

# India

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RISK & COMPLIANCE REPORT

DATE: March 2017

*KNOWYOURCOUNTRY*

## Executive Summary - India

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions International Narcotics Control Majors List
<b>Medium Risk Areas:</b>	Non - Compliance with FATF 40 + 9 Recommendations Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>rice, wheat, oilseed, cotton, jute, tea, sugarcane, lentils, onions, potatoes; dairy products, sheep, goats, poultry; fish</p> <p><b>Industries:</b></p> <p>textiles, chemicals, food processing, steel, transportation equipment, cement, mining, petroleum, machinery, software, pharmaceuticals</p> <p><b>Exports - commodities:</b></p> <p>petroleum products, precious stones, machinery, iron and steel, chemicals, vehicles, apparel</p> <p><b>Exports - partners:</b></p> <p>US 12.7%, UAE 12.3%, China 5%, Singapore 5%, Hong Kong 4.1% (2012)</p> <p><b>Imports - commodities:</b></p> <p>crude oil, precious stones, machinery, fertilizer, iron and steel, chemicals</p> <p><b>Imports - partners:</b></p> <p>China 11%, UAE 7.7%, Saudi Arabia 6.7%, Switzerland 5.9%, US 4.9% (2012)</p>	

**Investment Restrictions:**

There are two channels for foreign investment: the "automatic route" and the "government route." Investments entering via the "automatic route," are not required to seek an overall approval from the central government.

FDI is allowed under the automatic route in almost all activities/sectors except the following, which require Foreign Investment Promotion Board approval:

- activities/items that require an Industrial Licence (except some cases)
- proposals in which the foreign collaborator has an existing financial/technical collaboration in India in the same field
- all proposals falling outside notified sectoral policy/caps.

In certain cases, such as distillation and brewing of alcohol, industrial explosives and manufacture of hazardous chemicals, FDI is permitted without FIPB approval subject to obtaining an industrial licence from the appropriate authority.

However, FDI is prohibited in the following cases:

- gambling and betting
- lottery business
- atomic energy
- retail trading (except in single brand retail)
- agricultural or plantation activities or agriculture (excluding floriculture, horticulture, development of seeds, animal husbandry, etc. and plantations, other than tea plantations).

The Government of India does not permit investment in real estate by foreign investors, except for company property used to do business and for the development of most types of new commercial and residential properties.

Foreign firms and persons are prohibited from trading in commodities.

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## Section 1 - Background

The Indus Valley civilization, one of the world's oldest, flourished during the 3rd and 2nd millennia B.C. and extended into northwestern India. Aryan tribes from the northwest infiltrated the Indian subcontinent about 1500 B.C.; their merger with the earlier Dravidian inhabitants created the classical Indian culture. The Maurya Empire of the 4th and 3rd centuries B.C. - which reached its zenith under ASHOKA - united much of South Asia. The Golden Age ushered in by the Gupta dynasty (4th to 6th centuries A.D.) saw a flowering of Indian science, art, and culture. Islam spread across the subcontinent over a period of 700 years. In the 10th and 11th centuries, Turks and Afghans invaded India and established the Delhi Sultanate. In the early 16th century, the Emperor BABUR established the Mughal Dynasty which ruled India for more than three centuries. European explorers began establishing footholds in India during the 16th century. By the 19th century, Great Britain had become the dominant political power on the subcontinent. The British Indian Army played a vital role in both World Wars. Years of nonviolent resistance to British rule, led by Mohandas GANDHI and Jawaharlal NEHRU, eventually resulted in Indian independence, which was granted in 1947. Large-scale communal violence took place before and after the subcontinent partition into two separate states - India and Pakistan. The neighboring nations have fought three wars since independence, the last of which was in 1971 and resulted in East Pakistan becoming the separate nation of Bangladesh. India's nuclear weapons tests in 1998 emboldened Pakistan to conduct its own tests that same year. In November 2008, terrorists originating from Pakistan conducted a series of coordinated attacks in Mumbai, India's financial capital. Despite pressing problems such as significant overpopulation, environmental degradation, extensive poverty, and widespread corruption, economic growth following the launch of economic reforms in 1991 and a massive youthful population are driving India's emergence as a regional and global power.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF Status

India is not currently on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in India was undertaken by the Financial Action Task Force (FATF) in 2010. According to that Evaluation, India was deemed Compliant for 4 and Largely Compliant for 25 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 out of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2010):

The AML/CFT regime in India is relatively young. The Prevention of Money Laundering Act, 2002 (PMLA) came into force in 2005 and was amended in 2009. The Unlawful Activities (Prevention) Act, 1967 (UAPA) was amended in 2004 to criminalise, inter alia, terrorist financing. The UAPA was further amended in December 2008 to broaden its scope and to bring the legislation more in line with the requirements of the United Nations Convention for the Suppression of the Financing of Terrorism (FT Convention).

Money laundering (ML) methods are diverse. India has several mechanisms in place for domestic co-ordination and co-operation at both the policy and operational levels to identify new and emerging trends and to formulate appropriate responses.

India continues to be a significant target for terrorist groups and has been the victim of numerous attacks. There are no published figures of terrorist cells operating in the country.

Since mid-2009, India has increased its focus on money laundering and the use of the ML provisions. However, there are still some important and in some instances, long-standing legal issues, such as the threshold condition for domestic predicate offences, that remain to be resolved. Effectiveness concerns are primarily raised by the absence of any ML convictions.

India's serious commitment to combating terrorism in all its forms must be acknowledged. From a law enforcement perspective, this commitment is reflected in an active pursuit of the financial aspects of terrorism. At the prosecutorial level, an appropriate focus on FT can be

observed. However, this effort has not yet been convincingly followed up by convictions and firm case law.

India has progressively expanded and strengthened its preventive measures for the financial sector, which now apply to all but one of the financial activities required to be covered under the FATF standards. However, several preventive provisions need to be brought more closely into line with the FATF standards, and overall, more time is needed before all requirements are substantially implemented.

With the exception of casinos (which operate only in the State of Goa), the Designated Non Financial Businesses and Professions sectors are not subject to the PMLA and are not regulated and supervised for AML/CFT purposes.

Key recommendations made to India include the need to:

- address the technical shortcomings in the criminalisation of both money laundering and terrorist financing and in the domestic framework of confiscation and provisional measures;
- broaden the CDD obligations with clear and specific measures to enhance the current requirements regarding beneficial ownership;
- improve the reliability of identification documents, the use of pooled accounts, PEPs, and non-face-to-face business; ensure that India Post, which recently became subject to the PMLA, effectively implements the AML/CFT requirements;
- enhance the effectiveness of the STR reporting regime; enhance the effectiveness of the financial sector supervisory regime and ensure that India Post is adequately supervised;
- ensure that the competent supervisory authorities make changes to their sanctioning regimes to allow for effective, proportionate and dissuasive sanctions for failures to comply with AML/CFT requirements; and
- extend the PMLA requirements to the full range of DNFBPs, and ensure that they are effectively regulated and supervised.

The investigation of money laundering cases under investigation where proceeds of crime have been attached under AML provisions, it is noticed that proceeds of crime are mostly invested in immovable properties, followed by jewellery, vehicles etc.

**Extract from 2014 Asia Pacific Group on Money Laundering Yearly Typologies Report:**

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**India is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

## **OVERVIEW**

India's main money laundering vulnerability comes from a widespread lack of access to formal financial institutions, particularly in the rural sector, that has resulted in the growth of informal financing networks. The government has launched large-scale financial inclusion programs to increase the number of banked individuals. According to Global Financial Integrity, over the last decade, India is one of the top four sources of illicit financial outflows, primarily based on TBML and abusive trade mis-invoicing.

India should consider the regulation of traditional MVTS and further facilitate the development and expansion of new payment products and services, including mobile banking. The government should ensure all relevant DNFBPs comply with AML regulations.

## **VULNERABILITIES AND EXPECTED TYPOLOGIES**

The most common money laundering methods include opening multiple bank accounts to hide funds, intermingling criminal proceeds with licit assets, purchasing bank checks with cash, and routing funds through complex legal structures. Transnational criminal organizations use offshore corporations and TBML to disguise the criminal origins of funds, and companies use TBML to evade capital controls. Illicit funds are sometimes laundered through real estate, educational programs, charities, and election campaigns. Laundered funds are derived from narcotics trafficking, trafficking in persons, and illegal trade, as well as tax avoidance and economic crimes. Counterfeit Indian currency has also been a problem. Notably, however, in November 2016, the Reserve Bank of India demonetized the 500 and 1000 rupee notes and introduced new banknotes to try to crack down on "black money" stemming from corruption, tax evasion, and other illicit financial activity. While this action addresses the problem of counterfeit currency, it does little to mitigate long term money laundering risks.

