Doing Business in India
Investors Guide 2019-20

India - Ease of Doing Business Ranking 2019

- Getting electricity: 24
- Resolving insolvency: 108
- Enforcing contracts: 163
- Dealing with construction permit: 52
- Trading across borders: 80
- Starting a business: 80.96

Showed steady improvement during 2015-2018
Showed maximum improvement in FY18 as compared with FY17

- 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
Entering India

Select sector

Select state

Starting a company/Registration process

Processes/compliances

Taxation

Winding up business
100% FDI allowed under Automatic/Govt. route

100% FDI allowed under Government route

Up to 100% FDI allowed under Automatic/Government route
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
Foreign Direct Investment (FDI) in India

Category 1: 100% FDI permitted through Automatic route*

- 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)********
- Agricultural & Plantation
- Civil Aviation
- Mining & Exploration
- Single Brand Retail
- Railway Infrastructure
- Construction Development
- Transport Services
- Civil Aviation
- Cash & Carry Wholesale
- Broadcasting Services
- Other Services
- Exploration of Petroleum
- Asset Reconstruction
- Market Place E-commerce
- Up-link of TV Channels
- Other Financial Services
- Agriculture & Animal Husbandry
- Plantation
- Mining & Exploration
- Coal & Lignite mining
- Single Brand Retail
- Railway Infrastructure
- Construction Development
- Transport Services
- Civil Aviation
- Cash & Carry Wholesale
- Broadcasting Services
- Other Services
- Exploration of Petroleum
- Asset Reconstruction
- Market Place E-commerce
- Up-link of TV Channels
- Other Financial Services

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) Horticulture, 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, Agriculture; 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, 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

- 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
- 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

<table>
<thead>
<tr>
<th>Industry</th>
<th>Up to</th>
<th>Automatic route</th>
<th>Above</th>
<th>Government route</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecom Services*</td>
<td>49%</td>
<td>49%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Defence industry</td>
<td>49%</td>
<td>49%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pharmaceutical - Brownfield</td>
<td>74%</td>
<td>74%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Air Transport Services **</td>
<td>49%</td>
<td>49%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Banking – Private Sector</td>
<td>49%</td>
<td>49%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private Security Agencies ***</td>
<td>49%</td>
<td>49%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

* All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, United 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

<table>
<thead>
<tr>
<th>Sector</th>
<th>Automatic Route</th>
<th>Government Route</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance*</td>
<td>49%</td>
<td>49%</td>
</tr>
<tr>
<td>Petroleum Refining by PSUs**</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Infrastructure Companies in Securities Markets</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Power Exchanges</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Pension Sector</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Up-linking of ‘News &amp; Current Affairs’ TV Channels</td>
<td>49%</td>
<td>49%</td>
</tr>
<tr>
<td>Terrestrial Broadcasting FM (FM Radio)</td>
<td>49%</td>
<td>49%</td>
</tr>
<tr>
<td>Multi-Brand Retail Trading ***</td>
<td>51%</td>
<td></td>
</tr>
<tr>
<td>Banking Public Sector</td>
<td>20%</td>
<td></td>
</tr>
<tr>
<td>Print Media-Publishing ****</td>
<td>26%</td>
<td>26%</td>
</tr>
<tr>
<td>Digital Media*****</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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)*

**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

<table>
<thead>
<tr>
<th>Sector</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lottery Business including Government/private lottery, online lotteries, etc.*</td>
<td>*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</td>
</tr>
<tr>
<td>Gambling and Betting including casinos*</td>
<td></td>
</tr>
<tr>
<td>Chit funds</td>
<td></td>
</tr>
<tr>
<td>Nidhi company</td>
<td></td>
</tr>
<tr>
<td>Trading in Transferable Development Rights (TDR)</td>
<td>**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</td>
</tr>
<tr>
<td>Real Estate Business or Construction of farm houses**</td>
<td></td>
</tr>
<tr>
<td>Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes</td>
<td></td>
</tr>
<tr>
<td>Sectors not open to private sector investment- atomic energy, railway operations (other than permitted activities mentioned under the Consolidated FDI policy)</td>
<td></td>
</tr>
</tbody>
</table>

