

Foreign Airlines allowed to invest in Indian Civil Aviation Sector

On 20 September 2012, the Government of India ("GOI") amended its foreign investment policy permitting foreign direct investment ("FDI") in civil aviation sector up to 49% under the Government Route.

The GOI has permitted foreign airlines to make foreign investment, up to 49 percent in companies operating scheduled and non-scheduled air transport services ("Policy"). Until now, foreign airlines were allowed to participate in the equity of companies operating cargo airlines, helicopter and seaplane services, but not in the equity of an air transport undertaking operating scheduled and non-scheduled air transport services.

The investments would need to comply with the relevant regulations of SEBI and other applicable rules and regulations and would be subject to the following conditions:

- Scheduled Operator's Permit to be granted only to a company that is registered and has its principal place of business within India. The Chairman and at least two-thirds of the Directors of the investee shall have to be citizens of India and the substantial ownership and effective control of the investee shall have to vest in Indian nationals;
- all foreign nationals likely to be associated with Indian Scheduled and Non-Scheduled air transport services, as a result of such investment, shall require clearance from security view point before deployment; and
- all technical equipment that might be imported into India, as a result of such investment, shall require clearance from the relevant authority in the Ministry of Civil Aviation.

The Policy is expected to benefit the cash-starved domestic carriers and provide a much needed boost in terms of equity infusion. However, there are bigger challenges in the Indian aviation industry which may make it difficult to attract investment from foreign airlines. Key challenges are fuel costs (increasing costs of crude oil plus sales tax), mandatory route dispersal guidelines as well as the negative impact due to increase in airport related tariffs/ charges.

Nonetheless, the Policy is certainly an important milestone for the aviation sector and will give access to capital for domestic carriers, bring in global best practices and also allow better prices and services for the travellers.

Contacts

Sumesh Sawhney
Partner

T: +44 (0) 20 7006 8390
E: sumesh.sawhney
@cliffordchance.com

Ranbir Hunjan
Partner

T: +44 (0) 20 7006 2612
E: ranbir.hunjan
@cliffordchance.com

Parmeet Bahri
Lawyer (Not admitted in the UK)

T: +44 (0) 20 7006 2785
E: parmeet.bahri
@cliffordchance.com

Read our other publications

If you would like to receive copies of our other India related publications, please email: julie.dean@cliffordchance.com

India liberalises FDI in broadcasting sector (September 2012)

India opens door for multi-brand retail trade (September 2012)

Indian Supreme Court scales back intervention in foreign-seated arbitrations (September 2012)

Why Singapore business trusts are proving popular with Indian sponsors (September 2012)

Corporate Governance in India (February 2012)

India proposes a new mining law (January 2012)

India tightens norms for pharma M&A (November 2011)

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

CC Asia Limited is a company registered in England under number 5663642. Registered office: 10 Upper Bank Street, London, E14 5JJ. We use the term "partner" to refer to directors of CC Asia Limited, or members, partners, directors, employees or consultants of Clifford Chance corporate entities and partnerships, who are members of Clifford Chance LLP or who are of equivalent standing and qualifications.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.