

# Navigating the Indian Market: FDI Routes and Regulatory Compliances for Foreign Companies

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## Abstract:

This article has been prepared with an intention to provide information related to the Foreign Companies, Entry in to Indian Market and Regulatory Compliances under various legislations / regulations in India. The article also discusses about the challenges faced by Foreign Companies.

## Introduction:

The globalized nature of today's business environment has necessitated the expansion of firms beyond their domestic markets. Foreign market entry strategies play a crucial role in enabling companies to establish a presence in international markets successfully<sup>1</sup>. In today's highly competitive and globalized business environment, companies are increasingly seeking opportunities beyond their domestic markets to expand their operations and achieve sustainable growth. Foreign market entry has become a crucial strategic decision for firms aiming to leverage new markets, gain access to additional resources, diversify risks, and increase profitability. However, entering foreign markets presents numerous challenges, including cultural differences, regulatory complexities, intense competition, and market uncertainties. Therefore, understanding and selecting appropriate market entry strategies are critical for firms to succeed in their international expansion efforts<sup>2</sup>.

In the last few years, India has emerged as a preferred destination for FDI, particularly in the areas of manufacturing, infrastructure development, and e-commerce. Overall, the trend of FDI in India has been positive, and the country is considered as an attractive destination for foreign investors due to its large market, skilled labour, and favourable investment policies<sup>3</sup>.

## Foreign Company:

"Foreign Company" has been defined under Section 2(42) of Companies Act 2013 as "Company or Body Corporate incorporated outside India which (i) has a place of business in India whether by itself or through an agent, physically or through electronic mode. (ii) conducts any business activity in India in any other manner<sup>4</sup>."

## Foreign Direct Investment (FDI) - India:

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<sup>1</sup> Preeti Karla, Asian - Foreign Market Entry – A Comparative Analysis – Journal of Management and Commerce 2023; 4(1): 276-281 Available at <https://www.allcommercejournal.com/article/170/4-1-44-222.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> Dr Monu and Rahul Garg (2023) - Role of FDI in Development of Indian Economy – International Journal of Novel Research (IJNRD) – Volume-8, Issue -1, January 2023, ISSN: 2456 -4184. Available at <https://ijnrd.org/papers/IJNRD2301387.pdf>

<sup>4</sup> Taxmann's "Companies Act with Rules" - 18<sup>th</sup> Edition (June 2022) – page – 1.9 to 1.10

Foreign Direct Investment (FDI) and Foreign Portfolio Investment (FPI) are widely recognised as vital catalysts for Indian economic growth<sup>5</sup>.

### FDI & FPI:

**Foreign Direct Investment (FDI)** is the investment through equity instruments by a person resident outside India in an unlisted Indian company; or in 10% or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company. In case an existing investment by a person resident outside India in equity instruments of a listed Indian company falls to a level below 10% of the post issue paid-up equity capital on fully diluted basis, the investment shall continue to be treated as FDI. “Fully diluted basis” means the total number of shares that would be outstanding if all possible sources of conversion are exercised<sup>6</sup>.

Foreign Direct Investment (FDI) is the investment of funds by an organisation from one country to another, with the intent of establishing “Lasting interest”<sup>7</sup>. According to OECD (Organisation for Economic Co-operation and Development) lasting interest is determined when the organisation acquires a minimum of 10% of voting power in another organisation. For instance, the act of an India company such as Ola opening another headquarters in Sydney, Australia will be considered as bringing FDI in to Australia. Reinvestment of profits from overseas operations, as well as intra-organisational loans and borrowings to overseas subsidiaries are also categorised as FDI.

**Foreign Portfolio Investment (FPI)** includes investments by a resident entity in one country in the equity and debt securities of an enterprise resident in another country which seek primarily capital gains and do not necessarily reflect a significant and lasting interest in the enterprise. The category includes investments in bonds, notes, money market instruments and financial derivatives other than those included under direct investment, or in other words, investments which are both below the ten percent rule and do not involve affiliated enterprises. In addition to securities issued by enterprises, foreigners can also purchase sovereign bonds issued by governments<sup>8</sup>.

### Regulation of Foreign Investment in India:

Foreign investment in India is regulated under codified foreign exchange regulations, sector specific policies / regulations, government policies as well as international agreements. Primarily, foreign investment is regulated through the Foreign Exchange Management Act, 1999. Presently, the FDI regime in India is primarily governed by the Consolidated Foreign Direct Investment Policy Circular 28.08.2017, as amended through various press notes issued by the Department for Promotion of Industry and Internal Trade (DPIIT), sector specific policies / regulations, Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 notified by Department of Economic Affairs, Ministry of Finance<sup>9</sup>.

