

Doing Business in India

Investors Guide 2019-20

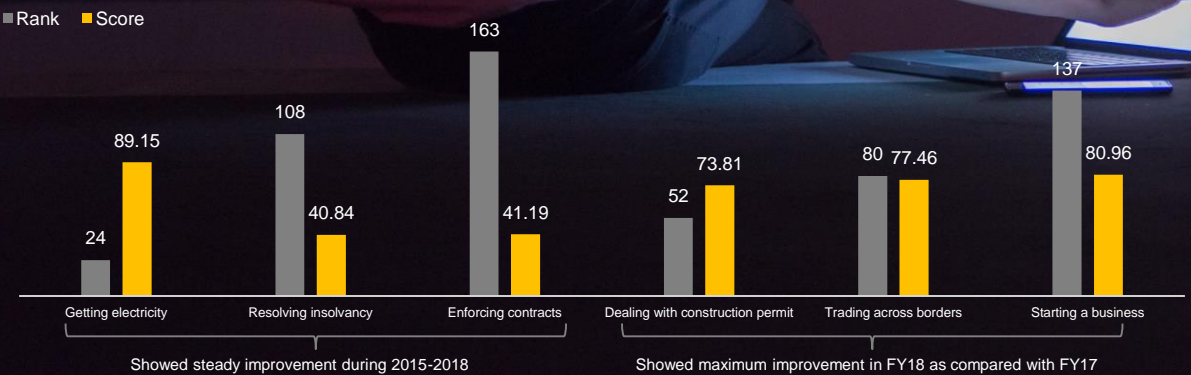
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- Recognized among top 10 Improvers for the second consecutive year
- Rank 1 in South Asia in Ease of Doing Business (EoDB)
- First BRICS & South Asian country recognized as top improver in consecutive years
- Highest improvement (53 rank) in 2 years by any large country since 2011

India - Ease of Doing Business Ranking 2019

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Up to **100%**
FDI allowed under
Automatic/Govt. route

100%
FDI allowed under Automatic
route

100%
FDI allowed under Government
route

Up to **100%**
FDI allowed under Automatic/
Government route



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“ The work of granting government approval for foreign investment under the extant FDI Policy and FEMA Regulations, shall be entrusted to the **concerned Administrative Ministries/Departments** ”

[Click here to know more](#)

Governing Bodies for
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Institutional
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Annexure



Foreign Direct Investment (FDI) in India

Category 1 : 100% FDI permitted through Automatic route* Check for FDI routing procedures in India

 Agriculture & Animal Husbandry**	 Plantation (FDI is allowed only in Tea, Coffee, Rubber, Cardamom, Palm oil tree, Olive oil tree and not in any other plantation activity)	 Mining & Exploration of metals & non-metals ores excluding titanium bearing minerals and its ores	 Coal & Lignite mining in respect of eligible activities (including captive consumption)***	 Single Brand Retail Trading, Duty Free Shops	 Railway Infrastructure (as defined under Para 5.2.16 of the Consolidated FDI Policy)
 Construction Development projects****	 Transport services*****	 Civil Aviation – Greenfield & Brownfield	 Cash & Carry Wholesale Trading	 Broadcasting Carriage Services	 Other Services at Airport *****
 Exploration of Petroleum & Natural Gas (including marketing of petroleum products & natural gas)	 Asset Reconstruction & Credit Information Companies	 Market Place E-commerce Activities*****	 Up-link of non-'News & Current Affairs' TV Channels, Down linking of TV channel	 Other Financial Services (registered/regulated entity)*****	 Industrial Park
 Pharmaceuticals – Greenfield Sector and Medical device manufacturing	 White Label ATM Operations*****	 Manufacturing*****			

Notes

*For detailed definition, clarifications/ exceptions, please refer to [Consolidated FDI Policy, effective from August 28, 2017](#), [amendment to FDI policy in Jan 2018](#), [Press Note 4 \(2019\)](#)

**Activities under this included sector are as follows: a) Floriculture, Horticulture, and Cultivation of Vegetables & Mushrooms under controlled conditions; b) Development and Production of seeds and planting material; c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, Apiculture; and d) Services related to agro and allied sectors. Other than the activities provided under this head in the FDI Policy (as listed above), foreign investment is not allowed in any other agricultural sector/ activity.

***FDI up to 100% has been permitted under the automatic route for sale of coal, for coal mining activities including associated processing and now, foreign players would be permitted to mine coal and sell the same. This change shall become effective as on the date of the respective FEMA notification

****Construction Development: development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships, Real estate Broking business

*****Air Transport Services- Non Scheduled Air Transport Service / Helicopters services/ seaplane services requiring DGCA approval

*****Other services include ground Handling Services subject to sectoral regulations and security clearance & Maintenance and Repair organizations; flying training institutes; and technical training institutions

*****Market place model of e-commerce' means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between buyer and seller

*****Any financial services activity which are regulated by any Financial Sector Regulator, foreign investment up to 100% will be allowed under Automatic route

*****This sector has now been removed per the FEMA notification and subsumed under the Financial Services sector, but the same continues to exist under the FDI Policy. Both are permitted under the 100% automatic route

*****Per Press Note No. 4 (2019), contract manufacturing has been specifically covered under manufacturing and accordingly, manufacturing activities is now permitted under 100% automatic route, which can be undertaken either by the investee entity itself or through contract manufacturing in India under a legally tenable contract, whether on Principal to Principal or Principal to Agent basis. This change shall become effective as on the date of the respective FEMA notification

Foreign Direct Investment (FDI) in India

Category 2 : 100% FDI permitted through Government Route Check for FDI routing procedures in India



Mining and minerals separation of titanium bearing minerals & ores and its value addition & integrated activities



Retail Trading including through e-commerce in respect of food products manufactured and/ or produced in India



Publishing/ printing of scientific and technical magazines/specialty journals/ periodicals



Publication of facsimile edition of foreign newspapers



Government Route
(Approval from various Administrative Ministries/ Government Department)*



Satellites-establishment and operations







Foreign investment in core investment companies (CIC) and other investing companies, engaged in the activity of investing in the capital of other company/ies/LLP, is permitted under Govt. approval route. CICs will additionally have to follow RBI regulatory framework

*For detailed definition, clarifications/ exceptions, please refer to [Consolidated FDI Policy, effective from August 28, 2017](#) , [amendment to FDI policy in Jan 2018](#) , [Press Note 4 \(2019\)](#)

Foreign Direct Investment (FDI) in India

Category 3 : Up to 100% FDI permitted through Government + Automatic route

Check for FDI routing procedures in India

	Telecom Services*	Up to	49%	Automatic route	Above	49%	Government route
	Defence industry	Up to	49%	Automatic route	Above	49%	Government route
	Pharmaceutical - Brownfield	Up to	74%	Automatic route	Above	74%	Government route
	Air Transport Services **	Up to	49%	Automatic route	Above	49%	Government route
	Banking – Private Sector	Up to	49%	Automatic route	Above	49% Up to 74%	Government route
	Private Security Agencies***	Up to	49%	Automatic route	Above	49% Up to 74%	Government route

For detailed definition, clarifications/ exceptions, please refer to [Consolidated FDI Policy, effective from August 28, 2017](#), [amendment to FDI policy in Jan 2018](#), [Press Note 4 \(2019\)](#)

* All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, Unified Access Services, Unified License (Access Services), Unified License, National/International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licenses, Voice Mail/Audio text/UMS, Resale of IPLC, Mobile Number Portability Services, Infrastructure Provider Category-I (providing dark fibre, right of way, duct space, tower) except Other Service Providers.

** Air Transport Services- Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline; Regional Air Transport Service- 49% automatic. Could go up to 100% via Govt. approval

*** FDI in Private Security Agencies is subject to compliance with Private Security Agencies (Regulation) (PSAR) Act, 2005, as amended from time to time. Please note that this sector has not been notified per the FEMA notification and currently only appears in the Consolidated FDI Policy. This change shall become effective as on the date of the respective FEMA notification.

Foreign Direct Investment (FDI) in India

Category 4 : Up to 51% FDI permitted through Government/ Automatic route

Check for FDI routing procedures in India

Automatic route



Insurance*

49%



Petroleum Refining by PSUs**

49%



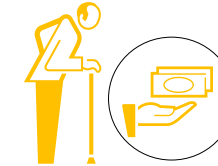
Infrastructure Companies in Securities Markets

49%



Power Exchanges

49%



Pension Sector

49%

Government route



Up-linking of 'News & Current Affairs' TV Channels

49%



Terrestrial Broadcasting FM (FM Radio)

49%



Multi-Brand Retail Trading ***

51%



Banking Public Sector

20%



Print Media-Publishing ****

26%



Digital Media*****

Up to 26%

For detailed definition, clarifications/ exceptions, please refer to [Consolidated FDI Policy, effective from August 28, 2017](#) , [amendment to FDI policy in Jan 2018](#) , [Press Note 4 \(2019\)](#)

Notes

*In light of the recent budget announcements the Ministry of Finance notified Indian Insurance Companies (Foreign Investment) Amendment Rules amending the Indian Insurance Companies (Foreign Investment) Rules, 2015, 2019 on 2nd September, 2019, removing the cap of foreign equity investment in intermediaries or insurance intermediaries, permitting 100% FDI under Automatic route in insurance intermediaries, inter alia, insurance brokers, third party administrators, insurance web aggregators. The aforementioned change has also been notified by the Insurance Regulatory and Development Authority (IRDAI) vide Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019 dated 30 October 2019. However, the relevant FEMA Notification is still awaited.

** Petroleum refining by the PSU without any disinvestment or dilution of domestic equity in existing PSUs – 49%, Automatic

*** In specified states

**** Publishing of Newspapers & Periodicals Publication dealing with news and current affairs and publishing of Indian editions of foreign magazines dealing with news and current affairs

***** Per Press Note No. 4 (2019), FDI up to 26% has been permitted under the Government approval route for uploading/ streaming of News and Current Affairs through digital Media. This change shall become effective as on the date of the respective FEMA notification.

49% in Air India- Govt. route (amended vide PN1 of 2018)

Foreign Direct Investment (FDI) in India

Prohibited Sectors

Lottery Business including Government/private lottery, online lotteries , etc.*

Gambling and Betting including casinos*

Chit funds

Nidhi company

Trading in Transferable Development Rights (TDR)

Real Estate Business or Construction of farm houses**

Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes

Sectors not open to private sector investment- atomic energy, railway operations (other than permitted activities mentioned under the Consolidated FDI policy)

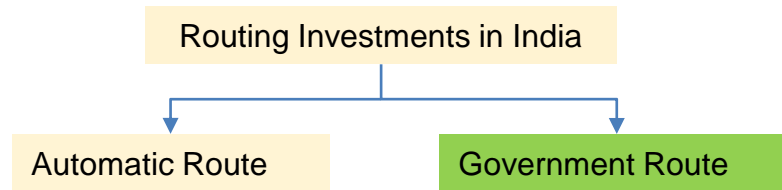
Notes

*Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for Lottery Business and Gambling and Betting activities

**Real estate business shall not include development of townships, construction of residential/ commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations, 2014

Foreign Direct Investment (FDI) in India

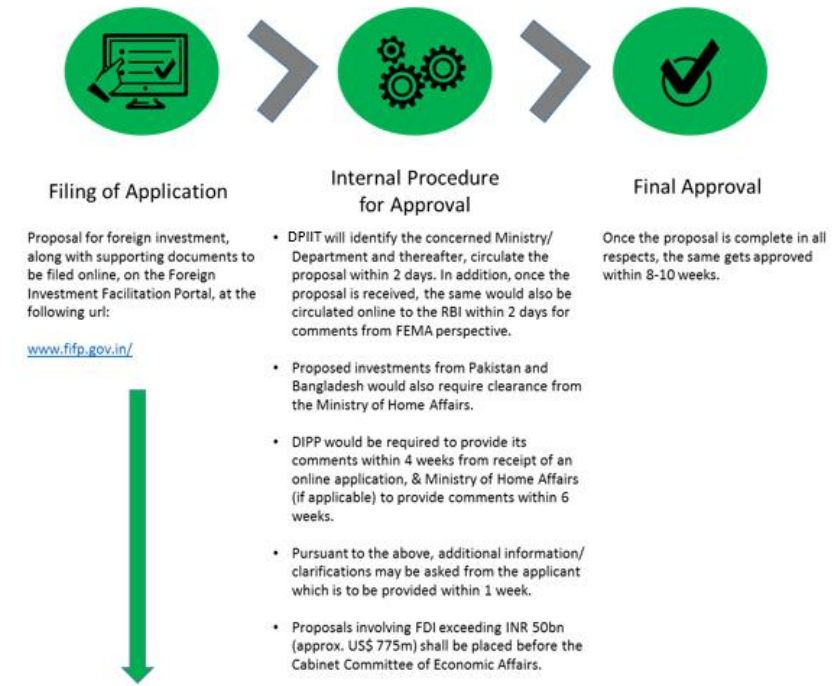
Routing FDI in India



Sectoral FDI Investment Limit

([Consolidated FDI Policy, effective from August 28, 2017, amendment to FDI policy in Jan 2018](#))

- DPIIT is the nodal agency entrusted to formulate FDI Policy
 - It issues press notes to make amendments in the existing policy and also issues consolidated FDI Policy on an annual basis
- FDI in India is administered under Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 notification dated November 01, 2017 (Original notification is available at https://www.rbi.org.in/scripts/FS_Notification.aspx?id=11161&fn=5&Mode=0;)
- The procedural instructions are issued by the Reserve Bank of India vide A.P. (DIR Series) Circulars. The regulatory framework, over a period of time, thus, consists of Acts, Regulations, Press Notes, Press Releases, Clarifications, etc.
- The revised level of approvals for cases under the Government route are summarized in the new notification dated 5 June, 2017 available at the link: <http://fipb.gov.in/Forms/OMabolitionFIPB.pdf>



Filing of Application
 Proposal for foreign investment, along with supporting documents to be filed online, on the Foreign Investment Facilitation Portal, at the following url:

www.fifp.gov.in/



Internal Procedure for Approval

- DPIIT will identify the concerned Ministry/ Department and thereafter, circulate the proposal within 2 days. In addition, once the proposal is received, the same would also be circulated online to the RBI within 2 days for comments from FEMA perspective.
- Proposed investments from Pakistan and Bangladesh would also require clearance from the Ministry of Home Affairs.
- DIIPP would be required to provide its comments within 4 weeks from receipt of an online application, & Ministry of Home Affairs (if applicable) to provide comments within 6 weeks.
- Pursuant to the above, additional information/ clarifications may be asked from the applicant which is to be provided within 1 week.
- Proposals involving FDI exceeding INR 50bn (approx. US\$ 775m) shall be placed before the Cabinet Committee of Economic Affairs.

