

Foreign Direct Investment - FDI in India

Who can Invest in FDI in India?

1. Any Non-resident individual (NRI)/Entity
2. Company, trust or partnership firm incorporated outside India and owned and controlled by NRIs
3. Foreign Institutional Investors (FII) and Foreign Portfolio Investors (FPI)
4. Registered FIIs/ FPIs/ NRIs
5. SEBI registered Foreign Venture Capital Investor (FVCI)

Types of FDI in India

- **Automatic Route:** Automatic Route is when the FDI is allowed without any prior approval by the Government of India or the Reserve Bank of India.
- **Government Route:** Government Route is as simple as the term. The FDI through Government Route need prior approval from the Government of India.

One of the recent examples of Government Route FDI is Flipkart-Walmart deal. The Flipkart-Walmart deal is in basic terms an FDI in Multi-brand Retail which is why it needs Government approval.

How does Government Route FDI in India work?

- Proposal of FDI along with supporting documents are filed online on Foreign Investment Facilitation Portal.
- Then DIPP circulates the proposal to RBI within 2 days for comments from a FEMA perspective.
- After that DIPP comments on the proposal to Cabinet.
- After that it gets final approval.

Important Information on FDI via Government Route:

- Foreign Investment Facilitation Portal is the new online single point interface of the Government of India for investors to facilitate Foreign Direct Investment through Government Route.
- Any FDI above ₹50 billion or USD 775 million shall be placed before the Cabinet Committee of Economic Affairs.
- Any FDI from Pakistan and Bangladesh would require clearance from the Ministry of Home Affairs.
- Any FDI violation is governed by penal provision in the Foreign Exchange Management Act (FEMA) 1999.
- While the Reserve Bank of India administers the FEMA, the Enforcement Directorate is responsible for enforcement of FEMA.

Report & Rank related to FDI in India

- India has been ranked 11th in the 2018 FDI Confidence Index by AT Kearney.
- India also emerged as the top recipient of the Commonwealth Foreign Direct Investment according to 'Commonwealth Trade Review 2018' report.
- On the other hand, 'Commonwealth Trade Review 2018' report states that India is the 2nd most lucrative source of investment within the 53-member organisation after the UK.

Sectors prohibited from FDI in India

1. Chit Funds
2. Real Estate Business or Construction of Farm Houses
3. Any type of online or offline Lottery Business
4. Atomic Energy
5. Tobacco Products
6. Nidhi Company
7. Gambling and Betting or Casinos

Categories of FDI in India

Category 1: 100% FDI permitted through Automatic route

Category 2: 100% FDI permitted through Government Route

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

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

Category 1: 100% FDI permitted through Automatic route

- Agriculture & Animal Husbandry
- Plantation (Tea, Coffee, Rubber, Cardamom, Palm oil tree, Olive oil tree)
- Mining & Exploration of metals & non-metals ores excluding titanium bearing minerals and its ores
- Coal & Lignite mining for captive consumption in respect of eligible activities
- Cash & Carry Wholesale Trading
- Construction Development projects
- Airports & Railway Infrastructure
- Transport services
- Broadcasting Carriage Services
- Market Place Ecommerce Activities
- Asset Reconstruction & Credit Information Companies
- White Label ATM Operations
- Pharmaceuticals – Greenfield Sector and Medical device manufacturing
- Single Brand Retail Trading, Duty Free Shops
- Civil Aviation – Greenfield & Brownfield Other Services at Airport
- Industrial Park
- Exploration of Petroleum & Natural Gas (including marketing of petroleum products & natural gas)
- Up-link of non-'News & Current Affairs' TV Channels, Down linking of TV channel
- Other Financial Services (registered/ regulated entity)

Category 2: 100% FDI permitted through Government Route

- Mining and minerals separation of titanium bearing minerals & ores its value addition & integrated activities
- Satellites-establishment and operations

- Retail Trading including through e-commerce in respect of food products manufactured and/ or produced in India
- Publication of facsimile edition of foreign newspapers
- Publishing/ printing of scientific and technical magazines/specialty journals/ periodicals

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

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

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

Automatic route upto 49%

- Insurance
- Petroleum Refining by PSUs
- Infrastructure Companies in Securities Markets
- Power Exchanges
- Pension Sector

Government route

- **Up-linking of 'News & Current Affairs' TV Channels** – upto 49%
- **Terrestrial Broadcasting FM (FM Radio)** – upto 49%
- **Multi-Brand Retail Trading**– upto 51%
- **Banking Public Sector** – upto 20%
- **Print Media-Publishing of Newspapers & Periodicals Publication of Indian editions of foreign magazines dealing with news and current affairs** – upto 26%