<sup>5</sup> NITI AAYOG – NITI Tax Policy Working Paper Series -I - Consultative Group on Tax Policy (Page-1). Available at [https://niti.gov.in/sites/default/files/2025-10/Tax\\_Policy\\_Report\\_WEB.pdf](https://niti.gov.in/sites/default/files/2025-10/Tax_Policy_Report_WEB.pdf)

<sup>6</sup> FAQs related to FDI policy section posted on Foreign Investment Facilitation Portal (FIFP), Page-1. Available at [https://fifp.gov.in/Forms/FAQs\\_FDIPolicy.pdf](https://fifp.gov.in/Forms/FAQs_FDIPolicy.pdf)

<sup>7</sup> Sanchi Padia (12 June, 2019) – Advantages of Foreign Direct Investment (Page-1). Available at: Invest India Blog i.e. <https://www.investindia.gov.in/team-india-blogs/advantages-foreign-direct-investment>

<sup>8</sup> UNCTAD – A staff paper prepared by UNCTAD Secretariate (23<sup>rd</sup> June, 1999) - Comprehensive Study of the Inter Relationship between FDI and FPI (Page – 4) Available at: <https://unctad.org/system/files/official-document/pogdsdfsdbd5.pdf>

<sup>9</sup> FAQ No.02 (page-1) of FAQs issued by FDI Policy Section, DPIIT, Ministry of Commerce and Industry, Govt of India available at <https://www.dpiit.gov.in/static/uploads/2025/07/bdcb2c6eda1dbc1f7c29981e4c3fd428.pdf>

## FDI entry routes in India:

India allows Foreign Direct Investment (FDI) through two (2) routes viz. (1) Automatic route also known as Direct route and (2) Government route often referred to as the Indirect route. Permissible FDI can be made under Automatic route or Government route<sup>10</sup>.

“Automatic route” means the entry route through which investment by a person resident outside India doesn’t require the prior approval of the Reserve Bank of India or the Central Government.

“Government route” means the entry route through which investment by a person resident outside India requires prior Government approval and foreign investment received under this route shall be in accordance with the conditions stipulated by the Government in its approval. Proposals for the foreign investment under this route are considered by respective Department / Ministry. Besides the entry conditions on foreign investment, the investment/investors are required to comply with all relevant sectoral laws, regulations, rules, security conditions and state/local laws/ regulations.

There are some sectors where FDI has been prohibited by the Government<sup>11</sup>.

Route wise / FDI details of Equity Inflow to India from January 2000 to September 2025 is follows<sup>12</sup>.

## Route wise / FDI Equity Inflow from January 2000 to September 2025

(Amount in INR Crore /Amount in USD million)

| Calendar Year                                  | I<br>Government<br>Route         | II<br>Automatic<br>Route      | III<br>Inflow<br>through<br>Acquisition of<br>Shares Route | IV<br>RBI’s<br>Various NRI<br>Schemes^ | I to IV<br>Cumulative<br>total |
|------------------------------------------------|----------------------------------|-------------------------------|------------------------------------------------------------|----------------------------------------|--------------------------------|
| Total<br>(From<br>01.01.2000 to<br>30.09.2025) | 3,68,939<br>(USD62,950)<br>7.27% | 36,86,654<br>(USD<br>545,905) | 10,19,606<br>(USD 155,874)                                 | 589<br>(USD 134)                       | 50,75,788 (USD<br>764,863)     |
| Percentage                                     | 7.27%                            | 72.63%                        | 20.09%                                                     | 0.01%                                  | 100%                           |

Source: RBI (FED) Central Office, Mumbai

^Note: Since 2003, Inflow included under the heading Automatic Route.

**Note:** Some reports, including a December 2024 PIB release, indicated that cumulative gross FDI inflows (equity, re-invested earnings, and

**Note:** Some reports, including a December 2024 PIB release, indicated that cumulative gross FDI inflows (equity, re-invested earnings, and other capital) surpassed the \$1 trillion mark during the 2000–

<sup>10</sup> FAQs related to FDI policy section at Foreign Investment Facilitation Portal (FIFP), Page-4 of. Available at [https://fifp.gov.in/Forms/FAQs\\_FDIPolicy.pdf](https://fifp.gov.in/Forms/FAQs_FDIPolicy.pdf)

<sup>11</sup> <https://www.makeinindia.com/policy/foreign-direct-investment>

<sup>12</sup>DPPIT statistics data uploads Available at:

<https://www.dpiit.gov.in/static/uploads/2025/12/2686ab02a4b710e8fa94f42b354c606e.pdf>

2024 period, with high growth in 2024-25. However, the specific figure of 50.72 lakh crore (or ~764 billion USD) is cited as the cumulative inflow for the 2000-Sept 2025 period in 2026 reports.

It can be observed from the above statement that the FDI equity received through Automatic Route is high (72%) when compared to Government Route (7.27%). This substantial volume of FDI through Automatic Route shows that India has significantly improved its ease of doing business (EoDB). Since Foreign Investors did not need prior approval of Government, capital enters the market without administrative delays. Conversely, the volume of FDI through Government route is very low which ensures strict approval only for sensitive sectors like defence.