Final Approval

Once the proposal is complete in all respects, the same gets approved within 8-10 weeks.

Where the online application is digitally signed by an authorised signatory, there is no requirement for physical submission of the application. However, for applications without a digital signature, once the e-filing of the application is complete, the applicant is required to file one signed copy of the printed application, along with duly authenticated copies of the documents attached with the application, with the nodal officers of the concerned Ministry/Department.

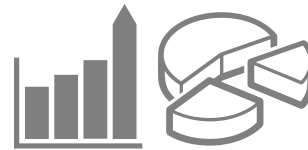
Foreign Direct Investment (FDI) in India

*Compliances/Requirements - Reporting Requirements

(1/2)



Funds Received from Foreign Entity



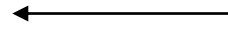
Allotment of Shares



Form FC-GPR (SMF)



60 Days



30 Days

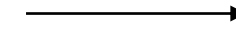


Illustration: Documents for [Form FC-GPR](#)

- CS certificate
- Pre and post shareholding pattern in the Indian company
- Copy of the order of the High Court on the scheme of merger/ demerger/ amalgamation (if applicable)
- Valuation certificate
- Know Your Customer (KYC)
- Relevant acknowledgment letter(s)
- Declaration by the Authorised Representative of the Indian Company
- FIRC/ Debit statement
- Board Resolution
- Relevant RBI and/or Government approval (as applicable)

*Form FC-GPR (SMF – online reporting on FIRMs portal (<https://firms.rbi.org.in/>))

Click [here](#) to access FC-GPR user manual

Note: FC-GPR is not applicable to LLPs

Foreign Direct Investment (FDI) in India

Compliances/Requirements - Allotment, Transfer, Conversion & Remittance of Shares (2/2)

Check Guidance on Issue, Transfer, Conversion & Remittance of Shares

1

Issue of Shares

Issuance within 60 days from day of receipt of inward remittance; else refunded immediately to non-resident investor by outward remittance through normal banking channels or by credit to NRE/FCNR (B) account as the case may be within fifteen days from the date of completion of 60 days

2

Transfer of capital instruments

Permission granted to Non-Resident (NR) / Non-Resident Indian (NRI) for acquisition of capital instruments in following ways: NRI to NRI, NRI to Resident, Resident to NR, while a person resident outside India can sell capital instruments of an Indian company on a recognized Stock Exchange in India through a registered stock broker. Transfer between resident and non-resident should be in compliance with extant guidelines and reporting needs to be done in Form FC-TRS within 60 days of transfer of capital instruments or receipt/remittance of funds whichever is earlier. In respect of transfer of capital instruments between resident and non-resident, an amount not exceeding 25% of the total consideration can be deferred or settled through escrow mechanism.

3

Conversion into Equity

Indian companies have been granted general permission for conversion of External Commercial Borrowings (ECB) received in convertible foreign currency (excluding those deemed as ECB) into equity shares/fully compulsorily and mandatorily convertible preference shares, subject to conditions under the extant ECB guidelines and FDI policy.

4

Repatriation

Repatriation for dividend and Interest on fully, mandatorily & compulsorily convertible debentures is freely repatriable without any restrictions

5

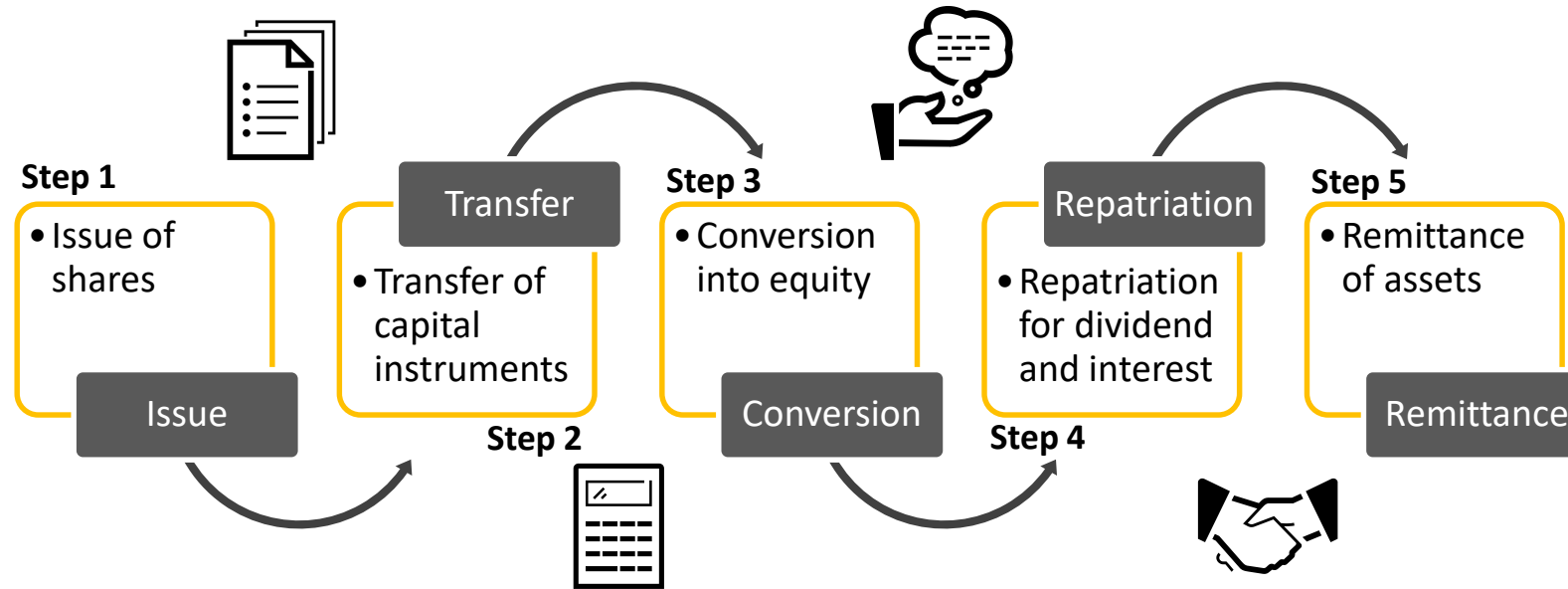
Remittance

Remittance of asset (i.e. sale proceeds of share and securities and their remittance) is governed by the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 under FEMA

Foreign Direct Investment (FDI) in India

Guidance on Issue, Transfer, Conversion & Remittance of Shares

Check for detailed Guidance on Issue, Transfer, Conversion & Remittance of Shares



Click each box to know more

Foreign Direct Investment (FDI) in India

Guidance on Issue, Transfer, Conversion & Remittance of Shares (1/3)

Step 1: Issue of shares

Capital instruments should be issued within 60 days from day of receipt of inward remittance; else refunded immediately within 15 days to the non-resident investor by outward remittance through normal banking channels or by credit to NRE/FCNR (B) account. Issue price of shares*

- ▶ In case of Listed Indian company, not less than price worked out in accordance with SEBI guidelines
- ▶ In case of unlisted Indian company- not less than fair valuation done by SEBI registered Merchant Banker or a Chartered Accountant or practicing cost accountant as per any internationally accepted pricing methodology on an arm's length basis
- ▶ For non-residents (including NRIs) making investment in Indian company by way of subscription to its Memorandum of Association, then such investments may be made at face value subject to their eligibility to invest under the FDI scheme

** in case of convertible capital instruments, the price/ conversion formula of the instrument should be determined upfront at the time of issue of the instrument. The price at the time of conversion should not in any case be lower than the fair value worked out, at the time of issuance of such capital instruments*

Step 2a: Transfer of Capital instrument

Permission granted to non-residents / NRIs for acquisition of Capital instrument by way of transfer in the following

- ▶ Non – resident (other than NRI or erstwhile OCB/OCI) to Non resident –Transfer by sale/gift shall be permissible subject to FEMA regulations under automatic route. However, prior approval shall be required in case the company is engaged in a sector which requires Govt. approval under the FDI regulations.

- ▶ NRIs/ OCI to PROI* - transfer by way of sale or gift of Capital instrument provides that prior Government approval shall be obtained for any transfer in case the company is engaged in a sector which requires Government approval

*Note: PROI (Person Resident Outside India) is one who has taken up employment/ business or vacation outside India and/or has not stayed in India for more than 182 during the previous year.

- ▶ Non resident to resident - transfer any Capital instrument by way of gift. Transfer of capital instrument, by way of sale/gift under private arrangement, subject to extant guideline.
- ▶ A person resident outside India can sell capital instrument of an Indian company on a recognized Stock Exchange in India through a registered stock broker or a registered merchant banker in manner prescribed by SEBI
- ▶ Resident to non resident- transfer of capital instrument by way of sale subject to extant guidelines.

Step 2b: Transfer of Capital instrument

- ▶ Resident to non-resident- Transfer of capital instruments by way of gift- prior RBI approval required
- ▶ In respect of transfer of capital instruments between resident and non-resident, an amount not exceeding 25% of the total consideration:
 - ▶ Can be paid by buyer on a deferred basis within a period not exceeding 18 months from the date of transfer agreement; or
 - ▶ can be settled through an escrow arrangement between the buyer and the seller for a period not exceeding 18 months from the date of the transfer agreement; or
 - ▶ can be indemnified by the seller for a period not exceeding 18 months from the date of the payment of the full consideration, if the total consideration has been paid by the buyer to the seller.

Note: Transfer is subject to entry routes, sectoral caps/ investment limits and pricing guidelines as per FDI regulations. Disclosure of such transfer shall be required to be reported in Form FC-TRS based on the relevant FDI regulations.

Foreign Direct Investment (FDI) in India

Guidance on Issue, Transfer, Conversion & Remittance of Shares (2/3)

Step 2c: Transfer of Capital Instrument

Transfer from NRI to NRI is applicable on following case basis:

- a) Where the transfer by way of sale/gift is b/w two NRIs who both hold shares on a repatriable basis – such a transfer is similar to transfer b/w non resident – non resident
- b) Where the transfer by way of sale is between an NRI who holds shares on non repatriable basis and NRI who holds shares on repatriable basis – such a transfer is similar to transfer b/w resident – non-resident
- c) Where the transfer by way of gift is b/w two NRIs who hold shares on non-repatriable basis – such a transfer is similar to transfer b/w a resident and another resident (i.e. domestic transfer) and hence, reporting requirements shall not be applicable.

Note:

An NRI is allowed to repatriate only upto USD 1 mn on an annual basis for its NRO account. Any remittance made over and above USD 1 mn in any financial year from the NRO account would require an RBI approval.

Step 3: Transfer of Capital Instruments

Transfer from resident to non-resident or vice-versa shall not be less than/exceeding:

- (a) the price worked out in accordance with the relevant SEBI guidelines in case of a listed Indian company;
- (b) the price at which a preferential allotment of shares can be made under the SEBI guidelines, as applicable, in case of a listed Indian company
- (c) the valuation of capital instruments done as per any internationally accepted pricing methodology for valuation on an arm's length basis duly certified by a Chartered Accountant or a Securities and Exchange Board of India registered Merchant Banker or a practicing Cost Accountant, in case of an unlisted Indian Company.

Reporting of transfer of capital instruments between residents and non-residents and vice versa is to be done in Form FC-TRS. The Form FC-TRS should be submitted to the AD Category-I bank, within 60 days of transfer of capital instruments or receipt/remittance of funds whichever is earlier.

Prior approval of RBI required: Resident to non-residents by way of sale

- Transfer is at a price which falls outside the pricing guidelines specified by the RBI from time to time
- Transfer involving deferment of payment of the amount of consideration more than 25% of the total consideration would require RBI approval. Post approval, the same should be reported in Form FC-TRS, to an AD Category-I bank within 60 days from the date of receipt of the full and final amount of consideration.
- Transfer not envisaged under the extant FEMA regulations or for which specific approval is specifically required under the extant exchange control regulations

Step 4: Conversion into Equity

Indian companies have been granted general permission for conversion of External Commercial Borrowings (ECB) (including matured but unpaid) in convertible foreign currency into equity shares/ fully compulsorily and mandatorily convertible preference shares, subject to the following conditions

- ▶ Activity of borrowing company is covered under the automatic or government approval for FDI, wherever applicable, for foreign equity participation as per extant FDI policy
- ▶ The foreign equity after conversion of ECB into equity is within the sectoral cap, if any
- ▶ Pricing of shares as per extant guidelines
- ▶ Compliance with the requirements prescribed under any other statute and regulation in force
- ▶ General permission is also available for issue of shares/preference shares against lump sum technical know-how fee, royalty due for payment, subject to entry route, sectoral cap and applicable pricing guidelines and compliance with applicable tax laws
- ▶ Lender's Consent

Source: RBI, as accessed on 16 January 2019
https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=11456 which gets updated by Master Direction on ECB (<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/5MD2603201979CA1390E9E546869B2A9A92614DEDBF.PDF>)”

Foreign Direct Investment (FDI) in India

Guidance on Issue, Transfer, Conversion & Remittance of Shares (3/3)

Step 5: Repatriation

Repatriation for dividend and interest

- ▶ Dividend is freely repatriable without any restrictions
- ▶ Dividend is net after tax deduction at source (TDS) or dividend distribution tax (DDT) (if any as the case may be)
- ▶ Dividend is governed by Foreign Exchange Management (Current Account Transactions) Rules, 2000
- ▶ Interest on fully, mandatorily & compulsorily convertible debentures is freely repatriable without any restrictions.
- ▶ Interest is net of applicable taxes
- ▶ Interest is governed by Foreign Exchange Management (Current Account Transactions) Rules, 2000

Step 6: Remittance

Remittance by way of outward remittance or credit to NRE/FCNR (B) Account

Sale proceeds of shares & securities:

- ▶ Remittance of assets (i.e. sale proceeds of share and securities and their remittance) is governed by the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 under FEMA
- ▶ AD Category-1 can allow remittance of sale proceeds (net of applicable taxes) of a security to the seller of shares outside India provided security has been held on repatriation basis, sale of security has been made in accordance with the prescribed guidelines and NOC/ Tax clearance certificate from the Income Tax department

Winding up/ liquidation of companies AD Category 1 banks are allowed to remit winding up proceeds of the companies which are under liquidation subject to payment of taxes . The applicant needs to submit the following to the AD Category 1 bank for remittance

- ▶ Auditor's certificate confirming all liabilities in India have been either fully paid or adequately provided, winding up is in accordance with the provisions of the Companies Act as applicable and lastly in case of winding up otherwise than by a court - no legal proceeding pending in any court in India against the applicant or company under liquidation and there is no legal impediment in the permitting the remittance.