**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

- 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

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**: 60 Days
- **Allotment of Shares**: 30 Days
- **Form FC-GPR (SMF)**

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
- FIR/C Debit statement
- Board Resolution
- Relevant RBI and/or Government approval (as applicable)

*Form FC-GPR (SMF – online reporting on FIRM portal [https://firms.rbi.org.in/])**

Click [here](https://firms.rbi.org.in/) 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)**

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

Step 1
- Issue of shares

Step 2
- Transfer of capital instruments

Step 3
- Conversion into equity

Step 4
- Repatriation for dividend and interest

Step 5
- Remittance of assets

Click each box to know more
### Foreign Direct Investment (FDI) in India
 Guidance on Issue, Transfer, Conversion & Remittance of Shares (1/3)

<table>
<thead>
<tr>
<th>Step 1: Issue of shares</th>
<th>Step 2a: Transfer of Capital instrument</th>
<th>Step 2b: Transfer of Capital instrument</th>
</tr>
</thead>
<tbody>
<tr>
<td>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*</td>
<td>Permission granted to non-residents / NRIs for acquisition of Capital instrument by way of transfer in the following</td>
<td>Resident to non-resident- Transfer of capital instruments by way of gift- prior RBI approval required</td>
</tr>
<tr>
<td>In case of Listed Indian company, not less than price worked out in accordance with SEBI guidelines</td>
<td>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.</td>
<td>In respect of transfer of capital instruments between resident and non-resident, an amount not exceeding 25% of the total consideration:</td>
</tr>
<tr>
<td>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</td>
<td>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</td>
<td>Can be paid by buyer on a deferred basis within a period not exceeding 18 months from the date of transfer agreement; or</td>
</tr>
<tr>
<td>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</td>
<td>*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.</td>
<td>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</td>
</tr>
<tr>
<td>* 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</td>
<td>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.</td>
<td>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.</td>
</tr>
</tbody>
</table>
| 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. | 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 | }
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.

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.

Note:
An NRI is allowed to repatriate only up to 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.

Source: RBI, as accessed on 16 January 2019
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)

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

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)

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Private</th>
<th>Public</th>
<th>OPC (one person Company)</th>
<th>LLP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commencement of Business/Operations</td>
<td>Declaration to be filed prior to commencement</td>
<td>Declaration to be filed prior to commencement</td>
<td>Declaration to be filed prior to commencement</td>
<td>Immediately after obtaining certificate of incorporation</td>
</tr>
<tr>
<td>Legal Status</td>
<td>Pvt Co is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act</td>
<td>Public Co is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act</td>
<td>OPC is a separate legal entity registered under Companies Act, 2013. The Directors are liable for defaults made under the act</td>
<td>LLP is a separate legal entity registered under LLP Act, 2008. The Designated partners of LLP are liable for contraventions under the act</td>
</tr>
<tr>
<td>Annual Statutory Filings</td>
<td>Annual statement of accounts &amp; annual return with ROC</td>
<td>Annual statement of accounts &amp; annual return with ROC</td>
<td>Annual statement of accounts &amp; annual return with ROC</td>
<td>Annual statement of solvency &amp; annual return with ROC</td>
</tr>
<tr>
<td>Annual Filings &amp; Audit</td>
<td>IT return to be filed. Audit mandatory</td>
<td>IT return to be filed. Audit mandatory</td>
<td>IT return to be filed. Audit mandatory</td>
<td>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</td>
</tr>
</tbody>
</table>
# Setting up business in India

