Ref. No. MCHI/GEN/14-15/119

November 3, 2014

To,
All Members of MCHI-CREDAI &
MCHI-CREDAI Units

Sub: **Amendment of existing FDI Policy on 'Construction Development Sector**

Dear All,

You must be aware that, in line with the Budget announcement of the Government, the Union Cabinet has given its approval for amending the existing FDI policy on 'Construction Development Sector' on 29th October, 2014. The key changes are indicated below:

Minimum area

- In case of development of serviced plots, there is no condition of minimum land (earlier this was 10 hectares).

- In case of construction-development projects, a minimum floor area of 20,000 sq. meters (earlier this was minimum built up area of 50,000 Sq Mtrs).

Minimum Capital

- The minimum capital required is now US$ 5 million all across (earlier it was US$ 10 million for wholly owned subsidiaries and US$ 5 million for JVs)

- Subsequent tranches of FDI can be brought in till the period of ten years from the commencement of the project or before the completion of the project, whichever expires earlier (earlier there was a doubt on whether further FDI in form of last mile funding is permitted in projects which have reached substantial stage of development)

- Further, the FDI of US$ 5 million has to be brought within commencement of project. It has now been clarified that commencement of project means the date of approval of building plan / lay out plan by the relevant statutory authority.

- The above conditions on minimum area and minimum capital will not apply to the investee/joint venture companies which commit at least 30 percent of the total project cost for low cost affordable housing. Affordable Housing Projects has been defined as projects using at least 60 percent of the FAR/FSI for dwelling units of Carpet Area not more than 60 sq mtrs. In addition, 35 percent of the total number of dwelling units constructed should be of carpet area 21-27 sqm for EWS category.

Exit

- The investor will be permitted to exit on completion of the project or after three years from the date of final investment, subject to development of trunk infrastructure. Earlier there was a tranche wise 3 year lock in applicable. Impact of the change in language to 3 years from the date of final investment would need to be evaluated. Further, the condition of development of 50% of project within 5 years of obtaining all approvals seems to have been done away with.

FDI in Completed Projects for Operation & Management of Township, mall etc.

- It has been clarified that 100 percent FDI under the automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres. Earlier FDI in completed projects was not permitted.

FIPB Approval

- Government may permit repatriation of FDI or transfer of stake by one NR investor to another NR investor, before the completion of the project. These proposals will be considered by FIPB on case to case basis.

The new FDI policy is expected to provide a breather to the cash-strapped Real Estate Sector. The changes will promote foreign investors to invest in smaller projects spread over a land parcel of about 3-4 acres. This would help residential and commercial office space projects in metro cities such as Delhi, Mumbai, Bengaluru, etc; where project size is generally small, but involves higher investment due to expensive land parcels.

Exempting Affordable Housing projects from the minimum development size and investment is expected to facilitate development of Affordable Housing and Slum-Rehabilitation projects in the medium to long-term.

The relaxation of exit conditions from a static three years period is also a welcome move and is expected to attract new foreign investors.

While, the recent reforms are in the right direction, we believe that they need to be complemented with reforming regulatory bottlenecks. Certain important areas which requires joint-effort by Central and State machineries are listed below:

- Streamline the approval procedure
- Relook at development norms such as FAR/FSI; density norms; parking etc, especially for EWS and LIG housing projects
- Promote Public-Private-Partnership in affordable housing development
- Improve access to credit by EWS and LIG households
- Relax rental laws to usher development of rental housing in the cities
- Rationalize various statutory fees and taxes on housing development
- Address the tax and regulatory issues to make REITs successful in India
- Revise LARR Act 2013 to promote development of townships and SEZ projects.

These are the prima-facie observations of our Knowledge Partner M/s. KPMG and forwarding herewith for your reference and record. We are analyzing this in detail and shall keep you updated on further developments/findings in the matter.

Best Regards,

For MCHI-CREDAI

C. P. Goyal
Chief Manager (Finance & Admin)