Setting up business in India

Comparative analysis of different business establishments in India (1/2)

Private Company vis-à-vis Public Company vis-à-vis OPC vis-à-vis LLP				
Particulars	Private	Public	OPC (one person Company)	LLP
Min Members	2	7	1	2 partners
Max Members	200	Unlimited	1	No Limit
Min Directors	2	3	1	2 Designated Partners
Max Directors	15*	15*	15*	NA
Resident Director	1 Mandatory	1 Mandatory	1 Mandatory	1 Designated Partner
Transfer of ownership	Ownership can be transferred	Ownership can be transferred	Ownership can be transferred to nominee in the event of death of owner	Ownership can be transferred
Subscription of shares	Public subscription not allowed	Public subscription allowed	Public subscription not allowed	Public subscription not allowed
Issue of Prospectus	Not Mandatory	**Mandatory	Not Mandatory	Not Mandatory
Managerial Remuneration	No limit for managerial personnel	Shareholder approval is required, If remuneration payable is above limits	NA	Remuneration is based on LLP agreement

Note: Resident Director : sec 149(3) – Every company should have at least one director who has stayed in India for a total period of not less than 182 days in the Financial Year.

*Company may appoint more than fifteen directors after passing a special resolution, further provided that such class or classes of companies as may be prescribed, shall have at least one woman director (Rule 3 of The Companies (Appointment and Qualification of directors) Rules, 2014)

** In case of public issue

Setting up business in India

Comparative analysis of different business establishments in India (2/2)

















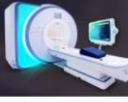


Private Company vis-à-vis Public Company vis-à-vis OPC vis-à-vis LLP

Particulars	Private	Public	OPC <small>(one person Company)</small>	LLP
Commencement of Business/ Operations	Declaration to be filed prior to commencement	Declaration to be filed prior to commencement	Declaration to be filed prior to commencement	Immediately after obtaining certificate of incorporation
Legal Status	Pvt Co is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act	Public Co is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act	OPC is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act	LLP is a separate legal entity registered under LLP Act, 2008. The Designated partners of LLP are liable for contraventions under the act
Governing Act/ Law	Companies Act, 2013	Companies Act, 2013	Companies Act, 2013	LLP Act, 2008
Annual Statutory Filings	Annual statement of accounts & annual return with ROC	Annual statement of accounts & annual return with ROC	Annual statement of accounts & annual return with ROC	Annual statement of solvency & annual return with ROC
Annual Filings & Audit	IT return to be filed. Audit mandatory	IT return to be filed. Audit mandatory	IT return to be filed. Audit mandatory.	IT return to be filed. Audit mandatory in case turnover exceeds INR 40 lakhs or contribution exceeds INR 25 lakhs

Setting up business in India

Investment opportunities in sectors

Check for FDI limits

<p>Auto Components Auto Components industry turnover to reach \$ 200 bn by 2026</p>  <p>2.3 % Share in India's GDP</p> <p>3 mn Employment generated</p> <p>18.3 % Industry growth rate</p> <p>1 mn + Hybrid and electric vehicles sale</p>	<p>Automobile India becomes the world's 4th largest vehicle market</p>  <p>7.5 % Share in India's GDP</p> <p>19 mn Employment generated</p> <p>40 % Share in global R&D</p> <p>4.3 % Share in India's exports</p>	<p>Aviation India is the 3rd largest air travel market in terms of domestic passenger traffic</p>  <p>11.0 % Passenger traffic growth</p> <p>15.9 % Foreign Tourist Arrival growth</p> <p>3.6 MMT Total freight traffic (MMT)</p> <p>14.4 % Domestic aircraft movement growth</p>	<p>BFSI – Fintech & Financial Services India has the second-largest FinTech ecosystem globally by volume</p>  <p>\$2.4 bn FinTech software market size</p> <p>\$5.7 bn Investments in FinTech (2014-18)</p> <p>52 % FinTech Adoption rate globally</p> <p>57.9 % Avg. FinTech users</p>
<p>Biotechnology India is the 3rd largest biotech destination in the Asia Pacific Region</p>  <p>150 % Tax deduction on R&D expenditure</p> <p>57.1 % Annual industrial growth</p> <p>55 % Bio-pharma revenue share</p> <p>22 % Bio-agri revenue share</p>	<p>Capital Goods Capital goods contribute 12% to the overall manufacturing in India</p>  <p>12 % Share in manufacturing</p> <p>5 mn Direct employment</p> <p>40 % T&D equipment demand</p> <p>\$5.5 bn Electrical machinery exports</p>	<p>Chemicals India is the 3rd largest producer of chemicals in Asia by volume</p>  <p>16 % Dyestuff and dye intermediates share (global)</p> <p>1.2 % Nation's Gross Value Added</p> <p>10.3 % Chemical products exports share</p> <p>3.4 % Contribution to global chemical industry</p>	<p>Construction 100 smart cities by 2020</p>  <p>9 % Share in India's GDP</p> <p>4.8 % Industrial growth (2008-14)</p> <p>1 tn Infrastructural investments (2012-17)</p> <p>44 mn People employed</p>
<p>Defence Manufacturing India has the 5th largest defence budget in the world</p>  <p>2.3 % GDP spent on defence</p> <p>13 % Share in global arms import</p> <p>2.1 bn Turnover of OFB in 2015-16</p> <p>309 mn Exports (2016)</p>	<p>Electronic Systems India is one of the largest consumer electronics markets in Asia Pacific Region</p>  <p>26 % Sector growth (annual)</p> <p>185 % Mobile manufacturing growth (annual)</p> <p>17 % Domestic manufacturing growth (annual)</p> <p>8.6 % Hardware market growth (annual)</p>	<p>Food Processing World's largest milk producing nation</p>  <p>32 % Share in India's food market</p> <p>11.6 % Share in total employment</p> <p>10.7 % Share in India's exports</p> <p>142 % Cropping intensity</p>	<p>Gems & Jewellery India is the global leader in diamond polishing, with 95% market share</p>  <p>4.5 mn Employment generation</p> <p>13 % Share in India's commodity exports</p> <p>16 % Industry CAGR (2014-19)</p> <p>7 % Contribution to GDP</p>
<p>Healthcare Healthcare industry in India is projected to reach \$ 372 bn by 2022</p>  <p>\$110 Bn Industry size (2017)</p> <p>6 % Organised market contribution</p> <p>40 % Share in hospital beds (Pvt.)</p> <p>22.9 % Industry CAGR (2015-20)</p>	<p>IT & BPM India is the world's largest BPM destination</p>  <p>8 % Share in India's GDP</p> <p>56 % Share in global outsourcing market</p> <p>19 % E-commerce growth</p> <p>45 % Share in Indian services export</p>	<p>Leather India is the world's 2nd largest footwear producer</p>  <p>2.8 bn Footwear exports</p> <p>519 mn Leather garments exports</p> <p>4.42 mn People employed</p> <p>874 mn Finished leather exports</p>	<p>Media India has 5th largest media and entertainment market in the world</p>  <p>11.8 % Entertainment industry CAGR (2016-21)</p> <p>44.2 % TV industry revenue share</p> <p>38.1 % Advertising revenue share</p> <p>24 % Print media revenue share</p>
<p>Medical Devices India is the 4th largest market for medical devices in Asia</p>  <p>74 % Pvt. sector's share in hospitals</p> <p>15.8 % Growth rate (2009-2016)</p> <p>800 Number of Pvt. players in India</p> <p>250 + Number of health-tech startups in India</p>	<p>Metals & Mining Second largest producer of steel globally</p>  <p>300 MT Domestic steel production capacity by 2030</p> <p>\$13.83 bn FDI equity inflows into the Metallurgical and mining (April 2000-March 2019)</p> <p>\$27.73 mn FDI equity inflows into coal production (April 2000-March 2019)</p> <p>#7 India's ranking in bauxite reserves (by size)</p>	<p>Oil & Gas India is the 2nd largest refiner in Asia</p>  <p>7.4 % India's share in LNG imports</p> <p>3.3 % Oil consumption CAGR (2008-17)</p> <p>2.3 % Gas consumption CAGR (2007-16)</p> <p>4.9 % LPG sales growth (2016-17)</p>	<p>Click here for more sectors</p>

Setting up business in India

Investment opportunities in states

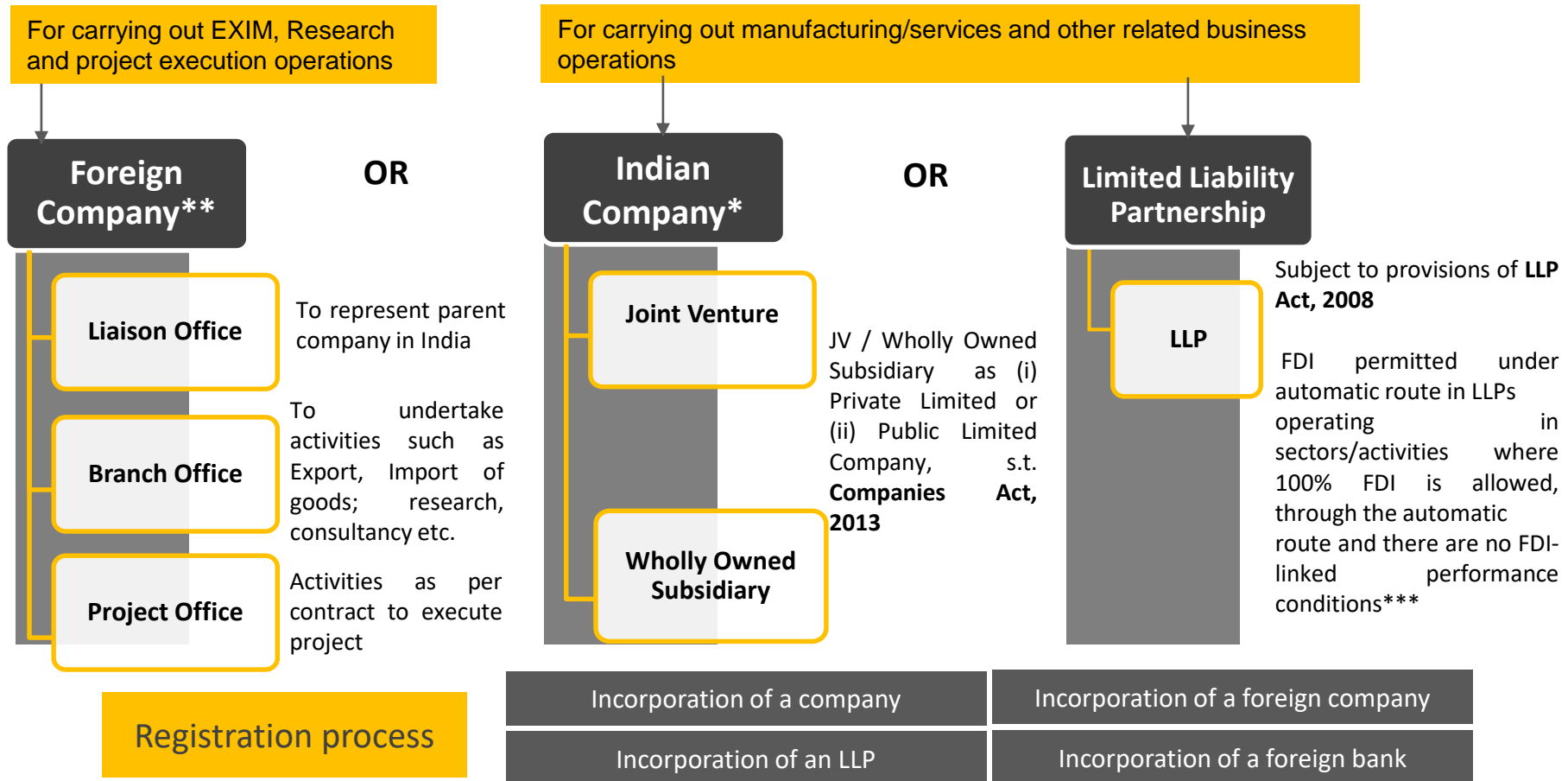
[Check State single window clearance portals](#)

