investors, Financial Markets and Financial Stability", Discussion Paper PI-0303, The Pensions Institute, Birkbeck College, London, January 2003.

expected that with rapid progress in disclosure norms, accounting standards, shareholder rights, legal framework, and corporate governance in general, FII investments are going to accelerate in India. FII investments in some companies are already at their ceiling level, and the ceiling is much below the stakes that FIIs have acquired in some of the top Korean chaebols.

35. Countries that have liberalized their FII regimes did not do it out of balance of payments compulsions. Taiwan, for example, removed all restrictions – previously 10 per cent individually and 25 per cent collectively until March 1998, and 15 per cent and 30 per cent until January 1, 2001 – from the beginning of 2001. People's Republic of China, without a balance of payments problem, opened itself up to FII investment in 2003. Swiss Bank UBS, by buying into four of China's A-share stocks – Baoshan Iron and Steel, Shanghai Port Container, Sinotrans Air, and ZTE Corp – became the first FII to enter the Chinese market on Wednesday, July 9, 2003.

V. Pros of FII Investment

36. The advantages of having FII investments can be broadly classified under the following categories**.**

A. Enhanced flows of equity capital

37. FIIs are well known for a greater appetite for equity than debt in their asset structure. For example, pension funds in the United Kingdom and United States had 68 per cent and 64 per cent, respectively, of their portfolios in equity in 1998. Thus, opening up the economy to FIIs is in line with the accepted preference for non-debt creating foreign inflows over foreign debt. Furthermore, because of this preference for equities over bonds, FIIs can help in compressing the yield-differential between equity and bonds and improve corporate capital structures. Further, given the existing savings-investment gap of around 1.6 per cent, FII inflows can also contribute in bridging the investment gap so that sustained high GDP growth rate of around 8 per cent targeted under the 10th Five Year Plan can materialize.

B. Managing uncertainty and controlling risks

38. Institutional investors promote financial innovation and development of hedging instruments. Institutions, for example, because of their interest in hedging risks, are known to have contributed to the development of zero-coupon bonds and index futures. FIIs, as professional bodies of asset managers and financial analysts, not only enhance competition in financial markets, but also improve the alignment of asset prices to fundamentals.

39. Institutions in general and FIIs in particular are known to have good information and low transaction costs. By aligning asset prices closer to fundamentals, they stabilize markets. Fundamentals are known to be sluggish in their movements. Thus, if prices are aligned to fundamentals, they should be as stable as the fundamentals themselves.

Furthermore, a variety of FIIs with a variety of risk-return preferences also help in dampening volatility.

C. Improving capital markets

40. FIIs as professional bodies of asset managers and financial analysts enhance competition and efficiency of financial markets. Equity market development aids economic development.[3] By increasing the availability of riskier long term capital for projects, and increasing firms' incentives to supply more information about themselves, the FIIs can help in the process of economic development.

D. Improved corporate governance

41. Good corporate governance is essential to overcome the principal-agent problem between share-holders and management. Information asymmetries and incomplete contracts between share-holders and management are at the root of the agency costs. Dividend payment, for example, is discretionary. Bad corporate governance makes equity finance a costly option. With boards often captured by managers or passive, ensuring the rights of shareholders is a problem that needs to be addressed efficiently in any economy. Incentives for shareholders to monitor firms and enforce their legal rights are limited and individuals with small share-holdings often do not address the issue since others can free-ride on their endeavour. What is needed is large shareholders with leverage to complement their legal rights and overcome the free-rider problem, but shareholding beyond say 5 per cent can also lead to exploitation of minority shareholders.

42. FIIs constitute professional bodies of asset managers and financial analysts, who, by contributing to better understanding of firms' operations, improve corporate governance. Among the four models of corporate control – takeover or market control via equity, leveraged control or market control via debt, direct control via equity, and direct control via debt or relationship banking – the third model, which is known as corporate governance movement, has institutional investors at its core. In this third model, board representation is supplemented by direct contacts by institutional investors. Institutions are known for challenging excessive executive compensation, and remove under performing managers. There is some evidence that institutionalization increases dividend payouts, and enhances productivity growth.

[3] Demigrüç-Kunt, A. and R. Levine (1996): "Stock Market Development and Financial Intermediaries: Stylized Facts", World Bank Economic Review, Vol. 10, pp. 341-69.