## Investment opportunities in sectors

<table>
<thead>
<tr>
<th>Sector</th>
<th>Description</th>
<th>Key Figures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auto Components</td>
<td>Auto Components industry turnover to reach ₹380 bn by 2025</td>
<td>2.3% 3 mn Share Index S&amp;P</td>
</tr>
<tr>
<td>Automobile</td>
<td>India becomes the world's 4th largest vehicle market by 2025</td>
<td>7.5% 19 mn Share in India</td>
</tr>
<tr>
<td>Aviation</td>
<td>India is the 3rd largest air travel market in terms of domestic passenger traffic</td>
<td>11.0% 14.4% Domestic airport growth</td>
</tr>
<tr>
<td>BF SI - Fintech &amp; Financial Services</td>
<td>India has the second-largest FinTech ecosystem globally by value</td>
<td>₹2.4 bn Investment in firms (2014-15)</td>
</tr>
<tr>
<td>Biotechnology</td>
<td>India has the 3rd largest biotechnology destination in the Asia Pacific Region</td>
<td>150 57% Tax deduction on R&amp;D expenditure</td>
</tr>
<tr>
<td>Capital Goods</td>
<td>Capital goods constitute 12% to the overall manufacturing in India</td>
<td>12% 55 22% ($5.5 bn)</td>
</tr>
<tr>
<td>Chemicals</td>
<td>India is one of the largest producer of chemicals in Asia by volume</td>
<td>16% 10.3% Chemical products exports share</td>
</tr>
<tr>
<td>Construction</td>
<td>India’s smart cities by 2023</td>
<td>9% 4.8% Infrastructure investments (2019-20)</td>
</tr>
<tr>
<td>Defence Manufacturing</td>
<td>India has the 5th largest defence budget in the world</td>
<td>2.3% 2.1 bn 309 mn</td>
</tr>
<tr>
<td>Electronic Systems</td>
<td>India is one of the largest consumer electronics producers in Asia Pacific Region</td>
<td>26% 185 mn 17%</td>
</tr>
<tr>
<td>Food Processing</td>
<td>World's largest millet producing nation</td>
<td>32% 11.6% Milk in total employment</td>
</tr>
<tr>
<td>Gems &amp; Jewellery</td>
<td>India is the global leader in diamond polishing, with 95% market share</td>
<td>4.5 mm 13%</td>
</tr>
<tr>
<td>Healthcare</td>
<td>Healthcare industry in India is projected to reach ₹ 7.2 trillion by 2022</td>
<td>₹110 mn 6% Share in global arms region</td>
</tr>
<tr>
<td>IT &amp; BPM</td>
<td>India is the world's largest BPM destination</td>
<td>8% 56% 19% 45%</td>
</tr>
<tr>
<td>Leather</td>
<td>India is the world's 2nd largest footwear producer</td>
<td>2.8 mn 519 mn 874 mn</td>
</tr>
<tr>
<td>Media</td>
<td>India has 3rd largest media and entertainment market in the world</td>
<td>11.8% 44.2% 38.1% 24%</td>
</tr>
<tr>
<td>Medical Devices</td>
<td>India is the 4th largest market for medical devices in Asia</td>
<td>74% 15.8% 800 250+</td>
</tr>
<tr>
<td>Metals &amp; Mining</td>
<td>Second largest producer of steel globally</td>
<td>₹13.83 bn 17%</td>
</tr>
<tr>
<td>Oil &amp; Gas</td>
<td>India is the 2nd largest refining in Asia</td>
<td>7.4% 3.3% 2.3% 4.9%</td>
</tr>
</tbody>
</table>

*Click for FDI limits*

*Click here for more sectors*
## Setting up business in India

### Investment opportunities in states

<table>
<thead>
<tr>
<th>State</th>
<th>Highest number of operational ports and commercial cargo ports</th>
<th>Check State single window clearance portals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>$1,25.8 bn GDB (2011-12)</td>
<td>Click here for more states</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>$44.6 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Gujarat</td>
<td>$137.6 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Jharkhand</td>
<td>$39.6 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Karnataka</td>
<td>$216 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>$115.7 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Maharashtra</td>
<td>$287.4 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Punjab</td>
<td>$74.1 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Rajasthan</td>
<td>$132.2 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>$229.7 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Telangana</td>
<td>$121.4 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>West Bengal</td>
<td>$157 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Odisha</td>
<td>$63.9 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Kerala</td>
<td>$92 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Haryana</td>
<td>$93 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Chhindwada</td>
<td>$4.8 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Assam</td>
<td>$37.9 bn GDB (2011-12)</td>
<td></td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>$3.6 bn GDB (2011-12)</td>
<td></td>
</tr>
</tbody>
</table>