<p>Andhra Pradesh Ranks #1 in Ease of Doing Business in India</p> <p>\$ 125.6 bn 16% \$ 2,233 \$ 18.7 bn <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2017-18) FDI inflow, includes Telangana (2000-2019)</small></p>	<p>Chhattisgarh 3rd largest mineral producing state</p> <p>\$ 44.6 bn 9.7% \$ 1,385.7 \$ 1.4 bn <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2018-19) FDI inflow, includes Madhya Pradesh (2000-2019)</small></p>	<p>Gujarat Highest number of operational ports and commercial cargo ports</p> <p>\$ 173 bn 11.7% \$ 2,333 \$ 23.2 bn <small>GSDP, Current price (2016-17) GSDP growth rate, YoY (2016-17) Per capita income, Current price (2016-17) FDI inflow (2000-19)</small></p>	<p>Jharkhand Ranks #4 in Ease of Doing Business in India</p> <p>\$ 39.6 bn 8.4% \$ 966 \$ 113 mn <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2016-17) FDI inflow, includes Bihar (2000-19)</small></p>
<p>Karnataka World's 4th largest technology cluster in Bengaluru</p> <p>\$ 216 bn 13.9% \$ 2,961 \$ 40.7 bn <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2018-19) FDI inflow (2000-19)</small></p>	<p>Madhya Pradesh Largest producer of copper and diamonds in India</p> <p>\$ 115.7 bn 11% \$ 1,227 \$ 1.4 bn <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2017-18) FDI inflow, includes Chhattisgarh (2000-2019)</small></p>	<p>Maharashtra State with the highest GDP in India</p> <p>\$ 387.4 bn 10.6% \$ 2,456 \$ 128.6 bn <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2016-17) FDI inflow, includes Dadra & Nagar Haveli, Daman & Diu (2000-19)</small></p>	<p>Punjab Ranks 2nd in the production of cereals in India</p> <p>\$ 74.1 bn 9% \$ 1,920 83% <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2016-17) Arable land</small></p>
<p>Rajasthan 2nd largest mineral producing state</p> <p>\$ 132.2 bn 12.3% \$ 1,545 \$ 1.98 bn <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2017-18) FDI inflow (2000-2019)</small></p>	<p>Tamil Nadu State with the 2nd highest GDP in India</p> <p>\$ 229.7 bn 12.5% \$ 2,284 \$ 30.7 bn <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2016-17) FDI inflow (2000-19)</small></p>	<p>Telangana Ranks #2 in Ease of Doing Business in India</p> <p>\$ 121.4 bn 15% \$ 2,696 42% <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2017-18) Share of renewable in energy</small></p>	<p>Uttar Pradesh Largest producer of foodgrains in India</p> <p>\$ 215 bn 12% \$ 825 82% <small>GSDP, Current price (2018-19) GSDP growth rate, YoY (2018-19) Per capita income, Current price (2017-18) Arable land</small></p>
<p>West Bengal Largest exporter of finished leather goods</p> <p>\$ 157 bn 13% \$ 1,420 \$ 5.6 bn <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2014-15) Per capita income, Current price (2017-18) FDI inflow includes Sikkim, Andaman & Nicobar Islands (2000-2019)</small></p>	<p>Odisha Largest mineral producing state</p> <p>\$ 63.9 bn 10.3% \$ 1,244 \$ 589 mn <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2017-18) FDI inflow (2000-2019)</small></p>	<p>Kerala Largest producer of rubber in India</p> <p>\$ 92 bn 10.6% \$ 2,425 94% <small>GSDP, Current price (2016-17) GSDP growth rate, YoY (2016-17) Per capita income, Current price (2016-17) Literacy rate</small></p>	<p>Haryana Ranks #3 in Ease of Doing Business in India</p> <p>\$ 93 bn 11.6% \$ 3,025 84% <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2017-18) Arable land</small></p>
<p>Chandigarh One of the first planned cities in India</p> <p>\$ 4.8 bn 9% \$ 3,531 74% <small>GSDP, Current price (2016-17) GSDP growth rate, YoY (2016-17) Per capita income, Current price (2016-17) Share of renewable in energy</small></p>	<p>Assam World's largest tea-producing region</p> <p>\$ 37.9 bn 11% \$ 1,003 32% <small>GSDP, Current price (2016-17) GSDP growth rate, YoY (2016-17) Per capita income, Current price (2016-17) Share of renewable in energy</small></p>	<p>Arunachal Pradesh Largest hydropower potential in India of 50,328 MW</p> <p>\$ 3.6 bn 10% \$ 2,097 75% <small>GSDP, Current price (2017-18) GSDP growth rate, YoY (2017-18) Per capita income, Current price (2017-18) Share of renewable in energy</small></p>	<p>Click here for more states</p>

Setting up business in India

Commencing business in India by foreign Investor

Foreign Investor can commence business in India as:



*Incorporate company in India s.t. sectoral caps and requisite approvals

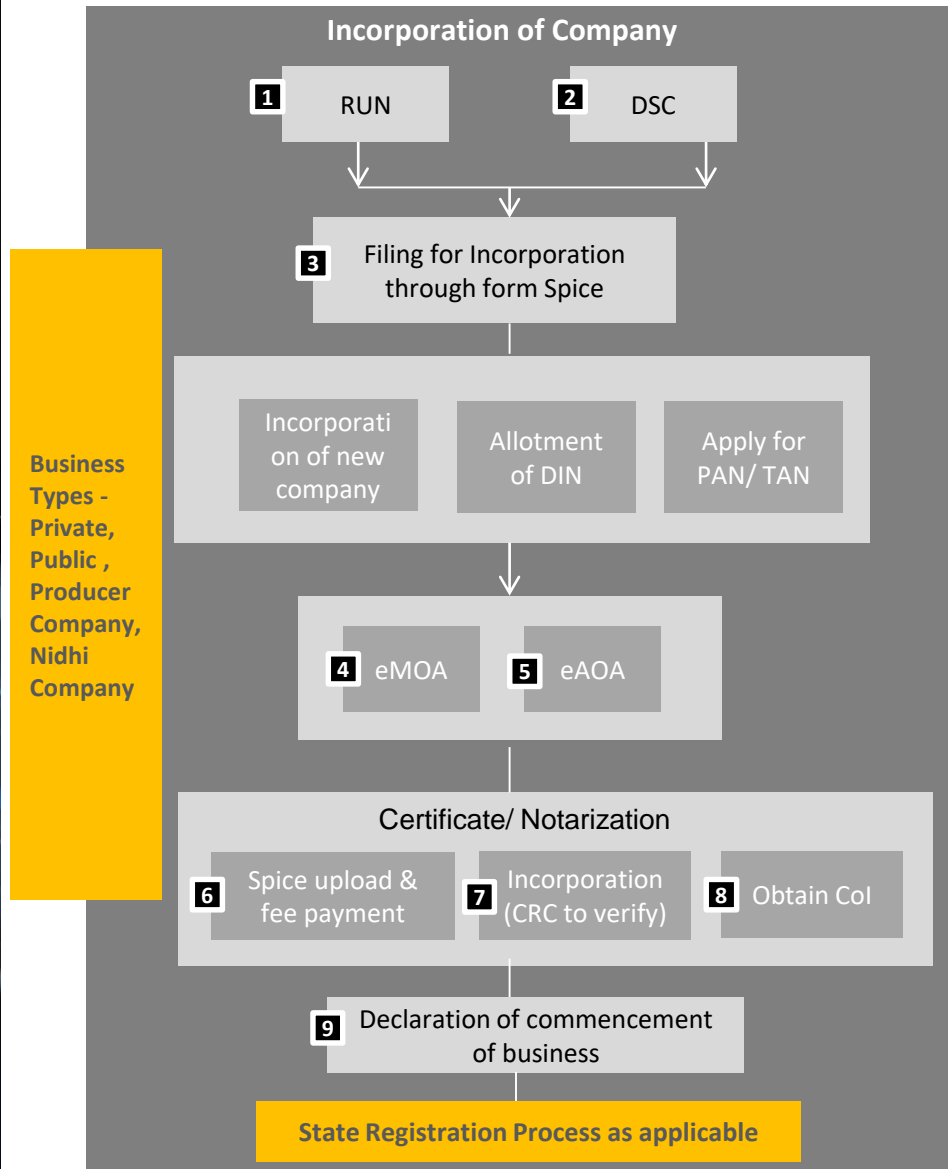
**RBI guidelines regarding establishment of LO/BO/PO: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10398&Mode=0>. As per company law, a resident having PAN to be appointed for receiving notices in India for foreign company

***For detailed definitions, clarifications/ exceptions, please refer to [Consolidated FDI Policy, effective from August 28,2017](#), [Amendment to FDI policy in Jan 2018, Press Note 4 \(2019\)](#)

Click each to know more

Setting up business in India

Incorporation of Company: Overview



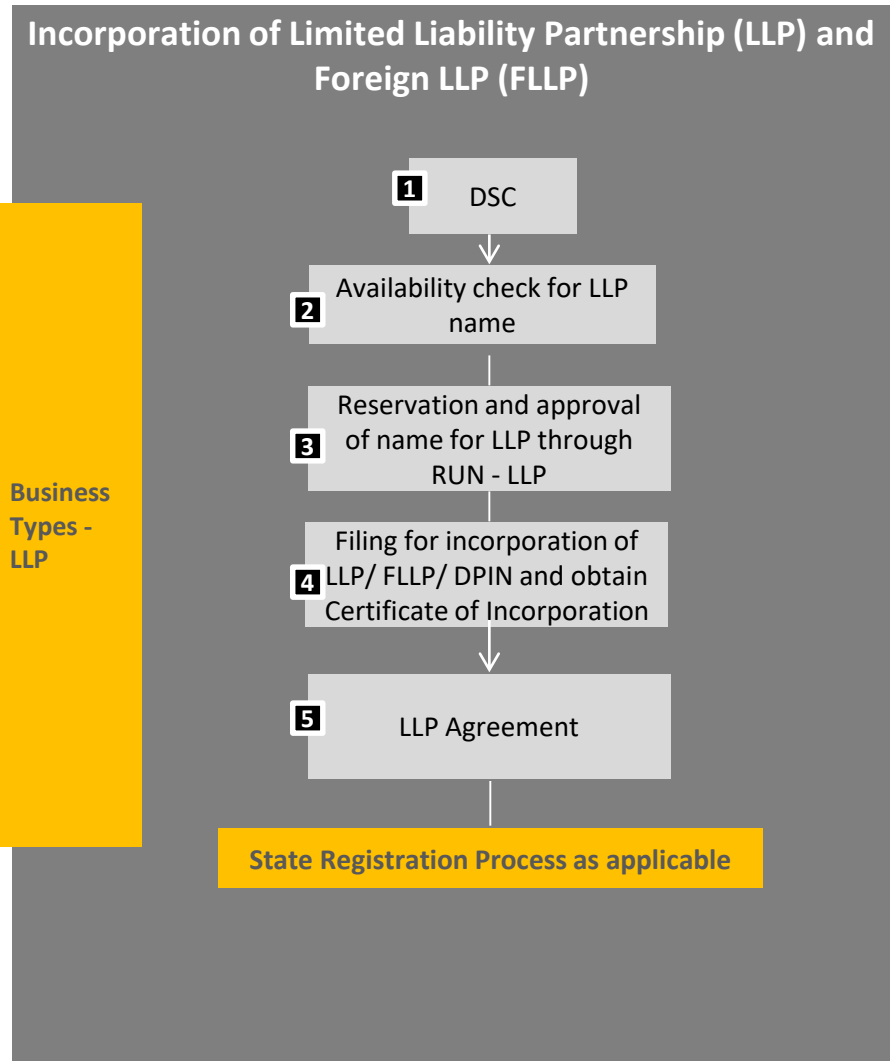
- 0** [Check availability of name](#) / registered trademark for incorporation of company
- 1** Reserve name of the proposed company through online service [RUN](#) on MCA website. Name can also be applied through [SPICE](#).
- 2** Obtain Digital Signature Certificate ([DSC](#)) for at-least one proposed Directors of the Company. [DIN](#) for proposed Directors can only be applied for through form [SPICE](#).
- 3** [Form INC 32 \(SPICE\)](#) to be duly filled and submitted to RoC for incorporation of company. PAN and TAN are shall be auto generated based on details filed in the [SPICE](#) form
- 4 & 5** Filing of electronic Memorandum of Association ([eMoA - INC 33](#)) & Articles of Association ([eAoA- INC 34](#)) in [SPICE](#) . For foreign subscribers physical MoA and AoA to be executed and attached
- 6** [SPICE](#) & AGILE upload and fee payment is confirmed by MCA. The application (SPICE) for incorporation of a company shall be accompanied by a linked e-form INC-35 ([AGILE](#)) with effect from 31st March 2019, as notified vide the Companies (Incorporation) Third Amendment Rules, 2019 dated 29th March 2019*.
- 7** Central Registration Centre (CRC) verifies/scrutinises all the documents and forms and may suggest few changes to be made in the attachments or form itself. One needs to make necessary changes accordingly
- 8** Obtain certificate of incorporation (Col). CIN, PAN & TAN numbers are allotted at the time of registration
- 9** A company having share capital is required to file a declaration of receipt of subscription amount and verification of registered office within 180 days of incorporation and prior to commencement of business.

Note : Notarization & Apostilling / legalization of documents mandatory in case of foreign subscribers / Directors. Some registrations would be applicable based on state in which company is incorporating and nature of business activity.

*GSTIN, ESIC registration and EPFO registration may be obtained at the time of incorporation by filing AGILE form

Setting up business in India

Incorporation as an LLP: Overview



- 1** Obtain class 2 or class 3 Digital Signature Certificate ([DSC](#)) for at-least 1 designated partners of LLP
- 2** For a [quick search on already existing names of LLP](#) a facility is provided by MCA to check list of similar/closely resembling names of existing companies/LLPs. Trademark is also to be checked
- 3** Filing the proposed name of an LLP for approval from the Registrar of Companies through RUN – LLP and can also be done through FiLLiP
- 4** FiLLiP is to be duly filled and submitted to RoC for incorporation of an LLP. For a Foreign LLP (FLLP) [Form 27](#) is to be filed in and digitally signed by FLLP (DPIN must be obtained through FiLLiP).
- 5** [Form 3](#) (Information with regard to LLP agreement and changes, if any made therein) to be filled within 30days of incorporation of LLP.

Note : Some registrations would be applicable based on state in which company is incorporating and nature of business activity.

Setting up business in India

Foreign company incorporation process- LO/BO/PO

(1/3)

Foreign Company

Exception: RBI approval required in following cases:

- (i) Applicant is a citizen of or is registered/incorporated in Pakistan ;
- (ii) Applicant is a citizen of or is registered/incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, North East region and Andaman and Nicobar Islands;
- (iii) Principal business of the applicant falls in the four sectors namely Defence, Telecom, Private Security and Information and Broadcasting (s.t. certain relaxations) and
- (iv) Applicant is a Non-Government Organization (NGO), a Non-Profit Organization, or a Body/ Agency/ Department of a foreign government.

1. Application (Form FNC) to a AD Category 1 bank Form FNC along with supporting documents

2. Post evaluation and before approval- bank forwards a copy of the Form FNC along with the details of the approval proposed to be granted by it to RBI for allotment of Unique Identification Number (UIN) to each BO/LO

Exceptions- Foreign banks and insurance companies do not require UIN from forex department RBI

3. After receipt of the UIN from the Reserve Bank, the AD Category 1 bank issues the approval letter to the non-resident entity for establishing BO/LO in India

4. Inform designated AD Category 1 bank as to the date on which the BO/LO/PO has been set up - The bank in turn shall inform RBI

Note : In case the BO/LO/PO for which approval has been granted is not opened within 6 months from the date of the approval letter, the approval shall lapse. In cases where the non-resident entity is not able to open the office within the stipulated time frame due to reasons beyond its control, the AD Category-I bank may consider granting extension of time for a further period of 6 months for setting up the office. Any further extension of time shall require the prior approval of RBI

Setting up business in India

Foreign company incorporation process- LO/BO/PO

(2/3)

Foreign Company

5. Applications for establishing a BO/LO in India by foreign banks and insurance companies will be directly received and examined by the Department of Banking Regulation, RBI, Central Office and IRDA, respectively. No UIN for such representative offices is required from the Foreign Exchange Department, Reserve Bank of India.

