ADVOCATES & SOLICITORS

CHANGING PARADIGMS OF FEMA IN INDIA

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Partner's Message

Over the last decade, India has become the first choice for global businesses to invest in. The major encouraging factors for foreign investors to invest in India are comparatively cheap labour, a highly skilled workforce and liberal foreign direct investment policies. Other relevant factors shaping India as a hotspot for ease of doing business include a significantly large youth population, and the government's initiative to set up a healthy ecosystem for businesses and innovative minds.

This is evident from the fact that India jumped to 63rd rank in 2019 from 142nd rank in 2014 in the Ease of Doing Business Index released by the World Bank. India has also secured to jump from a rank of 81 in 2015 to 40th rank in 2022 on the Global Innovation Index released by World Intellectual Property Organisation and made a major leap on the Global Competitive Index to bag 68th position among 141 countries as released by World Economic Forum in 2019.

While India stands strong on the economic front, it also lays adequate emphasis on its foreign relations with other nations. This ensures political, strategic and social stability for businesses setting up in India or looking forward to investing in India. Keeping in mind the ever-growing business ecosystem in India, we have taken the opportunity to develop a comprehensive and exhaustive handbook on the foreign investment regime in India. This handbook covering the intricacies of foreign investments in India will be of great assistance to businesses wanting to enter the Indian market. The handbook aims to provide complete clarity on the foreign investment regime in India and has been curated to answer all the questions from the perspective of an investor.

It encapsulates all the legislative and regulatory changes that have taken place over the last few years to boost foreign investment in India. Keeping it to the point, crisp and coherent we have managed to cover the changes in RBI's and SEBI's regulations, the effect of the discontinuation of LIBOR, the liberalisation of External Commercial Borrowings regulations in India, the changes in the Foreign Exchange Management Regulations and the setting up of International Financial Services Centre Authority (IFSCA).

We are delighted to present our handbook 'Changing Paradigms of FEMA in India' which primarily focuses on UK-India investments and vice versa. We sincerely hope that our handbook will serve as a valuable resource in overcoming the information barrier for understanding foreign investments in India. It is a ready reference on foreign investments in India and we look forward to answering all your queries regarding the same.

Anuroop Omkar
Partner
AK & Partners

Partner's Message

India, like its dynamic youth population, is now evolving its laws and policies at a fast pace. To foreign investors and manufacturers, India offers a huge market with a rapidly growing economy, a large, skilled workforce, and a growing middle class. Significant steps such as liberalization of FDI in several sectors such as defence, retail, and civil aviation have been taken. Liberalization in other sectors like insurance is on the cards. We all are no strangers to the fact that UK and India hold a long-standing trade and investment relationship and this is now strengthened further with the bilateral trade negotiations.

In many cases, India recently showed foresight and preparedness. This is evident from the smooth transition of the economy in the face of the discontinuation of LIBOR. When the pandemic hit, reliance on debt finance to weather the economic downturn became essential. India faced a sharp increase in external commercial borrowing (ECB). Even here, the Indian policies on external commercial borrowings (ECB) were one step ahead and had been liberalised and simplified in 2019 already. Reserve Bank of India (RBI) further relaxed thresholds and limits under the ECB guidelines to ensure the healthy sustenance of businesses in India.

Also, India has been showing restraint in its data protection regime, leading to the growth in fintech, insurance tech, and similar sectors that rely on data. It would be noteworthy to remember here that India is often referred to as a demographic goldmine when it comes to consumer preference data. The growth of regulatory tech is driven by several factors, including the growing number of mobile phone users, and the increased availability of low-cost internet access. Financial inclusion is at an all-time high.

Many foreign clients whom we handhold from the day they decide to do business in India complain sometimes that 'India has changed'. Does India have a "*Chalta hai…*" [Anything goes] attitude. Not anymore. Are there compliances? Yes. But with them, there is market and regulatory certainty and a chance to talk bigger business numbers than you imagined by catering to a billion population which is tech and finance savvy.

Our primary goal behind developing this handbook is to spread correct, relevant and to-the-point information on the changing paradigms of the foreign investment regime in India. We hope you find it insightful.

Kritika Krishnamurthy
Partner
AK & Partners

Counsel's Message

India has seen massive growth in foreign investment over the past few years, owing to investor-friendly policies along with quick and effective enforcement agencies. The Government of India is successfully working towards implementing policies that have made the legal and regulatory process for foreign investment much easier than before. Most of the breaches in respect of timely reporting of inward or outward remittance, for instance, can now be remedied through a simple compounding application made to the Reserve Bank of India (RBI) or the Directorate of Enforcement (ED) as the case may be. Moreover, RBI has delegated compounding powers to regional and central offices to alleviate operational issues and improve customer service. It is important to note that the compounding mechanism is a game-changer as not only does it save the time of the investors, but it also helps avoid a lengthy process of investigation and litigation, making the entire regulatory framework effective and efficient.

Offshore money laundering is undeniably a serious offence and can be detrimental to the jurisdictions involved at both ends of the exchange. Accordingly, they have to be treated with strict penal provisions.

On the other hand, where compounding may not be an option, the central government has formulated laws to increase the efficiency of the investigative process. For instance, the government has made provisions for data-sharing agreements between ED and other enforcement agencies formulating an information repository of the individuals investigated in the past by any of the other agencies. Such data-sharing arrangements are extremely crucial in expeditious investigation ensuring that the investigating agencies do not have to repeatedly question the investors in respect of the same matters where a prior investigation has already taken place. This is a commendable step towards ease of business as it leads to shorter investigation which further ensures that the assets (if frozen) will be released in a shorter period without much effect on the value of such assets.

