

India opens up to FDI in Multi-Brand Retail Trading

The Government of India has reviewed the extant policy on FDI and has decided to permit FDI (upto 51% under the government route) in Multi-Brand Retail trading. Earlier this year the FDI in Single-Brand Product Retail Trading was raised from 51 percent to upto 100 percent.

FDI in Multi Brand retail implies that a retail store with a foreign investment can sell multiple brands under one roof. Further global retailers including Wal-Mart, Carrefour and Tesco can open stores offering a range of household items and grocery directly to consumers in the same way as the ubiquitous '*kirana*' store.

The FDI in Multi-Brand Retailing is subject to following conditions:

- Fresh agricultural produce (including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products) may be unbranded;
- Minimum amount of **US \$ 100 million** to be brought in as FDI by the foreign investor(s);
- At least **50% of total FDI** brought in shall be invested in 'backend infrastructure' within three years of the first tranche of FDI. The "back-end infrastructure" will include investment made towards processing, manufacturing, distribution, design improvement, quality control, packaging, logistics, storage, ware-house, agriculture market produce infrastructure etc. Expenditure on land cost and rentals, if any, **will not be counted** for purposes of back end infrastructure.
- At least **30% of the value of procurement** of manufactured Processed products purchased shall be sourced from Indian 'small industries' (which have a total investment in plant & machinery not exceeding US \$.1.00 million).
- This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the manufactured processed products purchased, beginning 1st April of the year during which the first tranche of FDI is received. Thereafter, it would have to be met on an annual basis.

- Self-certification by the company, to ensure compliance of the aforesaid which could be crosschecked, as and when required. Accordingly, the investors are directed maintain accounts, duly certified by statutory auditors.
- Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per 2011 Census and may also cover an area of 10 kms around the municipal/urban agglomeration limits of such cities.
- In States/ Union Territories not having cities with population of more than 10 lakh as per 2011 Census, retail sales outlets may be set up in the cities of the investor's choice, preferably the largest city and may also cover an area of 10 kms around the municipal/urban agglomeration limits of such cities.
- Government will have the first right to procurement of agricultural products.
- The State Governments /Union Territories would be free to take their own decisions in regard to implementation of the policy.
- Therefore, retail sales outlets may be set up in those States / Union Territories which have agreed (or agree in future) to allow FDI in Multi Brand Retail Trading under this policy. So far Andhra Pradesh, Assam, Delhi, Haryana, Jammu & Kashmir, Maharashtra, Manipur, Rajasthan, Uttarakhand, Daman & Diu, Dadar and Nagar Haveli have conveyed their agreement in this regard.
- Retail trading by means of e-commerce, would not be permissible in any form for companies with FDI, engaged in the activity of multi-brand retail trading.
- All the applications would be processed in the Department of Industrial Policy & Promotion (DIPP), to determine whether the proposed investment satisfies the notified guidelines, before being considered by the Foreign Investment Promotion Board (FIPB) for Government approval.

The notification as released by DIPP further delineates the sectors (as mentioned below) where FDI is prohibited:

- Lottery Business, including Government /private lottery, online lotteries, etc
- Gambling and Betting, including casinos etc
- Chit funds
- Nidhi company

- Trading in Transferable Development Rights (TDRs)
- Real Estate Business or Construction of Farm Houses
- Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- Activities / sectors not open to private sector investment e.g. Atomic Energy and Railway Transport (other than Mass Rapid Transport Systems).

Foreign technology collaboration in any form, including licensing for franchise, trademark, brand name, management contract, is also being prohibited for Lottery Business and Gambling and Betting activities.

The DIPP notification can be accessed at:

http://dipp.nic.in/English/acts_rules/Press_Release/pr10042012.pdf