India has licensed seven offshore banking units (OBUs) to operate in Special Economic Zones (SEZs), which were established to promote export-oriented commercial businesses. As of March 2015, there were 202 SEZs in operation, and 413 SEZs that have received formal approval but have yet to start operations. Customs officers control access to the SEZs. OBUs have defined physical boundaries and functional limits, are prohibited from engaging in cash transactions, can only lend to the SEZ wholesale commercial sector, and are subject to the same AML regulations as the domestic sector.

## **KEY AML LAWS AND REGULATIONS**

In October 2015, India began implementing legislation passed in response to government

electoral promises to repatriate previously undisclosed and non-taxed financial assets. Some tax analysts and business community members criticized the severity of the legal penalties in the new law, such as 10-year jail terms, hefty financial penalties, and lack of immunity from prosecution. India's tax department has attempted to allay taxpayer fears of harassment and corruption by assigning enforcement responsibilities to senior officers and publicly clarifying legislation guidelines.

India has comprehensive KYC and STR requirements.

India is a member of the FATF, as well as two FATF-style regional bodies, the APG and the EAG.

## **AML DEFICIENCIES**

India's current safe harbor provision is too limited and only protects principal officers and compliance officers of institutions that file STRs in good faith.

Legal persons in India are covered by criminal and civil laws against money laundering. India uses enhanced due diligence for PEPs. India is not subject to U.S. sanctions or penalties.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Although India has taken steps to implement an effective AML regime, deficiencies remain. While 2012 amendments to the Prevention of Money Laundering Act (PMLA) widen the definition of money laundering, the government has not changed its enforcement model. Observers and law enforcement professionals express concern about effective implementation and enforcement of the current laws, especially with regard to criminal prosecutions.

U.S. investigators have had limited success in coordinating the seizure of illicit proceeds with Indian counterparts. While intelligence and investigative information supplied by U.S. law enforcement authorities have led to numerous money seizures, a lack of follow-through on investigative leads has prevented a more comprehensive offensive against violators and related groups. India is demonstrating an increasing ability to act on mutual legal assistance requests but continues to struggle with institutional challenges, which limit its ability to provide assistance.

India should recognize the vulnerability of and consider the regulation of traditional MVTS and further facilitate the development and expansion of new payment products and services, including mobile banking. Such an increase in lawful, accessible services would allow broader financial inclusion of legitimate individuals and entities and shrink the informal network, particularly in the rural sector.

India should address noted shortcomings in the criminalization of money laundering, as well as its domestic framework for confiscation and provisional measures. The government should ensure all relevant DNFBPs comply with AML regulations. India should extend its safe harbor provision to also cover all employees. The government of India should seek to

use data and analytics to systematically detect trade anomalies that could be indicative of customs fraud, TBML, and counter-valuation in hawala networks.

### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, India does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

### **EU White list of Equivalent Jurisdictions**

India is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

India is not considered to be an Offshore Financial Centre

## **Narcotics 2017 (introduction):**

### **Introduction**

India's geographic location makes it an attractive transshipment area for narcotics bound for Europe, Africa, Southeast Asia, and North America. Cross-border drug trafficking from Pakistan and Burma to India continues to be a major problem due to India's porous borders and low enforcement capacity. There is also evidence that opium poppy is grown illicitly in India, especially in the northeastern region. Given India's size and large population, accurate estimates of the extent, pattern, and nature of illicit drug consumption in India are difficult to determine.

India remains committed to enhancing its law enforcement capacity through increased training for law enforcement officers, and is vigorously pursuing opportunities for international cooperation to improve the effectiveness of both demand and supply control efforts pertaining to illicit drugs.

India is authorized by the international community to produce licit opium for pharmaceutical uses, and is a major producer of precursor chemicals. India also manufactures organic and synthetic licit opiate/psychotropic pharmaceuticals (LOPPS). India's large pharmaceutical and chemical industries are faced with increasing diversion of products for illicit purposes, including of illicit pharmaceuticals to the United States and other countries. Seizures of the prescription opioid tramadol traced to India are on the rise throughout the Middle East and North Africa.

### **Conclusion**

Significant drug-related challenges facing the Indian government include the rise in methamphetamine manufacturing and trafficking, the diversion of controlled substances from licit to illicit channels, the smuggling of pharmaceuticals containing narcotic drugs and psychotropic substances, and capability deficits and poor coordination among India's various drug enforcement agencies.

Global demand for methamphetamine precursors has given rise to precursor chemical entrepreneurs in India who are retooling commercial chemical factories to produce illicit quantities of ephedrine and methamphetamine. These organizations will continue to supply international traffickers who depend on India's precursor chemical supply and porous border crossings. Reforms to enhance the efficiency of the country's court system, legislation to equip law enforcement with greater operational authority, and additional efforts to improve interagency coordination and address capacity deficits would enhance Indian law enforcement efforts to combat drug trafficking organizations operating in the country.

## **Trafficking in Persons**

India is classified a Tier 2 country - A country whose governments does not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

India is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. The forced labor of an estimated 20 to 65 million citizens constitutes India's largest trafficking problem; men, women, and children in debt bondage—sometimes inherited from previous generations—are forced to work in industries such as brick kilns, rice mills, agriculture, and embroidery factories. A common characteristic of bonded labor is the use of physical and sexual violence as coercive means. Ninety percent of India's trafficking problem is internal, and those from the most disadvantaged social strata—lowest caste Dalits, members of tribal communities, religious minorities, and women from excluded groups—are most vulnerable. Trafficking victims in India at times are injured or killed by their traffickers; for example, a labor contractor in the State of Odisha chopped off the hands of two bonded labor victims in 2013. Media reported instances of severe mistreatment of domestic servants in New Delhi, many of whom were victims of forced labor, including cases of rape, torture, and murder. NGOs observed that the majority of trafficking victims are recruited by agents known to them in their home villages with promises of work in urban or other rural areas. Trafficking between Indian states continues to rise due to increased mobility and growth in industries that use forced labor, such as construction, textiles, wire manufacturing for underground cables, biscuit factories, and floriculture. Thousands of unregulated work placement agencies reportedly engage in sex and labor trafficking but escape prosecution; some of these agents participate in the sexual abuse that approximately 20 percent of domestic workers reportedly experience. Placement agencies also provide child labor for domestic service, meeting a demand for cheap and docile workers and creating a group vulnerable to trafficking.

Children are subjected to forced labor as factory workers, beggars, agricultural workers, and, in some rural areas of Northern India, as carpet weavers. A 2013 study of India's hand-made carpet sector revealed 2,612 cases of forced labor and 2,010 cases of bonded labor of adults and children in nine Northern Indian states, including entire villages subjected to debt bondage in Uttar Pradesh and Madhya Pradesh. Begging ringmasters sometimes maim children as a means to earn more money. Boys from Nepal and Bangladesh continue to be subjected to forced labor in coal mines in the state of Meghalaya. Boys from the region of Kashmir are forced by insurgent separatists and terrorist groups to fight against the Indian government. Burmese Rohingya and Sri Lankan Tamil refugees continue to be vulnerable to forced labor in India. Boys from Bihar are subjected to forced labor in embroidery factories in Nepal.

Experts estimate that millions of women and children are victims of sex trafficking in India. Children continue to be subjected to sex trafficking in religious pilgrimage centers and tourist destinations. Girls from Assam state are kidnapped for domestic servitude. Around 90 percent of the girls who were from Jharkhand and were victimized work as domestic servants. A large number of Nepali, Afghan, and Bangladeshi females—the majority of whom are children aged nine to 14 years old—and women and girls from China, Russia, Uzbekistan, Azerbaijan, the Philippines, and Uganda are also subjected to sex trafficking in India. Female trafficking victims are frequently exploited in Kolkata, Mumbai, Delhi, Gujarat, and along the India-Nepal border. Newspapers contain advertisements promising full body massages, often by

Afghan women, who are then forced to offer sexual services. Traffickers also pose as matchmakers, arranging sham marriages within India or to Gulf states, and then subject women and girls to sex trafficking. West Bengal continues to be a source for trafficking victims, with girls more frequently subjected to sex trafficking in small hotels, vehicles, huts, and private residences than traditional red light districts. Experts also reported increasing demand for women from smaller towns in North and Western India for sex and labor trafficking; until recently, victims have typically originated from Eastern India and Bangladesh.

Some Indian migrants who willingly seek work as construction workers, domestic servants, and other low-skilled laborers in the Middle East and, to a lesser extent, Afghanistan, Southeast Asia, Bhutan, the United States, Europe, Southern Africa, South America, the Caribbean, and other regions, subsequently face forced labor conditions initiated by recruitment fraud and usurious recruitment fees charged by Indian labor brokers. Some Bangladeshi migrants are subjected to forced labor in India through recruitment fraud and debt bondage. Trafficking victims—primarily girls—continue to be recruited from Bangladesh and Nepal and brought to Mumbai. An increasing number of foreign women, mostly from Central Asia and Bangladesh, were rescued from debt bondage within Hyderabad; labor trafficking, including bonded labor, reportedly continues in Odisha.