India must take many more active and conscious steps in the coming times to adopt the best international practices for uncomplicating the enforcement and regulatory mechanism for foreign investment in India. The ease of enforcement coupled with the numerous policies, MOUs and treaties that India signs regularly with foreign jurisdictions is a testament to India's earnest efforts towards attracting foreign investment and ensuring that trade and commerce become profitable and viable for all stakeholders.

Shreyas Mehrotra
Counsel- Dispute Resolution
AK & Partners

Glossary

AD BANKS	Authorised Dealer Banks
AIF	Alternative Investment Funds
ARR	Alternative Reference Rate
CSR	Corporate Social Responsibility
DDT	Dividend Distribution Tax
DTA	Domestic Tariff Area
ECB	External Commercial Borrowings
ED	Enforcement Directorate
FBIL	Financial Benchmark India Private Limited
FCA	Foreign Currency Account
FCY	Foreign Currency
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FI	Foreign Investments
FIU	Financial Intelligence Unit
FPI	Foreign Portfolio Investors
IFSC	International Financial Services Centre
IFSCA	International Financial Services Centre Authority
INR	Indian National Rupees
IP	Indian Party
LEI	Legal Entity Identifier
LIBOR	London Interbank Offer Rate
LRS	Liberalised Remittance Scheme
LSF	Late Submission Fee
MAMP	Minimum Average Maturity Period
MAT	Minimum Alternate Tax
MIFOR	Mumbai Interbank Forward Outright Rate
ODI	Overseas Direct Investment
OI	Overseas Investment
PROI	Person Resident Outside of India
RBI	Reserve Bank of India
SARON	Swiss Average Overnight for Swiss Francs
SEBI	Securities and Exchange Board of India
SOFR	Secured Overnight Financing Rate
SONIA	Sterling Overnight Indexed Average
TC	Trade Credits
TONAR	Tokyo Overnight Average Rate
USD	United States Dollar
VRR	Voluntary Retention Route

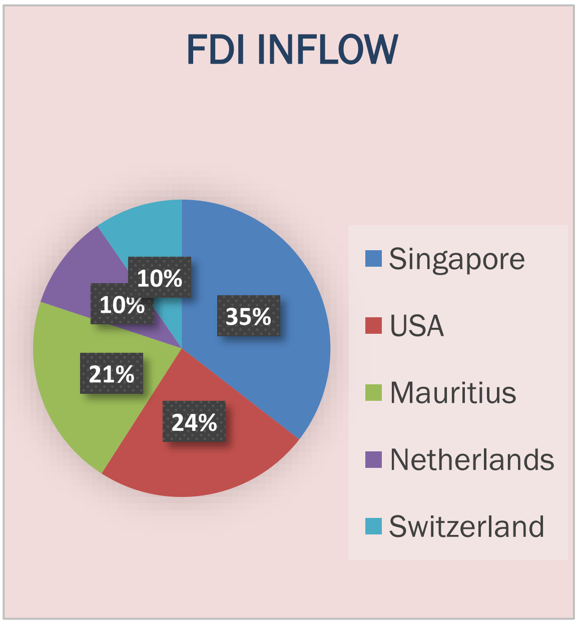
UK Investments in India- Statistics

A growth rate of 65% in FDI inflows between the years 2007-2014 & 2014-2021.

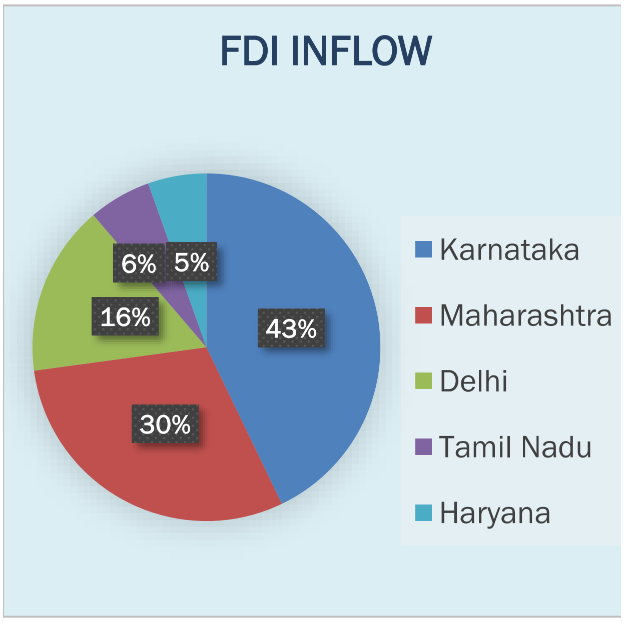
FDI inflow of USD 85000 million in the financial year 2021-2022

An increase in FDI by 76% from $12 billion to $21 billion in the Manufacturing sector between FY 2020-21 & 2021-22;.

