

Foreign Direct Investment Policy and Strategy

Investing in India

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Entry Options in India



COMPANY (Includes Private and Public company governed by the Companies Act 2013)

- A company is a separate legal entity with limited liability
- Treated as a tax resident in India
- It requires at least two members and two directors (one of which should be Resident in India)
- Governed by its Memorandum and Articles



Limited Liability Partnership (Governed by Limited Liability Partnership Act, 2008)

- LLP is a separate legal entity
- Taxed as a resident firm in India (unless control and management is wholly outside India)
- Must have at least two individuals as Designated Partners and at least one of the Designated Partner shall be a resident of India
- Governed by the LLP Agreement



Branch Office/ Project Office

- Activities other than Manufacturing activities can be conducted by Branch
- Project office can be set up for executing all project related work
- No separate legal status
- Taxable as a Foreign company



Liaison Office

- Activity limited to communication
- No separate legal status
- Funds can be received from the HO alone to meet the expenses

Foreign Direct Investment Policy

Framework

- Nodal Department : The Department for Promotion of Industry and Internal Trade
- FDI policy is reviewed on an ongoing basis and forms part of the Foreign Exchange Management Act, 1999 (“FEMA”) and is notified through Rules issued by Central Government
- Foreign Investment Facilitation Portal (FIFP) is the new online single point interface of the GoI to facilitate FDI (<https://fifp.gov.in/>)

Permitted

- 100% FDI permitted without approvals in most sectors including Contract Manufacturing
- Automatic and Approval Routes

Restricted

Sectors	Caps
Private Banking	74%
Insurance	74%**
Multi-Brand Retail	51%
Print Media	26%
Defense Equipment*	74%*

Prohibited

- Agriculture
- Gambling and Lottery
- Real Estate
- Tobacco products
- Atomic Energy

Recent FDI Changes

- Investments from countries which share land border with India (such as China, Pakistan, Bangladesh and Myanmar) and entities owned by citizens of these countries shall be made only through Approval route
- Relaxation of FDI limits in the following sectors:**
NRI investments norms relaxed further – One Person Companies and Downstream investments

Sectors	Route	Revised Caps
Railways	Approval	100%
Insurance intermediaries	Automatic	100%
Coal Mining	Automatic	100%
Single Brand Product Retail	Automatic	100%
Air Transport Service	Approval (beyond 49%)	100%

Sectors with Japanese FDI



Automobile



Chemical



Food processing



Medical devices



Insurance



Consumer Goods

Foreign Funding Sources



Shares

- Equity, Preference and Hybrid instruments (CCP, shares with differential voting rights), fully and mandatorily convertible into equity
- Pricing guidelines and Reporting of inflows as per the FEMA



External Commercial Borrowings

- Loans including bank loans; floating/ fixed rate notes/ bonds/ debentures; Rupee denominated bonds; Trade credits beyond 3 years; FCCBs; FCEBs and Financial Lease.
- Extensive regulation on eligibility of borrower, recognition of lender, end-use, and term as per FEMA
- Interest rate capped at 6 months LIBOR rate plus 450 bps spread



Others

- Convertible Notes for start-ups
- Listed Non-convertible Debentures
- Investments through International Financial Services Centre

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