

## **FDI IN RETAIL SECTOR: STUDY, ISSUE AND IMPACT FOR INDIAN ECONOMY**

**Vivek Kumar Tiwari**

Assistant Professor, Career Convent Girls, Degree College, Lucknow, India

Email: vivek.tiwari020@gmail.com

### **ABSTRACT**

*Just back from first frenzied shopping experience in the UK, a four year old ever-inquisitive daughter asked to her father, “Why do we not have a Harrods in Delhi? Shopping there is so much fun!” Simple question for a four-year-old, but not so simple for her father to explain.*

*As per the current regulatory regime, retail trading (except under single-brand product retailing — FDI up to 51 per cent, under the Government route) is prohibited in India. Simply put, for a company to be able to get foreign funding, products sold by it to the general public should only be of a ‘single-brand’; this condition being in addition to a few other conditions to be adhered to. That explains why we do not have a Harrods in Delhi.*

### **INTRODUCTION**

India being a signatory to World Trade Organization’s General Agreement on Trade in Services, which include wholesale and retailing services, had to open up the retail trade sector to foreign investment. There were initial reservations towards opening up of retail sector arising from fear of job losses, procurement from international market, competition and loss of entrepreneurial opportunities. However, the government in a series of moves has opened up the retail sector slowly to Foreign Direct Investment (“FDI”). In 1997, FDI in cash and carry (wholesale) with 100 percent ownership was allowed under the Government approval route. It was brought under the automatic route in 2006. 51 percent investment in a single brand retail outlet was also permitted in 2006. FDI in Multi-Brand retailing is prohibited in India.

### **Definition of Retail**

In 2004, The High Court of Delhi defined the term ‘Retail’ as a sale for final consumption in contrast to a sale for further sale or processing (i.e. wholesale). A sale to the ultimate consumer.

Thus, retailing can be said to be the interface between the producer and the individual consumer buying for personal consumption. This excludes direct interface between the manufacturer and institutional buyers such as the government and other bulk customers retailing is the last link that connects the individual consumer with the manufacturing and distribution chain. A retailer is involved in the act of selling goods to the individual consumer at a margin of profit.

### **Division of Retail Industry – Organized and Unorganized Retailing**

The retail industry is mainly divided into: - 1) Organized and 2) Unorganized Retailing

Organized retailing refers to trading activities undertaken by licensed retailers, that is, those who are registered for sales tax, income tax, etc. These include the corporate-backed hypermarkets and retail chains, and also the privately owned large retail businesses.

Unorganized retailing, on the other hand, refers to the traditional formats of low-cost retailing, for example, the local kirana shops, owner manned general stores, paan/beedi shops, convenience stores, hand cart and pavement vendors, etc.

The Indian retail sector is highly fragmented with 97 per cent of its business being run by the unorganized retailers. The organized retail however is at a very nascent stage. The sector is the largest source of employment after agriculture, and has deep penetration into rural India generating more than 10 per cent of India's GDP.

### **FDI Policy in India**

FDI as defined in Dictionary of Economics (Graham Bannock et.al) is investment in a foreign country through the acquisition of a local company or the establishment there of an operation on a new (Greenfield) site. To put in simple words, FDI refers to capital inflows from abroad that is invested in or to enhance the production capacity of the economy. Foreign Investment in India is governed by the FDI policy announced by the Government of India and the provision of the Foreign Exchange Management Act (FEMA) 1999. The Reserve Bank of India ('RBI') in this regard had issued a notification, which contains the Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000. This notification has been amended from time to time.

The Ministry of Commerce and Industry, Government of India is the nodal agency for motoring and reviewing the FDI policy on continued basis and changes in sectorial policy/sectorial equity cap. The FDI policy is notified through Press Notes by the Secretariat for Industrial Assistance (SIA), Department of Industrial Policy and Promotion (DIPP).

The foreign investors are free to invest in India, except few sectors/activities, where prior approval from the RBI or Foreign Investment Promotion Board ('FIPB') would be required.

### **FDI Policy with Regard to Retailing in India**

It will be prudent to look into Press Note 4 of 2006 issued by DIPP and consolidated FDI Policy issued in October 2010 which provide the sector specific guidelines for FDI with regard to the conduct of trading activities.