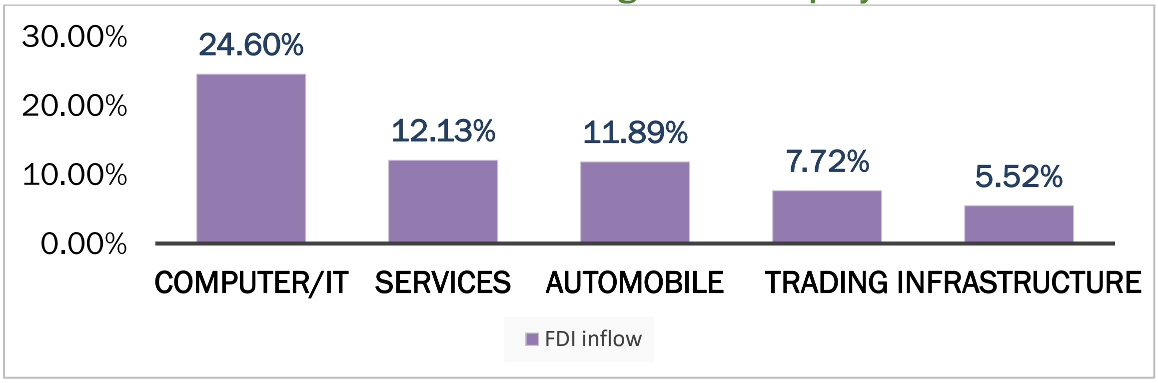
Top five countries from which India receives its FDI equity inflows



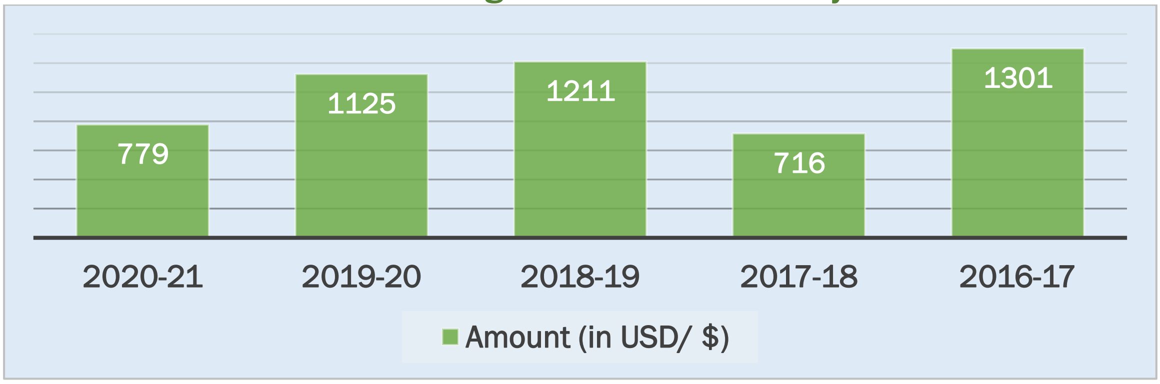
Five states in India that receive the highest FDI equity inflows



Five sectors in India that receive the highest FDI equity inflows



FDI inflow from the United Kingdom in India- Last 5 years



Predictions

Recent Major Investments from the UK to India

In the last financial year, several companies based in the United Kingdom has made or announced some major investments in various sectors of the Indian market.

Scott Bader, a global manufacturer with headquarters in the UK has announced an investment of approximately $36 Mn over the next 5 years in India.

In June 2022, British International Investment (BII) announced an investment of $47 million as part of a follow-on investment to Fourth Partner Energy for projects totalling 294 MW.

As per the Britain Meets India (BMI) report 2022, the fastest growing UK company in India is Ayana Renewable Power Ltd., in 2022 followed by Johnson Matthey Chemicals India Pvt Ltd – both registering a growth rate of over 100%.

In February 2022, ATD Group, a Noida-based diversified entity, and UK's SRAM & MRAM Group, a public health emergency management solutions company, announced plans to invest INR 100 crore for their foray into electric mobility in India through a joint venture, Canopus.

In December 2021, the British government's CDC promised to invest $3bn in India for the next five years,

Part-A

Investments in India

UK - India Start-up Launchpad

The UK-India Start-up Launchpad is an initiative to foster deeper collaboration between two leading start-up ecosystems – the UK and India.

The Launchpad will bring together resources, connect participants and encourage start-ups in both the countries to innovate, find solutions for the most pressing development challenges and explore expansion opportunities. Thus, seen as a global force for good and driving mutual growth and prosperity.

Voluntary Retention Route (VRR) for Foreign Portfolio Investors (FPIs) investment in Debt

Eligible Instruments

- Any Government Securities ("VRR-Govt")
- Any instrument listed under Schedule 1 of Foreign Exchange Management (Debt Instruments) Regulations, 2019 other than those specified under 1A(a) and 1A(d) of the said Schedule. ("VRR – Corp")
- Government securities and corporate debt. ("VRR Combined")

Eligible Investors

- Foreign Portfolio Investors (FPIs) registered with SEBI are eligible. However, participation is voluntary.

As per RBI, INR 1,49,995 Cr out of INR 1,50,000 Cr have already been availed under VRR scheme.

FPIs have invested 36K Crore INR in India in the month of October, 2022.

Key Features

- Minimum retention period of 3 years
- Allowed to invest minimum 75% of allotted amount within 3 months
- Income from VVR investment may be re-invested
- Minimum 75 percent of allotted amount shall remain invested at all time.

Legal Entity Identifier ("LEI") for Cross-border Transactions

What is LEI?

The LEI is a 20-digit number to uniquely identify parties in a financial transactions worldwide.

Aimed at improving the quality and accuracy of financial data systems.

Who is required to obtain LEI?

All resident entities (non-individuals) intending to undertake capital or current account transactions of 50 crores and above (per transaction).

For non-resident – AD may pass a transaction to avoid any disruptions in case of non-availability of LEI.

Key Benefits

Reducing financial contagion and promoting financial stability by helping in evaluating systemic risks and adopting remedial measures.

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Contributing to ease of doing business

International Trade Settlement in Indian Rupees

Key Objective

- To allow trade settlements between India and other countries in Indian Rupees (INR) and promote growth of global trade.