Note : There is a general permission to non-resident companies to establish POs in India, provided:

- i. They have secured a contract from an Indian company to execute a project in India
- ii. Project must have secured the necessary regulatory clearances;
- iii. Project is funded directly by inward remittance from abroad; or the project is funded by a bilateral or multilateral International Financing Agency, or a company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project

6. March 31 – Submit Annual Activity Certificate (AAC) to AD Category 1 Bank

Other Registrations

Applicants from Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, Macau or Pakistan desirous of opening BO/LO/PO in India shall have to **register with the State Police authorities**

- **Registration with RoC** if reqd. as per companies Act, 2013
- BO/LO to obtain **PAN from Income Tax authorities**

NOTE : Branches of Foreign Banks

Foreign banks do not require separate approval under FEMA, for opening branch office, however they require necessary approval under the provisions of the Banking Regulation Act, 1949, from Department of Banking Regulation, Reserve Bank.

Setting up business in India

Foreign company incorporation process- LO/BO/PO

(3/3)

Foreign Company

Foreign company after being registered with the RBI ought to get itself registered with the Ministry of Corporate Affairs (MCA), for it to be registered as an establishment of a foreign company in India

7. Necessary documents shall be filled with the Registrar of Companies (RoC) within 30 days of establishment

Note : As per Section 380 of Companies Act, following documents shall be filled :

- Certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language;
- Full address of the registered or principal office of the company
- List of the directors and secretary of the company containing such particulars as prescribed under Rule 3.
- Name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company
- Full address of the office of the company in India which is deemed to be its principal place of business in India
- Particulars of opening and closing of a place of business in India on earlier occasion or occasions
- Declaration that none of the directors of the company or the authorized representative in India has ever been convicted or debarred from formation of companies and management in India or abroad.
- Other Documents as may be prescribed.

8. Rule 3(3) of the Companies (Registration of Foreign Companies) Rules, 2014 requires application in **Form FC-1** to be supported with an attested copy of approval from the Reserve Bank of India under Foreign Exchange Management Act and the rules and regulations thereunder or a declaration from the authorised representative of such Foreign Company that no such approval is required.

Setting up business in India

Foreign company incorporation process- Setting up Foreign Bank branch in India (1/2)

Foreign Bank

Licensing of New Banks in the Private Sector & “On Tap” licensing for new banks in Private sector

- **Eligible Promoters:**

- Individuals / professionals who are residents [as defined in FEMA Regulations, as amended from time to time] having 10 years of experience in banking and finance at a senior level.
- Entities / groups in the private sector that are ‘owned and controlled by residents’ [as defined in FEMA Regulations, as amended from time to time] and have a successful track record for at least 10 years, provided that if such entity / group has total assets of ` 50 bn or more, the non-financial business of the group does not account for 40% or more in terms of total assets / in terms of gross income
- Existing non-banking financial companies (NBFCs), that are ‘controlled by residents’ [as defined in FEMA Regulations, as amended from time to time], and that have a successful track record for at least 10 years will be eligible to convert into a bank or promote a new bank

- **Fit & Proper criteria** : Entities / groups should have a past record of sound credentials and integrity, be financially sound with a successful track record of 10 years. For this purpose, RBI may seek feedback from other regulators and enforcement and investigative agencies.

NOFHC: The NOFHC shall be wholly owned by the Promoter / Promoter Group. The initial minimum paid-up voting equity capital for a bank shall be `5 billion. The NOFHC shall initially hold a minimum of 40 per cent of the paid-up voting equity capital of the bank which shall be locked in for a period of five years. At least 50% of the Directors of the NOFHC should be independent directors.

Foreign Shareholding in Bank : The aggregate non-resident shareholding in the new bank shall not exceed 49% in first 5 years .

Regulatory framework : The foreign bank branches shall be governed by Banking Regulation Act, 1949, Reserve Bank of India Act, 1934, Foreign Exchange Management Act, 1999, Payment and Settlement Systems Act, 2007, Credit Information Companies (Regulation) Act, 2005, Deposit Insurance and Credit Guarantee Corporation Act, 1961, other relevant Statutes and the Directives, issued by RBI , SEBI and other regulators

Setting up business in India

Foreign company incorporation process- Setting up Foreign Bank branch in India (2/2)

Foreign Bank

Licensing of New Banks in the Private Sector & “On Tap” licensing for new banks in Private sector

Application process

- Applications shall be submitted in the prescribed form (Form III) as per Rule 11 of the Banking Regulation (Companies) Rules, 1949. The applicants should furnish the requisite information as per the Annex II.
- Applications for setting up banks in the private shall be made to Chief General Manager, Department of Banking Regulation, Reserve Bank of India, Central Office, 13th Floor, Central Office Building, Shahid Bhagat Singh Road, Mumbai-400001
- The licensing window will be open on-tap. As such, applications in the prescribed form along with requisite information could be submitted to RBI at any point of time, as desired by the applicant

Procedure by RBI

- Applications will be screened by RBI to assess the eligibility of the applicants vis-à-vis the criteria laid down in the guidelines
- RBI may apply additional criteria to determine the suitability of applications, in addition to the ‘fit and proper’ criteria prescribed at paragraph 2 (B).
- The applications will be referred to a Standing External Advisory Committee (SEAC) to be set up by RBI. The SEAC will set up its own procedures for screening the applications. SEAC has right to call for more information as well as have discussions with any applicant/s and seek clarification and submit its recommendations to RBI for consideration
- The Internal Screening Committee (ISC), consisting of the Governor and the Deputy Governors will examine all the applications and then submit its recommendations to the Committee of the Central Board (CCB) of RBI for the final decision to issue in-principle approval.
- The validity of the in-principle approval issued by RBI will be 18 months from the date of granting in-principle approval and would thereafter lapse automatically. Therefore, the bank will have to obtain the licence within a period of 18 months of granting the in-principle approval.

Note: The setting up of a **wholly owned subsidiary** by a foreign bank in India would require a specific approval from the RBI and the home country regulator of the bank. Accordingly, the foreign bank would have to make an application with their home country regulator and subsequently with RBI meeting the conditions prescribed by RBI for issuance of a banking license.

Setting up business in India

As a foreign company incorporation - LO/BO/PO

(1/2)

	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
Foreign Company	<p>BO can be set up by foreign companies. The permitted activities include 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 and foreign airline/shipping company</p> <p>There is a general permission to non-resident companies for establishing BO in the Special Economic Zones (SEZs) to undertake manufacturing and service activities subject to:</p> <ul style="list-style-type: none">• BOs are functioning in those sectors where 100% FDI is permitted• BOs comply with Chapter XXII of the Companies Act, 2013• BOs function on a stand-alone basis	<p>LO can not undertake any commercial activity and acts as a channel of communication between the principal place of business or head office and entities 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. It cannot earn any income in India</p>	<p>PO can be set up to execute specific projects in India and cannot undertake or carry on any activity other than the activity relating and incidental to execution of the project</p>

Setting up business in India

As a foreign company incorporation - LO/BO/PO

(2/2)

	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
Foreign Company	Eligibility	Profit making track record during the immediately preceding five financial years in the home country and net worth of not less than USD 100,000 or its equivalent	Profit making track record during the immediately preceding three financial years in the home country and net worth of not less than USD 50,000 or its equivalent.
	Validity	Does not apply	Generally for 3 years *except in the case of NBFCs and those entities engaged in construction and development sectors, for whom the validity period is two years only
	Remittance	Permitted to remit profits net of applicable taxes and on submission of requisite documents	Does not apply

Note - An applicant that is not financially sound and is a subsidiary of another company may submit a Letter of Comfort (LOC) (Annex A) from its parent/ group company, subject to the condition that the parent/ group company satisfies the prescribed criteria for net worth and profit

Setting up business in India

Processes/compliances

Click each to know more

Setting up legal existence

- ▶ Obtain Director Identification Number (DIN)
- ▶ Digital Signature Certificate (DSC) for proposed Directors
- ▶ Approval for proposed Company/ LLP Name
- ▶ Finalization of supporting documents
- ▶ Filing of e-forms with CRC
- ▶ Verification of documents
- ▶ Consent to establish & operate
- ▶ Obtain Permanent Account Number (PAN)
- ▶ Registration for Tax Account Number (TAN)
- ▶ Registration of GST

Starting/registering a unit

- ▶ Registering / categorization of unit in State
- ▶ Approval for State Incentives (Optional)
- ▶ IEM/ EM Registration
- ▶ MSME Registration

Pre-commissioning phase

- ▶ Acquisition of Land
- ▶ Environment, Forest and Wildlife Clearance
- ▶ Permission for Land Use
- ▶ Pollution Board
- ▶ Industrial License
- ▶ Consent to Establish
- ▶ Factory Layout Plan Approval
- ▶ Registration of Boilers
- ▶ Building Plan Approval
- ▶ Registration under Contract Labour Act 1970
- ▶ Registration under BOCW Act
- ▶ Power for construction
- ▶ Provisional Fire Approval
- ▶ Approval for lifts & Escalator

Post-commissioning phase

- ▶ Consent to operate
- ▶ Building Completion certificate
- ▶ Final Fire Approval
- ▶ Water Connection
- ▶ Power
- ▶ Authorization for hazardous waste
- ▶ Professional Tax Registration
- ▶ Central Excise Registration
- ▶ Shops & Establishment Act
- ▶ Employee Registration with ESIC
- ▶ Employer Registration with EPFO
- ▶ Trademark/ Brand Registration
- ▶ Importer Exporter Code (IEC)
- ▶ Customs- Special Valuation Branch
- ▶ Grant for Bureau of Indian Standards (BIS) License
- ▶ Quality Marking Certificate

Setting up business in India

Processes/compliances - Setting up legal existence of the entity (1/3)

Obtain Director Identification Number (DIN)

DIN is a unique identification number issued by the Ministry of Corporate Affairs (MCA), for a designated partner of an existing LLP or a person intending to become a director of a company.

DIN can be obtained by filing application [Form DIR-3](#) online

All designated partners of the proposed LLP shall obtain “Designated Partner Identification Number ([DPIN](#)) / Director Identification Number ([DIN](#))” through FiLLiP & proposed company through [SPICe](#) (if DIN is not available)

Note – Application for DIN (for a person proposed to be appointed as a Director of existing company or Designated Partner of existing LLP) to be filed in [Form DIR-3](#). Change in particulars to be intimated in [Form DIR-6](#) within 30 days

Digital Signature Certificate (DSC) for proposed ‘Directors’ and ‘Designated Partners’

DSC can be obtained by approaching [Certifying Authorities \(CAs\)](#) with original supporting documents and self-attested copies

A licensed Certifying Authority (CA) issues the digital signature. Certifying Authority (CA) means a person who has been granted a license to issue a digital signature certificate under Section 24 of the Indian IT-Act 2000

Approval for proposed Company/ LLP Name

For [LLP name search facility](#) (of existing companies / LLPs) is available on MCA portal. The system will provide the list of similar/closely resembling names of existing companies/LLPs based on the search criteria filled up.

For reservation of name of the of an LLP, [RUN LLP](#) to be filed. The applicant must file [RUN](#) with the Central Registration Center (CRC), India for approval of name of a company.

The name reserved for company shall be available for adoption of name for a period of 20 days. In case of laps of the said period, fresh approval needs to be taken through [RUN](#). For LLP, name is reserved for 3 months. In case of change of name of company, the reserved name is available for 60 days.

Note: The name of an LLP or company can be obtained while filing form [FiLLiP](#) or Form [SPICe](#) as well.

Setting up business in India

Processes/compliances - Setting up legal existence of the entity (2/3)

Finalization of supporting documents

Filing of electronic Memorandum of Association (eMoA- INC 33) & Articles of Association (eAoA- INC 34)

Payment of stamp duty/ filing fees.

Incase of foreign subscribers physical MOA and AOA is to be filled in

Filing of e-forms with CRC

[SPICe](#) is duly filled and submitted to CRC for incorporation of a company

MCA Form [FILLIP](#) for LLP would be required.

[Form 27](#) is required for Foreign LLP (FLLP).

Verification of documents

After payment of all fees & stamp duties, CRC scrutinizes all forms and may suggest changes in forms and/or attachments

Certificate of incorporation

Issue of Certificate of Incorporation by CRC- Once all the Forms are duly approved by CRC, the digitally signed "Certificate of Incorporation" is issued.

In Case of LLP, LLP agreement is required to be signed and submitted to ROC within 30 days of incorporation of LLP. Form for filing LLP agreement is [Form 3](#).

Once the Incorporation Certificate is received, LLP can start its operations.

A company having share capital is required to file a declaration of receipt of subscription amount and verification of registered office within 180 days of incorporation and prior to commencement of business.

Setting up business in India

Processes/compliances - Setting up legal existence of the entity (3/3)

Obtain Permanent Account Number (PAN)

PAN number shall be allotted based on the information filled in Form [SPICe](#) at the time of incorporation of a company.

Registration for Tax Account Number (TAN)

TAN number shall be allotted based on the information filled in Form [SPICe](#) at the time of incorporation of a company.

Note: PAN & TAN are not allotted to LLPs on incorporation

GST Registration

Any business can get registered under GST by applying via the [GST Online Portal](#) or at GST Seva Kendra set up by the Government of India. Fill [Form-part A](#) (PAN, Mobile and email id. The portal verifies your detail via OTP. Upload the document as per business type. Fill [Form-part B](#) using the received number through OTP. Application reference number shall be received via mobile/ email. The GST officer verifies your application/ document. In case more information/ documents are asked through Form [GST-REG-03](#) details have to be shared through Form [GST-REG-04](#) within 7 working days. GST officer approves application and GSTIN within 7 working days

Setting up business in India

Processes/compliances - Starting/registering a unit (1/2)

Registering / categorization of unit in State

For starting a manufacturing unit in any state, the first step for the company is to register themselves as MSME or Mega or Large Projects. The criteria to categorise a unit into MSME or Mega Project or Ultra Mega Project is defined in the respective industrial policies of states. This would benefit the units to apply for various incentives available under state government Policies/ Scheme in addition to other specific policies.