### Country wise FDI Inflow during 2025-26:

During the Financial Year 2025-26 (From April 2025-December 2025) a total of Rs.4,16,708.81 Cr (\$ 47,874.47 Million) FDI equity inflow was received by India from 111 countries<sup>13</sup>. The details of FDI equity inflow received from top 10 countries is given below. It can be observed from the statement that the highest percentage of FDI equity inflow was received by India from Singapore (36.87%) followed by USA (16.31%) and Mauritius (10.09%).

### Country wise FDI Equity Inflow during Financial Year 2025-26 (From April 2025-December 2025)

| Sr. No. | Name of the Country | Amount of FDI equity Inflow |                  | % with equity inflow |
|---------|---------------------|-----------------------------|------------------|----------------------|
|         |                     | (In INR Crore)              | (In USD Million) |                      |
| 1       | Singapore           | 1,54,212.18                 | 17,652.21        | 36.87                |
| 2       | USA                 | 67,440.00                   | 7,808.59         | 16.31                |
| 3       | Mauritius           | 41,983.63                   | 4,830.09         | 10.09                |
| 4       | Japan               | 28,136.33                   | 3,200.42         | 6.69                 |
| 5       | UAE                 | 21,251.47                   | 2,454.06         | 5.13                 |
| 6       | Netherland          | 20,006.47                   | 2,297.88         | 4.80                 |
| 7       | Cayman Islands      | 17,079.39                   | 1,971.50         | 4.12                 |
| 8       | Cyprus              | 12,141.84                   | 1,407.00         | 2.94                 |
| 9       | United Kingdom      | 7,210.11                    | 825.57           | 1.72                 |
| 10      | IFSC India          | 4,613.69                    | 528.32           | 1.10                 |
| 11      | Ireland             | 4,224.86                    | 492.64           | 1.03                 |

\*Total FDI inflow (As mentioned in above para) includes equity inflow, equity capital of incorporated bodies, re-invested earnings, and other capital. Sector/State/Country-wise details are maintained only for equity component of FDI inflow.

### Modes of entry of Foreign Companies in to India:

Foreign Companies can enter in to India in the following modes according to Companies Act, 2013.

A foreign investor can set up business operations in India by incorporating a company under the Companies Act, 2013 and operate through various forms such as **(1) Joint Venture / Wholly Owned**

<sup>13</sup> DPPIT statistics data uploads Available at: <https://www.dpiit.gov.in/static/uploads/2026/04/75e79c1058820d522e9b7db19ff390d0.pdf>

Subsidiary / Holding Company in compliance of the entry route / sectoral cap and other conditions under the FDI Policy and FEM Non-Debt Instrument Rules, 2019<sup>14</sup>.

Further, a person resident outside India can establish a **(1) Branch office / Liaison Office / Project Office** or any other place of business in /India in accordance with the Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016 as amended from time to time<sup>15</sup>.

As per the Master Circular of RBI, Foreign Investment in India is governed by sub-section (3) of section 6 of the Foreign Exchange Management Act, 1999 (Read with Notification No. FEMA/20/2000-RB dated May 3, 2000 as amended from time to time<sup>16</sup>.

1. **Acquisition of Immovable Property** which is regulated in terms of Section 6 (3) (i) of Foreign Exchange Management Act (FEMA), 1999 read with Notification No. FEMA21/2000-RB dt.3<sup>rd</sup> May, 2000.
2. **Establishment of Branch / Liason Office in India** which is regulated in terms of Section 6 (6) of Foreign Exchange Management Act (FEMA), 1999 read with Notification No. FEMA22/2000-RB dt.3<sup>rd</sup> May, 2000.
3. **Investment in capital of partnership firms or proprietary concern** which is regulated in terms of section 2(h) of Section 47 of Foreign Exchange Management Act (FEMA), 1999 read with Notification No. FEMA24/2000-RB dt.3<sup>rd</sup> May, 2000.

### Important points to consider before setting up of business in India:

Entering the Indian market requires key decisions across structure, partnerships, regulations, and taxations etc. These decisions may be on the following points.

- **Entry Structure:** Foreign investors can establish a joint venture or a 100% owned subsidiary in most sectors, offering full capital and dividend repatriation.
- **Local Partner & Due Diligence:** Success relies on finding a credible partner. Conduct thorough background checks across their customers, trade partners, bankers, and suppliers.
- **Market advantage:** India offers strong FDI potential driven by a stable financial system, skilled English-speaking workforce, robust IT infrastructure, and a growing consumer class.
- **Regulatory Pricing:** Security transactions between Indian residents and foreign entities must comply with strict pricing guidelines based on specific valuation formulas for listed or unlisted shares.
- **Taxation (DTAA):** India maintains Double Tax Avoidance Agreements with various nations (e.g. Malaysia). These treaties cap source-country tax rates and provide tax credits in the residence country to prevent double taxation.

### Foreign Companies registered in India:

As on 31.03.2025 a total No. of Companies registered in India are 28,52,449 (100%) out of which a total of 5,228 (0.18%) foreign companies were registered in India<sup>17</sup>. As on 31.03.2025 there are a total of

<sup>14</sup> Ibid. FAQs issued by FDI Policy Section, DPIIT, FAQ No.4 (page-2)

<sup>15</sup> Ibid. FAQs issued by FDI Policy Section, DPIIT, FAQ No.5 (page-2).