Key Feature

- Enabling AD banks in India to open Special Rupee Vostro Accounts of correspondent bank/s of the partner trading country.
- To facilitate settlement of import/export transactions in INR.

Eligible Entity

- Any foreign trader through a correspondent bank of their country having a "Special Rupee Vostro Account" with Indian AD bank can avail the benefit of settlement of import/export transactions in INR.

Benefits to trader

- Advance against exports/imports can be received in INR.
- Export receivables can be set off in INR against import payables from the same overseas buyer and supplier and vice versa.

Around 35 countries including Asian and African countries have shown interest in rupee trade mechanism proposed by the Indian government.

Late Submission Fee (“LSF”) for reporting delays under Foreign Exchange Management Act, 1999

Key Objective

- To introduce a new mechanism for bringing uniformity in imposition and payment of late submission fees for foreign direct investment (‘FDI’), external commercial borrowing (“ECB”) and overseas investment (“OI”) transactions.

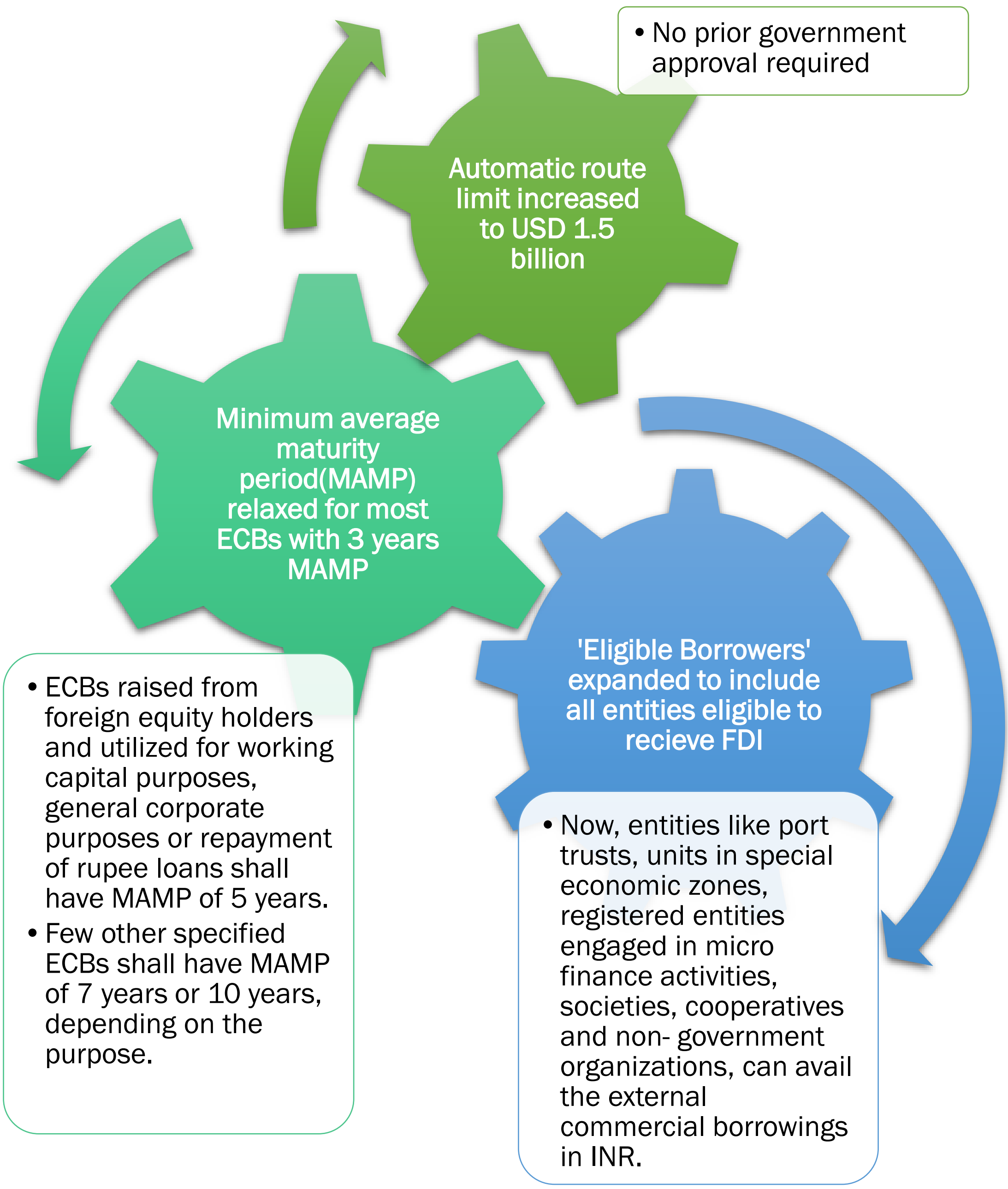
Key features

- Standardised and simplified reporting mechanism for FI, ECB, and OI.
- The new mechanism covers existing filings and any additional filings in the future.
- New LSF amount (i.e., INR 7,500 + [0.025% x A x n]) for event-based and INR 7,500 for (periodical-based filings) has been implemented.

Key Benefits

- Improving the ease of doing business by introducing a standardized and streamlined process.
- Encouraging compliance and timely filing of periodical-based returns.
- Reducing the overall administrative burden on the regulators and the reporting parties.

Liberalization Measures in External Commercial Borrowing (ECB) Framework



New Overseas Direct Investment (ODI) Regime, 2022

Foreign Entity replaced Joint Ventures

- Entity formed or registered or incorporated outside Indian including International Finacial Servces Cente (IFSC) in India, that has limited liability shall be eligible to receive investments from Indian residents.