The Government of India does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Experts reported increased acknowledgement of India's trafficking problem by government officials and increased efforts to combat it. Despite these efforts, the protection of trafficking victims and the prosecution of their suspected exploiters were uneven among states and municipalities. While some courts in some states have secured serious penalties for convicted traffickers, continued complicity of government officials enabled traffickers to exploit additional men, women, and children. Officials facilitated trafficking by taking bribes, warning traffickers about raids, helping traffickers destroy evidence, handing victims back to traffickers, and physically and sexually assaulting victims. Lack of political will and sensitivity to victims' trauma continued, with one senior official stating that victims choose "that lifestyle;" another politician stated that victims were better off exploited than they would be otherwise.

### **Terrorist Financing 2015:**

**Overview:** Indian counterterrorism cooperation with the United States continued to increase in 2015. In January 2015, President Obama and Prime Minister Modi committed to deepening bilateral cooperation on the full spectrum of terrorism threats. Both leaders reaffirmed concerns over threats posed by groups such as al-Qa'ida and the Islamic State of Iraq and the Levant (ISIL), and called for the United States and India to work together to eliminate terrorist safe havens and infrastructure, disrupt terrorist networks and their financing, and stop cross-border movement of terrorists. They also noted the need for joint and concerted efforts to disrupt entities operating in South Asia, including LeT, Jaish-e-Mohammad, and the Haqqani Network, and called for Pakistan to bring perpetrators of the November 2008 Mumbai attack to justice.

In January 2015, the U.S. Department of Treasury and India's Ministry of Finance signed a Memorandum of Understanding to enhance cooperation against money laundering and terrorism financing via the U.S.-India anti-money laundering/countering the financing of terrorism (AML/CFT) Dialogue. The U.S. Department of Homeland Security agreed with Indian counterparts to enhance cooperation in countering IED threats pursuant to a Joint Work Plan. Indian officials participated in the February White House Summit on Countering Violent Extremism (CVE), the June Central and South Asia Regional CVE Summit, and the September Leader's Summit on Countering ISIL and Violent Extremism hosted by President Obama in New York. In June, U.S. and Indian police officials held a community policing consultation. The U.S.-India Megacity Policing Exchange continued to deepen collaboration on training and community policing between local and state law enforcement. In July, interagency officials participated in the inaugural U.S.-India Terrorist Designations Exchange, to strengthen cooperation on domestic terrorist designations, including implementation of UNSCR 1373 (2001), and on international designations pursuant to the UN 1267/1989/2253 ISIL (Da'esh) and al-Qa'ida sanctions regime. In August, officials participating in the U.S.-India Cyber Dialogue agreed to continue close cooperation on cyber security and information sharing.

The September U.S.-India Joint Declaration on Combatting Terrorism reaffirmed U.S. and Indian commitments to combat terrorism in all its forms and to uphold shared values of democracy, justice, and rule of law. The declaration condemned the July 27 terrorist attack in Gurdaspur, Punjab, and the August 5 attack in Udhampur, Jammu and Kashmir, described below. While India did not join the U.S.-led coalition against ISIL in 2015, the Joint Declaration recognized the serious threat posed by ISIL to global security and affirmed efforts to degrade and defeat this threat in accordance with the provisions of UNSCRs 2170, 2178, and 2199.

Indian officials emphasized that the government takes threats posed by ISIL seriously, even though media reported that less than 30 Indians have been recruited into the organization and less than 200 have considered joining. In some instances, clerics and family members supported de-radicalization efforts by government officials, although sympathy for ISIL appeared to increase online. On December 18, Prime Minister Modi attended a senior-level police conference on de-radicalization and countering ISIL propaganda.

**2015 Terrorist Incidents:** The following representative incidents occurred:

- On January 10, CPI-Maoists in Chhattisgarh killed a constable and seriously injured three others.
- On June 4, tribal guerrillas in Manipur used rocket-propelled grenade IEDs to attack a military convoy headed for Imphal, killing twenty Indian soldiers and injuring 11.
- On July 27, three LeT terrorists in army fatigues fired on a bus and attacked a police station in Gurdaspur, Punjab, killing four police officers and three civilians, and injuring 15. Five bombs were found on the [Amritsar-Pathankot railway line](#) bridge, five kilometers from the site of the attack, the first major strike in Punjab since Sikh militants were active there in the 1980s and 1990s.
- On August 5, two LeT terrorists attacked a Border Security Force (BSF) convoy in Udhampur, Jammu and Kashmir, killing two. One of the two attackers, both identified as Pakistani nationals, was captured alive and the other was killed. National Investigation Agency efforts led to the arrest of six additional LeT and Hizbul Mujahideen terrorists. The alleged planner behind the attack, Abdul Qasim, was subsequently killed during an October police encounter in Kashmir.

- In November, an Indian Army colonel was killed in a firefight with terrorists in Jammu and Kashmir.

**Legislation, Law Enforcement, and Border Security:** In December 2014, India banned ISIL under the Unlawful Activities (Prevention) Act (UAPA) (1967). During 2015, it also undertook efforts to implement UNSCRs 2178 and 2199, and sanctions under the UN 1267/1989/2253 ISIL (Da'esh) and al-Qa'ida sanctions regime. India continued to address terrorism-related activities through existing statutes, including the UAPA, the South Asian Association for Regional Cooperation (SAARC) Convention on Suppression of Terrorism Act (1993), and various state-level laws. The UAPA presumes the accused to be guilty if the prosecution can produce certain incriminating evidence indicating the possession of arms or explosives or the presence of fingerprints at a crime scene, regardless of whether criminal intent is demonstrated. State governments held persons without bail for extended periods before filing formal charges under the UAPA. Other state-level counterterrorism laws reduce evidentiary standards for certain charges and increase police powers to detain a person and his or her associates without charges and without bail for extended periods.

Since the 2008 Mumbai terrorist attacks, India has sought to enhance its counterterrorism capabilities. Interagency coordination and information sharing remained challenging, and local police forces suffered from poor training and equipment. India launched initiatives to address some of these challenges, including through a Multi-Agency Centre for enhancing intelligence gathering and sharing.

Indian officials participated in U.S.-sponsored law enforcement and security training at the central government and state levels to enhance India's capabilities in critical incident management, infrastructure security, community-oriented policing, crime scene investigations, explosive ordnance detection and countermeasures, forensics, cyber security, mega city policing, and other areas. Indian police and security officials at both the state and federal levels received training under the Department of State's Antiterrorism Assistance program in technical areas related to counterterrorism and law enforcement. In addition, the Department of Homeland Security, through the Immigration and Customs Enforcement Attaché office, and the U.S. Federal Bureau of Investigation, conducted training programs and exchanges with Indian law enforcement personnel.

On September 10, police in Assam killed two Dima Halam Daogah (DHD-A) militant leaders. On December 17, media reported that Indian officials identified former Uttar Pradesh resident Sanaul Haq (aka Maulana Asim Umar) as the head of al-Qa'ida in the Indian Subcontinent (AQIS). Haq, who reportedly lives in Pakistan, had been appointed to his position by Ayman al-Zawahiri in 2014.

**Countering the Financing of Terrorism:** In January 2015, the inaugural U.S.-India Anti-Money Laundering/Counterterrorism Finance (AML/CFT) dialogue was held. India is a member of the Financial Action Task Force (FATF) and two FATF-style regional bodies, the Eurasian Group on Combating Money Laundering and Financing of Terrorism and the Asia/Pacific Group on Money Laundering. India's Financial Intelligence Unit (FIU-IND) is also a member of the Egmont Group. Indian officials monitored and regulated money transfers, required the collection of data for wire transfers, obliged non-profit organizations to file suspicious transaction reports, and regulated and monitored these entities to prevent misuse and terrorism financing.



Although the Government of India aligned its domestic AML/CFT laws with international standards by enacting amendments to the Prevention of Money Laundering Act in November 2012, the government has yet to implement the legislation effectively, especially with regard to criminal convictions. Law enforcement agencies typically open criminal investigations reactively and seldom initiate proactive analysis and long-term investigations. While the Indian government has taken action against certain hawala financing activities, prosecutions have generally focused on non-financial businesses that conduct hawala transactions as a secondary activity. Additionally, the government has not taken adequate steps to ensure all relevant industries are complying with AML/CFT regulations. The reporting of suspicious transaction Reports (STRs) relating specifically to terrorism financing increased significantly. From July 2014 to April 2015, FIU-IND received 76,149 STRs and disseminated 52,485 STRs to various intelligence and law enforcement authorities.

The degree of training and expertise in financial investigations involving transnational crime or terrorism-affiliated groups varied widely among the federal, state, and local levels and depends on the financial resources and individual policies of various jurisdictions. More than 300 personnel from various zonal/sub-zonal offices of India's Enforcement Directorate participated in training programs on financial investigation, money laundering, foreign exchange contraventions, effective prosecutions, and cybercrimes as part of an effort to build capacity. U.S. investigators have had limited success in coordinating the seizure of illicit proceeds with their Indian counterparts. While intelligence and investigative information supplied by U.S. law enforcement authorities led to numerous seizures of terrorism-related funds, a lack of follow-through on investigational leads has prevented a more comprehensive approach.