<sup>16</sup> RBI Master Circular on Foreign Investment in India No. RBI/2007-2008/18 Master Circular No.02/2007-08, dt.2<sup>nd</sup> July, 2007. Available online at <https://www.rbi.org.in/commonman/Upload/English/Notification/PDFs/78358.pdf>

<sup>17</sup> 11<sup>th</sup> Annual Report on the Working and Administration of the Companies Act, 2013 Year Ending 31.02.2025. Published by Ministry of Corporate Affairs, Government of India (Page 29-30). Available at <https://www.mca.gov.in/content/mca/global/en/data-and-reports/reports/annual-reports/companies-2013.html>

18,50,932 (100%) active Companies out of which the number of active Foreign Companies reported to have a place of business in the country was 3,286 (0.18%).

During financial year 2024-25, a total of 64 Foreign Companies were registered in India.

Country-wise distribution of registered and active Foreign Companies as on March 31, 2025, and newly registered foreign companies during the year 2024-25 can be seen in the Statement given below<sup>18</sup>.

## Distribution of Foreign Companies by their Country of Origin as on 31<sup>st</sup> March, 2025

| Sl No. | Country              | No. of Foreign Companies  |                             |                         |
|--------|----------------------|---------------------------|-----------------------------|-------------------------|
|        |                      | Private                   | Public                      | Total                   |
|        |                      | Registered during 2024-25 | Registered as on 31.03.2025 | Active as on 31.03.2025 |
| 1      | Australia            | 3                         | 90                          | 51                      |
| 2      | Bahrain              | 0                         | 9                           | 8                       |
| 3      | Belgium              | 0                         | 42                          | 23                      |
| 4      | Canada               | 1                         | 76                          | 51                      |
| 5      | Cyprus               | 0                         | 13                          | 10                      |
| 6      | Denmark              | 1                         | 29                          | 17                      |
| 7      | France               | 1                         | 149                         | 92                      |
| 8      | Germany              | 1                         | 251                         | 129                     |
| 9      | Hong Kong            | 1                         | 190                         | 91                      |
| 10     | Ireland              | 0                         | 20                          | 10                      |
| 11     | Israel               | 0                         | 27                          | 19                      |
| 12     | Italy                | 0                         | 120                         | 67                      |
| 13     | Japan                | 8                         | 368                         | 166                     |
| 14     | Malaysia             | 0                         | 83                          | 55                      |
| 15     | Netherlands          | 1                         | 103                         | 50                      |
| 16     | Nigeria              | 0                         | 5                           | 4                       |
| 17     | Norway               | 1                         | 24                          | 14                      |
| 18     | Singapore            | 7                         | 513                         | 253                     |
| 19     | South Africa         | 0                         | 9                           | 4                       |
| 20     | South Korea          | 6                         | 197                         | 116                     |
| 21     | Spain                | 0                         | 89                          | 60                      |
| 22     | Switzerland          | 2                         | 89                          | 52                      |
| 23     | Thailand             | 1                         | 52                          | 29                      |
| 24     | United Arab Emirates | 3                         | 107                         | 69                      |
| 25     | United Kingdom       | 1                         | 384                         | 235                     |
| 26     | USA                  | 19                        | 699                         | 411                     |
| 27     | Others               | 7                         | 1490                        | 1200                    |
|        | <b>Total</b>         | <b>64</b>                 | <b>5228</b>                 | <b>3286</b>             |

<sup>18</sup> Ibid. 11<sup>th</sup> Annual Report (Page 29-30).

It can be observed from the above statement that a total of 699 (21.27%) Companies is from the United States of America, 513 (15.61%) companies from Singapore, 384(11.69%) companies from the United Kingdom, 368 (11.20%) companies from Japan and 251(7.64%) companies from Germany. Overall, these four countries combinedly have a major share in the total i.e. 1516 (46.13%).

## Economic Activity wise classification of Foreign Companies registered during 2025-26:

During the year 2025-26 a total of 101 Foreign companies were registered in India<sup>19</sup>. When looking at the economic activity classification, 90 (89.11%) companies are into Service Sector and 11 (10.90%) companies are in to Industry. Among the Services Sector, the highest number of companies (61.39%) were registered under Community, Personal and Social Services.