Introduction of Pricing Guidleines

- Any transfer of equity capital of the non-Indian entity from or to a person resident in India shall be on arm's length basis after considering the valuation as per internationally accepted pricing methodology.

ODI in start-ups allowed

- ODI in start-ups can be made from internal accruals from the Indian entity or group or associate companies in India.
- In case of an individual, from own funds of such individual.

Round Tripping Structure

- A person resident in India can invest in a foreign entity that has invested into India, directly or indirectly, up to 2 layers of subsidiaries.
- The layer restriction does not apply to banks, systemically important NBFCs, insurance companies and government companies.

Acquisition of immovable property outside India

- Indian residents can acquire immovable property outside India from a person resident outside India. There is no restriction on outflow of funds from India for purchase of immovable property.

External Commercial Borrowings (ECB) and Trade Credits (TC) Policy- Changes due to LIBOR Transition

Change in benchmark rate: From LIBOR to Alternative Reference Rate (ARR)

- Definition of 'benchmark rate' for foreign currency ECB/ TC has been changed to any widely accepted interbank ARR of 6 month tenure, applicable to the currency of borrowing.
- No change to the benchmark rate in case of rupee denominated ECB/ TC which continues to be linked to the prevailing yield of the Government of India securities of corresponding maturity.

Increase in all-in- cost ceiling for existing ECBs which are affected by LIBOR transition

- For all foreign currency ECBs and TCs, where benchmarks are modified to ARRs pursuant to LIBOR transition, a one-time adjustment for only such ECBs and TCs has been provided for the all-in cost ceiling with an increase of spread by 100 basis points.
- The revised all-in-cost ceiling limit for the existing FCY ECBs and TCs will now be 550 basis points and 350 basis points, respectively over the benchmark rate.
- The all-in-cost ceiling for rupee denominated ECB/TC has been maintained at 450 basis points above the benchmark rate.

Increase in all-in cost ceiling for new ECBs

- For any new FCY ECBs and TCs using the ARR, the all-in-cost ceiling has been increased to 500 basis points and 300 basis points, respectively, above the benchmark rate to bridge the gap between LIBOR and ARRs in terms of credit risk and term premia.

The amendments provide a framework to the financial institutions for a smooth transition ensuring mitigation of risks arising from such exposures on account of transitional issues including valuation and contractual clauses. The market participants have already migrated to alternate benchmark rates depending on the currency of lending including the Secured Overnight Financing Rate (SOFR), Sterling Overnight Indexed Average (SONIA), Swiss Average Overnight (SARON) for Swiss Francs, Tokyo Overnight Average Rate (TONAR) and have been including fallback provisions by way of amendments.

Reserve Bank of India (RBI) on discontinuation of LIBOR

Following cessation of LIBOR, RBI has put up following key requirements for Indian financial institutions

Review of LIBOR exposure

- Financial institutions to undertake comprehensive review of all LIBOR exposure.
- Put in place a framework to mitigate risks of exposure on account of transitional issues, including valuation and contractual clauses.

Fallback and rate- switch clauses

- Financial institutions to incorporate robust fallback clauses referring to LIBOR in all financial contracts with maturity date post cessation of LIBOR.
- Recommended reference to the standard fallback clauses developed by agencies such as International Swaps and Derivatives Association; Intercontinental Exchange Benchmark Administration; Loan Market Association; Asia Pacific Loan Market Association and Bankers Association for Finance and Trade.

Transition away from MIFOR

- Mumbai Interbank Forward Outright Rate (MIFOR) referred LIBOR, thus, the same to be dropped.
- Recommended the use of the daily adjusted MIFOR published by the FBIL for legacy contracts; and modified MIFOR rates published by the FBIL for fresh contracts.

Fresh products to refer ARR

- Financial institutions required to put in place necessary infrastructure for alternative reference rate (ARR) while offering fresh products.

Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021

Reserve Bank of India amended the Foreign Management (Exports of Goods and Services) Regulations, 2015 and is now called as the Foreign Management (Exports of Goods and Services) (Amendment) Regulations, 2021.

- The amendment made changes in Regulation 15 of the Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 which deals with advance payment against exports.
- This amendment puts an exporter under an obligation to ensure that the rate of interest, if any, payable on the advance payment shall not exceed 100 basis points above the LIBOR or any other applicable benchmark as directed by RBI.

Foreign Exchange Management (International Financial Services Centre) Regulations, 2015

Any financial institutions or branch set up in the IFSC and recognised by the Government of India shall be treated as a person resident outside India.

Such financial instititutions or branch can conduct business in foreign currency with any resident of India or non-resident.

RBI may allow such financial insititutions to conduct business with residents or non-residents in Indian rupee (INR) as well.

Financial instititutions or branch set up in a IFSC are not regulated by any other domestic laws or regulations in force.

International Financial Services Centre (IFSC)- Special Status & Relaxations

IFSC is a special economic zone developed for creating a global financial hub for providing various financial services viz. corporate banking, insurance, investment & fund management, trading of securities, etc., to persons across borders.

International Financial Services Centre Authority (IFSCA) acts as a single unified authority instead of multiple regulators such as RBI, SEBI, PFRDA & IRDAI.

Securities and Exchange Board of India Act, 1992

According to SEBI (International Financial Services Centres) Guidelines, 2015, only the following individuals are permitted to deal in securities listed on IFSC.

