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Demystifying Complexities

Relaxation of Foreign Investment rules in Retail & other sectors

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India has been one of the fastest growing economies in the recent years. According to the World Bank, India is expected to retain the position of world's fastest growing economy in the Financial Year 2018-19 with the growth rate of 7.3%. The growth rate in the next two financial years is likely to be 7.5%.

The harmonization of all the taxes by the launch of Goods and Services Tax (GST) and Demonetization were among the major reforms which have aided to the economic growth of the country.

Taking a step forward towards liberalization of Foreign investment in India, last week, the Government of India came up with some more relaxations in existing Foreign Direct Investment (FDI) Policy. The Union Cabinet approved some major changes in key sectors like Single brand retail trading, Civil Aviation and Construction Development, with the aim to simplify the FDI Policy.

These reforms shall be effective from the date of issuance in the FEMA notification. We present a snap shot of recent relaxations in the following slides.

S. No.	Particular	Previous regulation	Revised regulation	Remarks
1	Single Brand Retail Trade	<p>FDI up to 49% was allowed under automatic route;</p> <p>For FDI more than 49%, prior approval from the Reserve Bank was mandatory.</p>	<p>FDI up to 100% to be allowed under automatic route.</p>	<p>FDI through Automatic route in Single Brand Retail Trade is expected to remove barriers for foreign retail traders.</p> <p>Brands like H&M and Ikea sought such relaxations. H&M started its operations in India in the year 2015. Swedish furniture retailer, Ikea is set to establish its presence in India in the year 2018.</p> <p>Also, Brands such as Uniqlo and Xiaomi that had applied to start single brand retail businesses may now get approval under the automatic route.</p>
	Domestic sourcing	<p>There was a condition of 30% domestic sourcing where FDI exceeds 51%;</p> <p>Indian investee company which undertakes retail activity has to be compliant by the same.</p>	<p>The Single Brand Retail Trading entity is to be permitted to set off its incremental sourcing of goods from India for global operations during initial 5 years, beginning April 1 of the year of the opening of the first store.</p>	<p>Relaxation in domestic sourcing will give flexibility and time to foreign retail traders to align their business in India.</p>

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2	Civil aviation	FDI was not allowed in national air carrier, Air India .	The government has approved FDI up to 49% in Air India , including direct or indirect investment by the foreign airline(s) through approval route	This step shall speed up the divestment of Air India. However, the effective control shall remain with the Indian national.
3	Power exchanges	<p>49% FDI was permitted under automatic route in Power Exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.</p> <p>However, FII/FPI purchases were restricted to secondary market only.</p>	FII/FPIs are now to invest in power exchanges through primary market as well.	FII/FPIs shall be benefited by this relaxation.

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4	Pharma	<p>100% FDI was permitted in the manufacturing of medical devices.</p> <p>The definition of a medical device as contained in the FDI Policy would be subject to amendment in the Drugs and Cosmetics Act.</p>	<p>The government has decided to drop the reference to Drugs and Cosmetics Act from FDI policy and has also proposed to suitably amend the definition of 'medical devices' as contained in the FDI Policy.</p>	<p>Proposed amendment has widened the definition of 'medical devices' where foreign investment is allowed. The 'medical devices' now also include any product or software that will assist diagnosis, monitoring, treatment for any injury, investigation, replacement etc.</p>
5	Real estate broking services	<p>There was an ambiguity on permissibility of FDI in companies engaged in real estate broking business.</p>	<p>It is clarified that Real estate broking services do not constitute real estate business (and hence is not subject to any FDI restriction)</p>	<p>As per National Industrial Classification ('NIC'), activity of real estate broking services was covered under the real estate business. The Government has clarified on applicability of FDI restrictions on such services.</p>

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6	Automatic route for 'in-kind' FDI	Prior government approval required for issuance of shares to foreign investors against non-cash considerations like pre- incorporation expenses, import of machinery etc.	Government has approved automatic route for the same	A welcome step towards 'Ease of Doing Business' and provides for simplified procedure for such in-kind FDI
7	Automatic route for holding/ investment activity	FDI in an Indian company, engaged only pure investing holding activity and in Core Investing Companies was allowed up to 100% with prior Government approval.	<p>It has now been decided that if these investment activities are regulated by any financial sector regulator, then FDI up to 100% will be allowed under automatic route;</p> <p>If they are not regulated by any Financial Sector Regulator or where only part is regulated or where there is doubt regarding the regulatory oversight, FDI will be allowed under Government approval route, subject to conditions including minimum capitalization requirement, as may be decided by the Government.</p>	Partial relaxation given to pure investing holding activity and in Core Investing Companies

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