The Government of India took steps to increase financial inclusion through expanding access to the banking sector and issuing biometric-enabled universal identification numbers.

**Countering Violent Extremism:** During 2015, India's central government expanded its role in global efforts to counter radicalization and violent extremism. Indian officials participated in the February 2015 White House CVE Summit and in follow-on meetings. Mumbai participated in the Strong Cities Network, a forum to build sub-national resiliency against violent extremism.

In June, the Government of India appointed a Special Envoy for Counterterrorism and Extremism. India has taken steps to implement UNSCR 2178 related to foreign terrorist fighters and to advance efforts on CVE. In August, the Ministry of Home Affairs reportedly convened a meeting to discuss steps for countering radicalization and recruitment with officials representing 12 states and union territories. The government implemented new initiatives to provide "quality and modern education" in madrassas. In addition, the government continued to operate programs to rehabilitate and reintegrate former terrorists and insurgents into mainstream society. These programs target disaffected sectors of Indian society that have been sources of separatism and violent insurgency.

Indian government officials have raised concerns over the use of social media and the internet to recruit, radicalize, and foment inter-religious tensions. In particular, officials expressed concern about the ability of ISIL to recruit online, following prominent incidents in which Indians were attracted to join or support the group.

**International and Regional Cooperation:** India is a founding member of the Global Counterterrorism Forum (GCTF) and participated in GCTF and other UN forums on counterterrorism in 2015. In May 2015, India's National Investigative Agency (NIA) hosted a U.S.-sponsored regional dialogue predicated upon the GCTF Marrakech Memorandum on Foreign Terrorist Fighters, which focused on best practices for countering the foreign terrorist fighter phenomenon.

In addition, India's counterterrorism cooperation with neighbors continued to develop. The October 2014 blasts in the Burdwan district of West Bengal generated counterterrorism cooperation between India and Bangladesh, including visits by Indian officials to Dhaka. During 2015, the Indian and Bangladeshi governments continued their cooperation under their bilateral Coordinated Border Management Plan to control illegal cross-border activities and announced the strengthening of bilateral cooperation in the field of security and border management. Also during 2015, India and Nepal continued counterterrorism cooperation along their shared border. India is a member of the South Asian Association for Regional Cooperation.

## International Sanctions

India is not currently subject to any International Sanctions however the UK government has had a stated policy on exports to nuclear and nuclear-related end users in India and Pakistan since March 2002.

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	40
World Governance Indicator – Control of Corruption	44

### US State Department

While India's struggle against corruption has had a distinct influence on Parliament, media, and public debate over the last year, little concrete action, apart from the Parliament's passage of the Lokpal (Citizen's Ombudsman) bill, has been undertaken to curb the problem. Anti-corruption activist Arvind Kejriwal launched a series of corruption allegations against some of India's richest and most high-profile individuals, including a senior cabinet minister, family members of the ruling Congress party's leader, and the president of the leading opposition party. Kejriwal successfully launched the Aam Aadmi Party (AAP), whose key plank is anti-corruption. AAP made its spectacular debut during the December 2013 Delhi state assembly elections, receiving the second highest seat share and subsequently forming a short-lived (49 days) Delhi State government with Kejriwal as Chief Minister. U.S. firms continue to point toward corruption as the single greatest disincentive to doing business in India. In private conversations, foreign firms note the lack of transparency in rules of governance, extremely cumbersome official procedures, and excessive and unregulated discretionary powers afforded to politicians and lower-level bureaucrats as major obstacles to investing in India.

India is ranked 94 out of 177 countries surveyed in Transparency International's 2013 Corruption Perception Index, similar to the previous year's rank of 94 of 183. The legal framework for fighting corruption is addressed by the following laws: the Prevention of Corruption Act, 1988; the Code of Criminal Procedures, 1973; the Companies Act, 1956; the Indian Contract Act, 1872; the Prevention of Money Laundering Act, 2002; and the Companies Act, 2013. Anti-corruption laws amended since 2004 have granted additional powers to vigilance departments in government ministries at the central and state levels. The amendments elevated India's Central Vigilance Commission (CVC) to a statutory body. On December 18, 2013, Parliament enacted the Lokpal bill, which will create a national anti-corruption ombudsman that also requires states to create state-level ombudsmen within one year of the law's passage.

Although India is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, in May 2011, the government ratified the United Nations Convention against Corruption. Also in 2011, Prime Minister Manmohan Singh set an ambitious legislative agenda to curb corruption, including bills to protect whistleblowers, eliminate graft in government procurement, punish bribery of foreign public officials, address grievances against poor and corrupt delivery of government services, and

amend the Prevention of Money Laundering Act to expand definitions of money laundering. Most of these bills stalled in Parliament. While many NGOs and citizens' groups had hoped that the Companies Act, 2013 would contain provisions akin to the U.S. Foreign Corrupt Practices Act, there remains no particular legislation applicable to corrupt corporate practices overseas.

The national Right to Information Act, 2005, and equivalent state acts function similarly to the U.S. Freedom of Information Act, requiring government officials to furnish information requested by citizens or face punitive action. Increased computerization of services, coupled with central and state government efforts to establish vigilance commissions, is in many areas opening up new avenues to seek redress of grievances.

## **Report from Global Advice Network**

### **Political Climate**

India has opened its economy after years of virtual closure and is enjoying a relatively stable political climate and strong economic growth. Significant governance challenges remain, however, as India continues to struggle with substantial social, political, economic, and environmental problems aggravated by corruption as well as communal, caste and regional tensions. India's political system is characterised by deep-rooted patronage systems and by a bureaucracy with an interest in maintaining discretionary policies, as assessed by the Bertelsmann Foundation 2012. Corruption is reportedly spreading to all sectors of Indian society and is entrenched at every level of public administration. A recent survey cited in a March 2012 BBC News article states that corruption in India has already cost USD billions and threatens to derail the country's growth.

While there is no shortage of anti-corruption bodies and legislation, both Global Integrity 2011 and the Bertelsmann Foundation 2012 note that government initiatives to curb corruption at the institutional level face an enormous implementation gap when it comes to their practical effects. Equally, there is a basic lack of respect from political leaders towards legal efforts to end malpractices where politicians in general are some of the most visible perpetrators. According to the Legatum Institute's Prosperity in Depth: India 2012, official corruption is the curse of Indian society and pervades all levels of the government. In recent years, corruption scandals in India have come into the international spotlight. One of the most notorious is the 2G telecoms scandal in 2008, which may have cost the government almost USD 40 billion in lost revenues (See 'Licences, Infrastructure and Public Utilities' in the Corruption Levels section for more information on this). In October 2010, two senior officials were arrested in connection with a corruption scandal linked to the Commonwealth Games. According to a January 2011 article by AFP, up to USD 1.8 billion of the money earmarked for the Games was reportedly misappropriated. Transparency International's Global Corruption Report 2008 states that political corruption is not confined to monetary transactions, but extends to making promises to secure votes, helping colleagues by awarding them with positions of authority, and manipulating the law to help interested parties. Prime Minister Manmohan Singh declared the fight against corruption to be a priority during his first term as prime minister; however, a series of corruption scandals have shown that his anti-corruption efforts have not resulted in systemic changes. Politicians and civil servants are known for accepting

bribes or engaging in other corrupt behaviour, but investigations are rare and few have been convicted of corruption. In April 2011, social activist Anna Hazare began his hunger strike demanding a stronger Lokpal Bill (Ombudsman Bill). The strike caused thousands of supporters to join Hazare and sparked protests across the country. After months of protests as well as debates on the content of the bill, the government finally agreed to the three key conditions set by Hazare, which were the creation of a Citizen's Charter, inclusion of lower bureaucracy under the Lokpal through an appropriate mechanism and the creation of Lokayuktas (Ombudsmen at state level). In December 2011, the bill was finally passed in the Lower House of the Parliament; but the office of the Ombudsman will not be given constitutional status since the government failed to get a two-third majority of MPs present, which is needed to make the bill a constitutional amendment, according to a December 2011 BBC News. In May 2012, the bill was re-introduced in the Upper House. At the time of this writing, it remains unknown when the bill will get approved by the Upper House and passed into law.

On a positive note, the Right to Information Act 2005 has reportedly improved bureaucratic transparency by giving citizens better access to public records. The Supreme Court has also been asserting itself as an upholder of the constitution and has taken significant steps in the fight against corruption, such as challenging a legislative immunity provision and demonstrating its independence by ordering retrials or reviews of previously closed cases deemed to have been politically influenced and biased. However, despite such positive steps, bribery thrives among high-level politicians and bureaucrats, and the majority of citizens agree that the use of bribes cannot be avoided when one interacts with the public administration. According to the BRIBELine 2009, approximately one-third of reported demands for bribes from citizens between 2007 and 2008 were from national-level government officials. This is confirmed by Transparency International's Global Corruption Barometer 2010, according to which, political parties and the Parliament continue to be perceived among the most corrupt entities in India. Moreover, the public perception regarding the government's fight against corruption is quite revealing, with 44% of the respondents considering it to be ineffective and only 25% to be effective.