1. A non-resident Indian;

2. A financial institution resident in India who is eligible under FEMA to invest funds offshore; and

3. A person resident in India who is eligible under FEMA to invest funds offshore.

Foreign Exchange Management Act, 1999

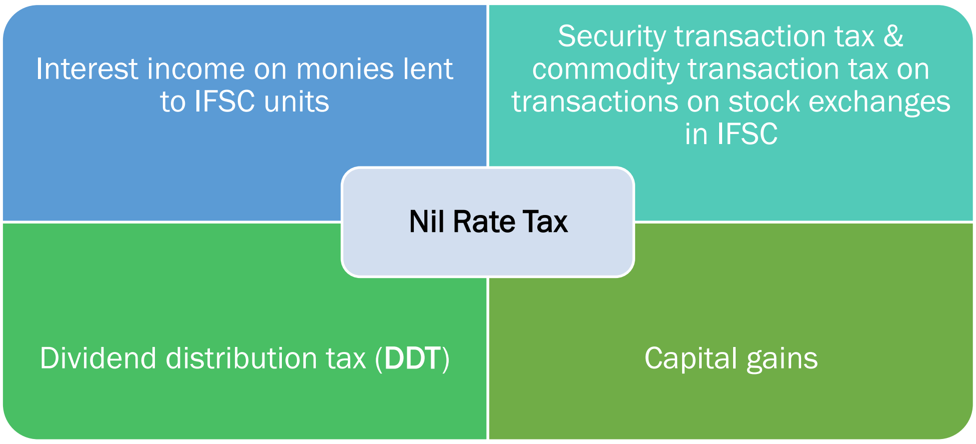
Any transaction entered between a foreign investor/customer and the IFSC entity shall be outside the purview of FEMA.

An entity set up in IFSC shall be conidered as a person resident outside of India (PROI).

Tax Incentives

Tax incentives given by the government to International Financial Services Centre Authority (**IFSCA**) units are as follows:

Particulars	Business Entity	Investors
Income tax	• 100% tax exemption for 10 consecutive years out of 15 years • Minimum Alternate Tax (**MAT**) at 9%[1]	• Interest income on monies lent to IFSC units is not taxable • Long-term bonds and Rupee denominated bonds listed on IFSC exchanges are taxable at a lower rate of 4 per cent.
Goods and Services Tax (GST)	No GST on services: • Received by IFSC unit • Provided by IFSC units to offshore clients GST applicable on services provided to Domestic Tariff Area (**DTA**)	No GST on transactions carried out in IFSC exchanges
Other taxes duties	State subsidies – Lease rental, provident fund contribution, electricity charges.	Exemption from securities transaction tax, commodity transaction tax, and stamp duty in respect of transactions carried out on IFSC exchanges



[1] plus, surcharge and cess, as applicable

Corporate Flexibilities

- Choosing financial year
- No compulsory rotation of statutory auditors
- Non-applicability of secretarial standards
- No cap on managerial renumeration
- No Corporate Social Responsibility (CSR) obligation for first five years from commencement of business
- Relaxed filing timeline of 60 days (other companies 30 days) under the Companies Act, 2013

Sponsor Contribution to an Alternative Investment Fund (AIF) set up in Overseas Jurisdiction including International Financial Service Centres (IFSCs)

Reserve Bank of India notification is applicable to:

Direct investment by Indian residents in joint-ventures or wholly-owned subsidiaries outside of India.

Investment/Financial commitment by an Indian Party (IP) in a foreign entity engaged in the financial services sector.

AIF - privately pooled investment vehicle in India, which is not covered under any SEBI regulations to regulate fund management activities.

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IFSC - is a jurisdiction that provides financial services to non-residents and resident (institutions) in foreign currency other than INR; establised in SEZs.

Sponsor contribution from a sponsor IP will be treated as '**overseas direct investment**'; an IP can now set up AIF in foreign jurisdiction, or IFSC, under **automatic route** subject to compliance.

All required permissions and approvals under any other law in force in India remain applicable.

Remittance to International Financial Service Centres (IFSCs) in India under the Liberalised Remittance Scheme (LRS)

Bi-monthly Monetary Policy Statement dated February 5th, 2021

Statement on development and regulatory policies measures

Measures on (i) liquidity management and support to targeted sectors; (ii) regulation and supervision; (iii) deepening financial markets; (iv) upgrading payment and settlement systems; and (v) consumer protection.

Remittances to IFSCs under LRS - permits resident individuals to make remittances under LRS to IFSCs set up in India under the Special Economic Zones Act, 2005, upto USD 2,50,000 per financial year

Remittance shall be made for investments in IFSCs in securities issued by non-resident entities

Resident individuals may open non-interest bearing foreign currency account (FCA) in an IFSC

Funds unused for 15 days in FCA will be repatriated back to the domestic INR account

Resident individuals cannot settle any domestic transactions with other residents through FCAs held in IFSCs.

Introduction of rupee derivatives at International Financial Services Centres - Related developments

Rupee derivatives – are futures and options contracts to trade specified amount of currency pairs (with INR or otherwise) at a future date;
The value is derived from change in interest rate, credit rating or credit index, price of securities (also called '*underlying*'), or a combination of them.

