FOREIGN DIRECT INVESTMENT

SECTOR OVERVIEW

In the recent times, there has been surge in investments in India, both domestic and foreign. The Government of India has constantly encouraged Private Sector Investments in diverse sectors to boost the economy. Recent Government Policies and measures have enhanced transparency and simplified compliances for Ease of Doing Business in India.

Investments can be done either through Automatic Route, where no Government permission is required; or through Government Route, where applications are processed through Foreign Investment Facilitation Portal (FIFP), which is an online single point interface of the Government of India for investors to facilitate Foreign Direct Investment (FDI) in India.

The Government has recently made numerous efforts, including easing FDI regulations in various industries. The top 5 sectors receiving highest FDI Equity Inflow during FY 2021-22 are Computer Software and Hardware (24.60%), Services Sector (Fin., Banking, Insurance, Outsourcing, Courier, Tech Testing and Analysis and Others) (12.13%), Automobile Industry (11.89%), Trading (7.72%) and Construction (Infrastructure) Activities (5.52%).

MARKET SIZE

- The total FDI inflow into India (including Equity Inflow, Re-Invested Earnings and other Capital) from October 2022 to December 2022 has been reported as **USD 15,980.00 Million**
- The total FDI Equity Inflow from October 2022 - December 2022 has been reported as **USD 9,836.00 Million**.

FDI STATISTICS

The Department for Promotion of Industry and Internal Trade (**DPIIT**), Ministry of Commerce and Industry, Government of India has published the FDI Statistics up to December, 2022 as follows:

- ✓ The top 5 (five) investing countries in terms of their share in FDI Equity Flow are (1) Mauritius (**26%**), (2) Singapore (**23%**), (3) U.S.A. (**9%**), (4) Netherlands (**7%**) and (5) Japan (**6%**).
- ✓ The top 5 (five) Sectors receiving the highest FDI Equity Flow are (1) Services Sector (**16%**), (2) Computer Software and Hardware (**15%**), (3) Telecommunications (**6%**), (4) Trading (**6%**) and (5) Automobile (**5%**).
- ✓ The top 10 (ten) States / Union Territories receiving the highest FDI Equity Flow are (1) Maharashtra (**28%**), (2) Karnataka (**24%**), (3) Gujarat (**17%**), (4) Delhi (**13%**), (5) Tamil Nadu (**5%**), (6) Haryana (**4%**), (7) Telangana (**3%**), (8) Jharkhand (**1%**), (9) Rajasthan (**1%**) and (10) West Bengal (**1%**).

FDI POLICY

The DPIIT has published the Consolidated FDI Policy 2020, which is meant to provide ease of doing business in India for global investors. The significant Policy pronouncements are as follows:

SN	SECTOR	FDI	ENTRY ROUTE
1	Agriculture and Plantation	**100%**	Automatic Route
2	Mining	**100%**	Automatic Route
3	Mining and mineral separation of titanium bearing minerals and ores, itsvalue addition and integrated activities	**100%**	Government Route
4	Petroleum and Natural Gas	**100%**	Automatic Route
5	Petroleum Refining	**49%**	Automatic Route
6	Insurance	**74%**	Automatic Route
7	Insurance Intermediaries	**100%**	Automatic Route
8	Defence Sector	**100%**	Automatic Route- up to 74% Government Route- beyond 74%
9	Broadcasting Carriage Services	**100%**	Automatic Route
10	Print Media	**26%**	Government Route
11	Publishing / printing of scientific and technical magazines / specialty journals	**100%**	Government Route
12	Greenfield airport projects and Existing projects	**100%**	Automatic Route
13	Scheduled and Regional Air Transport Service	**100%**	Automatic Route- up to 49% Government Route- beyond 49% (Automatic up to 100% for Non-Resident Indians)
14	Non-Scheduled Air Transport Service, Ground Handling Services, Maintenance and Repair Organizations (MRO), Flying Training Institutes and Technical Training Institutes, Helicopter /Seaplane Services requires sectoral approvals	**100%**	Automatic Route

15	Construction-Development Projects	**100%**	Automatic Route
16	Satellites	**100%**	Government Route
17	Telecom Services	**100%**	Automatic Route
18	E-commerce Activities	**100%**	Automatic Route
19	Single Brand Product Retail Trading	**100%**	Automatic Route
20	Multi- Brand Product Retail Trading	**51%**	Government Route
21	Railway Infrastructure	**100%**	Automatic Route
22	Asset Reconstruction Companies	**100%**	Automatic Route
23	Banking- Private Sector	**74%**	Automatic Route – up to 49% Government Route - beyond 49% up to 74%
24	Infrastructure Companies in Securities Markets	**49%**	Automatic Route
25	Brownfield Pharmaceuticals	**100%**	Automatic Route – up to 74% Government Route - beyond 74%
26	Greenfield Pharmaceuticals	**100%**	Automatic Route

FDI PROHIBITED SECTORS:

(1) The FDI is prohibited in the following sectors:

- ✓ Lottery Business including Government/private lottery, online lotteries, etc.
- ✓ Gambling and Betting including casinos etc.
- ✓ Chit funds
- ✓ Nidhi company
- ✓ Trading in Transferable Development Rights (TDRs)
- ✓ Real Estate Business or Construction of Farm Houses
- ✓ Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- ✓ Activities/sectors not open to private sector investment e.g.(I) Atomic Energy and (II) Railway operations (other than where permitted as mentioned hereinabove)

(2) As per DPIIT Notification dated 17-04-2020, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route.

