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PRIMER ON FDI IN INDIA

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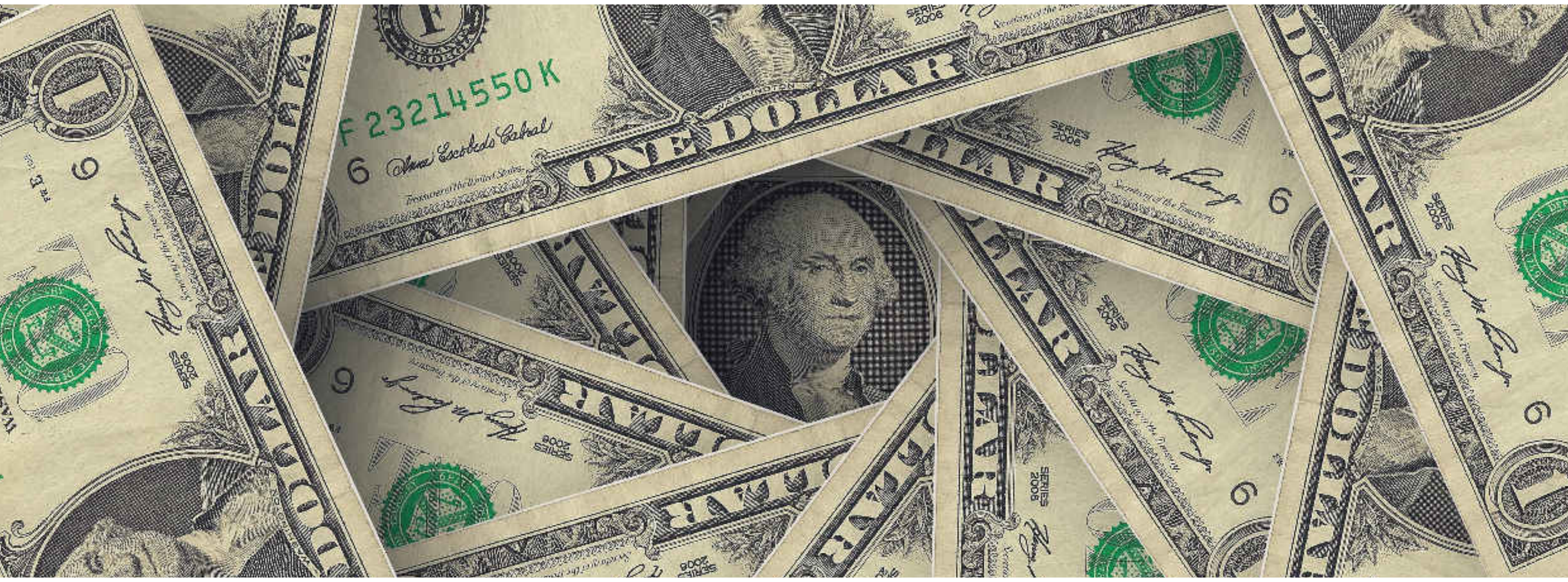

Foreign Direct Investment (FDI) means investment by non-resident entity/person outside India in the capital of an Indian entity.

FDI is allowed in India under two routes -

a) Automatic route - FDI is allowed without prior approval either of the Government or the Reserve Bank of India

b) Government Route - prior approval of the Government of India is required. Proposals for foreign investment under Government route, are considered by respective Administrative Ministry/Department.

From 1991, when FDI of up to 51% was permitted under the automatic route for 34 priority sectors (which were mainly manufacturing-related and a few service sectors), liberalisation of FDI norms has come a long way. Apart from eight sectors in which FDI is totally prohibited, 100% FDI under the automatic route is now permitted in a majority of sectors, with certain conditions.

Only a handful of sectors remains under the government approval route, such as broadcasting content services, multi-brand retail and public sector banking. In some sectors like insurance, private banking and brownfield pharma, FDI is permitted under the automatic route up to a particular threshold—the approval route applies for additional FDI beyond these thresholds.

Key features of FDI
- Major non-debt financial source
- one of important driver of economic development

According to the Department of Industrial Policy & Promotion, India has now thrown open 92.5 per cent of FDI through the automatic route, which is a welcome development.

FDI Inflows in last 3 years

2014-15	-	$31 billion
2015-16	-	$56 billion
2016-17	-	$61 billion

The cumulative amount of FDI inflows in
Q1 FY'18 was $ 15 billion
(v/s)
$12 billion in Q1 FY'17

Services sector which comprises of Banking, Financial, Insurance, Tech, Outsourcing, R&D, Testing and analysis continued to attract maximum FDI

Mauritius remained the top investing country followed by Singapore, Japan, UK and Netherlands

Mumbai as a city received 30% of cumulative FDI inflows into the country.

As per the latest FDI policy, Start-ups can raise up to 100 per cent of funds from Foreign Venture Capital Investors (FVCI). Start-ups can issue equity or equity linked instruments or debt instruments to FVCI against receipt of foreign remittance. In addition, startups can issue convertible notes to person resident outside India.

Single Brand Retail

Under the earlier FDI policy, companies having FDI beyond 51 per cent had to comply with a local sourcing requirement of 30 per cent of the value of goods purchased, preferably from micro, small and medium enterprises ("MSMEs") or similar entities.

This requirement to source from MSMEs has been a particularly controversial requirement for foreign investors selling niche products and has to be fulfilled for a period of 5 years, beginning on 1st April of the year during which the first tranche of FDI is received.

The new FDI policy now clarifies that the 30 per cent local sourcing rule applies from the date of first opening the store (as opposed to the date of receipt of FDI) and that in sectors involving 'state-of-the-art' & 'cutting-edge technology', this sourcing norm may be relaxed, subject to government approval. This is a welcome change and should be beneficial for all foreign investors selling niche products whose component parts cannot be sourced from the local market.

More importantly, the previous prohibition on retail trading through e-commerce has been lifted. This is a welcome change since retailers were previously in the curious position of being able to sell through 'bricks and mortar', but unable to sell through 'clicks and mortar'.