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THE INDIAN PRIVATE EQUITY & VENTURE CAPITAL ASSOCIATION

To,

9th December, 2016

Shri Praveen Garg I.A.S.
Joint Secretary (Capital Markets)
Ministry of Finance
North Block, New Delhi

वित्त मंत्रालय
डाक प्राप्ति काउन्टर
गेट नं० 1, कमरा नं० 52A
15 DEC 2016
5.15 PM
आर० R&I

Sub: Increase in limit for investment by a foreign shareholder in power exchanges to 15% in line with stock exchanges

Dear Sir,

Government's strong thrust on the Power Sector is creating a far-reaching impact on the overall economy. Government's focus on a multipronged strategy to ensure increased electricity access and demand is yielding significant results. Policies like 'UDAY' have been a masterstroke in terms of reviving overall Power Sector. Besides policies like 'New Tariff Policy' are focussing on creating more efficiencies across the entire spectrum. In the overall scheme of things, Power Exchanges through their efficient price discovery platform are also aiding in the growth of the Power Sector.

Making capital and strategic capital available for investment in exchanges was no doubt an objective when the Government enhanced FDI limits to 15% for investments in Stock Exchanges in the FY 2017 Budget. The extension was not applicable to power exchange and were missed out, only after recommendations were made this was extended to Power exchanges. Which was a positive move for the development of market infrastructure.

In the past, FDI policy on Exchanges have been very fungible across types of exchanges. For example, the FDI Policy made for Stock Exchanges and Commodity Exchanges, were also made applicable to the Power Exchanges. Any investment by a foreign investor in Power Exchange was restricted to 5% in line with Stock Exchange and Commodity Exchange. Besides, fungibility of FDI and FPI up to 49% was allowed in Stock Exchanges, Commodity Exchanges and Power Exchanges.

In the Union Budget, limit for investment by a foreign investor in the Stock Exchanges has been increased from 5% to 15%. This is a strong recognition by the Government of the impetus and importance of Exchanges as a platform to support growth. The revision of foreign investments limit was not made applicable to Commodity and Power Exchange. Probably, it got missed out or maybe the government is currently working on it. In the interest of the public and the sector, it will be good to ensure the continued parity and promote foreign investment in Power Exchanges. In the best overall interest, increase in investment limit by any foreign investor from 5% to 15% should also be made applicable to Power Exchanges and Commodity Exchanges, in addition to Stock Exchanges.

We will be very grateful if you can consider this recommendation favourably

Thank you very much.

Respectfully,
Gopal

Gopal Srinivasan Chairman, Indian Private Equity & Venture Capital Association (IVCA)
Chairman & Managing Director, TVS Capital

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1) The Consolidated FDI Policy (effective from June 07, 2016) ("**FDI Policy**") issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India ("**DIPP**"), stipulates that no non-resident investor / entity, including persons acting in concert, will hold more than 5% of the equity in power exchanges that are registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.

2) The FDI Policy stipulates the same sub-limit of 5% of equity for non-resident investors investing in commodity exchanges.

3) The Government of India has, vide press release dated July 27, 2016 (the "**Press Release**"), published the Union Cabinet's intent to increase the foreign shareholding limits in commodity exchanges (and other categories of stock exchanges in India) from 5% to 15%, on par with domestic institutions. The Press Release suggests that the proposed change will "*help in enhancing global competitiveness of Indian stock exchanges by accelerating/facilitating the adoption of latest technology and global best practices which will lead to overall growth and development of the Indian Capital Market*". Formal notification of the amendment is awaited from the DIPP.

4) It is notable from the Press Release that the proposed increase in foreign shareholding sub-limit from 5% to 15%, is not sought to be implemented for power exchanges, even though the DIPP and the Foreign Investment Promotion Board have historically sought to develop in parallel[1] the foreign investment regimes applicable to commodity exchanges and power exchanges respectively. Considering that the Press Release does not contain any explanation as to why the proposed change should not apply to power exchanges, it will be helpful to obtain the Government of India's clarification in relation to the rationale behind such omission. In this regard, a representation should also perhaps be made to the Government of India, as soon as possible, requesting that the change in law seeking to allow foreign shareholders to acquire a higher stake of up to 15%, be notified for power exchanges as well, so that the stated benefits that commodity exchanges (and other Indian stock exchanges) are expected to derive from the proposed change in law, can be availed of by power exchanges as well.

[1]Press Note 8/2012 by which DIPP allowed foreign investment up to 49% (FDI (under approval route) + FII (under automatic route) for power exchanges for the first time, mirrored the foreign investment regime then applicable to commodity exchanges. Subsequent changes made by DIPP to the foreign investment regimes applicable to both the sectors, were effected in parallel (Press Note 6/2013 permitted FDI up to 49% under the automatic route in both the sectors; and Press Note 8/2015 removed sub-limits of FDI / FII within the permitted cap of 49% for both the sectors).