1. FDI up to 100% for cash and carry wholesale trading and export trading allowed under the automatic route.
2. FDI up to 51 % with prior Government approval (i.e. FIPB) for retail trade of 'Single Brand' products, subject to Press Note 3 (2006 Series)
3. FDI is not permitted in Multi Brand Retailing in India.

### **Entry Options for Foreign Players prior to FDI Policy**

Although prior to Jan 24, 2006, FDI was not authorized in retailing, most general players had been operating in the country. Some of entrance routes used by them have been discussed in sum as below:-

**Franchise Agreements**

It is an easiest track to come in the Indian market. In franchising and commission agents' services, FDI (unless otherwise prohibited) is allowed with the approval of the Reserve Bank of India (RBI) under the Foreign Exchange Management Act. This is a most usual mode for entrance of quick food bondage opposite a world. Apart from quick food bondage identical to Pizza Hut, players such as Lacoste, Mango, Nike as good as Marks as good as Spencer, have entered Indian marketplace by this route.

**Cash And Carry Wholesale Trading**

100% FDI is allowed in wholesale trading which involves building of a large distribution infrastructure to assist local manufacturers. The wholesaler deals only with smaller retailers and not Consumers. Metro AG of Germany was the first significant global player to enter India through this route.

**Strategic Licensing Agreements**

Some foreign brands give exclusive licenses and distribution rights to Indian companies. Through these rights, Indian companies can either sell it through their own stores, or enter into shop-in-shop arrangements or distribute the brands to franchisees. Mango, the Spanish apparel brand has entered India through this route with an agreement with Pyramid, Mumbai, SPAR entered into a similar agreement with Radha Krishna Foodland's Pvt. Ltd

**Manufacturing and Wholly Owned Subsidiaries**

The foreign brands such as Nike, Reebok, Adidas, etc. that have wholly-owned subsidiaries in manufacturing are treated as Indian companies and are, therefore, allowed to do retail. These companies have been authorized to sell products to Indian consumers by franchising, internal distributors, existent Indian retailers, own outlets, etc. For instance, Nike entered through an exclusive licensing agreement with Sierra Enterprises but now has a wholly owned subsidiary, Nike India Private Limited.

**FDI in Single Brand Retail**

The Government has not categorically defined the meaning of "Single Brand" anywhere neither in any of its circulars nor any notifications.

In single-brand retail, FDI up to 51 per cent is allowed, subject to Foreign Investment Promotion Board (FIPB) approval and subject to the conditions mentioned in Press Note 3 that (a) only single brand products would be sold (i.e., retail of goods of multi-brand even if produced by the same manufacturer would not be allowed), (b) products should be sold under the same brand internationally, (c) single-brand product retail would only cover products which are branded during manufacturing and (d) any addition to product categories to be sold under "single-brand" would require fresh approval from the government.

While the phrase 'single brand' has not been defined, it implies that foreign companies would be allowed to sell goods sold internationally under a 'single brand', viz., Reebok, Nokia, Adidas. Retailing of goods of multiple brands, even if such products were produced by the same manufacturer, would not be allowed.

Going a step further, we examine the concept of 'single brand' and the associated conditions:

FDI in 'Single brand' retail implies that a retail store with foreign investment can only sell one brand. For example, if Adidas were to obtain permission to retail its flagship brand in India, those retail outlets could only sell products under the Adidas brand and not the Reebok brand, for which separate permission is required. If granted permission, Adidas could sell products under the Reebok brand in separate outlets.

A 'brand' could be classified as products and multiple products, or could be manufacturer brands and own-label brands. Assume that a company owns two leading international brands in the footwear industry – say 'A' and 'R'. If the corporate were to obtain permission to retail its brand in India with a local partner, it would need to specify which of the brands it would sell. A reading of the government release indicates that A and R would need separate approvals, separate legal entities, and may be even separate stores in which to operate in India. However, it should be noted that the retailers would be able to sell multiple products under the same brand, e.g., a product range under brand 'A'. Further, it appears that the same joint venture partners could operate various brands, but under separate legal entities.

