

## PROPOSED LIBERALIZATION OF FDI IN E-COMMERCE EXPORTS

By: Majmudar & Partners, India

### Background

The Indian government is currently evaluating a landmark policy shift that could allow Foreign Direct Investment (“FDI”) in inventory led e-commerce models, specifically for export purposes. Historically, India has maintained a strict prohibition on FDI in inventory-based e-commerce, permitting 100% investment only under the marketplace model where platforms act as neutral facilitators between buyers and sellers. The proposed reform seeks to bridge the gap between India’s continuously expanding e-commerce sector and its global export potential, which currently stands at just US\$ 4-5 billion, a mere 1% of total exports.

### Key Highlights of the Proposed Export Policy

The proposed framework for the export-oriented e-commerce policy seeks to boost national exports while maintaining tight guardrails to protect domestic retailers from unfair competition. Under this planned shift, foreign funded e-commerce companies may be permitted to operate an export only inventory model, allowing them to hold stock for sale exclusively to international customers. To prevent any spillover into the domestic market, the policy considers mandating the physical segregation of goods through dedicated, ringfenced warehouses for export inventory. Additionally, the government is evaluating requirements for foreign platforms to establish separate Indian entities tasked with purchasing goods from domestic sellers solely for international markets. Another point being considered is to permit such entities to buy from Indian sellers only after an international order has been confirmed, ensuring a clear distinction from prohibited domestic inventory-led retail.

### Economic Impact

The primary objective of this regulatory shift is the integration of India’s 63,000,000 Micro, Small, and Medium Enterprises (“MSMEs”) into the global supply chain. Approximately 70% of Indian MSMEs currently selling online are expected to be the biggest beneficiaries of this plan, particularly those operating in high-demand sectors such as fashion and apparel, gems and jewellery, and handicrafts. Furthermore, by partnering with large FDI-funded entities, these smaller enterprises may see a significant reduction in their individual compliance burdens in attempting to reach international markets. With global e-commerce trade projected to reach US\$ 8 trillion by 2026, this policy strategically aligns with the government’s goal of establishing India as a premier global manufacturing and export hub.

### Analysis

The move toward an export-only inventory model reflects a broader regulatory recognition that the current “100% automatic route” for marketplaces is often illusory and highly conditional in practice. According to a research paper published by the Institute of Company

Secretaries of India (ICSI), the binary distinction between marketplace and inventory models has collapsed into a “spectrum of grey,” where logistics and captive payment gateways allow platforms to exercise constructive control over sellers even without legal title to goods. By proposing a limited inventory relaxation for exports aligned with the Foreign Trade Policy 2023, the government is adopting a strategic middle path that encourages innovation and volume in international trade while maintaining protectionist safeguards for the domestic retail landscape.

In conclusion, the government’s proposed plan represents a major step towards making India a global export hub. By allowing foreign funded companies to own and manage inventory specifically for international orders, the policy aims to significantly grow India’s e-commerce exports beyond the current US\$ 4-5 billion mark. To protect the local market, the plan includes strict safeguards, such as separate warehouses and export-only entities that do not commingle with entities catering to the domestic market. While the government is still consulting with various ministries and stakeholders, this thinking highlights a clear, positive shift, which will aid this sector in leapfrogging exponentially.