### **Business and Corruption**

For years, India has enjoyed a strong economic growth rate and a relatively strong financial position with the global financial crisis making it a preferred destination for foreign investment. According to the US Department of State 2012, the country remains among the world's most attractive locations for foreign direct investment. Nevertheless, local investment conditions may vary from state to state and, in some cases, within a state, due to varying levels of corruption and quality of government operations. Recent changes in FDI policy have tended towards greater liberalisation, while industrial policy reforms have substantially reduced industrial licensing requirements.

According to a press release by Value Notes, in January 2011, JPMorgan Asset Management India announced its findings of the Investment Confidence Index (ICI) in India. According to the report, corruption has now emerged as the new confidence killer among retail investors, corporate investors and financial advisors, ranking as the second most negative economic indicator after inflation.

Raghuram Rajan, former director of research at the IMF and current chief economic advisor to the government, contends that India has all the right components to return to a high-growth trajectory—a very strong entrepreneurial class, a reasonably well educated middle-class, and a number of world-class corporations. These are competitive advantages that none of its BRIC (Brazil, Russia, India, China) competitors have. Yet according to the Legatum Institute's Prosperity in Depth: India 2012 report, India's sovereign debt is the worst among the BRIC, because the unpredictability of its policymakers and the low quality of its governing institutions that, along with unrestrained corruption, have seriously undermined business confidence.

Several international surveys have shed light on a worrying level of corruption within the Indian business environment. For example, according to KPMG India Fraud Survey Report 2010, 75% of corporate respondents state that corporate fraud is increasing in India, while 81% of respondents perceive financial statement fraud as a major problem. The same survey also indicates that 38% of respondents perceive that bribery is an integral feature of industry practices, and 37% state that most bribes are paid to obtain routine administrative approvals from the Government. In November 2012, Wal-Mart suspended its chief financial officer legal team after allegations that Indian government officials were bribed to obtain various licences and approvals. For more on the investigation, see this profile's Licences, Infrastructure and Public Utilities section. In March 2011, KPMG released another survey on bribery and corruption in India, where responding business executives point out real estate and construction as the most corrupt sector in India, followed by the telecom sector. The survey also shows that 68% of respondents agree that in many instances corruption stems from the private sector. All respondents in the survey agree that corruption distorts the playing field and tends to attract companies with lesser capability to execute projects, while 99% of respondents agree that corruption creates inefficiency and hence increases costs. Findings from Legatum Institute's Survey of Entrepreneurs 2011 show that 55% of the surveyed entrepreneurs have been pressured to pay a bribe while 9% prefer not to answer. Moreover, 65% cite corruption as a serious problem for business and 80% believe that corruption has become worse compared to previous years. Furthermore, business executives surveyed by the World Economic Forum Global Competitiveness Report 2012-2013 confirm that corruption is a continuing obstacle to private sector development, ranking as the second most problematic factor for doing business in India, after inadequate supply of infrastructure. This perception is also highlighted by the US Department of State 2012, according to which, foreign companies report that corruption is among the obstacles to foreign direct investment, while local businessmen state that red tape and wide-ranging administrative discretion serve as a pretext to extort money. India ranks 19th out of 28 economies in the Transparency International Bribe Payers Index 2011, indicating that the perceived likelihood of Indian companies engaged in bribery abroad is relatively high.

Companies experience corruption in every sector of the Indian economy, but studies show that the experience and perception differs depending on where they operate. India has a decentralised federal government system where regulatory requirements and corruption vary widely from area to area (see this profile's special page on regional differences in corruption and the regulatory environment). According to Transparency International's Global Corruption Barometer 2010, a majority of the surveyed households perceive the business and private sectors as corrupt. The government tried to bring these malpractices to an end by making it compulsory for all companies to have their books and accounts audited

annually and for external auditors to report fraud committed by the companies they audit. Notwithstanding government efforts, a huge scandal in late 2008 involving India's fourth largest IT company, Satyam Computers, highlighted serious flaws in this system, which allowed the company to 'cook the books' for USD 1.5 billion, as reported by a 2009 news article by IPS. In addition, Transparency International's Global Corruption Report 2009 states that there have been cases of stock market fraud by brokers in collusion with corporations that aim to cheat investors and circumvent regulations. The Harshad Mehta securities fraud and the Ketan Mehta scam are two well-known scams in this regard. In both instances, brokers pushed up the prices of selected shares through artificial trade to attract retail investors and then suddenly withdrew from the trade, causing huge losses for the investors. In order to mitigate the risks of corruption when operating in India, companies are recommended to develop, implement and strengthen integrity systems and conduct extensive due diligence.

### **Regulatory Environment**

India's regulatory environment has been significantly simplified in most sectors and, according to the Bertelsmann Foundation 2012, its investment regime is now among the most liberal in Asia. However, efforts to further liberalise the economy have reportedly been limited by the pressures of coalition politics. The Legatum Institute's Prosperity in Depth: India 2012 report cites India's bureaucracy as the least effective in Asia. The United Progressive Alliance (UPA) government has struggled to implement some of its economic policies because of tensions among its distinct coalition partners on issues such as the privatisation of public sector assets and labour law reform. Privatisation has significantly slowed since the current government took office in 2004 (see the Ministry of Finance Department of Disinvestment for more information on privatisation tenders). The Bertelsmann Foundation 2010 reports that coalition politics have led to a weakened federal control of states, and several sources indicate that the resulting variance in regional regulatory environments corresponds with varying levels and types of corruption. For more information concerning these regional variations, see this profile's special page on regional differences in corruption and the regulatory environment. According to the World Economic Forum Global Competitiveness Report 2012-2013, the regulatory burden imposed on companies operating in India remains cumbersome, costly and time-consuming. However, major reforms have improved the regulatory environment, such as the computerisation of certain business-relevant administrative procedures. The National Portal includes useful tools for companies seeking information on market entry and necessary licences and permits. Companies should also consult the website of the Investment and Trade Promotion Division of the Ministry of External Affairs for useful information and contacts for foreign investors.

Private local and foreign companies are allowed in nearly every sector of the economy. There are no requirements to employ Indian nationals and restrictions on employing foreign technicians and managers have been removed. However, the economy is still constrained by complex rules and a bureaucracy with broad discretionary powers. According to the Legatum Institute's 2012 report, India does not in essence have the rule of law—it has the rule of babus (the local term for petty officials) as its 'Byzantine legal code and irrational regulations' allow them a great deal of discretion to harass citizens and shake down businesses. Business clearance by the authorities is therefore time-consuming and costly. In a similar vein, a report published by the Political & Economic Risk Consultancy Ltd, cited in a



January 2011 The Wall Street Journal article, concluded that India has the worst bureaucracy among 12 Asian countries covered in the report. According to World Bank & IFC's Doing Business 2013, setting up a company in India is more time-consuming and costly compared to the regional average. It requires an entrepreneur to go through an average of 12 administrative steps and 29 days at a cost of 46.8% of GNI per capita.

According to the Bertelsmann Foundation 2012, property rights are adequately defined, although the acquisition of new land for use by companies is reportedly very difficult, costly and heavily contested politically. Companies should also note that dispute settlement in India is time-consuming due to the massively backlogged and understaffed courts. India is ranked 184th out of 185 countries by Doing Business 2013, with respect to the ease and cost of enforcing contracts. Moreover, foreign investors often complain about a lack of sanctity of contracts, as reported by the US Department of State 2012. Business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 report that the judiciary is not fully independent from political influences of members of government, citizens or companies. In an attempt to speed up the settlement of commercial disputes, the Government of India has set up the International Centre for Alternative Dispute Resolution (ICADR) as an autonomous organisation under the Ministry of Law and Justice and Company Affairs. In an effort to unify its adjudication of disputes over commercial contracts with the rest of the world, India enacted the Arbitration and Conciliation Act of 1996, based on the United Nations Commission on International Trade Law (UNCITRAL). India is the only country in the South Asian region that is not a member of the International Centre for the Settlement of Investment Disputes (ICSID), but is a member of the New York Convention of 1958. Companies are recommended to include provisions for international arbitration in their contracts. Access the Lexadin World Law Guide for a collection of legislation in India.