Now, taking an example of a large departmental grocery chain, prima facie it appears that it would not be able to enter India. These chains would, typically, source products and, thereafter, brand it under their private labels. Since the regulations require the products to be branded at the manufacturing stage, this model may not work. The regulations appear to discourage own-label products and appear to be tilted heavily towards the foreign manufacturer brands.

There is ambiguity in the interpretation of the term 'single brand'. The existing policy does not clearly codify whether retailing of goods with sub-brands bunched under a major parent brand can be considered as single-brand retailing and, accordingly, eligible for 51 per cent FDI. Additionally, the question on whether co-branded goods (specifically branded as such at the time of manufacturing) would qualify as single brand retail trading remains unanswered.

### **FDI in Multi Brand Retail**

The government has also not defined the term Multi Brand. FDI in Multi Brand retail implies that a retail store with a foreign investment can sell multiple brands under one roof.

In July 2010, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce circulated a discussion paper on allowing FDI in multi-brand retail. The paper doesn't suggest any upper limit on FDI in multi-brand retail. If implemented, it would open the doors for global retail giants to enter and establish their footprints on the retail landscape of India. Opening up FDI in multi-brand retail will mean that 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.

### **Foreign Investor's Concern Regarding FDI Policy in India**

For those brands which adopt the franchising route as a matter of policy, the current FDI Policy will not make any difference. They would have preferred that the Government liberalize rules for maximizing their royalty and franchise fees. They must still rely on innovative structuring of franchise arrangements to maximize their returns. Consumer durable majors such as LG and Samsung, which have exclusive franchisee owned stores, are unlikely to shift from the preferred route right away.

For those companies which choose to adopt the route of 51% partnership, they must tie up with a local partner. The key is finding a partner which is reliable and who can also teach a trick or two about the domestic market and the Indian consumer. Currently, the organized retail sector is dominated by the likes of large business groups which decided to diversify into retail to cash in on the boom in the sector – corporates such as Tata through its brand Westside, RPG Group through Food world, Pantaloons of the Raheja Group and Shopper's Stop. Do foreign investors look to tie up with an existing retailer or look to others not necessarily in the business but looking to diversify, as many business groups are doing

An arrangement in the short to medium term may work wonders but what happens if the Government decides to further liberalize the regulations as it is currently contemplating? Will the foreign investor terminate the agreement with Indian partner and trade in market without him? Either way, the foreign investor must negotiate its joint venture agreements carefully, with an option for a buy-out of the Indian partner's share if and when regulations so permit. They must also be aware of the regulation which states that once a foreign company enters into a technical or financial collaboration with an Indian partner, it cannot enter into another joint venture with another Indian company or set up its own subsidiary in the 'same' field' without the first partner's consent if the joint venture agreement does not provide for a 'conflict of interest' clause. In effect, it means that foreign brand owners must be extremely careful whom they choose as partners and the brand they introduce in India. The first brand could also be their last if they do not negotiate the strategic arrangement diligently.

#### **Concerns for the Government for only Partially Allowing FDI in Retail Sector**

A number of concerns were expressed with regard to partial opening of the retail sector for FDI. The Hon'ble Department Related Parliamentary Standing Committee on Commerce, in its 90th Report, on 'Foreign and Domestic Investment in Retail Sector', laid in the Lok Sabha and the Rajya Sabha on 8 June, 2009, had made an in-depth study on the subject and identified a number of issues related to FDI in the retail sector. These included:

It would lead to unfair competition and ultimately result in large-scale exit of domestic retailers, especially the small family managed outlets, leading to large scale displacement of persons employed in the retail sector. Further, as the manufacturing sector has not been growing fast enough, the persons displaced from the retail sector would not be absorbed there.

Another concern is that the Indian retail sector, particularly organized retail, is still under-developed and in a nascent stage and that, therefore, it is important that the domestic retail sector is allowed to grow and consolidate first, before opening this sector to foreign investors.

