

**Liberalizations in the FDI Policy -  
Unshackling the Manufacturing  
Sector**

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**1. Introduction**

- 1.1. The Foreign Direct Investment (“**FDI**”) policy has been in a state of flux since last year, with sweeping changes being brought in with respect to FDI vis-à-vis various sectors. One such sector has been the ‘manufacturing sector’ which was defined and elaborated upon in the FDI policy, vide Press Note No. 12 of 2015 (dated November 24, 2015), last year (“**Press Note 2015**”).
- 1.2. The last month has now seen further amendments brought in relation to trading of food products manufactured/produced in India under the ‘manufacturing’ section of the FDI Policy vide Press Note No. 5 of 2016 (dated June 24, 2016) (“**Press Note 2016**”).
- 1.3. In view of the recent changes, set out below is a snapshot of the recent liberalizations brought in the FDI Policy governing the ‘manufacturing’ sector in India.

**2. FDI in Indian ‘manufacturing’ companies – Press Note 2015**

- 2.1. Press Note 2015 introduced a definition of what constitutes ‘manufacturing’ for the first time in the FDI Policy. In terms of the Press Note 2015, ‘Manufacture’, with its grammatical variations, *means a change in a non-living physical object or article or thing- (a) resulting in 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*

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*into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.*

- 2.2. The extant FDI Policy permits 100% foreign investment in 'manufacturing' sector under automatic route. It further expressly permits a manufacturer to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval. Therefore, a manufacturer (irrespective of the level of foreign investment) is entitled to sell its products in any mode i.e. wholesale, retail or through e-commerce, and through any medium i.e. through brick and mortar stores or online without regulatory approvals under the FDI Policy as long as it is manufacturing the products in India.

### **3. FDI in 'trading' of food products manufactured and produced in India – Press Note 2016**

- 3.1. Press Note 2016 inserted additional provisions in the section on manufacturing sector in the FDI Policy, as set out below:

*“Notwithstanding the FDI policy provisions on trading sector 100% (hundred percent) FDI **under Government approval** route is allowed for trading, including through e-commerce, in respect of food products manufactured and/or produced in India. Applications for FDI in food products retail trading would be processed in the DIPP before being considered by the Government for approval.”*

- 3.2. Although, the above provisions have been added in the section concerning “manufacturing”, however, they seem to be cover trading of food products by non-manufacturers entities having FDI and permit such trading as an exception (without any restrictions/conditions/caps otherwise applicable to single brand and multi brand retail trading under the FDI Policy), as long as such food products are manufactured or produced in India.

- 3.3. The new addition therefore carves out trading of food products manufactured/produced in India, from the general FDI Policy on trading, into a separate category with more relaxed and liberalized FDI norms. Another significant change is that the revised FDI Policy now allows for retail trading in such food products through e-commerce platforms (which was otherwise a restricted space for entities engaging in multi-brand retail trading).

### **4. Concluding Remarks**

- 4.1. The aforesaid liberalizations in the food manufacturing and processing sector are in line with the budget speech of the Finance Minister earlier this year wherein he had referred to the problems faced by the farmers and food processing industry due to their products either not fetching the right prices or failing to reach the markets. He had thereafter, stated that 100% FDI will be allowed through FIPB route in marketing

of food products produced and manufactured in India, with a view to benefit farmers, give impetus to food processing industry and create vast employment opportunities.

- 4.2. These changes have therefore been promoted by the Government, to be a step forward in making India a 'global manufacturing hub' and providing a much needed boost to the domestic food manufacturing and processing industry. Whether the same would indeed increase FDI inflows in these sectors and create benefits for the food producers, is however, yet to be seen.

**Feedback**

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