## Section 3 - Economy

India is developing into an open-market economy, yet traces of its past autarkic policies remain. Economic liberalization measures, including industrial deregulation, privatization of state-owned enterprises, and reduced controls on foreign trade and investment, began in the early 1990s and served to accelerate the country's growth, which averaged under 7% per year from 1997 to 2011. India's diverse economy encompasses traditional village farming, modern agriculture, handicrafts, a wide range of modern industries, and a multitude of services. Slightly less than half of the work force is in agriculture, but, services are the major source of economic growth, accounting for nearly two-thirds of India's output with less than one-third of its labor force. India has capitalized on its large educated English-speaking population to become a major exporter of information technology services, business outsourcing services, and software workers. India's economic growth began slowing in 2011 because of a decline in investment, caused by high interest rates, rising inflation, and investor pessimism about the government's commitment to further economic reforms and about the global situation. In late 2012, the Indian Government announced additional reforms and deficit reduction measures, including allowing higher levels of foreign participation in direct investment in the economy. The outlook for India's long-term growth is moderately positive due to a young population and corresponding low dependency ratio, healthy savings and investment rates, and increasing integration into the global economy. However, India has many challenges that it has yet to fully address, including poverty, corruption, violence and discrimination against women and girls, an inefficient power generation and distribution system, ineffective enforcement of intellectual property rights, decades-long civil litigation dockets, inadequate transport and agricultural infrastructure, limited non-agricultural employment opportunities, high spending and poorly-targeted subsidies, inadequate availability of quality basic and higher education, and accommodating rural-to-urban migration. Growth in 2013 fell to a decade low, as India's economic leaders struggled to improve the country's wide fiscal and current account deficits. Rising macroeconomic imbalances in India and improving economic conditions in Western countries, led investors to shift capital away from India, prompting a sharp depreciation of the rupee. However, investors' perceptions of India improved in early 2014, due to a reduction of the current account deficit and expectations of post-election economic reform, resulting in a surge of inbound capital flows and stabilization of the rupee.

### **Agriculture - products:**

rice, wheat, oilseed, cotton, jute, tea, sugarcane, lentils, onions, potatoes; dairy products, sheep, goats, poultry; fish

### **Industries:**

textiles, chemicals, food processing, steel, transportation equipment, cement, mining, petroleum, machinery, software, pharmaceuticals

**Exports - commodities:**

petroleum products, precious stones, machinery, iron and steel, chemicals, vehicles, apparel

**Exports - partners:**

US 12.7%, UAE 12.3%, China 5%, Singapore 5%, Hong Kong 4.1% (2012)

**Imports - commodities:**

crude oil, precious stones, machinery, fertilizer, iron and steel, chemicals

**Imports - partners:**

China 11%, UAE 7.7%, Saudi Arabia 6.7%, Switzerland 5.9%, US 4.9% (2012)

**Banking**

India has an extensive banking network, in both urban and rural areas. The banking system has three tiers. These are: the scheduled commercial banks; the regional rural banks, which operate in rural areas, not covered by the scheduled banks; and the cooperative and special purpose rural banks. Timely availability of adequate credit is of utmost importance for the development of the Indian rural economy and agriculture. At present Regional Rural Banks, commercial banks and credit cooperatives, encouraged mainly by the Government, undertake this function. The Government of India, during the recent budget, announced that it would encourage private banks to open branches in rural areas, to service both farm and non-farm sectors.

There are approximately 80 scheduled commercial banks, Indian and foreign; almost 200 regional rural banks; more than 350 central cooperative banks, 20 land development banks; and a number of primary agricultural credit societies. Large Indian banks, and most Indian financial institutions are in the public sector. Though public sector banks (27 of them) currently dominate the banking industry, numerous private and foreign banks exist. Several public sector banks are being restructured, and in some cases the government either has already reduced, or is in the process of reducing its ownership. In terms of business, the state-owned banks account for more than 70 percent of deposits and loans. Private banks handle 17 percent of the market, and foreign banks located in metropolitan area account for approximately 13 percent of the market.

The Reserve Bank of India (RBI) is the central banking institution. It is the sole authority for issuing bank notes and the supervisory body for banking operations in India. It supervises and administers exchange control and banking regulations, and administers the government's monetary policy. It is also responsible for granting licenses for new bank branches. The Deposit Insurance and Credit Guarantee Corporation, an organization promoted and fully funded by the RBI, offers deposit insurance facilities. The RBI directs banks to meet Bureau of Indian Standards guidelines. Indian banks must also adhere to the prudential norms laid down by the Basel Group.

The Reserve Bank of India (RBI) also sets India's exchange-control policy and administers foreign exchange regulations in consultation with the GOI. India's foreign exchange control regime is governed by the FEMA (Foreign Exchange Management Act), enacted with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India, and to give effect to the liberalization announced in the economic policies.

## Stock Exchange

The Indian capital market has grown rapidly in recent years, with market capitalization on the Bombay Stock Exchange hitting new highs before the 2008 financial crisis battered stock markets around the world. Spot prices for index stocks are usually market-driven and settlement mechanisms are close to international standards. India's debt and currency markets lag behind its equity markets. Although private placements of corporate debt have been increasing, the daily trading volume remains low. The Indian stock markets lack broad liquidity, although high transaction costs and systemic risk have come down with recent regulatory and administrative improvements. Institutional improvements and better regulations have helped to reduce episodes of market manipulation, which had caused a lack of confidence by retail investors who invested primarily in public sector debt instruments and debt-oriented mutual funds. SEBI has initiated further policy changes such as allowing all investors to short sell, introducing borrowing and lending of shares, and introducing Real Estate Investment Trusts that would be listed in the market. These measures add depth and breadth to the market making it more liquid than before.

The Indian financial markets can be broadly categorised into the money market, the foreign exchange market, the government securities market, the equity market, the corporate bond market and the credit market. While foreign exchange, government securities, equity and money markets along with their corresponding derivatives segments have developed into reasonably deep and liquid markets, credit derivatives markets are yet to take off in any significant manner.

The securities sector in India comprises various Intermediaries as registered under section 12 of the Securities and Exchange Board of India Act, 1992 (SEBI Act).

In India, Securities include shares, stocks, debentures, bonds, Pass-Through Certificates (PTCs), and government securities and mutual fund units. India has adopted the —depository system, in which depositories function as the central accounting and record-keeping office in respect of the securities admitted by issuer companies. Companies which issue any kind of securities are known as 'Issuer' in the depository system. Both listed and unlisted securities can be admitted into the depository system. Only these securities admitted into the depository system are available for dematerialisation to the holders of such securities or can be allotted in electronic record form by the issuers. A depository is thus a "service centre" for the investor and the depositories system is based on centralised database architecture with on-line connectivity for depository participants.

Although there are 19 exchanges across the country, only two of these have any significant volume of activity. There are two stock exchanges that account for nearly all the

transactions in the equity and derivative segments, the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE).

Both exchanges are using computer based anonymous trading platforms for over a decade. The stock exchanges have powers to ensure that their members adhere to prescribed regulations and instructions. The use of cash for payments has been removed and all payments now take place either through cheques or through electronic payments. Apart from investments by natural and legal persons based in the country, money from abroad enters the capital markets through the vehicle of Foreign Institutional Investors (FII) that are registered by SEBI prior to their entry.

### Executive Summary

India's sizeable and rapidly growing domestic market, growing financial markets, large English-speaking population, and stable democratic government make it an attractive market for investors. However, India underperforms relative to its vast potential. Major areas of concern include corruption, taxes, caps on foreign direct investment (FDI), inadequate financing at reasonable rates, complex and lengthy investment approval and land acquisition processes, antiquated labor laws, and poor contract sanctity and enforcement of arbitration judgments. While the government has taken encouraging action on several of these fronts in the past year, investors remain wary. There had been doubts about the second United Progressive Alliance (UPA II) government's ability to implement needed reforms. Investors are waiting to see which policy direction the new Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) government, which decisively won the May 2014 national elections, will take. Most observers expect a more decisive and pro-business polity.

The recent UPA Government enacted a handful of new laws in 2013 that, if properly implemented and enforced, could improve the country's overall investment climate. The Companies Act offers significant improvements to corporate governance procedures, imposing stiffer penalties for fraud, increasing protection for investors and creditors, simplifying processes for creating and closing businesses, and mandating greater transparency in financial disclosures. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, a major update to the Land Acquisition Act of 1894, established new rules for acquiring land for public purposes, including large infrastructure projects, whether by the state, under public-private partnerships (PPP), or by private corporations. The law will make land purchases more expensive, but it has the potential to make the process of acquisition more transparent and expedient as well. Finally, in July 2013, the Cabinet eased limits on FDI in 12 sectors of the economy and authorized expedited approval mechanisms for investment in eight of those sectors—including telecommunications, asset reconstruction, petroleum, and gas.

The Indian rupee suffered a summer of instability in 2013, ending the year 13% lower. Two years of steady depreciation reflect slowing economic growth and rising macroeconomic imbalances. Growth dropped from 8.5% in 2010 to under 5% today. During this period, India's fiscal deficit remained large and the current account deficit widened, driven by a longstanding trade deficit. As a major oil importer, India faces a structural current account deficit, financed by foreign capital inflows. Recent declines in stable FDI inflows have increased India's reliance on more volatile portfolio capital to finance the deficit, rendering it more vulnerable to shifts in market sentiment. In the spring, India experienced sudden capital outflows and sharp depreciation of the rupee, due to concerns about tightening global liquidity conditions and India's relative macroeconomic stability. Over the summer, the Reserve Bank of India (RBI) took a series of steps to stabilize the currency and limit capital outflows, which damaged investor confidence. New leadership at the RBI in September improved policy transparency and helped restore confidence.