VI. Cons: Management Control and Risk of Hot Money Flows

43. The two common apprehensions about FII inflows are the fear of management takeovers and potential capital outflows.

A. Management control

44. FIIs act as agents on behalf of their principals – as financial investors maximizing returns. There are domestic laws that effectively prohibit institutional investors from taking management control. For example, US law prevents mutual funds from owning more than 5 per cent of a company's stock.

45. According to the International Monetary Fund's Balance of Payments Manual 5, FDI is that category of international investment that reflects the objective of obtaining a lasting interest by a resident entity in one economy in an enterprise resident in another economy. The lasting interest implies the existence of a long-term relationship between the direct investor and the enterprise and a significant degree of influence by the investor in the management of the enterprise. According to EU law, foreign investment is labeled direct investment when the investor buys more than 10 per cent of the investment target, and portfolio investment when the acquired stake is less than 10 per cent.

46. Institutional investors on the other hand are specialized financial intermediaries managing savings collectively on behalf of investors, especially small investors, towards specific objectives in terms of risk, returns, and maturity of claims.

47. All take-overs are governed by SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, and sub-accounts of FIIs are deemed to be "persons acting in concert" with other persons in the same category unless the contrary is established. In addition, reporting requirement have been imposed on FIIs and currently Participatory Notes cannot be issued to un-regulated entities abroad.

B. Potential capital outflows

48. FII inflows are popularly described as "hot money", because of the herding behaviour and potential for large capital outflows. Herding behaviour, with all the FIIs trying to either only buy or only sell at the same time, particularly at times of market stress, can be rational.[4] With performance-related fees for fund managers, and performance judged on the basis of how other funds are doing, there is great incentive to suffer the consequences of being wrong when everyone is wrong, rather than taking the risk of being wrong when some others are right. The incentive structure highlights the danger of a contrarian bet going wrong and makes it much more severe than performing badly along with most others in the market. It not only leads to reliance on the same information as others but also reduces the planning horizon to a relatively short one. Value at Risk models followed by FIIs may destabilize markets by leading to

[4] See Bikhchandani, S and S. Sharma (2000): "Herd Behaviour in Financial Markets", Working Paper No. WP/00/48, International Monetary Fund, Washington DC, 2000.

simultaneous sale by various FIIs, as observed in Russia and Long Term Capital Management 1998 (LTCM) crisis. Extrapolative expectations or trend chasing rather than focusing on fundamentals can lead to destabilization. Movements in the weightage attached to a country by indices such as Morgan Stanley Country Index (MSCI) or International Finance Corporation (W) (IFC) also leads to en masse shift in FII portfolios.

49. Another source of concern are hedge funds, who, unlike pension funds, life insurance companies and mutual funds, engage in short-term trading, take short positions and borrow more aggressively, and numbered about 6,000 with $500 billion of assets under control in 1998.

50. Some of these issues have been relevant right from 1992, when FII investments were allowed in. The issues, which continue to be relevant even today, are: (i) benchmarking with the best practices in other developing countries that compete with India for similar investments; (ii) if management control is what is to be protected, is there a reason to put a restriction on the maximum amount of shares that can be held by a foreign investor rather than the maximum that can be held by all foreigners put together; and (iii) whether the limit of 24 per cent on FII investment will be over and above the 51 per cent limit on FDI. There are some other issues such as whether the existing ceiling on the ratio between equities and debentures in an FII portfolio of 70:30 should continue or not, but this is beyond the terms of reference of the Committee.

51. It may be noted that all emerging peer markets have some restrictions either in terms of quantitative limits across the board or in specified sectors, such as, telecom, media, banks, finance companies, retail trading medicine, and exploration of natural resources. Against this background, further across the board relaxation by India in all sectors except a few very specific sectors to be excluded, may considerably enhance the attractiveness of India as a destination for foreign portfolio flows. It is felt that with adequate institutional safeguards now in place the special procedure mechanism for raising FII investments beyond 24 per cent may be dispensed with. The restrictions on foreign ownership of companies in emerging markets have been summarised in Annex-III.

VII. Recommendations

52. Given the necessity of boosting agricultural growth through development of agro-processing, and expanding industry by at least 10 per cent per year to integrate not only the surplus labour in agriculture but also the unprecedented number of women and teenagers joining the labour force every year, there is an urgent need to scale up investment in the economy. FII inflows can help in augmenting the investible resources in the economy, and the following measures may be considered for increasing the availability of stocks eligible for such portfolio investments:-

A (i) In general, FII investment ceilings, if any, may be reckoned over and above prescribed FDI sectoral caps. The 24 per cent limit on FII investment imposed in

1992 when allowing FII inflows was exclusive of the FDI limit. The suggested measure will be in conformity with this original stipulation.

