1. **What is Foreign Direct Investment (FDI)?**

'FDI' means 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 a 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.

2. **What is the regulatory and governing framework for FDI 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 as amended from time to time (**FEMA**) and rules/regulations issued thereunder. The main objective of FEMA is to regulate, consolidate and amend the law relating to foreign exchange to facilitate foreign investment, external trade and payments and promote the orderly development and maintenance of foreign exchange market in India within the broad policy framework on foreign investment issued by the Government from time to time. Presently, the FDI regime in India is primarily governed by the Consolidated Foreign Direct Investment Policy Circular dated 28.08.2017, as amended through various Press Notes issued by the Department for Promotion of Industry and Internal Trade (**DPIIT**)(**FDI Policy**), sector specific policies/regulations, Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 dated 17.10.2019 notified by the DEA, Ministry of Finance (**FEM Non-Debt Instruments Rules 2019**) which superseded the erstwhile Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 Notification No. FEMA 20(R)/2017-RB dated 07.11.2017 (**FEMA 20R Regulations)**.

3. **What is the procedure for mode of payment, remittance of sale/maturity proceeds and reporting of FDI?**

The instructions on mode of payment, remittance of sale/maturity proceeds and reporting requirements are stipulated under the FEM Non-Debt Instruments Rules 2019 and Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 vide notification no. No. FEMA. 395/2019-RB dated 17.10.2019 issued by the RBI.

4. **How can a foreign investor set up business operations in India through a company?**

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 Joint Venture/Wholly Owned Subsidiary/Holding Company in compliance of the entry route/sectoral cap and other conditions under the FDI Policy and FEM Non-Debt Instruments Rules 2019.

5. **Can foreign entities set up a branch office/liaison office/project office or any other place of business in India?**

A person resident outside India can established a branch office/liaison office/project office or any other place of business in India 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 issued vide Notification No. FEMA 22(R)/2016-RB dated March 31, 2016, as amended from time to time.

Any acquisition and transfer of immovable properties in India by such entities is governed under Chapter IX of the FEM Non-Debt Instruments Rules 2019.

6. **Can Indian Limited Liability Partnerships (LLPs) receive investments from foreign investors?**

Yes. Eligible foreign investors can invest through capital contribution or acquisition/transfer of profit shares in LLPs operating in sectors or activities where foreign investment up to 100% is permitted under automatic route and there are no FDI linked performance conditions.

7. **What is "downstream investment"?**

"Downstream investment" means investment made by an Indian entity which has total foreign investment in it, or an Investment Vehicle in the capital instruments or the capital, as the case may be, of another Indian entity.

8. **What is indirect foreign investment?**

"Indirect foreign investment" means downstream investment received by an Indian entity from,-
(A) another Indian entity (IE) which has received foreign investment and (i) the IE is not owned and not controlled by resident Indian citizens or (ii) is owned or controlled by persons resident outside India; or
(B) an investment vehicle whose sponsor or manager or investment manager (i) is not owned and not controlled by resident Indian citizens or (ii) is owned or controlled by persons resident outside India:

Indian entity which has received indirect foreign investment shall comply with the entry route, sectoral caps, pricing guidelines and other attendant conditions as applicable for foreign investment.

9. **How is total foreign investment in an Indian company/LLP calculated?**

The guidelines for calculation of total foreign investment, both direct and indirect in an Indian company/LLP, at every stage of investment, including downstream investment, are detailed under Annexure 5 of the FDI Policy.

10. **Whether the amount of consideration in case of share transfer among resident and non-resident shareholders can be paid on deferred basis?**

Yes. In case of transfer of equity instruments between a person resident in India and a person resident outside India, an amount not exceeding 25% of the total consideration may be: (i) paid by the buyer on a deferred basis within a period not exceeding 18 months from the date of the transfer agreement; or (ii) may be settled through an escrow arrangement between the buyer and the seller for a period not exceeding 18 months from the date of the transfer agreement; or (iii) indemnified by the seller for a period not exceeding eighteen months from the date of the payment of the full consideration, if the total consideration has been paid by the buyer to the seller. The total consideration must be compliant with the applicable pricing guidelines.