Reserve Bank of India in its '**Statement on Developmental and Regulatory Policies** published in October of 2019, made several suggestions, as mentioned below:

Measures to incentivize non-residents to access the onshore foreign exchange market:

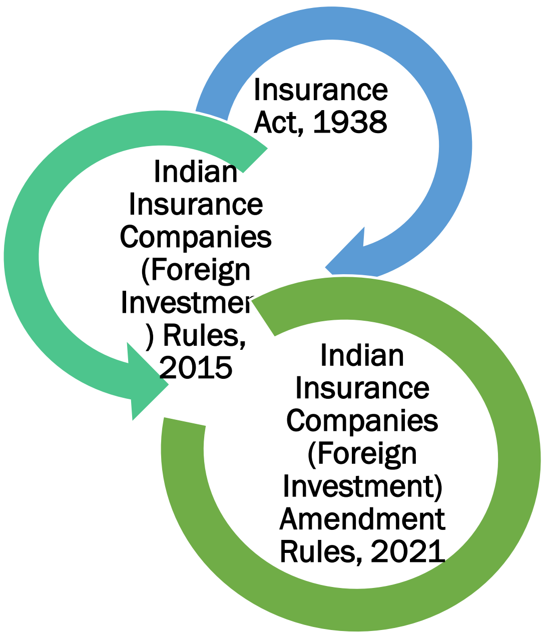
Rupee derivatives (with settlement in foreign currency) can now be traded in IFSCs, starting with Exchange Traded Currency Derivatives, i.e., currency futures and options contracts may now be listed on recognised stock exchanges at IFSCs.

Domestic banks will be allowed to freely offer foreign exchange prices to non-residents at all times, out of their Indian books, either by a domestic sales team or through their overseas branches.

Measures for popularising the cross-border transactions in INR to reduce the exchange risk

→ Allow non-residents to open non-interest bearing Special Non-resident Rupee Accounts to facilitate rupee denominated external commercial borrowings, trade credit and trade invoicing

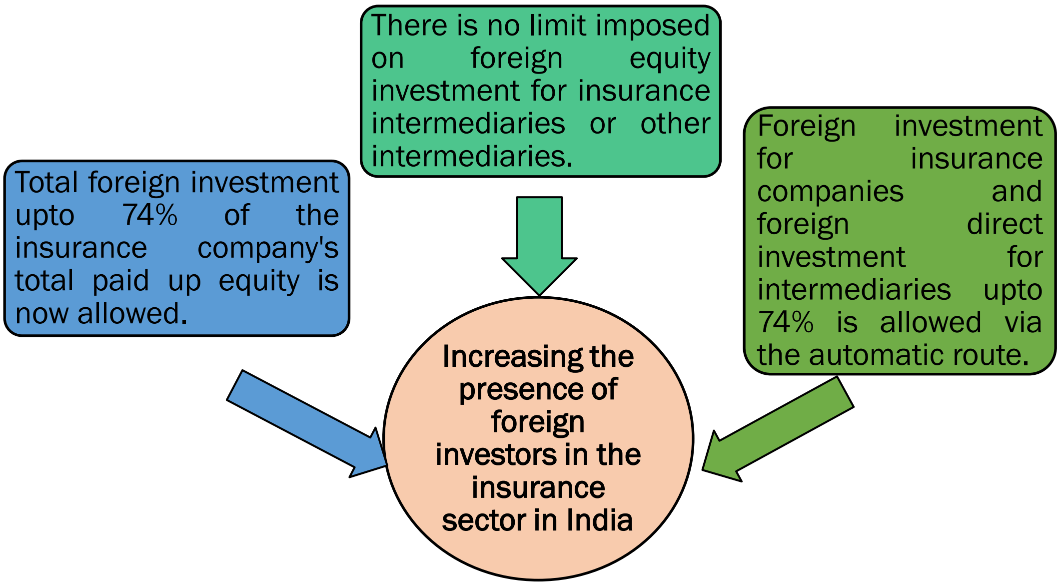
Increase in the upper limit for foreign direct investment (FDI) in the insurance sector



Amendments made by the Ministry of Finance

- Clarification in the meaning of '*total foreign investment*' and '*resident indian citizens.*'
- Percentage of foreign direct investment allowed
- Requirements for management personnel.

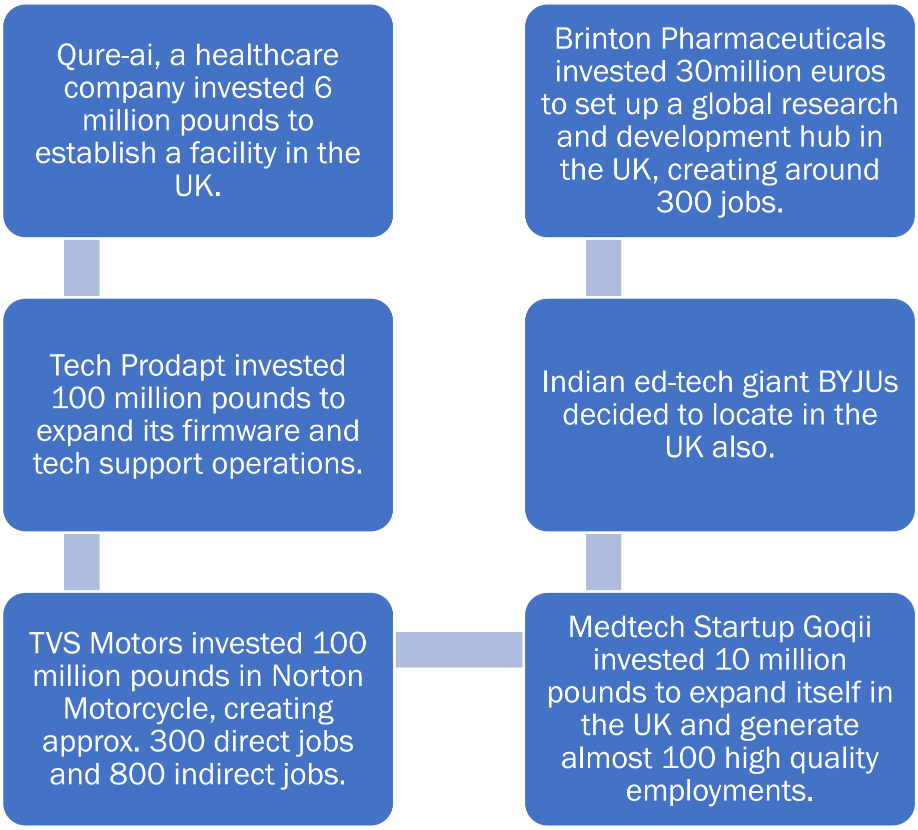
Total Foreign Investment = Directly by foreigner + Indirectly by an Indian entity owned or controlled by foreigners.