(ii) Special procedure for raising FII investments beyond 24per cent upto the FDI limit in a company may be dispensed with by amending the relevant SEBI (FII) Regulations.

(iii) In order to provide dispersed investments and prevent concentration, the existing limit of 10per cent by a FII in a single company may continue.

B Recommendations in para A above apply, in general, to all sectors. Specific recommendations are being made for the following sectors keeping in mind their special nature:

(i) For telecommunications services, defence production, public sector banks and insurance companies, where composite limits on FDI and FII investments apply, the following is recommended:-

(a) Telecom services: As recommended by the earlier Group of Ministers to the Union Cabinet and taking into account security considerations, while the Composite cap may be maintained, it may be enhanced to 74 per cent of the paid up capital without separate sub-ceilings.

(b) Defence production: In this strategic sector a limit of 26 per cent applies on FDI. A composite cap of 49 per cent may be imposed with no sub-ceiling for FDI and FII.

(c) Public sector banks: In public sector banks where a composite cap of 20 per cent for foreign investments applies, FII investment up to 20 per cent over and above the existing cap of 20 per cent should be allowed. However, FIIs will have no representation on the board of these banks. If necessary, the statutes may be amended for this purpose.

(d) Insurance companies: In insurance companies, a composite cap of 26 per cent for FDI and FII investments applies. Like in defence production, this composite cap may be enhanced to 49 per cent by amending the relevant statutes.

(ii) In print media, FII investment is prohibited under regulation 5(2) of FEMA notification No.20 dated May 3, 2000, (as amended in terms of FEMA Notification No.35/2001-RB dated February 16, 2001). The same may continue for the time being

(iii) Similarly, gambling, betting, lottery, which are areas of dubious value added and where FDI is prohibited, may also be kept out of bounds for FII investments.

(iv) In retail trading currently FDI is prohibited. FII investments, however, are permitted up to 24 per cent in all listed companies, except in print media companies. Accordingly, FII investments in retail trading cannot exceed 24 per cent as no FDI is permitted. This restriction may continue, as it will help develop supply chains in a wide range of products, including that of agriculture.

(v) Sectors which are not yet open for private investments, e.g., terrestrial broadcasting and postal services (delivery of letters) should explicitly be prohibited for FII investments, as no investible securities are available.

Details of sector specific guidelines for foreign direct investment and portfolio investments are at Annex-I, and proposed portfolio investment limits in sectors currently with investment limits is at Annex – II.

C. The Committee recommends that this liberalization be reviewed later for delinking portfolio investments from FDI ceilings.

(Umesh Kumar) **(U.K. Sinha)**

(Dr. Ashok K. Lahiri)

ANNEX – I. SECTORAL GUIDELINES FOR FDI AND FII INVESTMENT

Sl. No.	Sector	FDI Limits (S/A) S=Statutory A=Administrative	FII Limit Exclusive/ Inclusive of FDI
1.	Advertising and films	The FDI Cap is Administrative. a) Advertising sector (FDI up to 100 per cent allowed on the automatic route) b) Film sector film production, exhibition and distribution including related services/products FDI up to 100 per cent allowed on the automatic route with no entry-level condition.	Exclusive up to the Sectoral Cap
2.	Agriculture (including plantation)	The FDI Cap is Administrative. No FDI/NRI investment is permitted other than Tea sector, where FDI permitted up to 100 per cent in Tea sector, including tea plantations, with prior Government approval and subject to following conditions: • Compulsory divestment of 26 per cent equity in favour of Indian partner/Indian public within a period of five years, and • Prior State government approval required in case of any future land use change. The above dispensation would be applicable to all fresh investments (FDI) made in this sector.	Exclusive upto the Sectoral Cap in tea plantation.
3.	Atomic minerals	The FDI Cap is Administrative. The following three activities are permitted to receive FDI/NRI investments through FIPB (as per detailed guidelines issued by Department of Atomic Energy vide Resolution No.8/1(1)/97-PSU/1422 dated 6.10.98): a. Mining and mineral separation b. Value addition per se to the products of (a) above c. Integrated activities [comprising of both (a) and (b) above.]	Exclusive upto the Sectoral Cap.