11. **What are the entry routes for FDI?**

Permissible FDI can be made under "Automatic route" or "Government route".

"Automatic route" means the entry route through which investment by a person resident outside India does not 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.

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.

12. What are sectors/activities in which FDI is prohibited?

FDI is prohibited in:

a) Lottery Business including Government/private lottery, online lotteries, etc.

b) Gambling and Betting including casinos etc.

c) Chit funds

d) Nidhi company

e) Trading in Transferable Development Rights (TDRs)

f) Real Estate Business or Construction of Farm Houses

'Real estate business' shall not include development of townships, construction of residential /commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations 2014.

g) Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes

h) Activities/sectors not open to private sector investment e.g. (I) Atomic Energy and (II) Railway operations (other than permitted activities mentioned in permitted sectors).

Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for Lottery Business, Gambling and Betting activities.

13. What are the entry routes and sectoral caps for various sectors/activities?

Following are the specified sectoral caps and entry routes under the FDI Policy (subject to applicable laws/regulations; security and other conditionalities):

Sl.No	Sector	Sectoral Cap (in %)	Entry Route	
			Automatic	Government
1.	**Agriculture**			
	Agriculture & Animal Husbandry a) Floriculture, Horticulture, and Cultivation of Vegetables & Mushrooms under controlled conditions; b) Development and Production of seeds and planting material; c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, Apiculture; and d) Services related to agro and allied sectors **Note: Besides the above, FDI is not allowed in any other agricultural sector/activity**	100%	100%	-
	Plantation Sector (i) Tea sector including tea plantations (ii) Coffee plantations (iii) Rubber plantations (iv) Cardamom plantations (v) Palm oil tree plantations (vi) Olive oil tree plantations **Note: Besides the above, FDI is not allowed in any other plantation sector/activity.**	100%	100%	-
	MINING			

	Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores (excluding titanium bearing minerals and its ores)	100%	100%	-
	Coal & Lignite (1) Coal & Lignite mining for captive consumption by power projects (2) Setting up coal processing plants. (3) For sale of coal, coal mining activities	100%	100%	-
	Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100%	-	100%
3.	**PETROLEUM & NATURAL GAS**			
	Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas.	100%	100%	-
	Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	49%	-
4.	**MANUFACTURING**	100%	100%	-
	Defence			
	Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951; and Manufacturing of small arms and ammunition under the Arms Act, 1959	100%	Upto 74%	above 74% (wherever it is likely to result in access to modern technology or for other reasons to be recorded)
	BROADCASTING			

	BROADCASTING CARRIAGE SERVICES (1)Teleports(setting up of up-linking HUBs/Teleports); (2)Direct to Home (DTH); (3)Cable Networks (Multi System operators (MSOs); 4)Mobile TV; (5)Headend-in-the Sky Broadcasting Service(HITS)	100%	100%	-
	Cable Networks	100%	100%	-
	Broadcasting content services (FM radio, Up- linking of News & current Affairs TV Channels)	49%	-	Upto 49%
	Up-linking of „News & Current Affairs" TV Channels	49%	-	Upto 49%
	Uploading/Streaming of News & Current Affairs through Digital Media	26%	-	Upto 26%
	Up-linking of Non- „News & Current Affairs" TV Channels/ Down-linking of TV Channels	100%	100%	-
7.	**PRINTMEDIA**			
	(Publishing of newspaper and periodicals dealing with news and current affairs)	26%	-	Upto26%
	(Publication of Indian editions of foreign magazines dealing with news and current affairs)	26%	-	Upto 26%
	Publishing/printing of scientific and technical magazines/specialty journals/ periodicals.	100%	-	Upto 100%
	Publication of facsimile edition of foreign newspapers	100%	-	Upto 100%
	CIVIL AVIATION			
	AIRPORTS(Greenfield projects ,Existing projects)	100%	100%	-
	AIR TRANSPORT SERVICES	100%	Automatic upto 49% (	Above 49%