### Investment opportunities

- **Andhra Pradesh**: Worlds 1st planned city
- **Chhattisgarh**: 3rd largest mineral producing state
- **Gujarat**: Highest number of operational ports and commercial cargo ports
- **Jharkhand**: Worlds 1st ease of doing business
- **Karnataka**: Worlds 1st largest technology cluster in Bengaluru
- **Madhya Pradesh**: Largest producer of copper and diamonds in India
- **Maharashtra**: World’s 2nd highest GDP in India
- **Punjab**: Worlds 2nd in production of cane sugar in India
- **Rajasthan**: 2nd largest mineral producing state
- **Tamil Nadu**: State with the 2nd highest GDP in India
- **Telangana**: Worlds 1st ease of doing business in India
- **Uttar Pradesh**: Largest producer of foodgrains in India
- **West Bengal**: Largest exporter of blessed leather goods
- **Odisha**: Largest mineral producing state
- **Kerala**: Largest producer of rubber in India
- **Haryana**: Worlds 1st ease of doing business in India

### Key Metrics

- **GDP per capita**: Indicates the average income per person in the state.
- **Investment opportunities**: Reflects the potential for business growth and investment within each state.
- **Check State single window clearance portals**: Provides access to single window clearance portals for each state, facilitating easier business setup.
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**:

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)](https://rbi.org.in/)

### Registration process

- **Foreign Company**
  - **Liaison Office**: To represent parent company in India
  - **Branch Office**: To undertake activities such as Export, Import of goods; research, consultancy etc.
  - **Project Office**: Activities as per contract to execute project

- **Indian Company**
  - **Joint Venture**: OR
  - **Wholly Owned Subsidiary**: OR

- **Limited Liability Partnership**: Subject to provisions of LLP Act, 2008
  - FDI permitted under automatic route in LLPs operating in sectors/activities where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance conditions.

Click each to know more
Setting up business in India

Incorporation of Company: Overview

1. Check availability of name / registered trademark for incorporation of company
2. Reserve name of the proposed company through online service RUN on MCA website. Name can also be applied through SPICE.
3. 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.
4. 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.
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. SPICEe & 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 (CoI). 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.
Incorporation as an LLP: Overview

Incorporation of Limited Liability Partnership (LLP) and Foreign LLP (FLLP)

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 30 days 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. **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.

### 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.
Setting up business in India

Foreign company incorporation process - LO/BO/PO

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.
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.

Note: For more information on Foreign companies regulations as per companies act, refer chapter XXII - http://www.mca.gov.in/MCASearch/search_table.html (Sec 379 –sec 393)
Foreign Bank Licensing of New Banks in the Private Sector & “On Tap” licensing for new banks in Private sector

• Eligible Promoters:
  i. 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.
  ii. 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
  iii. 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.


Setting up business in India

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

<table>
<thead>
<tr>
<th>Foreign Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licensing of New Banks in the Private Sector &amp; “On Tap” licensing for new banks in Private sector</td>
</tr>
</tbody>
</table>

**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**

<table>
<thead>
<tr>
<th>Foreign Company</th>
<th>Branch Office (BO)</th>
<th>Liaison Office (LO)</th>
<th>Project Office (PO)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Permitted activities</strong></td>
<td>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.</td>
<td>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.</td>
<td>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.</td>
</tr>
</tbody>
</table>

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:

- 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
## Setting up business in India

### As a foreign company incorporation - LO/BO/PO

<table>
<thead>
<tr>
<th>Foreign Company</th>
<th>Branch Office (BO)</th>
<th>Liaison Office (LO)</th>
<th>Project Office (PO)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Eligibility</strong></td>
<td>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</td>
<td>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.</td>
<td>Does not apply</td>
</tr>
<tr>
<td><strong>Validity</strong></td>
<td>Does not apply</td>
<td>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</td>
<td>As per the tenure of the project</td>
</tr>
<tr>
<td><strong>Remittance</strong></td>
<td>Permitted to remit profits net of applicable taxes and on submission of requisite documents</td>
<td>Does not apply</td>
<td>Intermittent remittances by companies pending winding up permitted s.t. satisfaction of AD Category 1 bank</td>
</tr>
</tbody>
</table>

