

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:4119
ANSWERED ON:05.09.2012
INVESTING IN PROHIBITED SECTOR
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Will the Minister of FINANCE be pleased to state:

- (a) whether the Foreign Exchange Management Act, 1999(FEMA)allows a company to invest almost the entire Foreign Direct Investments (DI) raised by it in the equity share capital and loans to wholly-owned subsidiary engaged solely in sectors where FDI is prohibited;
- (b) if so, the details in this regard;
- (c) whether some companies have invested the entire capital raised by it in FDI prohibited multi-brand retail sector; and
- (d) if so, the details thereof and the action taken or contemplating to take against the company for violations of FEMA and RBI guidelines?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA)

(a) to (b): In terms of Para 2 of Schedule 1 to Notification No. FEMA 20, an Indian company, not engaged in activity/sector mentioned in Annex A to the Schedule (which includes sectors prohibited for FDI in para (B) thereof), may issue shares or convertible debentures to a person resident outside India, subject to limits prescribed in Annex B to the Schedule, in accordance with Entry Routes specified therein and the provisions of Foreign Direct Investment policy as notified by the Ministry of Commerce and Industry, Government of India from time to time.

In terms of Para 6.1(a) of DIPP Circular 1 of 2012 dated April 10, 2012 on Consolidated FDI Policy, FDI is prohibited in nine sectors including Retail Trading (except single brand product retailing).

(c) & (d): FDI is a capital account transaction and thus violation of FDI regulations is covered by the penal provisions of the FEMA. RBI administers the FEMA and Directorate of Enforcement under the Ministry of Finance is the authority for the enforcement of FEMA. The Directorate takes up investigation into any contravention of FEMA.