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**FDI Liberalizations in the E-Commerce Sector**

If you have questions or would like additional information on the material covered in this Newsletter, please contact the authors:

Seema Jhingan, Partner  
+91-98.1131.99.89  
([sjhingan@lexcounsel.in](mailto:sjhingan@lexcounsel.in))

LexCounsel, Law Offices C-10,  
Gulmohar Park New Delhi 110 049,

**FDI Liberalizations in the E-Commerce Sector**

Under the Consolidated Foreign Direct Investment Policy ("FDI Policy") issued by the Department of Industrial Policy & Promotion ("DIPP"), FDI is permitted upto 100% under the automatic route in companies engaged in E-Commerce provided such companies would engage only in Business to Business (B2B) e-commerce. FDI in E-Commerce with respect to retail trading, however, was not allowed.

With the issuance by DIPP of Press Note 12 of 2015 dated November 24, 2015, certain critical amendments have been brought in the FDI policy with respect to the single brand retail sector and manufacturing sector vis-à-vis the E-Commerce space.

(i) Manufacturing Sector:

- A manufacturer has been permitted to sell its products manufactured in India, through wholesale and/or retail, including through e-commerce under the automatic route (i.e. without any government approval).

The above clarification has laid to rest the conflicting interpretations with respect to the inherent rights of a manufacturer to sell its products through e-commerce. It has been debated that the limitations of a typical retail trading entity (i.e., buying, selling and trading of products without

INDIA. Tel.:+91.11.4166.2861  
Fax:+91.11.4166.2862

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manufacturing) related to e-commerce should not be imposed on a manufacturing unit and the above revision clarifies the position that manufacturing entities are free to sell its products through any medium including e-commerce.

The term "*Manufacture*" has been defined as a change in non-living physical object or article or thing- (a) resulting in the transformation of the object or article or thing into a new and distinct object or article or thing, having a different name, character and use; or (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

(ii) Single Brand Retail Trading

- A single brand retail trading entity operating through brick and mortar stores, in compliance with the conditions specified under the Press Note 12 of 2015 on single brand retail, has now been permitted to undertake retail trading through e-commerce.
- An Indian manufacturer, has been permitted to sell its own single brand products in any manner i.e., either through wholesale or retail, including through e-commerce platforms.

An Indian manufacturer would be the investee company, which is the owner of Indian brand and which manufactures in India, in terms of value, at least 70% of its products in house, and sources, at most 30% from Indian manufacturers.

**Feedback**

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