Many economists and investors comment that the previous UPA government, partly due to the demands of a large and diverse coalition, had allowed economic policy to drift. There are expectations that the new central government with a simple majority could steer economic policy, improve government transparency, and facilitate investment in manufacturing and infrastructure to stimulate growth and create jobs.

## 1. Openness To, and Restrictions Upon, Foreign Investment

### *Attitude Toward FDI*

In the past year, the government has taken some steps to ease FDI restrictions in certain sectors and to improve corporate governance laws. However by the end of 2013, a stalemated parliament stymied confidence in the pace and efficacy of additional measures for improving the investment climate. Furthermore, many of the reform efforts the government undertook in the past years have come with a number of restrictions attached, such as in the case of FDI in multi-brand retail (MBR). The “opening up” to FDI in MBR came with so many conditions that only one international retailer has applied thus far.

Power and decision-making is decentralized in India. Investors should be prepared to face varying business and economic conditions across India’s 29 states and seven union territories. There are differences at the state-level in political leadership, quality of governance, regulations, taxation, labor relations, and education levels. Although India prides itself on its rule of law, its courts have cases backlogged for many years. By some accounts more than 30 million cases could be pending in various courts, including India’s high courts.

### *Other Investment Policy Reviews:*

In 2011 the Government of India underwent an investment policy review in the context of a Trade Policy Review by the WTO, available here:

[http://www.wto.org/english/tratop\\_e/tpr\\_e/tp349\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp349_e.htm)

### Tables 1 and Table 1B

**TABLE 1:** The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Rank or value	Website Address
Transparency International Corruption Perceptions index	2013	(94 of 177)	<a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Heritage Foundation’s Economic	2013	(126 of 170)	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>

Freedom index			
World Bank's Doing Business Report "Ease of Doing Business"	2013	(134 of 189)	<a href="http://doingbusiness.org/rankings">http://doingbusiness.org/rankings</a>
Global Innovation Index	2013	(66 of 142)	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
World Bank GNI per capita	2012	\$1550	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">http://data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

**TABLE 1B - Scorecards:** The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) of \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards, are available here: <http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

Measure	Year	Index/Ranking
MCC Gov't Effectiveness	2014	96%
MCC Rule of Law	2014	98%
MCC Control of Corruption	2014	80%
MCC Fiscal Policy	2014	4%
MCC Trade Policy	2014	40%
MCC Regulatory Quality	2014	71%
MCC Business Start Up	2014	47%
MCC Land Rights Access	2014	63%



MCC Natural Resource Mgmt	2014	36%
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### ***Investment Law and Strategies***

There are two channels for foreign investment entering India: the “automatic route” and the “government route.” Investments entering via the “automatic route” are not required to seek overall approval from the central government. The investor is expected to notify the RBI of its investment using the Foreign Collaboration - General Permission Route (FC GPR) form within 30 days of inward receipts and issuance of shares

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/102APD110214.pdf>). The title “automatic route” is a misnomer, since investments in most sectors will still require some interaction with the government at the state and national levels.

Investments that take the “government route” are subject to authorization from the principal ministry involved and/or the Foreign Investment Promotion Board (FIPB). The rules regulating government approval for investments vary from industry to industry, and the approving government entity varies depending on the applicant and the product. For example the Ministry of Commerce and Industry (MOCI) Department of Industrial Policy and Promotion (DIPP) oversees single-brand product retailing investment proposals, as well as proposals made by Non-Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs). An NRI is an Indian citizen who has resided overseas for six months or more for any purpose. An OCB is a company, partnership firm, or other corporate entity that is at least 60% owned, directly or indirectly, by NRIs, including overseas trusts. MOCI’s Department of Commerce approves investment proposals from export-oriented units (i.e., industrial companies that intend to export their entire production of goods and services). The FIPB, led by the Ministry of Finance (MOF) and MOCI, approves most other investment applications.

All new investments require a number of industrial approvals and clearances from different authorities such as the Pollution Control Board, Chief Inspector of Factories, Electricity Board, and Municipal Corporation (locally elected entities). To fast track the approval process for investments greater than \$200 million, the government in December 2012 established the Cabinet Committee on Investment (CCI), chaired by the Prime Minister. Around 250 projects worth approximately \$300 billion were stalled due to various inter-ministerial differences when the CCI began its work. To date the CCI has cleared over 99 projects worth over \$60 billion, but there has been little impact on actual investment flows. Some analysts have pointed to the normal lag time between regulatory approval and actual physical investment as well as possible additional bureaucratic delays at both the central and state levels.

### ***Sector-Specific Guidelines for FDI in Key Industries***

Banking: Aggregate foreign investment from all sources in all private banks is capped at 74%. For state-owned banks, the foreign ownership limit is 20%. According to the 2011 road map for foreign bank entry, there are three distinct ways to enter the Indian banking sector. The first is by establishing a branch in India. The second is to establish a wholly-owned subsidiary, although it is important to note that foreign banks may have either branches or subsidiaries, but not both. The third is to establish a subsidiary with total foreign investment of up to 74%. Foreign investors are also legally permitted to acquire an ailing bank, though to date, the RBI has not authorized this type of transaction. Foreign institutional investment (FII) is limited to 10% of the total paid-up capital and 5% in cases where the investment is from a foreign

bank/bank group. In December 2012, Parliament passed the Banking Regulation (Amendment) Act. The Act has increased the cap on voting rights for investors from 10 to 26% in private sector banks, and from one to 10% for public sector banks (PSBs) to make voting rights commensurate with economic ownership.

Manufacturing: 100% FDI is allowed in most sub-categories of manufacturing; however, the government maintains set asides for micro and small enterprises (MSEs), defined by the government as a company with less than \$1 million in plant and machinery. Any investment in manufacturing that does not qualify as MSE and manufactures items reserved for the MSE sector must enter via the government route for FDI greater than 24%. Since 1997, the government has steadily decreased the number of sectors it protects under the national small-scale industry (SSI) policy. At its peak in the late 1990s, more than 800 categories were protected. The most current list is publicly available here: <http://www.dcmsme.gov.in/publications/reserveditems/reserved2010.pdf>. The 2011 National Manufacturing Policy (NMP) provides the framework for India's local manufacturing requirements in the Information and Communications Technology (ICT) and clean energy sectors. [http://commerce.nic.in/whatsnew/National\\_Manufacturing\\_Policy2011.pdf](http://commerce.nic.in/whatsnew/National_Manufacturing_Policy2011.pdf)

Non-Banking Financial Companies (NBFC): 100% FDI is allowed via the automatic route. NBFCs include the following types of businesses: merchant banking, underwriting, portfolio management, financial consulting, stock-brokerages, asset management, venture capital, credit rating agencies, housing finance, leasing and finance, credit card businesses, foreign exchange brokerages, money changers, factoring and custodial services, investment advisory services, and micro and rural credit. All investments are subject to the following minimum capitalization norms: \$500,000 upfront for investments with up to 51% foreign ownership; \$5 million upfront for investments with 51% to 74.9% ownership; \$50 million total, with \$7.5 million required up-front and the remaining balance within 24 months for investments with greater than 75% ownership. Wholly foreign-owned NBFCs, with a minimum capitalization of \$50 million, are allowed to set up unlimited numbers of subsidiaries for specific NBFC activities and are not required to bring in additional capital. RBI regulates and supervises the NBFCs.

**TABLE 2: Limits and Regulation of Foreign Direct Investment (FDI)\***

Sector	% FDI	Route	Note
Advertising and Film	100%	Automatic	Includes film production, exhibition, distribution, and related services and products.
Agriculture (Farming)	None		
Agriculture-related Activities	100%	Automatic	Seed industry, floriculture, horticulture, animal husbandry, aquaculture, fish farming, and cultivation of vegetables and mushrooms.
	100%	Government	Tea plantations. Five years after making the initial investment in a tea plantation, foreign investors are

			required to divest ownership to allow for at least 26% Indian ownership.
Airline Carriers (air transport services)	49%	Government	Scheduled and non-scheduled airline carriers, although NRIs may own 100% of a domestic airline, as announced in September, 2012, by the Cabinet Committee on Economic Affairs. Investments are required to follow relevant SEBI regulations that include the Issue of Capital and Disclosure Requirements (ICDR) Regulations and the Substantial Acquisition of Shares and Takeovers (SAST) Regulations. <a href="http://pib.nic.in/newsite/PrintRelease.aspx?relid=87785">http://pib.nic.in/newsite/PrintRelease.aspx?relid=87785</a>
	74%	Automatic	Non-scheduled, chartered, and/or cargo airlines.
	100%	Automatic	Investments in helicopter and seaplane services. Investors are required to seek approval from the Directorate General of Civil Aviation.
Airport Infrastructure	100%	Automatic	Green-field projects.
	74%	Automatic	Existing projects. FDI greater than 74% requires FIPB approval.
	49%	Automatic	Ground-handling businesses at airports. (NRIs are allowed 100%).
	49-74%	Government	
	100%	Automatic	Maintenance and repair operations, flight training institutes, and technical training institutes.
Alcoholic Distillation and Brewing	100%	Automatic	Requires a license from DIPP under the provisions of the Industries (Development and Regulation) Act, 1951.
Asset Reconstruction Companies	74%	Government	An ARC is a company registered with the RBI under Section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). FII is now permitted.
Automobiles	100%	Automatic	Local content requirements and/or export obligations apply.
Broadcasting	26%	Government	Subject to guidelines issued by the Ministry of Information and Broadcasting.