## Economic Activity wise distribution of foreign companies registered in India During 2025-26

| Sl No. | Economic Activity                           | Number of Companies Registered during 2025-26 | %            |
|--------|---------------------------------------------|-----------------------------------------------|--------------|
| I      | <b>Agriculture and Allied Activities</b>    | -                                             | -            |
| II     | <b>Industry</b>                             | <b>11</b>                                     | <b>10.90</b> |
|        | 1. Manufacturing (Machinery and Equipments) | 8                                             | 7.92         |
|        | 2. Manufacturing (Textiles)                 | 1                                             | 1            |
|        | 3. Electricity, Gas and Water companies     | 2                                             | 1.98         |
| III    | <b>Services</b>                             | <b>90</b>                                     | <b>89.11</b> |
|        | 1. Community, Personal and Social Services  | 62                                            | 61.39        |
|        | 2. Insurance                                | 14                                            | 13.86        |
|        | 3. Trading                                  | 5                                             | 4.95         |
|        | 4. Transport, Storage and Communications    | 4                                             | 3.96         |
|        | 5. Business Services                        | 3                                             | 2.97         |
|        | 6. Finance                                  | 2                                             | 1.98         |
|        | <b>Total</b>                                | <b>101</b>                                    | <b>100</b>   |

## Economic Activity wise classification of Foreign Companies (April to June, 2026):

As on 30th June 2026, there were a total of 5,358 foreign companies registered in India. Out of these, 62% (3,302) were Active. Of the 27 new overseas business entities that were registered with the Ministry of Corporate Affairs during April 2026 to June 2026, 22% were registered in Gujarat and Maharashtra, 18% in Delhi, 15% were registered in Tamil Nadu, 11% were registered in Haryana. 4% each in Karnataka, Telangana and Uttar Pradesh.

## Economic Activity wise distribution of foreign companies registered in India during April 2026 to June 2026

<sup>19</sup> Monthly Information Bulletins (2025-26) of Ministry of Corporate Affairs, Government of India available at <https://www.mca.gov.in/bin/dms/getdocument?mds=sp7owUN42V0SUCrP8ShTJA%253D%253D&type=open>

| SI No. | Economic Activity                          | Number    | %            |
|--------|--------------------------------------------|-----------|--------------|
| I      | <b>Agriculture and Allied Activities</b>   | -         | -            |
| II     | <b>Industry</b>                            | <b>1</b>  | <b>3.7</b>   |
|        | 1. Construction Industry                   | 1         |              |
| III    | <b>Services</b>                            | <b>26</b> | <b>96.30</b> |
|        | 1. Community, Personal and Social Services | 15        | 55.56        |
|        | 2. Trading                                 | 1         | 3.7          |
|        | 3. Insurance                               | 3         | 11.11        |
|        | 4. Business Services                       | 3         | 11.11        |
|        | 5. Finance                                 | 2         | 7.41         |
|        | 6. Transport, Storage and Communications   | 2         | 7.41         |
|        | <b>Total</b>                               | <b>27</b> | <b>100</b>   |

When looking at the economic activity classification, it can be observed from the above statement that 96% of the companies were into Services Sector followed by Industry (3.7%) and Agriculture and Allied Services. Among Services Sector, 56% of the companies can be classified as 'Community, personal and Social Services, followed by Insurance, Business Services and Finance, Transport, Storage and Communications.'<sup>20</sup>.

### Key regulatory bodies of Foreign Companies:

Foreign companies operating in India are governed by multiple regulatory authorities, legal frameworks at the Central, State and Sectoral levels<sup>21</sup>. FEMA forms the backbone of foreign exchange regulation, administered by RBI, while corporate governance is overseen by MCA. Investment policies are framed by DPIIT, capital markets regulated by SEBI, and taxation governed under the Income-tax Act and GST laws. Labour laws, contract laws, and trade regulations further ensure structured and lawful business operations.

Together, these laws create a regulated yet investor-friendly environment that promotes transparency, economic stability, and compliance for foreign companies operating in India.

The Key Regulatory Bodies governing foreign companies in India are as follows<sup>22</sup>.

- **RBI - Monetary policy and foreign exchange control:** India's Central Bank which controls foreign exchange under FEMA, manages inbound and outbound capital flows, regulates cross-border remittances, and issues approvals for foreign companies establishing branch or liaison offices.
- **MCA - Oversight of company registration and corporate governance:** The Ministry of Corporate Affairs (MCA) administers the Companies Act, regulating corporate incorporation, compliance, and governance. It oversees foreign subsidiaries and project offices, ensuring strict statutory filings through the Registrar of Companies.
- **DPIIT - Policy-making for Foreign Direct Investment (FDI):** Operating under the Ministry of Commerce, this nodal department formulates India's Foreign Direct Investment (FDI) policy. It

<sup>20</sup> Monthly Information Bulletin of Ministry of Corporate Affairs, Government of India (June, 2026) (page-13 and page 21) available at <https://www.mca.gov.in/bin/dms/getdocument?mds=sp7owUN42V0SUCrP8ShTJA%253D%253D&type=open>

<sup>21</sup> Companies Incorporated Outside India (2021) by ICAI. Available at: <https://live.icai.org/bos/vcc-2nd-batch-recorded-lectures/pdf/Companies%20Incorporated%20Outside%20India.pdf>

<sup>22</sup> Ibid.

facilitates investor clearance, grants investment approvals, and drives ease of doing business initiatives.

- **SEBI - Regulation of foreign portfolio investments (FPI):** The capital markets watchdog regulates Foreign Portfolio Investors (FPIs) entering Indian securities markets. It enforces strict disclosure norms, prevents market manipulation, and safeguards investor interests in public systems.