Antagonists of FDI in retail sector oppose the same on various grounds, like, that the entry of large global retailers such as Wal-Mart would kill local shops and millions of jobs, since the unorganized retail sector employs an enormous percentage of Indian population after the agriculture sector; secondly that the global retailers would conspire and exercise monopolistic power to raise prices and monopolistic (big buying) power to reduce the prices received by the suppliers; thirdly, it would lead to asymmetrical growth in cities, causing discontent and social tension elsewhere. Hence, both the consumers and the suppliers would lose, while the profit margins of such retail chains would go up.

## **Limitations of The Present Setup**

### **Infrastructure**

There has been a lack of investment in the logistics of the retail chain, leading to an inefficient market mechanism. Though India is the second largest producer of fruits and vegetables (about 180 million MT), it has a very limited integrated cold-chain infrastructure, with only 5386 stand-alone cold storages, having a total capacity of 23.6 million MT. , 80% of this is used only for potatoes. The chain is highly fragmented and hence, perishable horticultural commodities find it difficult to link to distant markets, including overseas markets, round the year. Storage infrastructure is necessary for carrying over the agricultural produce from production periods to the rest of the year and to prevent distress sales. Lack of adequate storage facilities cause heavy losses to farmers in terms of wastage in quality and quantity of produce in general. Though FDI is permitted in cold-chain to the extent of 100%, through the automatic route, in the absence of FDI in retailing; FDI flow to the sector has not been significant.

### **Intermediaries dominate the value chain**

Intermediaries often flout *mandi* norms and their pricing lacks transparency. Wholesale regulated markets, governed by State APMC Acts, have developed a monopolistic and non-transparent character. According to some reports, Indian farmers realize only 1/3<sup>rd</sup> of the total price paid by the final consumer, as against 2/3<sup>rd</sup> by farmers in nations with a higher share of organized retail.

### **Improper Public Distribution System (“PDS”)**

There is a big question mark on the efficacy of the public procurement and PDS set-up and the bill on food subsidies is rising. In spite of such heavy subsidies, overall food based inflation has been a matter of great concern. The absence of a ‘farm-to-fork’ retail supply system has led to the ultimate customers paying a premium for shortages and a charge for wastages.

### **No Global Reach**

The Micro Small & Medium Enterprises (“MSME”) sector has also suffered due to lack of branding and lack of avenues to reach out to the vast world markets. While India has continued to provide emphasis on the development of MSME sector, the share of unorganised sector in overall manufacturing has declined from 34.5% in 1999-2000 to 30.3% in 2007-08 This has largely been due to the inability of this sector to access latest technology and improve its marketing interface.

### **Rationale behind Allowing FDI in Retail Sector**

FDI can be a powerful catalyst to spur competition in the retail industry, due to the current scenario of low competition and poor productivity.

The policy of single-brand retail was adopted to allow Indian consumers access to foreign brands. Since Indians spend a lot of money shopping abroad, this policy enables them to spend the same money on the same goods in India. FDI in single-brand retailing was permitted in 2006, up to 51 per cent of ownership. Between then and May 2010, a total of 94 proposals have been received. Of these, 57 proposals have been approved. An FDI inflow of US\$196.46 million under the category of single brand retailing was received between April

2006 and September 2010, comprising 0.16 per cent of the total FDI inflows during the period. Retail stocks rose by as much as 5%. Shares of Pantaloons Retail (India) Ltd ended 4.84% up at Rs 441 on the Bombay Stock Exchange. Shares of Shopper's Stop Ltd rose 2.02% and Trent Ltd, 3.19%. The exchange's key index rose 173.04 points, or 0.99%, to 17,614.48. But this is very less as compared to what it would have been had FDI up to 100% been allowed in India for single brand.

The policy of allowing 100% FDI in single brand retail can benefit both the foreign retailer and the Indian partner – foreign players get local market knowledge, while Indian companies can access global best management practices, designs and technological knowhow. By partially opening this sector, the government was able to reduce the pressure from its trading partners in bilateral/ multilateral negotiations and could demonstrate India's intentions in liberalising this sector in a phased manner.

