

The Department for Promotion of Industry and Internal Trade (DPIIT) has issued FAQs dated 23 October 2026 on the foreign investment framework applicable to countries sharing a land border with India (LBCs). The FAQs provide useful clarity on several practical issues arising under Press Note 2 of 2026 (PN2), particularly the level at which beneficial ownership is tested, the calculation of indirect LBC ownership, the distinction between approval and reporting cases, and the process for PN2 intimations.

(References to FAQ numbers below are to the DPIIT FAQs dated 23 October 2026.)

1. Approval Versus Reporting

While PN2 materially recalibrated the framework introduced through Press Note 3 of 2020, the FAQs now provide useful clarity on certain instances, broadly:

- a direct investment by an LBC citizen or an entity incorporated/registered in an LBC continues to require prior Government approval, irrespective of the percentage proposed to be acquired in the Indian investee (FAQs 5 and 6);
- where the immediate investor is incorporated/registered in a non-LBC jurisdiction, prior approval is required if LBC citizens/entities directly or indirectly, individually or cumulatively, hold more than 10% ownership in the immediate investor company, exercise control over the immediate investor company or exercise relevant control over the Indian investee (FAQs 2 and 3);
- where cumulative LBC ownership in the non-LBC investor does not exceed 10% and there is no LBC control, prior approval is not required on account of PN2, but the investment is subject to a pre-investment reporting requirement (FAQ 7); and
- these tests operate in addition to the otherwise applicable sectoral entry route and conditions.

A key practical point is that the 10% threshold relates to LBC ownership in the non-LBC investor, and not to the percentage that such investor proposes to acquire in the Indian company.

2. Beneficial Ownership and Threshold Calculation

The FAQs clarify that the beneficial ownership test is applied at the level of the immediate non-LBC investor entity (FAQs 1, 3 and 4).

However, the upstream ownership chain must still be examined to determine the LBC ownership attributable to such investor. The illustrations under FAQ 4 clarify that indirect ownership is calculated proportionately through the ownership chain, and interests held through multiple paths are aggregated.

Accordingly, the analysis should focus on:

- identifying the immediate India-facing investor;
- tracing direct and indirect LBC ownership proportionately through the upstream structure;
- aggregating multiple LBC interests; and
- separately reviewing LBC-linked control rights.

This also makes clear that simply interposing a non-LBC SPV does not eliminate the issue where the same LBC ownership continues indirectly through that SPV.

For companies, exactly 10% should remain within the reporting route, since FAQ 7 refers to cumulative ownership which "does not exceed 10%". Ownership above 10% moves into the approval route. There is no specific relaxation where the threshold is exceeded only marginally.

Accordingly, even a relatively small LBC economic interest may require approval where the relevant shareholder has board appointment, veto, reserved matter or other rights amounting to control.
For PRC-linked transactions, this means that where the immediate investor is an offshore non-LBC vehicle, the existence of PRC shareholders does not by itself require prior approval. Approval is triggered where cumulative LBC ownership in that investor exceeds 10% or the relevant control test is satisfied. Where the ownership does not exceed 10% and there is no such control, the investment falls within the reporting regime. This should be distinguished from a direct investment by a PRC entity or citizen, which remains subject to prior Government approval irrespective of the investment percentage.

3. Nature of the PN2 Intimation Process

An important clarification is that the PN2 intimation is intended to operate as a reporting process rather than a quasi-approval mechanism.

For investments involving inward remittance, the report is submitted through the National Single Window System (NSWS) before remittance. Upon submission, an acknowledgement is generated, and the FAQs expressly confirm that the parties may proceed with the investment/transaction without waiting for any further approval or communication (FAQ 8).

Where there is no inward remittance, the Standard Operating Procedure for Processing Foreign Direct Investment separately requires reporting before execution of the relevant transaction, including issuance/transfer of capital instruments, as applicable. Offshore acquisitions with separate signing and completion therefore require transaction-specific analysis of the appropriate filing trigger.

The FAQs also expressly confirm that prior security and political clearances are not required for PN2 reporting cases (FAQ 9). This is a welcome clarification, as during the initial implementation of PN2, certain intimation filings received queries or notices involving the Ministry of Home Affairs and the Ministry of External Affairs, creating concern that the reporting process could develop into an inter-ministerial review. FAQ 9 now makes clear that this is not the intended process.

4. Who Can File and Who Remains Responsible

FAQ 10 confirms that the foreign investor may itself submit the PN2 filing through NSWS.

This is particularly useful in global M&A transactions and offshore acquisitions, including cases where there is no direct contemporaneous change in the Indian entity's shareholding and the foreign investor is better placed to provide the upstream ownership information.

However, responsibility for ensuring compliance continues to rest with the Indian investee entity or the resident Indian transferor / transferee, as applicable (FAQ 10).