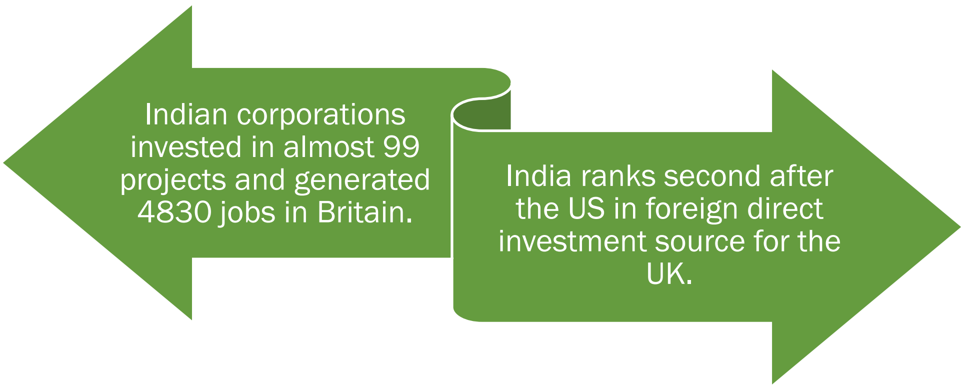


Outflow of Investments: From India to the UK

- India is the second largest source of FDI in the UK.
- Approx. 900 Indian businesses are operating in the UK at present.
- Indian businesses in the UK combine revenue amounts to USD 69 billion with 1,41,005 employees working in the UK as of 2022.
- India's trade with the UK in products and services climbed from USD 19.51 billion in 2015 to USD 31.34 billion in 2022.
- Creating the foundation for the India- UK Free Trade Agreement has been one of the major achievements for the India-UK economic partnership landscape.


Wipro Ltd. purchased Capco, a London based management consultancy firm.
Reliance group acquired Faradion Ltd.
Bharti Enterprises bought OneWeb Ltd.


Qure-ai, a healthcare company invested 6 million pounds to establish a facility in the UK.
Tech Prodapt invested 100 million pounds to expand its firmware and tech support operations.
TVS Motors invested 100 million pounds in Norton Motorcycle, creating approx. 300 direct jobs and 800 indirect jobs.
Brinton Pharmaceuticals invested 30million euros to set up a global research and development hub in the UK, creating around 300 jobs.
Indian ed-tech giant BYJUs decided to locate in the UK also.
Medtech Startup Goqii invested 10 million pounds to expand itself in the UK and generate almost 100 high quality employments.


Indian corporations invested in almost 99 projects and generated 4830 jobs in Britain.
India ranks second after the US in foreign direct investment source for the UK.

Part- B

Enforcement

Data Sharing Regime between the Government Agencies

- As part of enforcement, one of the foremost steps taken by the Government of India has been the implementation of an inter-agency sharing of data with the Directorate of Enforcement (" **ED**").
- At present, ED has data-sharing agreements with 25 other agencies.
- ED will share the data of the investigations with these 25 agencies and will cause these agencies to share data in respect of the ongoing investigations with itself.

Some of the agencies that have entered into data-sharing agreements with ED are

Financial Intelligence Unit	Research and Analysis Wing	Ministry of Home Affairs
Economic Offences Wing of Central Bureau of Investigation	Chief Secretaries of State Government	Reserve Bank of India
Department of Company Affairs	Securities and Exchange Board of India	Insurance and Regulatory Body of India
Director General of Foreign Trade	Central Economic Intelligence Bureau	

Advantages of inter-agency data sharing

Advantages

- Avoid unnecessary harassment of persons under the ED scanner
- Shorten timelines of the investigations
- Efficiency
- Better for business

Decentralised and expeditious compounding of offences

Compounding refers to a process whereby the defaulting person or entity may file an application to the notified compounding authority, accepting the commission of an offence, and pleading for its condonation.

The compounding authority may compound the offence after the defaulter deposits a compounding fee.

Power to Compound

- Reserve Bank of India(RBI) — RBI has the power to compound all offences under FEMA except for offences that are expressly compoundable by ED.
- Directorate of Enforcement (ED) — Compounds offences concerning foreign exchange of money from unauthorised person.

Procedure for Compounding Application

All applications in the prescribed format shall be submitted together with the fee of INR 5000/- to RBI Regional Office or Mumbai office.

In case the application is returned, the application fees of INR 5000 shall also be returned.

Offences which cannot be compounded

Offences compounded cannot be compounded again within 3 years of the previous compounding

Offences in contravention of money laundering, terror financing or affecting sovereignty and integrity of the nation.

Our Team

Anuroop Omkar

Founder & Partner

Kritika Krishnamurthy

Founder & Partner

Shreyas Mehrotra

Head of Dispute Resolution

Nidhi Bhatia

Director

(Singapore)

Prasanna Kumar Dash

Director

(Former Member, Central Board of Direct Taxes, Government of India)

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