

FDI IN SINGLE BRAND RETAIL

Indian government has loosened its reins over foreign direct investment. The FDI has been granted up to 51% in multi brand product and 100% single brand retail business. Though this deal will bring new job opportunities but will set a major setback to the kirana stores and individual retailers as till now they used to dominate the unorganized retail sector.

As the doors have been opened for investors an estimate of USD 550 billion is expected to be flow in Indian market. The US based coffee giant Starbucks has entered into MOU (memorandum of understanding) with TATA Group and is ready to jump into Indian market. Many of the companies like WalMart, Tesco, Carrefour etc. are also lined up as the new FDI policies have emerged.

Previously FDIs in was prohibited except in single brand product retail trading, in which upto 51% is permitted , subject to the conditions as specified by the government. In the current the Government of India has revised in its notification dated 10th January, 2012 that the extant policy on FDI and decided that FDI, up to 100%, under the government approval route, would be permitted in Single-Brand Product Retail Trading, subject to specified conditions.

The following are the terms on which 100% FDI in single brand product in retail trading has been allowed:

1. Foreign Investment in single brand product in 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.
2. FDI in Single Brand product retail trading would be subject to the following conditions:
 - (a) Products to be sold should be of a 'Single Brand' only.
 - (b) 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.
 - (c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing.
 - (d) The foreign investor should be the owner of the brand.
 - (e) In respect of proposals involving FDI beyond 51%, mandatory sourcing of at least 30% of the value of products sold would have to be done from Indian 'small industries/ village and cottage industries, artisans and craftsmen'. 'Small industries' would be defined as 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. The compliance of this condition will be ensured through self-certification by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts, which the company will be required to maintain.
3. Application seeking permission of the Government for FDI in retail trade of 'Single Brand' products would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The application 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.

4. Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the products proposed to be sold satisfy the notified guidelines, before being considered by the FIPB for Government approval.

We at Kolloth & Co assists company's across the globe in setting up wholly own subsidiaries in India at a cost effective manner.

Foreign company or investor can enter into the business in India either as a foreign company in the form of a liaison office/representative office, a project office and a branch office by registering themselves with Registrar of Companies. For opening of the foreign company specific approval of Reserve Bank of India is also required.

Anil Kolloth heads the corporate transactional practice at Kolloth & CO. He has valuable experience in representing some of the leading Fortune 500 on acquisition, mergers and entry strategy . Anil's particular experience includes structuring investments of foreign companies into India, joint ventures, corporate finance, technology transfer agreements, and IT contracts.

Anil is involved in infrastructure development, particularly power and telecommunication sectors, which is now being undertaken in India and has been advising international and domestic clients. He has also represented some of the leading Banks and Financial Institutions in the Country.