Permitting foreign investment in food-based retailing is likely to ensure adequate flow of capital into the country & its productive use, in a manner likely to promote the welfare of all sections of society, particularly farmers and consumers. It would also help bring about improvements in farmer income & agricultural growth and assist in lowering consumer prices inflation.

Apart from this, by allowing FDI in retail trade, India will significantly flourish in terms of quality standards and consumer expectations, since the inflow of FDI in retail sector is bound to pull up the quality standards and cost-competitiveness of Indian producers in all the segments. It is therefore obvious that we should not only permit but encourage FDI in retail trade.

Lastly, it is to be noted that the Indian Council of Research in International Economic Relations (ICRIER), a premier economic think tank of the country, which was appointed to look into the impact of BIG capital in the retail sector, has projected the worth of Indian retail sector to reach \$496 billion by 2011-12 and ICRIER has also come to conclusion that investment of 'big' money (large corporates and FDI) in the retail sector would in the long run not harm interests of small, traditional, retailers.

In light of the above, it can be safely concluded that allowing healthy FDI in the retail sector would not only lead to a substantial surge in the country's GDP and overall economic development, but would *inter alia* also help in integrating the Indian retail market with that of the global retail market in addition to providing not just employment but a better paying employment, which the unorganized sector (kirana and other small time retailing shops) have undoubtedly failed to provide to the masses employed in them.

Industrial organisations such as CII, FICCI, US-India Business Council (USIBC), the American Chamber of Commerce in India, The Retail Association of India (RAI) and Shopping Centers Association of India (44 member association of Indian multi-brand retailers and shopping malls) favour a phased approach toward liberalising FDI in multi-brand retailing, and most of them agree with considering a cap of 49-51 per cent to start with.

The international retail players such as Wal-Mart, Carrefour, Metro, IKEA, and TESCO share the same view and insist on a clear path towards 100 per cent opening up in near future. Large multinational retailers such as US-based Wal-Mart, Germany's Metro AG and Woolworths Ltd, the largest Australian retailer that operates in wholesale cash-and-carry

ventures in India, have been demanding liberalisation of FDI rules on multi-brand retail for some time.

Thus, as a matter of fact FDI in the buzzing Indian retail sector should not just be freely allowed but per contra should be significantly encouraged. Allowing FDI in multi brand retail can bring about Supply Chain Improvement, Investment in Technology, Manpower and Skill development, Tourism Development, Greater Sourcing From India, Up gradation in Agriculture, Efficient Small and Medium Scale Industries, Growth in market size and Benefits to government through greater GDP, tax income and employment generation.

### **Prerequisites before allowing FDI in Multi Brand Retail and Lifting Cap of Single Brand Retail**

FDI in multi-brand retailing must be dealt cautiously as it has direct impact on a large chunk of population. Left alone foreign capital will seek ways through which it can only multiply itself, and unthinking application of capital for profit, given our peculiar socio-economic conditions, may spell doom and deepen the gap between the rich and the poor. Thus the proliferation of foreign capital into multi-brand retailing needs to be anchored in such a way that it results in a win-win situation for India. This can be done by integrating into the rules and regulations for FDI in multi-brand retailing certain inbuilt safety valves. For example FDI in multi –brand retailing can be allowed in a calibrated manner with social safeguards so that the effect of possible labor dislocation can be analyzed and policy fine-tuned accordingly. To ensure that the foreign investors make a genuine contribution to the development of infrastructure and logistics, it can be stipulated that a percentage of FDI should be spent towards building up of back end infrastructure, logistics or agro processing units. Reconstituting the poverty stricken and stagnating rural sphere into a forward moving and prosperous rural sphere can be one of the justifications for introducing FDI in multi-brand retailing. To actualize this goal it can be stipulated that at least 50% of the jobs in the retail outlet should be reserved for rural youth and that a certain amount of farm produce be procured from the poor farmers. Similarly to develop our small and medium enterprise (SME), it can also be stipulated that a minimum percentage of manufactured products be sourced from the SME sector in India. PDS is still in many ways the life line of the people living below the poverty line. To ensure that the system is not weakened the government may reserve the right to procure a certain amount of food grains for replenishing the buffer. To protect the interest of small retailers the government may also put in place an exclusive regulatory framework. It will ensure that the retailing giants do resort to predatory pricing or acquire monopolistic tendencies. Besides, the government and RBI need to evolve suitable policies to enable the retailers in the unorganized sector to expand and improve their efficiencies. If Government is allowing FDI, it must do it in a calibrated fashion because it is politically sensitive and link it (with) up some caveat from creating some back-end infrastructure.