ENTRY STRATEGIES

Foreign Investors may invest in India through Automatic Route or Government Route, subject to sectoral approvals. Foreign Investors may set up their business in India in any of the following ways:

A) **Incorporation as an Indian company:** An investor can set up a company in India, either in the form of a joint venture with an existing Indian company, or by setting up a wholly owned subsidiary. The company can be a private limited company or a public limited company. Repatriation of dividends is allowed.

B) **Limited liability partnerships**: Foreign entities (other than citizens of Pakistan and Bangladesh) can invest in Limited Liability Partnerships (LLP) in India except those registered as Foreign Portfolio Investor or Foreign Institutional Investor or Foreign Venture Capital Investor. FDI in LLP is permitted in those sectors where 100% FDI is allowed through Automatic Route.

C) **Sole proprietorship /partnership firm**: Non-resident Indians **(NRIs)** or persons of Indian origin (**PIOs**) resident outside India can invest by way of contribution to the capital of proprietorship /partnership firms. The persons resident outside India other than NRIs or PIOs may invest in the said manner with prior approval of the Reserve Bank of India (**RBI**). Prior approval of RBI is also required for repatriation of dividends.

D) **Franchise**: The foreign entity may grant franchise to an Indian entity with representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor. For instance, McDonald's, Zara, Starbucks, KFC, Domino's, Subway, etc are the top international franchises in India.

E) **Incorporation as a foreign company**: The foreign entity may set up a liaison office / project office / branch office in India:

i) **Liaison offices** are set up as a representative of a foreign parent company to promote its business interests, spread awareness about its products, explore further market opportunities for the business in India, etc. They cannot repatriate money outside India. RBI approval is required for setting up liaison office in India.

ii) **Project offices** are set up to execute specific projects in India, upon securing a contract with an Indian company. They can remit outside India a surplus upon completion of the project and also repatriate post-tax profits to the head office outside India. RBI approval is required for setting up project office in India.

iii) **Branch offices** are set up as a representative of a foreign parent or group company to carry out various activities such as export/import of goods; providing professional or consultancy services; rendering services in information technology and development of software in India; etc. They can repatriate post-tax profits outside India. RBI approval is required for setting up branch office in India.

F) **Other structures**: The other investment options for such investors are Equity Funds, Mutual Funds, Securities Market etc.

INVESTMENTS

Some of the recent foreign investments in India are as follows:

- In May 2022, Italian financial services major Generali acquired 25% stake from Future Enterprises in Future Generali India Insurance, a Joint Venture Company (JV), for Rs. 1,252.96 Crore (USD 152.21 Million as on 03.04.2023). As a result, the stake of Generali in the JV has gone up to 74%.

- In May 2022, GenWorks Health, Bengaluru secured a second round of funding worth Rs. 135 Crore (USD 16.4 Million as on 03.04.2023) from a Consortium of Investors, including Somerset Indus Capital Partners, Morgan Stanley, through its funding arm Grand Vista, Evolvence and Wipro GE.

- In May 2022, Toplyne, a Software-as-a-Service (SaaS) start-up in Bengaluru, raised USD 15 Million in a funding round led by Tiger Global and Sequoia Capital India.

- In May 2022, Kiranakart Technologies Pvt. Ltd, Mumbai, which runs the 10-minute grocery delivery platform Zepto, raised USD 200 Million in Series D funding round led by Y Combinator Continuity Fund.

- In May 2022, Jaipur-based online furniture and home decor platform Woodenstreet.com raised around USD 30 Million in a Series B funding round led by WestBridge Capital.

- In May 2022, B2B cross-border tech platform Geniemode received USD 28 Million in a Series B funding round led by Tiger Global and Info Edge Ventures.

- In January 2022, Google announced an investment of USD 1 Billion in Bharti Airtel, which includes an equity investment of USD 700 Million for a 1.28% stake in the Company, and USD 300 Million for a potential multi-year commercial agreements.

ROAD AHEAD

India has recently become a major global hub for FDIs. The Indian Government has provided huge corporate tax cuts and simplified labour laws and insolvency and bankruptcy laws. The Country has also reduced its restrictions on FDI. India has remained an attractive market for international investors in terms of short- and long-term prospects. All these factors together would help India attract FDI worth USD 120-160 Billion per annum by 2025.

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