Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
(FC Section)

Press Note No. 2 (2008)

Subject: Guidelines for Foreign Investment in Commodity Exchanges.

Futures trading in commodities are regulated under the Forward Contracts (Regulation) Act, 1952. Commodity Exchanges, like Stock Exchanges, are infrastructure companies in the commodity futures market. With a view to infuse globally acceptable best practices, modern management skills and latest technology, it has been decided to allow foreign investment in Commodity Exchanges.

2. Definitions

2.1 "Commodity Exchange" is a recognized association under the provisions of the Forward Contracts (Regulation) Act, 1952, as amended from time to time, to provide exchange platform for trading in forward contracts in commodities.

2.2 In terms of the Forward Contracts (Regulation) Act, 1952-

(a) "recognized association" means an association to which recognition for the time being has been granted by the Central Government under Section 6 of the Forward Contracts (Regulation) Act, 1952.

(b) "association" means any body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative.

(c) "forward contract" means a contract for the delivery of goods and which is not a ready delivery contract.

(d) "commodity derivative" means-

(i) a contract for delivery of goods, which is not a ready delivery contract; or

(ii) a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with the Forward Markets Commission by the Central Government, but does not include securities.

3. Policy for foreign investment in Commodity Exchanges

3.1 Foreign investment will be allowed through a composite ceiling i.e. Foreign Direct Investment (FDI) under the FDI Scheme incorporated as Schedule 1 under regulation 5 (1) of the Foreign Exchange Management (Transfer or Issue of Security By a Person Resident Outside India) Regulations, 2000 (FEMA Regulations) + investment by registered Foreign Institutional Investors (FII) under the Portfolio Investment Scheme incorporated as Schedule 2 under Regulation 5(2) of the FEMA Regulations, is allowed up to 49%.

3.2 FDI will be allowed with specific prior approval of the Government .

3.3 Investment by registered FII under the Portfolio Investment Scheme will be limited to 23% and investment under the FDI Scheme will be limited to 26%.

3.4 FII purchases shall be restricted to secondary market only.

3.5 No foreign investor/ entity, including persons acting in concert, will hold more than 5% of the equity in these companies.

12/3/2008

GOPAL KRISHNA
Joint Secretary to the Government of India

D/o IPP F.No. 5(10)/2006-FC dated 12th March, 2008

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