### 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

<table>
<thead>
<tr>
<th>Setting up legal existence</th>
<th>Starting/registering a unit</th>
<th>Pre-commissioning phase</th>
<th>Post-commissioning phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>► Obtain Director Identification Number (DIN)</td>
<td>► Registering / categorization of unit in State</td>
<td>► Acquisition of Land</td>
<td>► Consent to operate</td>
</tr>
<tr>
<td>► Digital Signature Certificate (DSC) for proposed Directors</td>
<td>► Approval for State Incentives (Optional)</td>
<td>► Environment, Forest and Wildlife Clearance</td>
<td>► Building Completion certificate</td>
</tr>
<tr>
<td>► Approval for proposed Company/ LLP Name</td>
<td>► IEM/ EM Registration</td>
<td>► Permission for Land Use</td>
<td>► Final Fire Approval</td>
</tr>
<tr>
<td>► Finalization of supporting documents</td>
<td>► MSME Registration</td>
<td>► Pollution Board</td>
<td>► Water Connection</td>
</tr>
<tr>
<td>► Filing of e-forms with CRC</td>
<td>► Consent to establish</td>
<td>► Industrial License</td>
<td>► Power</td>
</tr>
<tr>
<td>► Verification of documents</td>
<td>► Factory Layout Plan Approval</td>
<td>► Consent to Establish</td>
<td>► Authorization for hazardous waste</td>
</tr>
<tr>
<td>► Consent to establish &amp; operate</td>
<td>► Registration of Boilers</td>
<td>► Environment, Forest and Wildlife Clearance</td>
<td>► Professional Tax Registration</td>
</tr>
<tr>
<td>► Obtain Permanent Account Number (PAN)</td>
<td>► Building Plan Approval</td>
<td>► Pollution Board</td>
<td>► Central Excise Registration</td>
</tr>
<tr>
<td>► Registration for Tax Account Number (TAN)</td>
<td>► Registration under Contract Labour Act 1970</td>
<td>► Industrial License</td>
<td>► Shops &amp; Establishment Act</td>
</tr>
<tr>
<td>► Registration of GST</td>
<td>► Registration under BOCW Act</td>
<td>► Consent to Establish</td>
<td>► Employee Registration with ESIC</td>
</tr>
</tbody>
</table>

## Back
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. Incase 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)

<table>
<thead>
<tr>
<th>Finalization of supporting documents</th>
<th>Filing of e-forms with CRC</th>
<th>Verification of documents</th>
<th>Certificate of incorporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing of electronic Memorandum of Association (eMoA- INC 33) &amp; Articles of Association (eAoA- INC 34)</td>
<td><strong>SPICE</strong> is duly filled and submitted to CRC for incorporation of a company</td>
<td>After payment of all fees &amp; stamp duties, CRC scrutinizes all forms and may suggest changes in forms and/or attachments</td>
<td>Issue of Certificate of Incorporation by CRC- Once all the Forms are duly approved by CRC, the digitally signed “Certificate of Incorporation” is issued.</td>
</tr>
<tr>
<td>Payment of stamp duty/ filing fees.</td>
<td>MCA Form <strong>FILLIP</strong> for LLP would be required.</td>
<td>Form 27 is required for Foreign LLP (FLLP).</td>
<td>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.</td>
</tr>
<tr>
<td>Incase of foreign subscribers physical MOA and AOA is to be filled in</td>
<td></td>
<td></td>
<td>Once the Incorporation Certificate is received, LLP can start it’s operations.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>
PAN number shall be allotted based on the information filled in Form SPICe at the time of incorporation of a company.

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.

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 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:

<table>
<thead>
<tr>
<th>Enterprise</th>
<th>Manufacturing sector</th>
<th>Service sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>Does not exceed 25 lakhs</td>
<td>Does not exceed 10 lakhs</td>
</tr>
<tr>
<td>Small</td>
<td>More than 25 lakhs but does not exceed 5 crores</td>
<td>More than 10 lakhs but does not exceed 2 crores</td>
</tr>
<tr>
<td>Medium</td>
<td>More than 5 crores but does not exceed 10 crores</td>
<td>More than 2 crores but does not exceed 5 crores</td>
</tr>
</tbody>
</table>

**Guidelines**

MSME can be registered by filling the [Udyog Aadhaar Memorandum (UAM)](link). 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)

<table>
<thead>
<tr>
<th>Acquisition of Land</th>
<th>Environment, Forest and Wildlife Clearance</th>
<th>Permission for Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application to respective State DI/ State Industrial Development Corporation (SIDC)/ Infrastructure Corporation/ Small Scale Industrial Development Corporation (SSIDC)</td>
<td>Application for environment clearance (EC) need to be made at the <a href="#">online platform</a> 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</td>
<td>Applicable in case the industry is located outside an industrial area</td>
</tr>
</tbody>
</table>

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 |

Concerned departments:
- State Directorate of Industries (DI)
- Department of Town and Country Planning
- Local authority/ District Collector
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 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.