Accordingly, while the foreign investor may undertake the filing operationally, an Indian investee may still face the consequences of a reporting default. Transaction documents should therefore clearly allocate responsibility for completing the PN2 analysis, providing upstream information and making the filing.

Separate FEMA reporting following the investment continues to apply (FAQ 11).

5. Funds and Listed Companies: An Important Open Issue

The FAQs do not fully resolve the position for global funds and listed companies.

Schedule I of the SOP requires extensive information on the investor's ownership, beneficial ownership, group structure and LBC-linked control rights. In the case of funds, information is also sought regarding the investment manager, sponsor, general partner and investment committee.

- For listed investors, the SOP permits submission of the latest shareholding pattern available from the relevant stock exchange. However, the FAQs do not fully address the interaction between these disclosure requirements and Rule 9(3)(f) of the PML Rules, which, where its conditions are satisfied,

dispenses with identification and verification of individual beneficial owners of specified listed entities and their subsidiaries.

- One possible approach where the relevant listed entity qualifies under Rule 9(3)(f) would therefore be to disclose its listed status and latest available shareholding pattern without undertaking individual identification of each public shareholder, while explaining the PML position. Whether DPIIT will consistently accept this approach remains to be tested.
- Similarly, large fund structures may face practical limitations in obtaining detailed non-public information from independent LPs. The FAQs do not provide a specific safe harbour or reasonable-reliance standard for such cases.

6. Downstream Investments

The illustrations under FAQ 4 also confirm that PN2 can apply to downstream investments by a foreign-owned and controlled Indian entity (FOCC). Accordingly, even though the downstream transaction is resident-to-resident in form, the upstream LBC ownership may still need to be tested.

Where such upstream LBC ownership remains within the applicable threshold and there is no control, the downstream investment may attract the PN2 reporting requirement. Where the threshold is exceeded or the relevant control test is satisfied, prior approval may instead be required.

This is important for foreign-owned Indian groups: PN2 analysis should not stop when foreign capital first enters India but may need to be revisited for subsequent downstream investments.

7. Practical Implications for Transactions

PN2 analysis should now be undertaken as an early-stage regulatory workstream. In practice, parties should:

- identify the immediate India-facing investor;
- determine whether it is itself an LBC entity;
- where it is non-LBC, calculate cumulative direct and indirect LBC ownership proportionately;
- review LBC-linked control rights separately;
- determine whether the transaction falls within the prior approval category, the reporting-only category or neither category;
- separately test the applicable sectoral entry route;
- consider any downstream investment implications; and
- where reporting applies, complete the NSWS filing at the prescribed time without treating receipt of a subsequent DPIIT response as a closing condition.

The analysis should also be refreshed where co-investors are introduced or the investment vehicle otherwise changes before completion.

The PN2 framework and the FAQs are principally concerned with ownership and control in relation to foreign investment. They do not introduce a separate PN2 approval or reporting requirement merely because an LBC party provides pure debt funding, holds ordinary lender-style security, covenant or information rights, is party to a royalty, technology or brand licence arrangement, or holds a contractual call option. These arrangements nevertheless need to be considered on their specific terms.

Rights which amount to control over the investor or Indian investee may themselves engage PN2; conversion of debt, exercise of an option or enforcement of security which results in an acquisition or transfer of capital instruments may trigger the applicable approval or reporting requirement at that stage.

8. Expedited Approval Route

The FAQs also confirm the separate 60-day approval mechanism for specified manufacturing sectors, including identified capital goods, electronic capital goods/components, polysilicon and ingot-wafer manufacturing, advanced battery components and specified rare-earth activities (FAQs 13 and 14).

The mechanism applies subject to stipulated conditions, including cumulative LBC investment not exceeding 49% and the Indian investee remaining under majority Indian ownership and control.

Capital Goods Manufacturing is therefore one of the categories for which qualifying LBC approval applications can benefit from the expedited 60-day process. However, the category is not a general exemption for all capital-goods businesses: Schedule II of Annexure VII of the SOP identifies the specific sub-sectors/activities that are eligible.

9. Key Residual Areas Requiring Clarity

While the FAQs significantly improve certainty, a few issues remain:

- application of the Rule 9(3)(f) listed-company carve-out in PN2 filings;
- the extent of information expected from independent LPs and public shareholders;
- precise timing for no-remittance offshore transactions involving separate signing and completion;
- treatment of subsequent movements above the threshold in listed investors;
- regularisation of historical reporting defaults; and
- whether repeat or tranche investments require fresh reporting where ownership and control remain unchanged.

Overall, the FAQs materially improve the operation of PN2 by confirming that limited, non-controlling LBC exposure in a non-LBC investor need not result in a lengthy approval process, while preserving Government visibility through pre-investment reporting. The principal exercise has therefore shifted towards correctly identifying, calculating and documenting LBC ownership and control at the immediate investor level.

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