Approval for State Incentives (Optional)

Apply for state government incentives/ customised package scheme for Mega projects as per state policies (Optional)

IEM Registration

All industrial undertakings exempt from the requirements of industrial licensing, including existing units undertaking substantial expansion, are required to file information in the prescribed form for Industrial Entrepreneurs Memorandum (IEM), i.e. "Form IEM", with the Secretariat of Industrial Assistance (SIA), Department for Promotion of Industry and Internal Trade (DPIIT), Government of India, and obtain an acknowledgement. No further approval is required.

Applicable only when investment exceeds INR 10 cr in plant and machinery (Part A: Start of construction & Part B: Before starting production)

Setting up business in India

Processes/compliances - Starting/registering a unit (2/2)

EM/ MSME Registration

Rule

MSME Registration is an optional registration under the [MSMED Act](#) that provides Micro, Small and Medium sized enterprises with a host of benefits and access to subsidies and schemes.

MSME Criteria

Industries are categorized into manufacturing & service enterprises:

	Manufacturing sector	Service sector
Enterprise	Investment in plant & machinery	Investment equipment
Micro	Does not exceed 25 lakhs	Does not exceed 10 lakhs
Small	More than 25 lakhs but does not exceed 5 crores	More than 10 lakhs but does not exceed 2 crores
Medium	More than 5 crores but does not exceed 10 crores	More than 2 crores but does not exceed 5 crores

Guidelines

MSME can be registered by filling [Udyog Aadhaar Memorandum \(UAM\)](#). It is a 12 digit Aadhaar number allotted to MSME by DIC.

The UAM Registration can be done online by individuals themselves in case they have an Aadhaar number. However, all exceptional cases, including those not having an Aadhaar number, can still file UAM in offline mode (i.e. on paper form) with the General Manager (GM) of the concerned District Industries Centre (DIC). Articles not covered under the MSMED Act 2006 for registration of Udyog Aadhaar Memorandum are listed in the [link](#).

A unit can apply for PRC for any item that does not require industrial license, i.e. items listed in Schedule-III and items not listed in Schedule-I or Schedule-II of the licencing Exemption Notification. Units employing less than 50/100 workers with/without power can apply for registration even for those items in Schedule-II. Once the unit commences production, it has to apply for permanent registration on the prescribed form.

Setting up business in India

Processes/compliances – Pre-Commissioning Phase (1/5)

Acquisition of Land

Application to respective State DI/ State Industrial Development Corporation (SIDC)/ Infrastructure Corporation/ Small Scale Industrial Development Corporation (SSIDC)

Environment, Forest and Wildlife Clearance

Application for environment clearance (EC) need to be made at the [online platform](#) by MoEF.

Proposals requiring EC clearance under EIA notification 2006. Proposals requiring only CRZ Clearance under CRZ Notification 2014. Proposals requiring both clearances i.e. EC clearance (Category A and Category B both) under EIA notification 2006 and CRZ Clearance under CRZ notification 2011

Environment Clearance is 2 stage process. Stage 1- Grant of ToR (If, after accepting category A or category B proposals, Ministry/SEIAA do not take any decision within one month, then, Standard TOR is accorded automatically to the proposal. Stage 2- Grant EC - TOR accorded proposals, Proposals without TOR

Permission for Land Use

Applicable in case the industry is located outside an industrial area

Concerned departments:

- ▶ State Directorate of Industries (DI)
- ▶ Department of Town and Country Planning
- ▶ Local authority/ District Collector

Setting up business in India

Processes/compliances – Pre-Commissioning Phase (2/5)

Pollution Board

Application to State Pollution Boards before commencement of construction activities and production activities under Water Act and Air Act for Consent to Establish and CTO respectively is to be made

There are 4 [categories of industries](#)-

- Red – Industries having pollution index score of 60 and above
- Orange- Industries having pollution index score of 41 to 59
- Green - Industries having pollution index score of 21 to 40
- White- Industries having pollution index score up to 20

Note- The approval is granted by state and compliance procedure may vary from state to state

Industrial License

Industrial licenses are regulated by the IDRA, 1951 Act, and are approved by the Secretarial of Industrial Assistance (SIA) on the recommendation of the licensing committee.

Businesses planning to establish industries to produce any of the following items in India must obtain a compulsory license:

- Distillation and brewing of alcoholic drinks;
- Cigars and cigarettes of tobacco and manufactured tobacco substitutes;
- Electronics and aerospace and defence equipment;
- Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches; and
- Hazardous chemicals including items hazardous to human safety and health and thus fall for mandatory licensing.

[Form IL](#)

Consent to Establish

Consent to establish is required from Environment and pollution control board for starting the building construction activity of the unit. An application is to be made to concerned bodies at the state pollution board and central level for environment clearance

Setting up business in India

Processes/compliances – Pre-Commissioning Phase (3/5)

Factory Layout Plan Approval

Under the Factory Act, 1948 approval for Factory Layout Plan is required. It is usually granted by the Labour's Department of each state however the competent authority may vary from state to state .

The approval is granted within 60 days for chemical factory and 45 days for other factories subject to the specific criteria met by the competent authority of the state

The layout plan approved is non – transferrable.

Factory registration

As per [The Factories Act 1948](#), the applicant needs to submit the plans of any class/ description of factories to the Chief inspector or the State Govt.

If no order is communicated to the applicant within 3 months from the date on which the application was submitted, the permission shall be deemed to have granted.

Where the State Govt. or Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to registration/ licensing of a factory, the applicant may within 30 days of date of such refusal, appeal to the Central Govt. if the decision appealed from was of the State Govt. and to the State Govt. in any other case.

Setting up business in India

Processes/compliances – Pre-Commissioning Phase (4/5)

Registration of Boilers

As per the Boiler Act 1923, registration of Boiler is mandatory compliance. Permission for registration is granted post successful inspection.

Provisional registration is granted by the competent authority for the period of 6 months, within which the final inspection (upon request) is undertaken.

For further details and form [link](#) to be referred

Building Plan Approval

An approval from development authority/ local nodal authority for sanction of building plans/ building permit under the provisions of Building Byelaws, Master plan and Local Body Acts. The Building approval comprises of the building plan and the layout approval for the construction of the building. The applicant has to get approval of layout plan from concerned authorities before starting construction of. Intimation of Disapproval or IOD basically states conditions that needs to be complied with during different phases of Under Construction Project. Post this the applicant received commence certificate to commence construction

Registration under Contract Labour Act 1970

Under the Contract Labour (Regulation and Abolition) Act, 1970 approval required. It is usually granted by the Labour's Department of each state however the competent authority may vary from state to state .

The approval is granted within 30 days subject to the specific criteria met by the competent authority of the state

Registration under BOCW Act

Under the Building and other Construction Workers Act, 1996 approval required during pre and post commissioning stage. It is usually granted by the Labour's Department of each state however the competent authority may vary from state to state .

The approval is granted within 30 days subject to the specific criteria met by the competent authority of the state

Setting up business in India

Processes/compliances – Pre-Commissioning Phase (5/5)

Power for construction

Application to State Electricity Distribution Company for sanction of power supply for low tension (LT), high tension (HT), or Extra High Tension connection as applicable during the construction phase

Provisional Fire Approval

Provisional Fire Safety Approval from State Fire and Safety department

Approval for lifts & Escalator

Lift and escalator approval needs to be obtained from local state authority.

Approval is given for installation and operation is accorded separately

Setting up business in India

Processes/compliances – Post-Commissioning Phase (1/5)

Consent to operate

Consent to operate is obtained from Pollution control board of the respective states. It is required in both pre-commissioning stage. It is subject to renewal from time to time

Building Completion certificate

A completion certification (CC) is a critical and mandatory legal document that a builder should obtain from Application to Town and Country Planning , or Local municipality , development authority or agricultural department or other local bodies such as Nagar Nigam or Gram Panchayat as applicable) with plan, scrutiny fees and land allotment copy.

After the completion of a project, the local authority inspects and evaluates the premise against the approved building plan and awards the completion certificate, if all the rules are satisfied.

Final Fire Approval

Final Fire approval needs to be taken by local state authority

Water Connection

State Industrial Development Corporations for approval for water connections; to State Industrial Promotion Boards (where applicable) where source of water is river/ canal/ dam; and to Central Ground Water Commission in case of ground water extraction

Setting up business in India

Processes/compliances – Post-Commissioning Phase (2/5)

Power

Application to State Electricity Distribution Company for sanction of power supply for low tension (LT), high tension (HT), or Extra High Tension connection as applicable

Authorization for hazardous waste

Application to State Pollution Control Boards for Collection/ Reception/ Treatment/ Transport/ Storage and Disposal of Hazardous waste

Professional Tax Registration

According to section 5 of the Profession Tax Act, every employer (not being an officer of the government) is liable to pay tax and shall obtain a certificate of registration from the prescribed authority.

The company is required to apply in Form I to the registering authority

Central Excise Registration

The [application](#) for registration is to be filed with the Superintendent of Central Excise having jurisdiction over the premises in respect whereof the registration is to be obtained.

Note – Applicability of Excise is for liquor and petroleum based units

Setting up business in India

Processes/compliances – Post-Commissioning Phase (3/5)

Shops & Establishment Act

Registration under Shop & Establishment is provided by state government

Employee Registration with ESIC

Employees' State Insurance Corporation (ESIC) provides monetary and medical benefits to Employees in case of sickness, maternity and employment injury and to make provisions for related matters. [Form 01](#) should be used by employers to register with ESIC

Setting up business in India

Processes/compliances – Post-Commissioning Phase (4/5)

Employer Registration with EPFO

The Employees' Provident Fund Organization (EPFO) provides social security benefits to Employees of establishments on which the Employees' Provident Fund and Miscellaneous Provisions Act 1952. Online registration for EPFO can be done through [link](#)

Trademark/ Brand Registration

Trademark registration provides legal right of exclusivity for the use of mark to the owner of the mark. Trademark registration involves multiple steps. A step by step guide for registration of trademark is detailed at [link](#)

Importer Exporter Code (IEC)

Import Export (IE) Code is a registration required for persons importing or exporting goods and services from India. IE Code is issued by the Directorate General of Foreign Trade (DGFT), Ministry of Commerce and Industries, Government of India. IE Codes when issued can be used by the entity throughout its existence and doesn't require any renewal or filing. [IE Code application](#) must be made to the Directorate General of Foreign Trade along with the necessary supporting documents.

Customs- Special Valuation Branch

Special Valuation Branch ("SVB") is a branch of the Custom House that specializes in investigating the transactions involving relationship between the supplier and the importer. The detailed working and functions of the branch can be accessed at [link](#)

Setting up business in India

Processes/compliances – Post-Commissioning Phase (5/5)

Grant for Bureau of Indian Standards (BIS) License

Applicant has to submit application in the prescribed [Form](#) and [Self Evaluation-cum-Verification Report \(Annexure-II\)](#) along with prescribed documents and original Test Reports for considering grant of license under [Product Certification Scheme of BIS](#).

List of products that mandatory require BIS license are listed in Annexure-I.

Quality Marking Certificate

Quality Marking certificate are provided by Quality Marking Centre of the State Government

Taxability in India

Applicable taxation for business establishments

Taxation Overview in India

Over the last few years, the government of India (GoI) and various State (provincial) Governments have undertaken various policy reforms and process simplification towards great predictability, fairness & automation. This has consequently, lead to India's meteoric rise to the top 100 in the World Bank's Ease of Doing Business (EoDB) ranking in 2017.

Key Features of India's taxation System: Taxes in India are levied by the [Central Government](#) and the [State Governments](#). Some minor taxes are also levied by the local authorities such as the Municipality and Local Government.

Major Central Taxes

- ▶ [Income Tax](#)
- ▶ [Central Goods & Services Tax \(CGST\)](#)
- ▶ [Integrated GST \(IGST\)](#)
- ▶ [Custom Duty](#)

Major State Taxes

- ▶ [State Goods & Services Tax \(SGST\)](#)
- ▶ [Stamp Duty & Registration](#)

[Click here know more on GST](#)

A resident company is taxed on its worldwide income. A non-resident company is taxed only on income that is received in India, or that accrues or arises, or is deemed to accrue or arise, in India. Company whether Indian or foreign is liable to taxation, under the Income Tax Act,1961. Corporation tax is a tax which is levied on the incomes of registered companies and corporations.. Taxes In India are primarily into 2 categories- Direct and Indirect Tax.

Direct Tax

Individual residential status & taxability

Corporate residential status & taxability

Taxation rates for individuals

Taxation rates for corporates

[Click each box to know more](#)

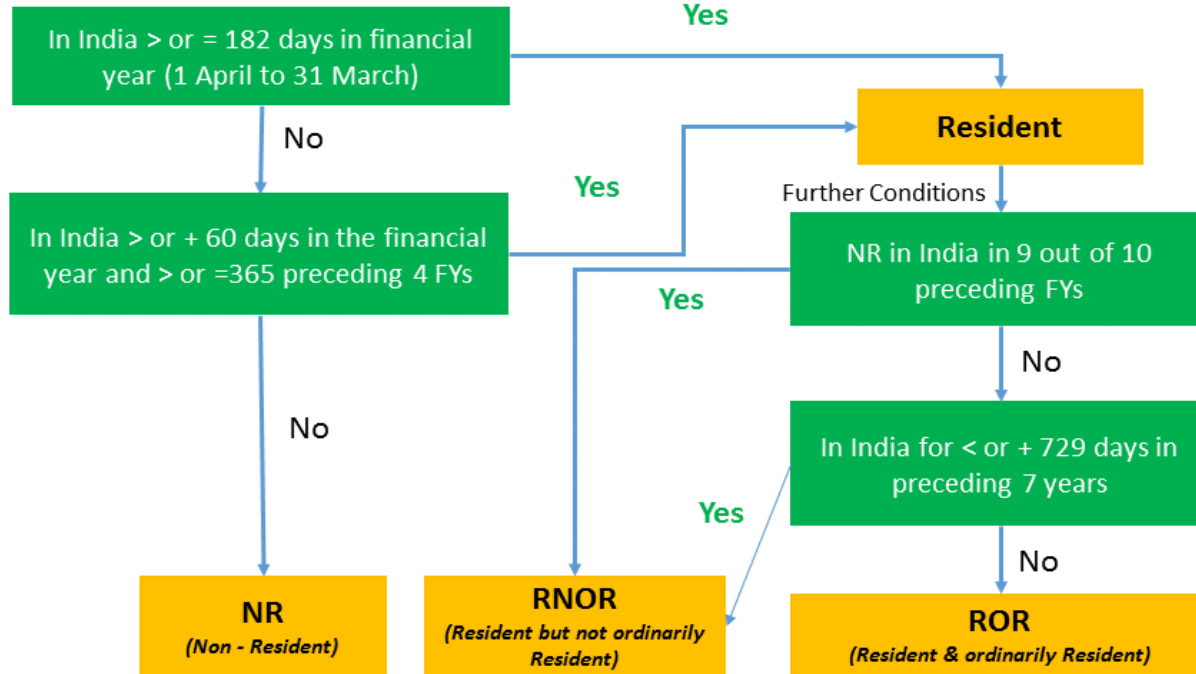
Note: For detailed information, please refer to Taxation in India page (<https://www.investindia.gov.in/taxation>)

Direct Tax

Individual Residential Status & Taxability in India

START >>>

Primary
Conditions to check whether NR or Resident



Secondary
Conditions to be checked when "Resident", to decipher whether ROR or RNOR.