		The following FDI participation is permitted: (i) Up to 74 per cent in both pure value addition and integrated projects (ii.) For pure value addition projects as well as integrated projects with value addition upto any intermediate stage, FDI is permitted up to 74 per cent through joint venture companies with Central/State PSUs in which equity holding of at least one PSU is not less than 26 per cent (iii.) In exceptional cases, FDI beyond 74 per cent will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval	
4.	Broadcasting	The FDI Cap is Administrative. Broadcasting a) TV Software Production 100 per cent foreign investment allowed subject to: (i) all future laws on broadcasting and no claim of any privilege or protection by virtue of approval accorded, and (ii) not undertaking any broadcasting from Indian soil without Government approval b) Setting up hardware facilities, such as uplinking, HUB, etc. Private companies incorporated in India with permissible FII/NRI/PIO equity within the limits (as in the case of telecom sector FDI limit up to 49per cent inclusive of both FDI and portfolio investment) to set up uplinking hub (teleports) for leasing or hiring out their facilities to broadcasters **Foot note**: As regards satellite broadcasting, all TV channels irrespective of management control to uplink from India provided they undertake to comply with the broadcast (programme & advertising) code	Exclusive up to the Sectoral Cap. Inclusive of FDI

		c) Cable Network Foreign investment allowed up to 49per cent (inclusive of both FDI and portfolio investment) of paid up share capital. Companies with minimum 51per cent of paid up share capital held by Indian citizens are eligible under the Cable Television Network Rules (1994) to provide cable TV services	Inclusive of FDI
		d) Direct-to-Home Company with a maximum of foreign equity including FDI/NRI/FII of 49per cent would be eligible to obtain DTH License. Within the foreign equity, the FDI component not to exceed 20per cent	Inclusive of FDI
		e) Terrestrial Broadcasting FM The licensee shall be a company registered in India under the Companies Act. All share holding should be held by Indians **except for the limited portfolio investment** by FII/NRI/PIO/OCB subject to such ceiling as may be decided from time to time. Company shall have no direct investment by foreign entities, NRIs and OCBs. As of now, the foreign investment is permissible to the extent of 20per cent portfolio investment	Only FII
		f) Terrestrial TV No private operator is allowed in terrestrial TV transmission	No FDI or FII
5.	Coal and Lignite	The FDI Cap is Administrative. i. Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI up to 100per cent ii. 100 per cent FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing iii. FDI up to 74 per cent is allowed for exploration or mining of coal or lignite for captive consumption iv. In all the above cases, FDI is allowed up to 50 per cent under the automatic route subject to the	Exclusive upto the Sectoral Cap.

		condition that **such investment shall not exceed 49 per cent of the equity of a PSU**.	
6.	Defence and strategic industries	The FDI Cap is Administrative. Foreign Direct Investment, including NRI investment, is permitted up to 26 per cent with prior Government approval subject to licensing and security requirements. Detailed guidelines for participation of private sector and foreign investors in this sector are given in Press Note 2 of 2002 issued by DIPP, Ministry of Commerce & Industry	Exclusive upto the Sectoral Cap.
7.	Domestic Airlines Airports	The FDI Cap is Administrative. (Detailed guidelines have been issued by Ministry of Civil Aviation) In the domestic Airlines i) FDI up to 40 per cent permitted subject to no direct or indirect equity participation by foreign airlines. ii) 100 per cent investment by NRIs iii)The automatic route is not available Up to 100 per cent with FDI, beyond 74 per cent requiring Government approval	Exclusive upto the Sectoral Cap. Exclusive upto the Sectoral Cap
8.	Drugs & Pharmaceuticals	The FDI Cap is Administrative. FDI up to 100 per cent is permitted on the automatic route for manufacture of drugs and pharmaceutical, provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology, and specific cell / tissue targeted formulations. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology, and specific cell / tissue targeted formulations will require prior Government approval	Exclusive upto the Sectoral Cap
9.	Establishment and Operation of satellite	The FDI Cap is Administrative. FDI up to 74 per cent is permitted with prior Government approval	Exclusive upto the Sectoral Cap

10.	Hotels & Tourism	The FDI Cap is Administrative. 100 per cent FDI is permissible in the sector on the automatic route. The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry include travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports, and health units for tourists and Convention/Seminar units and organisations	Exclusive upto the Sectoral Cap
11.	Housing & Real Estate	The FDI Cap is Administrative. No foreign investment is permitted in this sector except for development of integrated townships and settlements where FDI up to 100per cent is permitted with prior Government approval. NRIs are allowed to invest in the following activities a. Development of serviced plots and construction of built up residential premises b. Investment in real estate covering construction of residential and commercial premises including business centres and offices c. Development of townships d. City and regional level urban infrastructure facilities, including both roads and bridges e. Investment in manufacture of building materials, which is also open to FDI f. Investment in participatory ventures in (a) to (e) above g. Investment in housing finance institutions, which is also open to FDI as an NBFC	Exclusive upto the Sectoral Caps.
12.	Lottery business, gambling & betting	Government has reiterated prohibition of foreign direct investment (FDI) / Foreign technical collaboration (FTC) in any form in lottery business, gambling and betting sector.	Not explicitly prohibited

