

Entry Strategies for Foreign Investors

STARTING OPERATIONS IN INDIA

A foreign company planning to set up business operations in India has the following options to start with:

- A. As an Indian Company
- B. As a Foreign Company

India ranks among the top 10 host economies for FDI, according to the United Nations Conference on Trade and Development (UNCTAD) 2019 World Investment Report.

The Government has recently relaxed FDI policy in a variety of sectors by such measures as raising the foreign investment limit, easing conditions for investment and putting many sectors on the 'automatic route' (as opposed to the 'Government route', which requires approval from the Foreign Investment Promotion Board).

Reforms to clean up the banking system have been implemented.

On the other hand, while the fiscal deficit and public debt remain large, the government has taken steps to reduce them. Ease of doing business concept in administrative and procedural is being implemented. The most notable of these initiatives is the introduction of the GST (Good and Services Tax), which aims to boost tax revenues and make the economy more competitive in the long run. Sectors that have benefited from the expansion include real estate, private banking, defence, civil aviation, single-brand retail.

The overall growth of FDI in India is especially due to its high degree of specialization in services, with a skilled, English-speaking and inexpensive labour force and a potential market of one billion inhabitants.

TRENDS OF INVESTMENT IN INDIA:

STATEMENT ON COUNTRY-WISE (TOP 10) FDI EQUITY INFLOWS FROM APRIL 2000 TO JUNE 2019

S.No	Name of the Country	Amount of Foreign Direct Investment (In Rs crore)	Amount of Foreign Direct Investment Inflows (In US\$ million)	%age with Inflows
1	Mauritius	770,640.29	139,144.99	31.89
2	Singapore	543,052.00	88,336.99	20.24
3	Japan	176,616.03	30,745.54	7.05
4	Netherlands	171,673.80	28,708.19	6.58
5	United Kingdom	142,425.27	27,084.33	6.21
6	U.S.A	156,491.25	27,010.66	6.19
7	Germany	66,612.74	11,871.19	2.72
8	Cyprus	51,950.43	9,927.42	2.28
9	France	37,678.70	6,765.94	1.55
10	UAE	40,027.35	6,755.16	1.55

Source: Qtry.Fact Sheet updated up to June 2019 FIPB

STATEMENT ON SECTOR-WISE (TOP 10) FDI EQUITY INFLOWS FROM APRIL 2000 TO JUNE 2019

S.No	Sector	Amount of FDI Inflows (In US\$ million)	%age of Total
1	SERVICES SECTOR (Fin., Banking, Insurance, Non Fin/Business, Outsourcing, R&D, Courier, Tech. Testing and Analysis, Other)	76,948.26	17.63
2	COMPUTER SOFTWARE & HARDWARE	39,478.90	9.05
3	TELECOMMUNICATIONS	37,052.74	8.49
4	CONSTRUCTION DEVELOPMENT: Townships, housing, built-up infrastructure and construction-development projects	25,122.30	5.76
5	TRADING	24,159.53	5.54
6	AUTOMOBILE INDUSTRY	22,358.84	5.12
7	CHEMICALS (OTHER THAN FERTILIZERS)	16,726.96	3.83
8	DRUGS & PHARMACEUTICALS	16,210.22	3.71
9	CONSTRUCTION (INFRASTRUCTURE) ACTIVITIES	15,337.19	3.51
10	POWER	14,505.55	3.32

Source: Qtry.Fact Sheet updated up to June 2019 FIPB

AS AN INDIAN COMPANY

A foreign company can commence operations in India by incorporating a company under the Companies Act, 2013 through

- Joint Ventures; or
- Wholly Owned Subsidiaries

Foreign equity in such Indian companies can be up to 100% depending on the requirements of the investor, subject to equity caps in respect of the area of activities under the Foreign Direct Investment (FDI) policy. Details of the FDI policy, sectoral equity caps & procedures can be obtained from Department of Industrial Policy & Promotion, Government of India.

Joint Venture with an Indian Partner

Foreign Companies can set up their operations in India by forging strategic alliances with Indian partners.