Income Taxable ?

	NR (Non - Resident)	RNOR (Resident but not ordinarily Resident)	ROR (Resident & ordinarily Resident)
Indian income	Yes	Yes	Yes
Foreign income	No	Yes (Business in India) No (Business controlled outside India)	Yes

Direct Tax

Taxation rates for individuals

Tax Rate	Income (INR)	Income (USD)
Nil	Up to INR 250,000	Up to \$ 3,472.22
5%	INR 250,001 - INR 500,000	\$ 3,472.23 - \$6,944.44
20%	INR 500,001 - INR 1,000,000	\$ 6944.458 - \$ 13,888.89
30%	Above INR 1,000,000	Above \$ 13,888,90

Budget 2019 changes:

- Budget has provided for relief to salaried taxpayers, it is proposed to allow a standard deduction of INR 50,000/- (\$ 694) or the amount of salary per annum, whichever is less in lieu of the present exemption in respect of Transport Allowance and reimbursement of miscellaneous medical expenses. (Section 16)
- if income does not exceed INR 5,00,000 (\$ 6,944) , there is deduction of INR 12,500 (\$ 174) or 100% of Income tax whichever is less. Therefore, if taxable annual income of an assessee is up to INR 5,00,000 (\$ 6,944), he shall not pay any tax but if Income exceeds INR 5,00,000 (\$ 6,944) then slab rate shall be applicable. (Sec 87A)

Direct Tax

Corporate Residential Status & Taxability in India

Resident/ Domestic Companies

- Companies incorporated in India
- Foreign Companies having Place of effective Management in India

Resident/ Domestic Firm/ LLP/ Others

- Control and Management of its affair is situated (wholly or partially) in India

Income Taxable ?

Domestic Company

Global Income

Foreign Company

Income earned within India
(Being accrued or received in India)

Direct Tax

Taxation rates for Corporates

Domestic Company

Nature	*Effective Tax Rates w/o option	#Option for reduced tax rates
Total turnover or gross receipts < INR4 b during FY 2017-18 or new manufacturing companies incorporated between 1/3/16 and 30/09/19 <ul style="list-style-type: none"> Income < INR 10 Mn Income > INR 10 Mn but < INR 100 mn Income < INR 100 Mn 	25% (26% ETR) 25% (27.82% ETR) 25% (29.12% ETR)	22% (25.17% ETR)
Optional tax rate for new manufacturing companies incorporated on or after 1/10/19	-same as above-	15% (17.16% ETR)
Other Domestic Company <ul style="list-style-type: none"> Income < INR 10 Mn Income > INR 10 Mn but < INR 100 mn Income < INR 100 Mn 	30% (31.2% ETR) 30% (33.38% ETR) 30% (34.94% ETR)	22% (25.17% ETR)

* Effective tax rates (ETR) includes surcharge @ 7%/12% and cess @ 4%

- # 1. Option once exercised cannot be withdrawn
2. No MAT liability
3. No exemptions/ incentives to be availed

Firms (including LLP) – 30%

(Surcharge and Cess applicable for Assessment Year 2019-20 and Assessment Year 2020-21)

Foreign Company – 40%

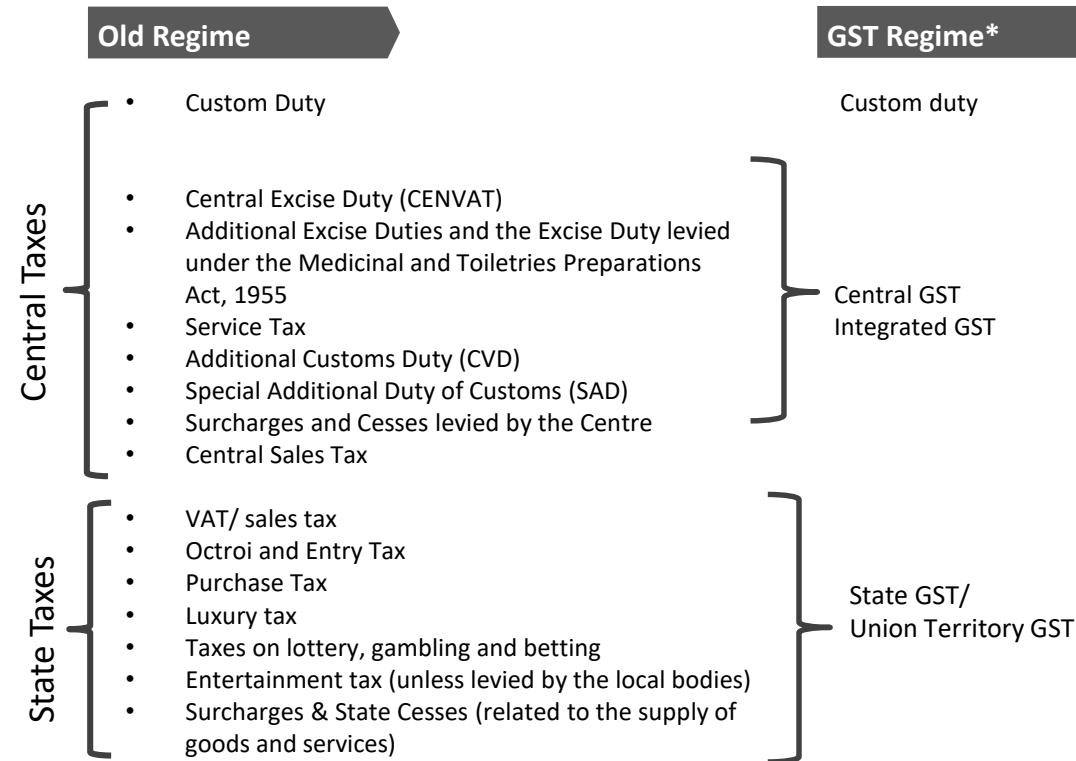
(Surcharge and Cess applicable for Assessment Year 2019-20 and Assessment Year 2020-21)

Goods and Services Tax (GST)

CGST, SGST & IGST

Goods and Services Tax (GST) is a unified indirect tax across the country on products and services. It is levied on manufacture, sale and consumption. It is a destination based consumption tax.

- The GST, dual in nature is comprehensive, multi stage tax, levied by both the Centre and State. The Central GST (CGST) is levied on intra state supply of goods and/ or services by the Central Government and State GST (SGST) is levied by State governments.
- Integrated GST (IGST) is levied and administered by the Centre on every inter-state supply of goods and services.
- Import of goods or services is treated as inter-state supplies and is subject to IGST in addition to Basic Custom duty.
- CGST, SGST and IGST is levied at uniform rates, mutually agreed upon by the Centre and the States under the aegis of the GST Council (GSTC).
- All goods and services are covered under GST except alcohol for human consumption and specified petroleum products.



Assessment and filing on GST Network (GSTN)

*Cess as may be applicable

Winding up business establishment

Voluntary liquidation (companies under Insolvency & Bankruptcy Code (IBC)) (1/2)



For details w.r.t winding up, refer :

Company : sec 2(94A) and sec 272 of companies act 2013 : <http://mca.gov.in/SearchableActs/Section272.htm> along with provisions of insolvency and bankruptcy code : <http://www.ibbi.gov.in/>

LLP : Section 63, 64 and 65 of LLP Act 2008 : <http://www.mca.gov.in/MinistryV2/llpact.html>

Partnership : sec 40-44 of the Partnership Act 1932, http://www.mca.gov.in/Ministry/actsbills/pdf/Partnership_Act_1932.pdf

Winding up business establishment

Strike off under Companies Act (2/2)

Governed by Companies Act 2013 and Companies (Removal of Name of Companies from the Register of Companies) Rules, 2016
Provides an opportunity for defunct companies to get their names removed from the Register of Members in a time-bound manner, subject to certain conditions

Pre-requisites and Key Considerations

- ▶ “NIL” assets and “NIL” liabilities may apply for strike-off subject to following:
 - ▶ Not commenced business within 1 year of incorporation; or
 - ▶ Not carrying on any business or operation for 2 immediately preceding financial years
- ▶ No pending prosecution or compounding application
- ▶ All Directors to sign an Indemnity Bond against all lawful claims, losses, liabilities that may arise even after striking-off
- ▶ Any aggrieved person may make an application within 20 years of the strike off for revival of the Company

Key Milestones

- ▶ Pass a Board resolution and hold general meeting to pass a special resolution
- ▶ Obtain No objection certificate from applicable regulators, if any
- ▶ Prepare statement of accounts close to the tentative date of application
- ▶ File the application for strike-off along with necessary affidavits, bonds, declarations, statement of accounts
- ▶ RoC to issue a public notice inviting objections and also intimate the Income tax Department
- ▶ RoC to pass an order for strike off on verification of documents

The strike off process is complete on publication of the entity name in the Official Gazette – it takes tentative 6-9 months

For details w.r.t winding up, refer :

Company : sec 2(94A) and sec 272 of companies act 2013 : <http://mca.gov.in/SearchableActs/Section272.htm> along with provisions of insolvency and bankruptcy code : <http://www.ibbi.gov.in/>

LLP : Section 63, 64 and 65 of LLP Act 2008 : <http://www.mca.gov.in/MinistryV2/llpact.html>

Partnership : sec 40-44 of the Partnership Act 1932, http://www.mca.gov.in/Ministry/actsbills/pdf/Partnership_Act_1932.pdf

Institutional framework

Governing Bodies for business establishment

(1/3)

The work of granting government approval for foreign investment under the extant FDI Policy and FEMA Regulations, shall be entrusted to the **concerned Administrative Ministries/Departments** as listed below:

S. No	Sector/ activity	Administrative Ministry/ Department
1	Mining	Ministry of Mines
2 (a)	Defence – items requiring license under the industries(Development & Regulation) act 1951 and/or arms act 1959	Department of Defence Production, Ministry of Defence
2 (b)	Cases relating to FDI in small arms.	Ministry of Home Affairs
3	Broadcasting	Ministry of Information and Broadcasting
4	Print Media	Ministry of Information and Broadcasting
5	Civil Aviation	Ministry of Civil Aviation
6	Satellites	Department of Space
7	Telecom	Department of Telecommunications
8	Private Security Agencies	Ministry of Home Affairs
9	Applications involving investments from Countries of Ministry of Home Affairs Concern which presently include Pakistan and Bangladesh, requiring security clearance as per the extant FEMA 20, FDI Policy and security guidelines, amended from time to time	Ministry of Home Affairs
10	Single Brand Product Retail Trading	DPIIT
11	FDI proposals by Non-Resident Indians (NRIs)/ Export Oriented Units requiring approval of the Government	DPIIT
12	Applications relating to issue of equity shares for sectors requiring Govt. approval under the FDI policy is allowed under Govt route for following i) import of capital goods/ machinery/ equipment (excluding second hand machinery) and pre-operative/ pre-incorporation expenses (including payments of rents etc.) s.t. conditions	DPIIT

Institutional framework

Governing Bodies for business establishment

(2/3)

S. No	Sector/ activity	Administrative Ministry/ Department
13	Financial services activity which are not regulated by any Financial Sector Regulator or where only part of the financial services activity is regulated or where there is doubt regarding the regulatory oversight	Department of Economic Affairs
14	Applications for foreign investment into a Core Investment Company or an Indian company engaged only in the activity of investing in the capital of other India Company/ies.	Department of Economic Affairs
15	Banking (Public and Private)	Department of Financial Services
16	Pharmaceuticals	Department of Pharmaceuticals

Note

- In respect of sectors/activities which are presently under automatic route but required Government approval earlier as per the extant policy during the relevant period, concerned administrative Ministry/Department would be the Competent Authorities for the grant of post-facto approval for foreign investment.
- In respect of applications in which there is a doubt about the Administrative Ministry/Department concerned, DPIIT shall identify the Administrative Ministry/Department where the application will be processed.
- Proposals for foreign investment would be examined by Competent Authorities as per the Standard Operating Procedure laid down by DPIIT (available at <http://www.fifp.gov.in/Forms/SOP.pdf>).
- In case of proposals involving total foreign equity inflow of more than INR 5000 cr, Competent Authority shall place the same for consideration of Cabinet Committee on Economic Affairs (CCEA).
- The CCEA would also consider the proposals which may be referred to it by the Minister in-charge of the concerned Competent Authority.
- In respect of proposals where the Competent Authority proposes to reject the proposals or in cases where conditions for approval are stipulated in addition to the conditions laid down in the FDI policy or sectoral laws/regulations, concurrence of DPIIT shall compulsorily be sought by the Competent Authority.
- The monitoring of the compliance of conditions under the FDI approvals, including the past cases approved by the Government, shall be done by the concerned Administrative Ministries/Departments.

Institutional framework

Governing Bodies for business establishment

(3/3)

Ministry of Corporate Affairs is primarily concerned with administration of the Companies Act 2013, the Limited Liability Partnership Act, 2008, Competition Act & other allied Acts and rules & regulations framed there-under mainly for regulating the functioning of the corporate sector in accordance with law

Agencies of MCA	Agencies under MCA Supervision	Other Agencies
Registrar of Companies	*Competition Commission of India	Serious Fraud Investigating Office
Official Liquidators	The Institute of Chartered Accountants of India	National Financial Reporting Authority
Regional Directors	The Institute of Company Secretaries of India	Securities Exchange Board of India
Central Registration Centre	The Institute of Cost Accountants of India	The Reserve Bank Of India
		Central Board of Direct Taxes
		Central Board of Excise and Customs
		Income Tax Department
		State Commercial Tax Department
		Municipal Bodies/ Local Property tax Department

*affiliated office, as per the MCA website

Annexure I

List of documents

(1/5)

DSC

List of documents required for Digital Signature Certificate

- ▶ Address Proof
- ▶ Aadhaar card (not mandatory)
- ▶ PAN card
- ▶ Photo
- ▶ Email Id
- ▶ Phone Number

Note:

- PAN is mandatory for Indian
- Passport is mandatory for foreigner
- Documents to be notarized & apostilled for foreigners
- Video and mobile verification is mandatory.
- Only video verification is required for foreigners.