13.	Mass Rapid Metro Transit System	The FDI Cap is Administrative. FDI up to 100 per cent is permitted on the automatic route in mass rapid transport system in all metros including associated real estate development	Exclusive upto the Sectoral Cap
13.	Mining	The FDI Cap is Administrative. i. For exploration and mining of diamonds and precious stones FDI is allowed up to 74 per cent under automatic route ii. For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed up to 100 per cent under automatic route iii. Press Note No. 18 (1998 series) dated 14.12.98 would not be applicable for setting up 100 per cent owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and / or the particular mineral	Exclusive upto the Sectoral Cap
15.	Petroleum (other than refining)	The FDI Cap is Administrative. a. FDI up to 100 per cent is permitted on the automatic route in oil exploration in both small and medium sized fields subject to and under the policy of the Government on private participation in: (a) exploration of oil and (b) the discovered fields of national oil companies b. FDI up to 100 per cent is permitted on the automatic route for petroleum product pipelines subject to and under the Government Policy and regulations thereof. c. FDI up to 100 per cent is permitted on the automatic route on Petroleum product marketing. FDI for this sector would be permissible subject to the existing sectoral policy and regulatory framework in the oil marketing sector. d. FDI up to 100 per cent is permitted for Natural Gas/LNG Pipelines with prior Government approval. e. 100 per cent wholly owned subsidiary(WOS) is permitted for the purpose of market study and formulation under FIPB route.	Exclusive upto the Sectoral Cap. [FDI now restricted to 26 per cent only in PSU refineries, all other sectors open up to 100 per cent, route restriction for gas pipeline]

	Petroleum Refinery	f. 100 per cent wholly owned subsidiary (WOS) is permitted for investment/Financing The automatic route is not available for (d) to (f) a. FDI is permitted up to 26 per cent in case of public sector units (PSUs). PSUs will hold 26per cent (Refining**)** and balance 48 per cent by public. Automatic route is not available b. In case of private Indian companies, FDI is permitted up to 100per cent under automatic route	
16.	Pollution Control and management	The FDI Cap is Administrative. FDI up to 100 per cent in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route	Exclusive upto the Sectoral Cap
17.	Postal services	The FDI Cap is Administrative. FDI up to 100 per cent is permitted in courier services with prior Government approval excluding distribution of letters, which is reserved exclusively for the state	Exclusive upto the Sectoral Cap.
18.	Power	The FDI Cap is Administrative. Up to 100 per cent FDI allowed in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment	Exclusive upto the Sectoral Cap.
19.	Print media	The FDI Cap is Administrative. The following FDI participation in Indian entities publishing News Papers and periodicals is permitted: (a) FDI up to 100 per cent in publishing scientific/technical and speciality magazines /periodicals /journals	Exclusive upto the Sectoral Cap

		(b) FDI up to 26 per cent in publishing News Papers and Periodicals dealing in News and Current Affairs subject to verification of antecedents of foreign investor, keeping editorial and management control in the hands of resident Indians and ensuring against dispersal of Indian equity. The detailed guidelines had been issued by Ministry of Information and Broadcasting.	**FII not Permitted**
20.	Private Sector Banking Non Banking Financial Companies(NBFC)	The FDI Cap is Administrative. 74 per cent from all sources on the automatic route subject to guidelines issued from RBI from time to time. Consolidated guidelines are available in Press Note 2 of 2004 issued by DIPP, Ministry of Commerce & Industry. (a) FDI/NRI investments allowed in the following 19 NBFC activities shall be as per levels indicated below: i) Merchant banking ii) Underwriting iii) Portfolio Management Services iv) Investment Advisory Services v) Financial Consultancy vi) Stock Broking vii) Asset Management viii) Venture Capital ix) Custodial Services x) Factoring xi) Credit Reference Agencies xii) Credit rating Agencies xiii) Leasing & Finance xiv) Housing Finance xv) Forex Broking xvi) Credit card business xvii) Money changing Business xviii) Micro Credit xix) Rural Credit (b) <u>Minimum Capitalisation Norms for fund based NBFCs:</u> i) For FDI up to 51per cent - US$ 0.5 million to be brought upfront ii) For FDI above 51per cent and up to 75per cent - US $ 5 million to be brought upfront iii) For FDI above 75per cent and up to 100per cent - US $ 50 million out of which US $ 7.5	Inclusive Exclusive Up to the Sectoral cap.