	(1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service		Automatic upto 100% for NRI)	
	(2) Non-Scheduled Air Transport Services	100%	100%	-
	(3) Helicopter services/seaplane services requiring DGCA approval	100%	100%	-
	OTHER SERVICES UNDER CIVIL AVIATION SECTOR (1) Ground Handling Services. (2) Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	100%	-
	Construction development (township, housing, Build-up Infrastructure)	100%	100%	-
10.	Industrial parks Industrial Parks -new and existing	100%	100%	-
	Satellites- establishment and operation	100%	-	100%
	Private Security Agencies	74%	Upto 49%	Beyond 49% and upto 74%.
	Telecom Services(including Telecom Infrastructure Providers Category-I)	100%	Upto 49%	Above 49%
14.	Trading Cash & Carry Wholesale Trading/Wholesale Trading (including sourcing from MSEs)	100%	100%	-
15.	E-Commerce Activities	100%	100%	-
16.	Single Brand Product Retail Trading	100%	100%	-
17.	Multi Brand Retail Trading	51%	-	51%

18.	Duty Free Shops	100%	100%	-
19.	Railway Infrastructure	100%	100%	-
20.	**Financial Services**			
	Asset Reconstruction Companies	100%	100%	-
	Banking- Private Sector	74%	Upto 49%	Above 49% and upto 74%
	BANKING- PUBLIC SECTOR (Banking- Public Sector subject to Banking Companies (Acquisition & Transfer of Undertakings) Acts 1970/80.	20%	-	20%
	Credit Information Companies (CIC)	100%	100%	-
	Infrastructure Company In The Securities Market	49%	49%	-
21.	**Insurance**			
	Insurance Company	49%	49%	-
	Intermediaries or Insurance Intermediaries	100%	100%	-
22.	Pension Sector	49%	49%	-
23.	POWER EXCHANGES Power Exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.	49%	49%	-
24.	White Label ATM Operations	100%	100%	-
25.	OTHER FINANCIAL SERVICES Financial Services activities regulated by financial sector regulators,	100%	100%	-
26.	**PHARMACEUTICALS**			
	Greenfield	100%	100%	-
	Brownfield	100%	Upto 74%	Beyond 74%

14. **From where one can get NIC codes for products/services, to be filled in application form?**

Investors are required to provide the description of activities as per the National Industrial Classification (NIC) published by the Ministry of Statistics and Programme Implementation, Government of India NIC 2008 published by the Ministry of Statistics and Programme Implementation can be accessed at https://dipp.gov.in/for-investors/investor-guidance.

15. **Where can one get the information on Indian Standards for any product?**

Please refer to the website of Bureau of Indian Standards (https://bis.gov.in/)

16. **What is the mechanism for notifying the amendments under the FDI Policies?**

Amendments under the FDI Policy are notified in the form of Press Notes issued by the DPIIT on the website (http://dipp.gov.in).

Disclaimer: These FAQs attempt to address the common queries on the subject in an easily comprehensible language and is intended only for the purpose of public information/knowledge dissemination. However, before conducting transactions or taking investment decisions, the position under the Foreign Exchange Management Act, 1999 (FEMA) and the Rules/Regulations thereunder; the Consolidated Foreign Direct Investment Policy Circular dated 28.08.2017, as amended from time to time (FDI Policy); and applicable laws/rules/regulations/guidelines, may be referred. In case of any inconsistency between these FAQs and FEMA notification(s)/FDI Policy, the latter shall prevail. The position under these FAQs shall not be legally binding or enforceable and may not be relied upon by any person before any legal/statutory forum or authority. The DPIIT assumes no liability for the use, reproduction or interpretation of the information contained herein. Although due care and diligence have been exercised in the preparation of these FAQs, errors and omissions, if any, may kindly be reported to the FDI Policy Section, DPIIT, Udyog Bhawan, New Delhi 110 011.