Further, To take care of the concerns of the Government before allowing 100% FDI in Single Brand Retail and Multi- Brand Retail, the following recommendations are being proposed Preparation of a legal and regulatory framework and enforcement mechanism to ensure that large retailers are not able to dislocate small retailers by unfair means.

Extension of institutional credit, at lower rates, by public sector banks, to help improve efficiencies of small retailers; undertaking of proactive programme for assisting small retailers to upgrade themselves.



Enactment of a National Shopping Mall Regulation Act to regulate the fiscal and social aspects of the entire retail sector. Formulation of a Model Central Law regarding FDI of Retail Sector.

## **CONCLUSION**

### **A Start Has Been Made**

Wal-Mart has a joint venture with Bharti Enterprises for cash-and-carry (wholesale) business, which runs the 'Best Price' stores. It plans to have 15 stores by March and enter new states like Andhra Pradesh, Rajasthan, Madhya Pradesh and Karnataka. Duke, Walmart's CEO opined that FDI in retail would contain inflation by reducing wastage of farm output as 30% to 40% of the produce does not reach the end-consumer. "In India, there is an opportunity to work all the way up to farmers in the back-end chain. Part of inflation is due to the fact that produces do not reach the end-consumer," Duke said, adding, that a similar trend was noticed when organized retail became popular in the US.

Many of the foreign brands would come to India if FDI in multi brand retail is permitted which can be a blessing in disguise for the economy.

### **Back-end logistics must for FDI in multi-brand retail**

The government has added an element of social benefit to its latest plan for calibrated opening of the multi-brand retail sector to foreign direct investment (FDI). Only those foreign retailers who first invest in the back-end supply chain and infrastructure would be allowed to set up multi brand retail outlets in the country. The idea is that the firms must have already created jobs for rural India before they venture into multi-brand retailing.

It can be said that the advantages of allowing unrestrained FDI in the retail sector evidently outweigh the disadvantages attached to it and the same can be deduced from the examples of successful experiments in countries like Thailand and China; where too the issue of allowing FDI in the retail sector was first met with incessant protests, but later turned out to be one of the most promising political and economic decisions of their governments and led not only to the commendable rise in the level of employment but also led to the enormous development of their country's GDP.

Moreover, in the fierce battle between the advocates and antagonist of unrestrained FDI flows in the Indian retail sector, the interests of the consumers have been blatantly and utterly disregarded. Therefore, one of the arguments which inevitably needs to be considered and addressed while deliberating upon the captioned issue is the interests of consumers at large in relation to the interests of retailers.

It is also pertinent to note here that it can be safely contended that with the possible advent of unrestrained FDI flows in retail market, the interests of the retailers constituting the unorganized retail sector will not be gravely undermined, since nobody can force a consumer to visit a mega shopping complex or a small retailer/sabji mandi. Consumers will shop in accordance with their utmost convenience, where ever they get the lowest price, max variety, and a good consumer experience.

The Industrial policy 1991 had crafted a trajectory of change whereby every sectors of Indian economy at one point of time or the other would be embraced by liberalization, privatization and globalization. FDI in multi-brand retailing and lifting the current cap of 51% on single brand retail is in that sense a steady progression of that trajectory. But the government has by

far cushioned the adverse impact of the change that has ensued in the wake of the implementation of Industrial Policy 1991 through safety nets and social safeguards. But the change that the movement of retailing sector into the FDI regime would bring about will require more involved and informed support from the government. One hopes that the government would stand up to its responsibility, because what is at stake is the stability of the vital pillars of the economy- retailing, agriculture, and manufacturing. In short, the socio economic equilibrium of the entire country.