		million to be brought upfront and the balance in 24 months (c) Minimum capitalisation norms for non-fund based activities: Minimum capitalisation norm of US $ 0.5 million is applicable in respect of all permitted non-fund based NBFCs with foreign investment (d) Foreign investors can set up 100per cent operating subsidiaries without the condition to disinvest a minimum of 25per cent of its equity to Indian entities, subject to bringing in US$ 50 million as at (b) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital) (e) Joint Venture operating NBFC's that have 75per cent or less than 75per cent foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow i.e. (b)(i) and (b)(ii) above (f) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard	
	Public Sector Banks	The FDI Cap is Statutory. 20 per cent from all sources	Inclusive
	Insurance	The FDI Cap is Statutory. FDI up to 26 per cent in the Insurance sector is allowed on the automatic route subject to obtaining license from Insurance Regulatory & Development Authority (IRDA)	Inclusive
21.	Roads & Highways, Ports and Harbours.	The FDI Cap is Administrative. FDI up to 100 per cent under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours	Exclusive upto the Sectoral Cap.
22.	Telecomm-unication	The FDI Cap is Administrative. i) In basic, cellular, value added services and global mobile personal communications by satellite, FDI is limited to 49 per cent subject to licensing and security requirements and adherence by the companies (who are investing and the companies in which the investment is being made) to the	Inclusive of FDI

		licence conditions for foreign equity cap and lock-in period for transfer and addition of equity and other licence provisions ii) In ISPs with gateways, radio-paging and end-to-end bandwidth, FDI is permitted up to 74 per cent with FDI, beyond 49 per cent requiring Government approval. These services would be subject to licensing and security requirements iii) FDI up to 100 per cent is allowed for manufacturing activities. iv) FDI up to 100 per cent is allowed for the following activities in the telecom sector : a. ISPs not providing gateways (both for satellite and submarine cables) b. Infrastructure Providers providing dark fibre (IP Category I) c. Electronic Mail; and d. Voice Mail The above would be subject to the following conditions: a. FDI up to 100 per cent is allowed subject to the condition that such companies would divest 26 per cent of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world b. The above services would be subject to licensing and security requirements, wherever required c. Proposals for FDI beyond 49 per cent shall be considered by FIPB on case to case basis	
23.	Township development	The FDI Cap is Administrative. FDI up to 100 per cent is permitted for development of integrated townships including houses, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit system; and manufacture of building materials. Development of land and providing allied infrastructure will form an integral part of township's development. FDI in this sector would be permissible with prior Government approval..	Exclusive upto the Sectoral Cap

24.	Trading	The FDI Cap is Administrative. Trading is permitted under automatic route with FDI up to 51 per cent provided it is primarily export activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, under the FIPB route:- i. 100 per cent FDI is permitted in case of trading companies for the following activities: exports bulk imports with ex-port/ex-bonded warehouse sales cash and carry wholesale trading other import of goods or services provided at least 75per cent is for procurement and sale of goods and services among the companies of the same group and not for third party use or onward transfer/distribution/sales ii. The following kinds of trading are also permitted, subject to provisions of EXIM Policy: a. Companies for providing after sales services (that is not trading per se) b. Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India c. Trading of hi-tech items/items requiring specialised after sales service d. Trading of items for social sector e. Trading of hi-tech, medical and diagnostic items f. Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name g. Domestic sourcing of products for exports h. Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing	Exclusive upto the Sectoral Cap.

		facilities commences simultaneously with test marketing i. FDI up to 100 per cent permitted for e-commerce activities subject to the condition that such companies would divest 26 per cent of their equity in favour of the Indian public in five years, if these companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading	
		FDI is not permitted in retail trading activity.	Up to 24 per cent

