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TOPICS

» OPENING UP FDI IN SINGLE BRAND RETAIL TO 100% AND OTHER SECTORS

The Union Cabinet of the Government of India has approved reformative changes in the policy on foreign direct investment (FDI) in order to further liberalise and rationalise existing FDI regulations. The FDI policy has undergone a comprehensive review so as to avoid seeking manifold approvals that are currently required in certain activities. This, with a view to increase foreign equity participation in India and to iron out the existing anomalies in the FDI policy, the Government has opened up a range of sectors and introduced key policy changes which are broadly laid down hereunder;

FDI in □single brand retail□

In the retail trade segment of □single brand products□, FDI is permitted upto 51%, with prior Government approval. Foreign companies, who were previously investing through the franchise route, can now invest upto 51% after obtaining Government approval and set up single brand retail stores. (Example □ Reebok, Nokia). However, retailing of multiple brands would not be allowed even if they are produced by the same manufacturer.

FDI upto 100% under the Automatic Route

FDI upto 100% allowed in the following sectors through the automatic route i.e without seeking prior Government approval;

- the development of new airports; (so far, FDI upto 74% was allowed under the automatic route);

- laying of natural gas/LNG pipelines;

- market study and formulation and investment/financing in the petroleum sector;

- cash and carry wholesale trading and export trading; (so far, FDI in wholesale cash and carry trading and FDI beyond 51% in export trading required prior government approval);

- exploration of mining of diamonds and other precious stones. (so far, allowed on automatic route only upto 74%);

- processing and warehousing in coffee and rubber industry;

- power trading, subject to provisions of the Electricity Act, 2003

- investment in creation of infrastructure related to marketing in petroleum sector;

- captive mining of coal and lignite for consumption by eligible users;

- distillation and brewing of potable alcohol, industrial explosives and hazardous chemicals (subject to other applicable regulations);

However, FDI continues to remain prohibited in coffee and rubber plantations

Procedural relaxations

- *Business to business e-commerce*: Previously, athough 100% FDI was allowed in B2B e commerce, the investor was required to divest 26% of the foreign equity within 5 years of making the investment. Now, the proposal stands to extinguish this divestment requirement.

- *Locational Policy*: Industrial undertakings located within 25 kms of the Standard Urban Area Limits of 23 cities required Government approval in addition to an industrial license. FDI in industrial undertakings will now be exempt from prior approval and thereby eligible for the automatic route.

- *Transfer of shares* to non residents in financial sector companies would follow the automatic route in case, the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997, are applicable or if the move needs permission from RBI, the Insurance Regulatory and Development Authority (IRDA) or SEBI.

Please note these changes are currently limited to a press release and would come into operation only on being officially notified. For further details please contact the M&A Team.

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