

11 January 2012

Single Brand Retail Trade

Foreign Direct Investment Alert



Foreword

On 10 January 2012, Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, vide Press Note 1 (Series 2012) liberalised the Foreign Direct Investment ('FDI') policy in Single Brand Retail Trade. Accordingly, FDI in Indian Single Brand Retail Trade has been increased to 100% under government approval route from the earlier limit of 51%.

Rationale for liberalization of FDI in Single Brand Retail Trade

The rationale for liberalization of FDI in Single Brand Retail Trade is attracting investments in production and marketing, improving the availability of goods to consumers, encouraging increased sourcing of goods from India and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.

Accordingly, certain conditions have been stipulated for FDI in Single Brand Retail Trade in order to achieve the envisaged objectives.

The key conditions Single Brand Retail Trade have been outlined in the Press Note 1 (Series 2012) issued by the Government of India.

Key conditions for FDI in Single Brand Retail Trade

Prior to the issuance of Press Note 1 (Series 2012), 51% FDI in Single Brand Retail Trade was permitted with Government approval, subject to fulfilment of the following conditions:

- ▶ Products to be sold should be of a Single brand;

- ▶ Products should be sold under the same brand internationally, ie products should be sold under the same brand in one or more countries other than India;
- ▶ Products should be branded during manufacturing; and
- ▶ The foreign investor should be the owner of the brand.

Pursuant to issuance of this Press Note, FDI in Single Brand Retail Trade beyond 51% is permitted subject to fulfilment of the following additional condition:

- ▶ Mandatory sourcing of at least 30% of the value of products from 'Indian' Small Industries¹ / village² and cottage industries, artisans and craftsmen;

Further, compliance of above condition will have to be ensured through self-certification by the company, to be subsequently checked by statutory auditors from the duly certified accounts maintained by the Single Brand Retail Trade company.

Next steps for Single Brand Retailers

- ▶ Foreign Retailers which already have up to 51% stake in Indian Single Brand retail joint ventures, can evaluate and explore increasing their stake in the said Single Brand company up to 100%.

¹ *Small industries' have been defined as industries which have a total investment in plant & machinery not exceeding USD 1 million at the time of installation (without providing for depreciation). Further, if at any point in time, this valuation is exceeded, the industry shall not qualify as a 'small industry' for this purpose.*

² *Village Industry shall have the meaning as defined under Khadi and Village Industries Commission Act, 1956, as amended from time to time.*

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