ANNEX – II

SECTORS WITH PORTFOLIO INVESTMENT LIMITS – CURRENT AND PROPOSED

Sl. No.	Sector	FDI Limits (S/A) S=Statutory A=Administrative	Current FII Limits	Proposed FII Limits
1.	Agriculture (including plantation)	The FDI Cap is Administrative. No FDI/NRI investment is permitted other than Tea Plantation.	100 per cent in Tea Plantation	100 per cent in Tea Plantation
2.	Atomic minerals	The FDI Cap is Administrative. a. Mining and mineral separation b. Value addition per se to the products of (a) above c. Integrated activities [comprising of both (a) and (b) above.]	74 per cent	100 per cent
3.	Broadcasting	The FDI Cap is Administrative. Broadcasting a) Setting up hardware facilities, such as uplinking, HUB, etc.	49 per cent Inclusive of FDI	100 per cent
		b) Cable Network	49 per cent Inclusive of FDI	100 per cent
		c) Direct-to-Home	49 per cent Inclusive of FDI limit of	100 per cent
		d) Terrestrial Broadcasting FM	20 per cent	100 per cent
		e) Terrestrial TV	Nil	Nil
4.	Coal and Lignite	The FDI Cap is Administrative. i) Non-PSUs	74 per cent	100 per cent
		ii) PSUs	49 per	49 per cent

			cent Inclusive of FDI	Inclusive of FDI
5.	Defence and strategic industries	The FDI Cap is Administrative. Foreign Direct Investment is permitted up to 26 per cent with prior Government approval	26 per cent	49 per cent (inclusive of FDI)
6.	Domestic Airlines	The FDI Cap is Administrative. (Detailed guidelines have been issued by Ministry of Civil Aviation) In the domestic Airlines i) FDI up to 40 per cent ii) 100 per cent investment by NRIs	40 per cent	80 per cent (inclusive of FDI)
7.	Establishment and Operation of satellite	The FDI Cap is Administrative.	74 per cent	100 per cent
8.	Housing & Real Estate	The FDI Cap is Administrative.	24 per cent	24 per cent
9.	Lottery business, gambling & betting	Government has reiterated prohibition of foreign direct investment (FDI) / Foreign technical collaboration (FTC) in any form in lottery business, gambling and betting sector.	Nil	Nil
10.	Mining	The FDI Cap is Administrative.i. i.For exploration and mining of diamonds and precious stones FDI is allowed up to 74 per cent under automatic route	74 per cent	100 per cent
11.	Petroleum	The FDI Cap is Administrative.(excluding PSU refineries) PSUs	100 per cent (excluding PSUs) 26 per cent	100 per cent .(excluding PSUs) 49 per cent Inclusive of FDI
12.	Postal services Courier services excl distribution of letters	The FDI Cap is Administrative.	100 per cent	100 per cent
13.	Print media	The FDI Cap is Administrative.		

		FDI up to 26 per cent in publishing News Papers and Periodicals dealing in News and Current Affairs.	Nil	Nil
14.	Private Sector Banking	The FDI Cap is Administrative. 74 per cent from all sources on the automatic route.	74 per cent	100 per cent
	Public Sector Banks	The FDI Cap is Statutory. 20 per cent from all sources	20 per cent inclusive of FDI	40 per cent inclusive of FDI
	Insurance	The FDI Cap is Statutory. FDI up to 26 per cent in the Insurance sector is allowed on the automatic route subject to obtaining license from Insurance Regulatory & Development Authority (IRDA)	26 per cent inclusive of FDI	49 per cent inclusive of FDI
15.	Telecomm-unication	The FDI Cap is Administrative. i) In basic, cellular, value added services and global mobile personal communications by satellite, FDI is limited to 49 per cent subject to licensing and security requirements (FDI +FII put together.) ii) In ISPs with gateways, radio-paging and end-to-end bandwidth, FDI is permitted up to 74 per cent	49 per cent inclusive of FDI 74 per cent inclusive of FDI	74 per cent inclusive of FDI 74 per cent inclusive of FDI
16.	Retail Trading	The FDI Cap is Administrative. FDI is not permitted in retail trading activity.	24 per cent	24 per cent
17.	Venture Capital	The FDI Cap is Administrative. Offshore Venture Capital Funds/Companies are allowed to invest in domestic Venture Capital Fund (VCF) and undertaking as well as other companies through the automatic route, subject only to SEBI Company(VCC) regulations and sector Venture Capital specific caps on FDI	Nil	Nil

ANNEX-III.