DIN

The DIR-3 form must contain a photo of the DIN applicant along with the details of the applicant and the following documents:

- ▶ In case of Indian nationals, Income-tax PAN is a mandatory requirement for proof of identity.
- ▶ Address proofs like passport, election (voter identity) card, and ration card, driving license, electricity bill, telephone bill or Aadhaar shall be attached and should be in the name of applicant only.
- ▶ In case of Indian applicant, documents should not be older than 2 months from the date of filing of the eForm.
- ▶ In case of foreign applicant, address proof should not be older than 1 year from the date of filing of the eForm.
- ▶ DIN for foreign nationals can be obtained by providing a copy of the foreign nationals passport that is notarised and [apostilled](#) and address proof (legalised) in accordance with the country requirements. The passport copy attached for the foreign national DIN applicant must contain the date of birth of the applicant. If passport does not include date of birth, then an additional proof containing date of birth must be submitted, duly certified or attested.
- ▶ It is mandatory to attach a copy of board resolution for appointment of director in an existing company

Annexure I

List of documents

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OPC

For name approval

- ▶ NOC from owner of trademark, if any
- ▶ NOC for use of similar name, if applicable
- ▶ In-principle approval from regulator, if applicable

For incorporation

- ▶ MoA and AoA
- ▶ Proof of registered office address - lease agreement, NOC from the owner and utility bill not older than 2 months
- ▶ Declaration/ consents by subscriber and Director(s)
- ▶ Interest of first director(s) in other entities
- ▶ Consent of nominee
- ▶ PAN undertaking in case Director(s) do not have PAN
- ▶ Proof of identity and address of the subscriber and the Directors(s)
- ▶ Proof of identity and address of the nominee
- ▶ Proof of identity and address of the witness to MoA and AoA (not required in case witness is a professional such as CA/ CS)

Private Limited Company

For name approval

- ▶ Board resolution from body corporate subscribers
- ▶ NOC from owner of trademark, if any
- ▶ NOC for use of similar name, if applicable
- ▶ In-principle approval from regulator, if applicable

For incorporation

- ▶ MoA and AoA
- ▶ Proof of registered office address - lease agreement, NOC from the owner and utility bill not older than 2 months
- ▶ Declaration/ consents by first subscriber and director(s)
- ▶ Interest of first Director(s) in other entities (even subscribers right)
- ▶ PAN undertaking in case subscribers (s) / Director(s) do not have PAN
- ▶ Proof of identity and address of the subscribers and the Directors
- ▶ Proof of identity and address of the witness to MoA and AoA (not required in case witness is a professional such as CA/ CS)

Limited Liability Partnership

For name approval

- ▶ Board resolution from body corporate partners
- ▶ NOC from owner of trademark, if any
- ▶ NOC for use of similar name, if applicable
- ▶ In-principle approval from regulator, if applicable

For incorporation

- ▶ Subscribers' sheet
- ▶ Proof of registered office address - lease agreement, NOC from the owner and utility bill not older than 2 months
- ▶ Declaration/ consents by partners and Designated partners
- ▶ Interest of partners and Designated partners in other entities
- ▶ PAN undertaking in case Designated partners do not have PAN
- ▶ Proof of identity and address of the partners and Designated partners
- ▶ Proof of identity and address of the witness to subscribers' sheet (not required in case witness is a professional such as CA/ CS)
- ▶ FEMA Declaration

Annexure I

List of documents

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BIS

- ▶ List of Products that mandatory require BIS license are :
 - ▶ Cement
 - ▶ Household electrical goods
 - ▶ Batteries
 - ▶ Food and related products
 - ▶ Oil pressure stoves
 - ▶ Automobile accessories
 - ▶ Cylinders, Valves and Regulators
 - ▶ Diesel engines
 - ▶ Medical Equipment's
 - ▶ Steel Products
 - ▶ Electrical Transformers
 - ▶ Electrical motors
 - ▶ Capacitors
 - ▶ Chemicals & Fertilizers
 - ▶ Kitchen appliances
 - ▶ Domestic water heaters for use of LPG
 - ▶ Electronics and IT goods
 - ▶ Solar Photovoltaics, systems, devices & components

Annexure I

List of documents

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FDI approval : Foreign Investment Facilitation Portal (FIFP)

List of documents required for filing application through FIFP:

- ▶ Certificate of Incorporation of the Investee & Investor Companies/Entities (Investee company may be a proposed entity and may not be incorporated)
- ▶ Memorandum of Association (MOA) of the Investee & Investor Companies/Entities
- ▶ Board Resolution of the Investee & Investor Companies/Entities
- ▶ Audited Financial Statement of Last Financial Year of the Investee & Investor Companies/Entities
- ▶ Article of Association of the Investee & Investor Companies/Entities
- ▶ List of Names and addresses of all foreign collaborators along with Passport Copy/ Identification Proof of the Investor Company/Entity
- ▶ Diagrammatic representation of the flow and funds from the original investor to the investee company and Pre and Post shareholding pattern of the Investee Company
- ▶ Affidavit stating that all information provided in hard copy and online are the same and correct
- ▶ Signed copy of the JV agreement/shareholders agreement/ technology transfer/trademark/brand assignment agreement (as applicable), in case there are existing ventures
- ▶ Board resolution of any joint venture company
- ▶ Certificates of Incorporation and charter documents of any joint venture/company which is a party to the proposed transaction
- ▶ Copy of Downstream Intimation
- ▶ Copy of relevant past FIPB/SIA/RBI approvals, connected with the current proposal (in case of amendment proposal)
- ▶ Foreign Inward Remittance Certificate (FIRC) in case investment has already come in and in case of post-facto approval
- ▶ In the cases of investments by entities which themselves are pooled investment funds, the details such as names and addresses of promoters, investment managers as Standard Operating Procedure for Processing FDI Proposals 9 well as all the contributors to the investment fund
- ▶ List of the downstream companies of the Indian company and the details of the equity held by the Indian Company along with the details of the activities of the companies
- ▶ High Court order in case of a scheme of arrangement
- ▶ Valuation certificate as approved by a Chartered Accountant
- ▶ Non-compete clause certificate of the investor and investee company in case of investment in pharmaceutical sector (As per Annexure 10 of Consolidated FDI Policy Circular of 2016), and as amended from time to time
- ▶ Certificate of statutory auditors as mandated in the FDI policy, as applicable

Annexure I

List of documents

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Additional information to be furnished by the Promoters along with relevant supporting documents for setting up Foreign Bank Branch in India (Annex II)

List of documents required for Existing Structure

- ▶ Information on the individual promoters behind the group
 - A. Self-declaration by the individual promoters as per Appendix
 - B. Detailed profiles on the background and experience of the individual promoters, his/their expertise, track record of business
- ▶ Information on entities in the promoter group :
 - A. Names and details of other entities in the promoter group as per Appendix II (if not covered in Appendix I).
 - B. Shareholding pattern of all the entities in the promoter group.
 - C. A pictorial organogram indicating the corporate structure of all the entities in the group indicating the shareholding and total assets of the entities.
 - D. Annual reports of the past five years of all the group entities.
- ▶ Information on the promoting / converting entity:
 - a. Declaration by the promoting / converting entity as per Appendix III.
 - b. Shareholding pattern of the promoting / converting entity.
 - c. Memorandum and Articles of Association and financial statements of the promoter entity for the past five years (including a tabulation of important financial indicators for the said years), board composition and representation of the Directors over a period of ten years, income tax returns for last three years, C.A certificate indicating source of funds for promoting / converting entity

List of documents required for Proposed Structure

- ▶ The applicants should furnish detailed information about the persons/entities, who would subscribe to 5 per cent or more of the paid up equity capital (shareholding pattern) of the proposed bank, including foreign equity participation in the proposed bank and the sources of capital of the proposed investors.
- ▶ The proposed promoter shareholding and plan for dilution of promoter shareholding in compliance with the guidelines.
- ▶ Proposed management of the bank, if finalized

Project Report

- ▶ A project report⁹ covering business potential and viability of the proposed bank, any other financial services proposed to be offered, plan for compliance with prudential norms on CRR/SLR¹⁰, composition of loan portfolio, priority sector, etc. as per the guidelines, and any other information that they consider relevant.
- ▶ The project report should give as much concrete details as feasible, based on adequate ground level information and avoid unrealistic or unduly ambitious projections. The business plan should address how the bank proposes to achieve financial inclusion and in the case of an NBFC applicant, how the existing lending business will fold into the bank or divested / disposed of

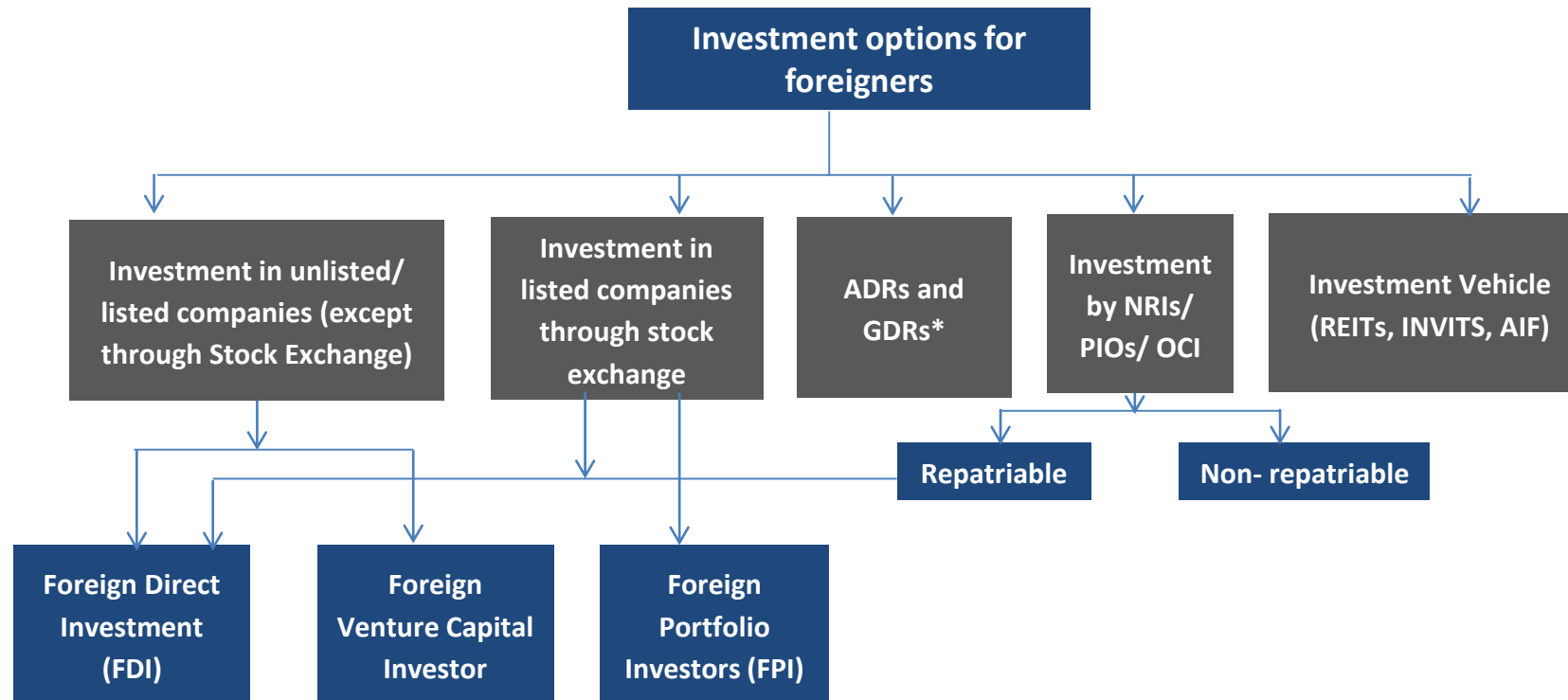
Annexure I

Notes

1. ID and Address proof for Indian nationals (individuals) as subscriber/ director are as follows:
 - ▶ PAN (mandatory)
 - ▶ Any one of Passport/ Voter Identity Card/ Driving License
 - ▶ Utility bill (not older than 2 months) - Bank statement/ Telephone bill/ Mobile bill/ Electricity Bill
2. ID and Address proof for foreign nationals (individuals) as subscriber/ director are as follows:
 - ▶ Passport (mandatory)
 - ▶ Utility bill (not older than 2 months) - Bank statement/ Telephone bill/ Mobile bill/ Electricity Bill
3. ID and address proof for body corporate subscribers are as follows:
 - ▶ Certificate of Incorporation
 - ▶ Registered office address proof (in case Certificate of Incorporation does not contain the address)
4. All documents signed outside India are required to be notarised and apostilled
5. In case a proposed Director/ subscriber already has a DIN and the KYC is up to date, the ID and address proofs are not required to be attached (provided a declaration is given to this effect)

Annexure II

Investment options for foreigners



Note: An investor can participate in Indian economy by either commencing business in India (forms explained earlier) via, say the FDI route as outlined above or can invest in the financial markets via a host of available financial instruments. A few of these have been enumerated in the previous slides. In particular, FDI has been explained in detail in Section 2 of this document.

Annexure III

Please connect, in case of any queries

INVEST INDIA (Investment Facilitation Cell)

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Maulana Azad Road,
New Delhi 110011
Tel: +91-11-23048155
Email: contact@investindia.org.in
Website: www.investindia.gov.in

FDI Approval related queries

Address: Foreign Investment Facilitation Section DPIIT
Udyog Bhawan, New Delhi-110001, India
Email: fifp-dipphelpdesk@gov.in
FIFP Status-Enquiry link :
<http://www.fifp.gov.in/Authenticate/Login.aspx>

MCA related queries

MCA online service related link:
<http://www.mca.gov.in/mcafoportal/userComplaintDetails.do>

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