#### **Various laws codified by Government of India for regulation of Business:**

India has codified and uniform commercial laws that include legislations relating to contracts, corporations, exchange control, competition, taxation and the like. Statutes are supplemented by policy pronouncements, press notes, notifications and regulations by Governmental departments and regulators<sup>23</sup>. The key business-related legislations / regulations in India applicable to Foreign Companies are:

- **The Foreign Exchange Management Act, 1999 (FEMA)** which provides for India's foreign exchange management regime and regulates the inflow and outflow of foreign exchange and investment into/from India and the regulations issued thereunder, together with the rules/circulars/press notes/guidelines issued by the Government of India setting out the foreign investment policy (including sector-specific requirements);
- **RBI guidelines:** RBI administers FEMA and regulates (1) Foreign Exchange transactions (2) Approval of Branch, Liaison and Project Offices (3) Cross border remittances (4) Reporting of Foreign investments etc.
- **The Companies Act 2013:** which governs the incorporation of foreign subsidiaries, Registration of Foreign Companies Operating in India restructuring and dissolution of companies;
  1. **Registration & Initial filing Section (380):** Within 30 days of establishing a place of business in India a foreign company must file Form FC-1 with the Registrar (New Delhi) along with prescribed fee and RBI approval (if required under FEMA).
    - a. In case of alteration: File Form FC-2 within 30 days of alteration.
    - b. If place of business is closed: Intimate Registrar immediately.
  2. **Accounts and Financial Statements (381):** Prepare financial statements (as per Schedule-III as near as possible). File within 6 months of close of Financial Year. Indian operations must be audited by an India CA / CA firm. Chapter X (Audit & Auditors) applies mutatis mutandis.
  3. **Annual Returns (Section-384 Read with rules):** File Form FC-4 within 60 days from close of Financial Year with prescribed fee.
  4. **Display and Disclosure Requirements (Section – 382)**
  5. **Service of documents (Section - 383)**
  6. **Other provisions applicable (Section-384)**
    - a. Issue of Debentures - Section – 71, Annual Return - Section-92, CSR - Section-135, Books of Account - Section -128 (to be kept at principal place in India), Registration of Charges – Chapter-VI, Inspection, Inquiry & Investigation – Chapter-XIV.
  7. **Issue of Prospectus – (Section 387-389)**
  8. **Issue of Indian Depository Receipts (Section-390)**
  9. **Winding Up (Section-376)**

<sup>23</sup> Guide on doing Business in India <https://www.mca.gov.in/images/pdf/DoingBusinessinIndiaGuide.pdf> (page - 7)

10. Penalties for non-compliance with Chapter-XXII: Non-compliance by Foreign Companies in India leads to severe penalties including fines of Rs.1 lakh to Rs. 3 lakh, daily penalties of Rs.50,000/- for continuing offences and potential imprisonment of officers up to 6 months and fine from Rs.25,000/- to Rs.5 lakh or both.

- **The Indian Contracts Act 1872** which lays down the general principles relating to the formation and enforceability of contracts, consideration, the various types of contracts including those of indemnity and guarantee, bailment and pledge, agency and breach of a contract;
- **The Securities Exchange Board of India Act, 1992** which governs the functions and powers of SEBI, India's securities market regulator) and the regulations issued thereunder, including, in particular, the SEBI ICDR Regulations (which govern the public offers of securities and offers of securities by listed companies); the SEBI Takeover Regulations (which govern the terms of mandatory and voluntary tender offers for shares of listed companies), the SEBI Insider Trading Regulations (which prohibit dealing in securities when in possession of unpublished price sensitive information), and the SEBI Delisting Regulations (which set out the process for delisting of a listed company);
- **The Security Contract Regulation Act, 1956** which governs listing and trading of securities on stock exchanges in India and the Listing Agreement with stock exchanges;
- **The Competition Act 2002** which regulates combinations (merger control) and anti-competitive behaviour; and
- **The Income Tax Act** which prescribes the tax treatment of dividend, capital gains, mergers, demergers and slump sales.
- **The Goods and Services Act, 2017:** A single unified indirect tax framework in India which replaced multiple cascading central and state levies.

In addition, there are several sector specific legislations (e.g. the **Indian Telegraph Act, Drugs and Cosmetics Act, Press Council Act, the Banking Regulation Act, the Insurance Act**, and various **labour legislations (Industrial Disputes Act, ESI Act, EPFO Act etc.)** that must also be considered depending on the nature and type of the transaction.

Overall, it can be seen that the regulatory framework applied to companies incorporated outside India is part of India's broader corporate regime. Rather than creating a distinct or parallel regime, it is evident that the Companies Act, 2013 seeks to incorporate foreign companies into the overall corporate framework of India, exposing them to disclosure, reporting and compliance obligations commensurate with their activities in India.

### Contravention of the legal provisions:

Foreign companies face severe penalties when they operate in contravention of domestic legal provisions<sup>24</sup>. Regulatory bodies heavily scrutinise compliance regarding taxation, data privacy, labour laws, and investment caps. When a multinational corporation bypasses local statutes either through aggressive tax avoidance or unauthorised data mapping it directly undermines host country sovereignty. Such non-compliance leads to heavy financial fines, operational bans, and significant reputational damage, proving that global market expansion requires strict adherence to local legal frameworks.