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.

Form IL
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.
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.
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)

<table>
<thead>
<tr>
<th>Consent to operate</th>
<th>Building Completion certificate</th>
<th>Final Fire Approval</th>
<th>Water Connection</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>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.</td>
<td>Final Fire approval needs to be taken by local state authority</td>
<td>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.</td>
</tr>
</tbody>
</table>
Setting up business in India

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

<table>
<thead>
<tr>
<th>Power</th>
<th>Authorization for hazardous waste</th>
<th>Professional Tax Registration</th>
<th>Central Excise Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>Application to State Pollution Control Boards for Collection/ Reception/ Treatment/ Transport/ Storage and Disposal of Hazardous waste</td>
<td>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.</td>
<td>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</td>
</tr>
</tbody>
</table>

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.
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](#).
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.
## Taxability in India

### Applicable taxation for business establishments

<table>
<thead>
<tr>
<th>Taxation Overview in India</th>
</tr>
</thead>
<tbody>
<tr>
<td>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 &amp; 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.</td>
</tr>
</tbody>
</table>

**Key Features of India’s taxation System:** Taxes in India are levied by the [Central Government](https://www.investindia.gov.in/taxation) and the [State Governments](https://www.investindia.gov.in/taxation). Some minor taxes are also levied by the local authorities such as the Municipality and Local Government.

<table>
<thead>
<tr>
<th>Major Central Taxes</th>
<th>Major State Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Tax</td>
<td>State Goods &amp; Services Tax (SGST)</td>
</tr>
<tr>
<td>Central Goods &amp; Services Tax (CGST)</td>
<td>Stamp Duty &amp; Registration</td>
</tr>
<tr>
<td>Integrated GST (IGST)</td>
<td></td>
</tr>
<tr>
<td>Custom Duty</td>
<td></td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Direct Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual residential status &amp; taxability</td>
</tr>
<tr>
<td>Taxation rates for individuals</td>
</tr>
</tbody>
</table>

| Corporate residential status & taxability |
| Taxation rates for corporates |

**Note:** For detailed information, please refer to Taxation in India page ([https://www.investindia.gov.in/taxation](https://www.investindia.gov.in/taxation))
Direct Tax

Individual Residential Status & Taxability in India

START

Primary Conditions to check whether NR or Resident

- In India > or = 182 days in financial year (1 April to 31 March)
  - Yes → Resident
  - No → In India > or + 60 days in the financial year and > or =365 preceding 4 FYs

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

- NR in India in 9 out of 10 preceding FYs
  - Yes → In India for < or + 729 days in preceding 7 years
  - No → Not Resident

Income Taxable?

<table>
<thead>
<tr>
<th>Condition</th>
<th>NR (Not Resident)</th>
<th>RNOR (Resident but not ordinarily Resident)</th>
<th>ROR (Resident &amp; ordinarily Resident)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indian income</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Foreign income</td>
<td>No</td>
<td>Yes (Business in India)</td>
<td>No (Business controlled outside India)</td>
</tr>
</tbody>
</table>
## Direct Tax

### Taxation rates for individuals

<table>
<thead>
<tr>
<th>Tax Rate</th>
<th>Income (INR)</th>
<th>Income (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
<td>Up to INR 250,000</td>
<td>Up to $ 3,472.22</td>
</tr>
<tr>
<td>5%</td>
<td>INR 250,001 - INR 500,000</td>
<td>$ 3,472.23 - $6,944.44</td>
</tr>
<tr>
<td>20%</td>
<td>INR 500,001 - INR 1,000,000</td>
<td>$ 6944.458 - $ 13,888.89</td>
</tr>
<tr>
<td>30%</td>
<td>Above INR 1,000,000</td>
<td>Above $ 13,888.90</td>
</tr>
</tbody>
</table>