Joint Venture may entail the following advantages for a foreign investor:

- Established distribution/ marketing set up of the Indian partner
- Available financial resource of the Indian partners

- Established contacts of the Indian partners which help smoothen the process of setting up of operations

Wholly Owned Subsidiary Company

Foreign companies can also to set up wholly-owned subsidiary in sectors where 100% foreign direct investment is permitted under the FDI policy.

Incorporation of Company

For registration and incorporation, an application has to be filed with Registrar of Companies (ROC). Once a company has been duly registered and incorporated as an Indian company, it is subject to Indian laws and regulations as applicable to other domestic Indian companies.

AS A FOREIGN COMPANY

Foreign Companies can set up their operations in India through

- Liaison Office/Representative Office
- Project Office
- Branch Office

Such offices can undertake any permitted activities. Companies have to register themselves with Registrar of Companies (ROC) within 30 days of setting up a place of business in India.

Liaison Office/Representative Office

Liaison office acts as a channel of communication between the principal place of business or head office and entities in India. Liaison office can not undertake any commercial activity directly or indirectly and can not, therefore, earn any income in India. Its role is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. It can promote export/import from/to India and also facilitate technical/financial collaboration between parent company and companies in India.

Approval for establishing a liaison office in India is granted by Reserve Bank of India (RBI).

Project Office

Foreign Companies planning to execute specific projects in India can set up temporary project/site offices in India. RBI has now granted general permission to foreign entities to establish Project Offices subject to specified conditions. Such offices can not undertake or carry on any activity other than the activity relating and incidental to execution of the project. Project Offices may remit outside India the surplus of the project on its completion, general permission for which has been granted by the RBI.

Branch Office

Foreign companies engaged in manufacturing and trading activities abroad are allowed to set up Branch Offices in India for the following purposes:

- Export/Import of goods
- Rendering professional or consultancy services
- Carrying out research work, in which the parent company is engaged.
- Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
- Representing the parent company in India and acting as buying/selling agents in India.
- Rendering services in Information Technology and development of software in India.
- Rendering technical support to the products supplied by the parent/ group companies.
- Foreign airline/shipping company.

A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer. Branch Offices established with the approval of RBI, may remit outside India profit of the branch, net of applicable Indian taxes and subject to RBI guidelines. Permission for setting up branch offices is granted by the Reserve Bank of India (RBI).

Branch Office on “Stand Alone Basis”

Such Branch Offices would be isolated and restricted to the Special Economic zone (SEZ) alone and no business activity/transaction will be allowed outside the SEZs in India, which include branches/subsidiaries of its parent office in India.

No approval shall be necessary from RBI for a company to establish a branch/unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

FOREIGN DIRECT INVESTMENT (FDI) POLICY

FDI under automatic route is now allowed in all sectors, including the services sector, except a few sectors where the existing and notified sectoral policy does not permit FDI beyond a ceiling.

Automatic Route

No prior approval is required for FDI under the Automatic Route. Only information to the RBI within 30 days of inward remittances or issue of shares to Non Residents is required. RBI has prescribed a new form, Form FC-GPR (instead of earlier FC-RBI) for reporting shares issued to the Foreign Investors by an Indian company.

Government Approval

Foreign Investment proposed not covered under the 'Automatic Route' are considered for Governmental Approval on the recommendations of the Foreign Investment Promotion Board (FIPB)

Foreign Investors	Non Resident Indians
Application for such cases are to be submitted in FC/IL form or on plain paper to Foreign Investment Promotion Board (FIPB) in Department of Economic Affairs, Ministry of Finance, Government of India North Block, New Delhi 110 001.	Non Resident Indians are required to submit their proposals to the Secretariat for Industrial Assistance (SIA) Department of Industrial Policy and Promotion, Government of India for consideration of FIPB.

TAXATION IN INDIA

India is moving towards reforming its tax policies and systems so as to facilitate globalization of economic activities. The corporate tax rate for foreign companies is 40%. The net tax rate is far lower than this on account of various deductions and exemptions available under the tax laws. Tax holidays are available in Special Economic Zones set up to make industry globally competitive. Infrastructure Sector Projects enjoy special tax treatment/holidays.

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