### Challenges faced by Foreign Companies in regulatory compliance:

<sup>24</sup> Michalowski, R., & Kramer, R. C. (1987). The Space Between Laws: The Problem of Corporate Crime in a Transnational Context. *Social Problems*, 34, 34-53. <https://doi.org/10.2307/800728>

India's rapid economic growth has positioned it as a vital player in global trade. However, despite key legislative reforms, domestic and foreign enterprises continue to face administrative friction. Navigating complex regulatory requirements and shifting compliance mandates a significant hurdle for businesses looking to scale operations across international borders<sup>25</sup>.

India's legal framework imposes multiple structural, procedural and regulatory barriers that impede the internationalization of domestic and foreign-linked businesses. Evidence from the literature identifies enforcement deficiencies, restrictive FDI regimes, compliance burdens, competition law gaps, and restrictions on professional services as key obstacles<sup>26</sup>.

Overcoming these systemic hurdles demands targeted regulatory reforms streamlined contract enforcement, and eased FDI norms. Accelerating judicial dispute resolution and reducing compliance burdens will foster seamless cross-border commerce. Modernising these legal structures will ensure Indian enterprises expand globally while making the nation a highly attractive destination.

### Key examples of Legal and Regulatory challenges faced by Foreign Companies in India:

Foreign companies frequently encounter severe legal and regulatory challenges when expanding in to overseas markets, often driven by complex local tax codes and strict compliance demands. A prominent example is India's regulatory landscape where major global corporations like Vodafone and Cairn Energy faced multi-billion-dollar legal battles over retroactively applied tax laws. Similarly, automotive and tech giants such as Volkswagen, Samsung and BYD have been embroiled in high-stakes disputes with local authorities over allegations of import duty underpayment, misclassified vehicle parts, and strict transfer pricing audits. Beyond tax friction, few renowned foreign companies have faced heavy penalties from antitrust regulators for structural compliance failures and obscuring investment stakes<sup>27</sup>. These cases underscore how navigating foreign jurisdictions requires strict adherence to fluid local laws, as even minor missteps in governance, local partnerships, or supply chain classification can lead to catastrophic financial penalties and protracted litigation<sup>28</sup>.

A brief summary of key corporate legal cases of foreign companies is given below<sup>29</sup>:

- **Samsung (2025):** The South Korean electronics giant and its local executives were ordered to pay \$601 million in back taxes and penalties for avoiding tariffs on essential telecom equipment imports.
- **Volkswagen (2024):** The German automaker received a record breaking \$1.4 billion tax notice. The government alleges the company shipped parts separately to bypass higher tariff rates placed on fully unassembled vehicles.
- **Kia Motors (2024-25):** South Korea's Kia Motors was accused of dodging \$155 million in taxes by misclassifying imported components used to assemble its luxury Carnival minivan.

<sup>25</sup> Singla, A. (2023). Corporate Governance and Legal Compliance in Indian Business Sector. *Indian Journal of Law*. <https://doi.org/10.36676/ijl.2023-v1i1-01>

<sup>26</sup> Bhuvanesh, J. "Barriers in Indian Laws to the Internationalisation of Businesses." *International Journal of Law Management & Humanities*, vol.8, no.2, 2025.

<sup>27</sup> "Key penalties faced imposed on Amazon across the world: A brief timeline" by Vikas SN - Article published at Money Control new paper dt.17.12.2021. Available at: <https://www.moneycontrol.com/news/business/key-penalties-imposed-on-amazon-across-the-world-a-brief-timeline-7838981.html>

<sup>28</sup> "From Samsung to BYD: Foreign companies and their tax tussles with India" – article published in Legal Word - Economic Times dt.25.03.2025. Available on line at : [https://legal.economictimes.indiatimes.com/news/international/from-samsung-to-byd-foreign-companies-and-their-tax-tussles-with-india/119477953?utm\\_source=copy&utm\\_medium=pshare](https://legal.economictimes.indiatimes.com/news/international/from-samsung-to-byd-foreign-companies-and-their-tax-tussles-with-india/119477953?utm_source=copy&utm_medium=pshare)

<sup>29</sup> Ibid.

- **Vodafone (2007-20):** England's Vodafone was slapped with \$2 billion tax demand following an \$11 billion asset acquisition in 2007. After years of litigation and retroactive policy shifts, Vodafone ultimately won an international arbitration case in 2020.
- **Cairn Energy (2014-21):** Britain's Cairn Energy was entangled in a \$1.4 billion dispute over share transfers during a corporate reorganisation. The dispute was finally settled in 2021 when the Indian government agreed to refund the tax amount.
- **Pernod Ricard (2022):** French liquor giant is facing a \$250 million back-tax claim for allegedly undervaluing liquor imports over a decade to dodge full customs duties.
- **BYD (2023):** The Chinese EV automaker was investigated for underpaying \$8.37 million on assembled car parts. While BYD deposited the funds, the investigation remains ongoing.
- **McDonald's India Vs Connaught Plaza Restaurants (2017):** The American multinational fast-food chain had a dispute outlining the enforcement of international franchise agreements and joint venture exits under Indian Corporate Law<sup>30</sup>.