### 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?**

<table>
<thead>
<tr>
<th>Domestic Company</th>
<th>Global Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Company</td>
<td>Income earned within India (Being accrued or received in India)</td>
</tr>
</tbody>
</table>
## Direct Tax

### Taxation rates for Corporates

#### Domestic Company

<table>
<thead>
<tr>
<th>Nature</th>
<th>*Effective Tax Rates w/o option</th>
<th>#Option for reduced tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total turnover or gross receipts &lt; INR 4 b during FY 2017-18 or new manufacturing companies incorporated between 1/3/16 and 30/09/19</td>
<td>25% (26% ETR) 25% (27.82% ETR) 25% (29.12% ETR)</td>
<td>22% (25.17% ETR)</td>
</tr>
<tr>
<td>• Income &lt; INR 10 Mn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income &gt; INR 10 Mn but &lt; INR 100 mn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income &lt; INR 100 Mn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Optional tax rate for new manufacturing companies incorporated on or after 1/10/19</td>
<td>-same as above-</td>
<td>15% (17.16% ETR)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nature</th>
<th>*Effective Tax Rates w/o option</th>
<th>#Option for reduced tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Domestic Company</td>
<td>30% (31.2% ETR) 30% (33.38% ETR) 30% (34.94% ETR)</td>
<td>22% (25.17% ETR)</td>
</tr>
<tr>
<td>• Income &lt; INR 10 Mn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income &gt; INR 10 Mn but &lt; INR 100 mn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Income &lt; INR 100 Mn</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* 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) 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.

### Old Regime

- Custom Duty
  - Central Excise Duty (CENVAT)
  - Additional Excise Duties and the Excise Duty levied under the Medicinal and Toiletries Preparations Act, 1955
  - Service Tax
  - Additional Customs Duty (CVD)
  - Special Additional Duty of Customs (SAD)
  - Surcharges and Cesses levied by the Centre
  - Central Sales Tax

### GST Regime*

- Custom duty
  - Central GST
  - Integrated GST
  - State GST/ Union Territory GST

### Old Regime vs GST Regime

- **Central Taxes**: Old Regime includes Central Excise Duty (CENVAT), Additional Excise Duties and the Excise Duty levied under the Medicinal and Toiletries Preparations Act, 1955, Service Tax, Additional Customs Duty (CVD), Special Additional Duty of Customs (SAD), Surcharges and Cesses levied by the Centre, and Central Sales Tax. In the GST Regime, these taxes are replaced by a single tax, the GST, which is a comprehensive, multi stage tax levied by both the Centre and State.

- **State Taxes**: Old Regime includes VAT/ sales tax, Octroi and Entry Tax, Purchase Tax, Luxury tax, Taxes on lottery, gambling and betting, Entertainment tax (unless levied by the local bodies), Surcharges & State Cesses (related to the supply of goods and services). In the GST Regime, these taxes are also replaced by the GST.

*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)

1. Prepare declaration of solvency and hold board meeting
2. Obtain shareholders, creditors approval & appoint liquidator
3. Public notice inviting claims
4. Intimate Statutory authorities and banker
5. Submit preliminary report on verification of claims by liquidator
6. Realise assets, discharge liabilities and repatriate funds if any
7. Filing application for winding up
8. NCLT to pass dissolution order

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

- LLP: Section 63, 64 and 65 of LLP Act 2008: [http://www.mca.gov.in/MinistryV2/llpact.html](http://www.mca.gov.in/MinistryV2/llpact.html)
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 :

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

**Governing Bodies for business establishment**

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:

<table>
<thead>
<tr>
<th>S. No</th>
<th>Sector/ activity</th>
<th>Administrative Ministry/ Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mining</td>
<td>Ministry of Mines</td>
</tr>
<tr>
<td>2</td>
<td>Defence – items requiring license under the industries(Development &amp; Regulation) act 1951 and/or arms act 1959</td>
<td>Department of Defence Production, Ministry of Defence</td>
</tr>
<tr>
<td>2 (b)</td>
<td>Cases relating to FDI in small arms.</td>
<td>Ministry of Home Affairs</td>
</tr>
<tr>
<td>3</td>
<td>Broadcasting</td>
<td>Ministry of Information and Broadcasting</td>
</tr>
<tr>
<td>4</td>
<td>Print Media</td>
<td>Ministry of Information and Broadcasting</td>
</tr>
<tr>
<td>5</td>
<td>Civil Aviation</td>
<td>Ministry of Civil Aviation</td>
</tr>
<tr>
<td>6</td>
<td>Satellites</td>
<td>Department of Space</td>
</tr>
<tr>
<td>7</td>
<td>Telecom</td>
<td>Department of Telecommunications</td>
</tr>
<tr>
<td>8</td>
<td>Private Security Agencies</td>
<td>Ministry of Home Affairs</td>
</tr>
<tr>
<td>9</td>
<td>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</td>
<td>Ministry of Home Affairs</td>
</tr>
<tr>
<td>10</td>
<td>Single Brand Product Retail Trading</td>
<td>DPIIT</td>
</tr>
<tr>
<td>11</td>
<td>FDI proposals by Non-Resident Indians (NRIs)/ Export Oriented Units requiring approval of the Government</td>
<td>DPIIT</td>
</tr>
<tr>
<td>12</td>
<td>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. <strong>conditions</strong></td>
<td>DPIIT</td>
</tr>
</tbody>
</table>
## Institutional framework

### Governing Bodies for business establishment (2/3)

<table>
<thead>
<tr>
<th>S. No</th>
<th>Sector/ activity</th>
<th>Administrative Ministry/ Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>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</td>
<td>Department of Economic Affairs</td>
</tr>
<tr>
<td>14</td>
<td>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.</td>
<td>Department of Economic Affairs</td>
</tr>
<tr>
<td>15</td>
<td>Banking (Public and Private)</td>
<td>Department of Financial Services</td>
</tr>
<tr>
<td>16</td>
<td>Pharmaceuticals</td>
<td>Department of Pharmaceuticals</td>
</tr>
</tbody>
</table>

### 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](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.

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

*affiliated office, as per the MCA website
## Annexure I

### List of documents (1/5)

<table>
<thead>
<tr>
<th>DSC</th>
<th>DIN</th>
</tr>
</thead>
</table>
| List of documents required for Digital Signature Certificate  
- Address Proof  
- Aadhaar card (not mandatory)  
- PAN card  
- Photo  
- Email Id  
- Phone Number | 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 |

Note:  
1. PAN is mandatory for Indian  
2. Passport is mandatory for foreigner  
3. Documents to be notarized & apostilled for foreigners  
4. Video and mobile verification is mandatory.  
5. Only video verification is required for foreigners.
### Annexure I

#### List of documents

<table>
<thead>
<tr>
<th>OPC</th>
<th>Private Limited Company</th>
<th>Limited Liability Partnership</th>
</tr>
</thead>
</table>
| **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 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 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**  
- 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) | **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) | **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 |

*Click here for notes*
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 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

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 report 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/SLR, 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

List of documents (5/5)
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)
Investment options for foreigners

- Investment in unlisted/listed companies (except through Stock Exchange)
- Investment in listed companies through stock exchange
- ADRs and GDRs*
- Investment by NRIs/PIOs/OCI
- Investment Vehicle (REITs, INVITS, AIF)

**Investment by NRIs/PIOs/OCI**
- Repatriable
- Non-repatriable

**Foreign Direct Investment (FDI)**

**Foreign Venture Capital Investor**

**Foreign Portfolio Investors (FPI)**

**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)

Vigyan Bhavan, Annexe,
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
Disclaimer

We make no claims, promises, assurances, or guarantees about the accuracy, completeness, or adequacy of any information contained in this document. Nothing contained on this website should be construed to constitute a recommendation, endorsement or views of the Government. Since the policy evolves and is amended regularly, the user is advised to ascertain the position as per the Policy and other extant law and regulations at the relevant time. In case of any dispute, the position as per extant law and policy, as amended from time to time shall only be valid.

Invest India, its management, directors, employees or staff, shall not be held responsible or held liable for any information contained in the response/clarification or any action/consequence arising out of any contrary view(s) taken by any other party or statutory authority qua this document.