



FOREIGN EXCHANGE LAWS

N. A. SHAH
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EXECUTIVE SUMMARY

- Department of Industrial Policy & Promotion has amended the policy for FDI in e-commerce which includes prohibition of related entities of an e-commerce marketplace entity from selling goods and services on the marketplace.

New policy for FDI in E-Commerce

Department of Industrial Policy & Promotion (DIPP) has issued a press note amending the policy for FDI in the e-commerce sector that shall be effective from 1st February, 2019. The changes are summarized as under:

- a. If more than 25% of a vendor's purchases, come from an e-commerce entity, then it will be assumed that the e-commerce entity is exercising ownership over the inventory, wherein FDI is not permitted.
- b. The following entities are not permitted to sell their products on the platform run by an e-commerce marketplace entity:
 - i. An entity having equity participation by the e-commerce marketplace entity or its group companies.
 - ii. An entity having control on its inventory by the e-commerce marketplace entity or its group companies.
- c. The clause stating that e-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods and services and shall maintain a level playing field has been further elaborated:
 - i. Services provided by the e-commerce entity providing a marketplace, or by related entities of such e-commerce entity, to vendors on the platform shall be at arm's length and in a fair and non-discriminatory manner.
 - ii. Cash back provided by group companies of marketplace entity shall be fair and non-discriminatory.
 - iii. Provision of services to any vendor on such terms which are not made available to other vendors in similar circumstances shall be deemed to be unfair and discriminatory.
- d. The e-commerce marketplace entity cannot mandate a seller to sell any product exclusively on its platform.
- e. The e-commerce marketplace entity is required to provide a certificate and report from the statutory auditor to the Reserve Bank of India, confirming the compliances of the FDI Policy guidelines by 30th September each year.

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