Sl. No.	Sector/Activity	% of FDI Cap/Equity	Entry Route
6.2.16.4	Single Brand product retail trading	100%	Government
<p>(12.2.1) Foreign Investment in Single Brand product retail trading is aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.</p> <p>(12.2.2) FDI in Single Brand product retail trading would be subject to the following conditions:</p> <p>(12.2.3) Products to be sold should be of a „Single Brand“ only.</p> <p>(12.2.4) Products should be sold under the same brand internationally i.e. products should be sold under the same brand in one or more countries other than India.</p> <p>(12.2.5) „Single Brand“ product-retail trading would cover only products which are branded during manufacturing.</p> <p>(12.2.6) Only one non-resident entity, whether owner of the brand or otherwise, shall be permitted to undertake single brand product retail trading in the country, for the specific brand, through a legally tenable agreement, with the brand owner for undertaking single brand product retail trading in respect of the specific brand for which approval is being sought. The onus for ensuring compliance with this condition shall rest with the Indian entity carrying out single-brand product retail trading in India. The investing entity shall provide evidence to this effect at the time of seeking approval, including a copy of the licensing/ franchise/sub-license agreement, specifically indicating compliance with the above condition</p> <p>(12.2.7) In respect of proposals involving FDI beyond 51%, sourcing of 30% of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years“ total value of the goods 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. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of FDI for the purpose of carrying out single-brand product retail trading.</p> <p>(12.2.8) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of single-brand retail trading.</p> <p>(12.2.9) Application seeking permission of the Government for FDI in retail trade of</p>			

„Single Brand“ products would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The applications would specifically indicate the product/ product categories which are proposed to be sold under a „Single Brand“. Any addition to the product/ product categories to be sold under „Single Brand“ would require a fresh approval of the Government.

(12.2.10) Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered by the FIPB for Government approval.

<b>6.2.16.5</b>	<b>Multi Brand Retail Trading</b>	51%	Government
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(12.2.11) FDI in multi brand retail trading, in all products, will be permitted, subject to the following conditions:

(12.2.12) Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded.

(12.2.13) Minimum amount to be brought in, as FDI, by the foreign investor, would be US \$ 100 million.

(12.2.14) At least 50% of total FDI brought in shall be invested in 'backend infrastructure' within three years of the first tranche of FDI, where „back-end infrastructure“ will include capital expenditure on all activities, excluding that on front-end units; for instance, 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 backend infrastructure.

(12.2.15) 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 valuation refers to the value 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. 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.

(12.2.16) Self-certification by the company, to ensure compliance of the conditions at serial nos. (12.2.13), (12.2.14) and (12.2.15) above, which could be cross-checked, as and when required. Accordingly, the investors shall maintain accounts, duly certified by statutory auditors.

(12.2.17) 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; retail locations will be restricted to conforming areas as per the Master/Zonal Plans of the concerned cities and provision will be made for requisite facilities such as transport connectivity and parking; 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 their choice, preferably the largest city and may also cover an area of

10 kms around the municipal/urban agglomeration limits of such cities. The locations of such outlets will be restricted to conforming areas, as per the

Master/Zonal Plans of the concerned cities and provision will be made for requisite facilities such as transport connectivity and parking.

(12.2.18) Government will have the first right to procurement of agricultural products.

(12.2.19) The above policy is an enabling policy only and 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 MBRT under this policy. The list of States/Union Territories which have conveyed their agreement is at (13) below. Such agreement, in future, to permit establishment of retail outlets under this policy, would be conveyed to the Government of India through the Department of Industrial Policy & Promotion and additions would be made to the list at below accordingly. The establishment of the retail sales outlets will be in compliance of applicable State/Union Territory laws/regulations, such as the Shops and Establishments Act etc.

(12.2.20) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of multi-brand retail trading.

(12.2.21) Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered by the FIPB for Government approval.

#### **LIST OF STATES/ UNION TERRITORIES (12.2.19)**

1. Andhra Pradesh
2. Assam
3. Delhi
4. Haryana
5. Jammu & Kashmir
6. Maharashtra
7. Manipur
8. Rajasthan
9. Uttarakhand
10. Daman & Diu and Dadra and Nagar Haveli (Union Territories)

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