RESTRICTIONS ON FOREIGN OWNERSHIP IN EMERGING MARKETS

S. No.	Country	Investment Restrictions
1	India	1. Each FII (investing on its own) or sub-account cannot hold more than 10per cent of the paid-up capital of a company. A sub account under the foreign corporate/individual category cannot hold more than 5per cent of the paid up capital of the company. 2. The maximum permissible investment in the shares of a company, jointly by all FIIs together is 24per cent of the paid-up capital of that company. 3. This limit of 24per cent can be raised to 30per cent, 40per cent, 49per cent or up to the FDI limits specified for that particular sector, subject to approval from the shareholders and the RBI. 4. In the case of public sector banks, the foreign ownership limit is 20per cent.
2	China	1. Subject to the approved **investment quota**, QFII can invest on the following financial instruments: • Shares listed in China's stock exchanges (excluding B shares); • Treasuries listed in China's stock exchanges;* • Convertible bonds and enterprise bonds listed in China's stock exchanges;* • Other financial instruments as approved by CSRC.** 2. QFII should observe the following requirements in A shares: • Shares held by each QFII in one listed company **should not exceed 10per cent of total outstanding shares** of the company; • Total shares held by all QFII in one listed company **should not exceed 20per cent of total outstanding shares** of the company. 3. No restriction on investment in B shares. 4. QFIIs are restricted or prohibited from investing in some industries or businesses (e.g. medicine manufacturing, mining, telecommunications, etc.)
3	Taiwan	1. Foreign institutional investors (FINIs) have no limit on investment while foreign individual investors (FIDIs) are subject to a US$5 million investment quota. 2. Foreign investors may invest up to 100per cent of public-listed companies. However, foreign ownership limitation remains for some public listed companies per the regulations and rules of relevant governing authorities e.g. banking industry where individual ownership cannot exceed 25per cent for a single investor, and telecommunications companies, except the state-run Chunghwa Telecom stayed capped at 20 percent, the foreign ownership of which cannot exceed 49per cent. 3. Foreign investors are allowed to put 30per cent of their investment capital in TWD fixed deposits, margins or premiums of futures or options trading, and money market instruments (including bankers' acceptances, commercial papers and repos).
4	South Korea	Foreign ownership limits on listed stocks have mostly been abolished. However, there are now 22 stocks that still have foreign ownership ceilings. Those include stocks issued by public companies and companies in specific industries such as broadcasting, aviation and telecommunications.

5	Hongkong	There is no restriction on foreign investment except the Hong Kong Television Broadcast stock that foreigners cannot hold more than 10per cent and 49per cent in aggregate.
6	Indonesia	Currently, there are no restrictions on foreigners or non-residents investment in listed securities except for media stocks, in which the aggregate foreign ownership limit of 20 per cent applies.
7	Thailand	Foreigners are generally allowed to own up to 49 per cent of a Thai company whether listed or not. Foreign ownership may be limited by laws governing investment promotion licenses, concession permits, a particular company's memorandum/ Articles of Association or some specific areas of business, such as commercial banks and finance companies where the limit on foreign ownership is 25 per cent.
8	Malaysia	Foreign investors are allowed to freely invest in any securities listed on the Stock Exchange. However, there are companies with foreign ownership limits. There are currently 36 companies listed on the MSEB which have foreign shareholding limit. Foreign shareholdings limit can range between 25 percent to 79 percent although the general limit is 30 percent. For banks and finance companies, the limit for foreign interest in local companies is 30 percent.
9	Philippines	Different industries are subject to different limits for foreign ownership. These limits range from zero to 60per cent of the total equity of the enterprise: • No foreign equity participation is allowed in mass media, engineering, medicine & other professional activities, retail trading, small scale mining etc. • Upto 20per cent foreign equity is allowed in private radio communication • Upto 25per cent and 30per cent foreign equity is allowed in private recruitment, locally funded public works; and advertising respectively • Upto 40per cent foreign equity is allowed in Exploration, development and utilization of natural resources, real estate, public utilities, education institutes, Operation of deep sea commercial fishing vessels etc. • Upto 40per cent foreign equity is allowed in financing companies and investment houses regulated by the SEC
10	Sri Lanka	Foreign ownership limits are: • Banking - 60per cent • Insurance - 90per cent • Stock broking Firms Licensed by the SEC - 100per cent

*On 2 December 2002, the Shanghai Stock Exchange and Shenzhen Stock Exchange announced in their “Implementing Rules for Securities Trading of Qualified Foreign Institutional Investors” that QFIIs can not trade in corporate bonds and treasury bond repurchases until further notice.

**According to the CSRC, QFIIs can also invest in open-end or closed-end investment funds approved by the CSRC, initial public offers, rights issues, additional share issues and convertible bond issues.