Foreign companies can proactively avoid tax and customs litigations in India by implementing stricter classification reviews, utilizing advance ruling, and aligning international transaction structures with changing local rules.

#### **Ease of Doing Business (EoDB) - Union Budget of India 2026-27:**

Government of India is actively driving growth through various measures viz. by digitising customs, easing compliance, and providing tax certainty to build a highly competitive investor friendly business system through Union Budget 2026-27.

It was announced by the Government of India that the Union Budget of India 2026-27 reinforces Ease of Doing Business (EoDB) as pillar of growth and development, while focussing on digitalisation (digital trade facilitation), tax certainty (an investment friendly tax regime), investor access, reduction of compliance burden and litigation, trust based customs (promoting trust based governance), and litigation reduction since Ease of Doing Business has emerged as corner stone of India's economic reform agenda. It is stated that the continued Ease of Doing Business (EoDB) is aligned with the Viksit Bharat@2047 vision will remain vital for strengthening global value chain linkages and driving industry-led growth. The key reforms proposed in the budget are including rationalisation of MAT, simplification of dispute resolution, and decriminalisation of minor procedural offences along with customs and logistics reforms through digital integration and risk-based clearances to lower transaction costs and improve business efficiency<sup>31</sup>.

The impact of these reforms reflected in India's investment and enterprise expansion. During 2014-25, India attracted USD 748.38 billion in Foreign Direct Investment (FDI), a 143% increase over the previous 11-year period. Further the number of active registered companies increased from 1.55 lakh in 2020-21 to 1.98 lakh in 2025-26 (as on 3<sup>rd</sup> February, 2026) indicating a growth of 27% in 5 years. It is stated that continued Ease of Doing Business (EoDB) reforms, aligned with Viksit Bharat@2047 vision will remain vital for strengthening global value-chain linkages and driving industry-led growth<sup>32</sup>.

<sup>30</sup> Enakshi Jha (2017) – "McDonalds Case: NCLT decision on oppression" – Article published online at [indiacorplaw.in/2017/08/14/mcdonalds-case-nclt-decision-oppression/](http://indiacorplaw.in/2017/08/14/mcdonalds-case-nclt-decision-oppression/), Dt. 14<sup>th</sup> August, 2017. Available on at <https://indiacorplaw.in/2017/08/14/mcdonalds-case-nclt-decision-oppression/>

<sup>31</sup> Press Information Bureau (PIB) portal (5<sup>th</sup> Feb, 2026) – Available at <https://www.pib.gov.in/PressNoteDetails.aspx?id=157227&NoteId=157227&ModuleId=3&reg=3&lang=2>

<sup>32</sup> *Ibid*

**Spice+ (Simplified Proforma for Incorporating Company Electronically Plus):**

As part of India's ease of doing business (EoDB), the Ministry of Corporate Affairs, Government of India had launched Spice+ (Simplified Proforma for Incorporating Company Electronically Plus)<sup>33</sup> in the year 2020 (Effective from 23<sup>rd</sup> February, 2020) which serves as integrated web-based form operated via the MCA portal. The platform centralizes regulatory filings, and application procedures, in to an entirely paperless workflow. Company incorporation has been streamlined using spice+ alongside companion electronic instruments, including the e-memorandum of association, and e-articles of association. These digital initiatives are intended to act as a single window compliance mechanism that simplifies entity formation from initial registration onwards<sup>34</sup>.

**Conclusion:**

India has positioned itself as an increasingly attractive destination for Foreign Direct Investment (FDI), driven by strong market fundamentals, expanding infrastructure, and systemic regulatory reforms. However, navigating the intricate statutory landscape governed by authorities like RBI, MCA, and DPIIT under FEMA and the Companies Act, 2013 remains a complex task for overseas enterprises. While historical tax disputes and stringent operational compliance have posed significant friction, recent initiatives of the Government like the Union Budget 2026-27 highlight the government's firm commitment to Ease of Doing Business (EoDB) through trust-based governance, decriminalisation of procedural offences, and tax certainty. Moving forward, foreign firms must maintain robust local compliance and proactive governance, ensure sustained growth while contribute to India's Viksit Bharat@2047 economic vision.

**Disclaimer:** The article has been prepared and presented based on the available secondary data for the purpose information sharing. The insights, and opinions expressed herein are entirely those of the author in his personal capacity and do not reflect the official policy, position or views of his current employer, office or Government.

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<sup>33</sup> Garg, D. (2021). Incorporation of Indian Companies Using Integrated Web Forms as Ease of Doing Business Initiative: An Overview. *Knowledge Management and Web 3.0*. <https://doi.org/10.1515/9783110722789-010>

<sup>34</sup> Ibid.