	49%	Automatic	Direct-to-home broadcasting and mobile TV. TV channels, irrespective of ownership or management control, have to up-link from India and comply with the broadcast code issued by the Ministry of Information and Broadcasting.
	49-74%	Government	
	26%	Government	
	100%	Government	
	49%	Government	
Business Services	100%	Automatic	Data processing, software development, and computer consultancy services. 100% FDI is allowed for call centers and business processing outsourcing (BPO) organizations, subject to certain conditions.
Cable Network	49%	Government	Approval is required, as articulated in the Cable Television Networks Rules, 1994.
Coal/Lignite	100%	?	Setting up or operating power projects and coal mines for captive consumption.
	100%	Automatic	Coal processing plants, so long as the equity recipient does not sell processed coal on the open market.
	100	Automatic	Mining of coal or lignite for captive consumption.
Coffee and Rubber Processing and Warehousing	100%	Automatic	
Commodity Exchanges	49% (FDI + FII/FPI)	FII/FPI - Automatic FDI - Government	Registered FII/FPI investments are through the automatic route and limited to 23%. FDI investment is limited to 26% through the government route. No foreign investor or entity may hold more than 5% equity. <a href="http://dipp.nic.in/English/Policies/FDI_Circular_2014.pdf">http://dipp.nic.in/English/Policies/FDI_Circular_2014.pdf</a>
Construction Development Projects	100%	Automatic	Permitted in the construction and maintenance of roads, highways, vehicular bridges, tunnels, ports and harbors, townships, housing, commercial buildings, resorts, educational institutions, and infrastructure. (NRIs are not authorized to own land).

			Subject to certain minimum capitalization and minimum area-of-development requirements. Since 2010, the minimum capitalization requirement has been \$10 million for wholly-owned subsidiaries and \$5 million for joint ventures with Indian partners. In the case of serviced housing plots, a minimum of 10 hectares (25 acres) must be developed, while in the case of construction-development projects, the minimum built-up area must be 50,000 square meters (approx. 538,000 square feet). At least 50% of the project must be developed within five years from the date of obtaining all statutory clearances.
Credit Information Companies	74% (FDI+FII/ FPI)	Government	Requires RBI approval. FII/FPI investment permitted up to 24% within an overall limit of 74% for foreign investment. No single investor/entity can own shares worth more than 10% of total paid-up capital. Furthermore, any acquisition in excess of 1% requires mandatory reporting to RBI.
Courier Services (Other Than Distribution of Letters)	100%	Government	
Defense and Strategic Industries	26% 49% in certain cases	Government	Subject to a DIPP license in consultation with the Defense Ministry. Production of arms and ammunition is subject to additional FDI guidelines. Purchase and price preferences may be given to public sector enterprises as per Department of Public Enterprise guidelines. The licensee must establish adequate safety and security procedures once the authorization is granted and production begins. Proposals for FDI beyond 26% require further approvals and must result in Indian access to "state-of-the-art" technology.
Drug/Pharmaceuticals	100%	Automatic	Green-field investments.
	100%	Government	Brown-field investments.
Business to Business E-commerce	100%		Business-to-business e-commerce under the government approval route. No FDI is allowed in retail e-commerce.
Education Services	100%	Automatic	In practical terms, restrictions limit investments to education service providers rather than educational institutions. The <a href="#">Foreign Educational Institutions</a> (Regulation of Entry and Operations, Maintenance of

			Quality and Prevention of Commercialization) Bill proposed in the previous Parliament would, if passed, allow foreign universities to establish campuses independently without working with an Indian partner institution, but with conditions attached.
Food Processing	100%	Automatic	For fruit and vegetable processing, dairy products, meat and poultry products, fishing and fish processing, grains, confections, consumer and convenience foods, soft bottling, food parks, cold chain, and warehousing. The exception is for alcoholic beverages and beer, where a license is required.
	100%	Automatic	For cold storage facilities.
Hazardous Chemicals	100%	Automatic	A DIPP license is required under the provisions of the Industries (Development and Regulation) Act, 1951.
Health Services	100%	Automatic	
Hotels, Tourism, and Restaurants	100%	Automatic	
Real Estate	None		NRIs who obtain "Overseas Citizenship of India" status are allowed to own property and invest as if they were citizens. NRIs may invest up to 100% FDI with prior government approval in the real estate sector and in integrated townships including housing, commercial premises, resorts, and hotels, as well as in projects such as the manufacture of building materials.
Industrial explosives	100%	Automatic	Manufacturers of explosives or materials deemed by the authorities as explosives are required to obtain a license to set up factory operations from the state government's industry commissioner.
Industrial Parks	100%	Automatic	The industrial park must include at least ten units with no single unit occupying more than 50% of the area, and at least 66% of the area made available for industrial activity.
Information Technology	100%	Automatic	For software and electronics development. No FDI is allowed in companies that develop software for the aerospace and defense sectors.

Insurance	26%	Automatic	Investors must obtain a license from the Insurance Regulatory and Development Authority (IRDA).
Infrastructure Companies in the Securities Market (i.e., stock exchanges, depositories, and clearing corporations)	26%	Government	Over and above the FDI limit, FII's are allowed to buy shares through the secondary markets up to 23% of the paid-up capital through the automatic route. FIIs are only allowed to invest via secondary markets.
Legal services	None		In March 2010, a Chennai-based attorney, on behalf of the Association of Indian Lawyers, filed a writ of petition in the Madras High Court against 31 foreign law firms, the Bar Council of India, and the Ministry of External Affairs to prevent foreign law firms from practicing in India. The Madras High Court has repeatedly delayed a decision in order to give the court more time to consult with foreign firms. The outcome of the case remains unresolved and the future of foreign law firms practicing in India remains uncertain. The petitioner in the Madras case and other opponents of foreign investment in legal services—with a particular focus on U.S. attorneys—insist foreign firms should be barred from practicing law in India until there is reciprocity in the U.S. market. Law firms from the UK and other countries have found alternatives to the ban on FDI.
Lottery, Gambling, and Betting	None		
Mining	100%	Automatic	For diamonds and precious stones, gold/silver, and other mineral mining and exploration.
	100%	Government	For mining and mineral separation of titanium minerals and ores.
Pensions	26%	Automatic	The Parliament passed the Pension Fund Development and Regulatory Authority (PFDR) Act that lifted the ban on FDI. It is now linked to the Insurance Amendment Act for a further increase in the permitted FDI level.
Petroleum	100%	Automatic (tax incentives, production)	Discovered small fields; refining with domestic private company; petroleum product/pipeline; petrol/diesel retail outlets; LNG pipeline; exploration; investment financing; market study and formulation.

		sharing, and other terms and conditions apply)	Refining by public sector company only; disinvestment is prohibited.
Pollution Control	49%	Government	For equipment manufacture, consulting, and management services.
Ports and Harbors	100%	Automatic	For construction and manufacturing of ports and harbors. Security clearances from the Ministry of Defense are required for all bidders on port projects, and only the bids of cleared bidders will be considered.
Power	100%	Automatic	For the power sector (except atomic energy) which includes generation, transmission, and distribution of electricity, and power trading. FDI up to 49% is permitted in power exchanges; such foreign investment would be subject to an FDI limit of 26% and an FII limit of 23% of the paid-up capital. For power exchanges, FII investment is permitted under the automatic route and FDI is permitted under the government approval route.
Print Media	26%	Government	Printing science and technology magazines/journals.
	100%	Government	Publication of facsimile editions of foreign newspapers.
Professional services	100%	Automatic	For most consulting and professional services, including accounting services.
Research and Development Services	100%	Automatic	
Railways	None		Train operations.
			Auxiliary areas such as rail track construction, ownership of rolling stock, provisioning of container services, and container depots.
	100%	Government	Building of "fixed railway infrastructure" including railway lines for the purpose of increasing port connectivity with industrial and logistical parks, mines, and other parts of the country.
	100%	Government	



Retailing (single brand)	100%	Government	Investors are required to meet a 30% local content requirement sourced from domestic small and medium enterprises (SMEs). ( <a href="http://pib.nic.in/newsite/PrintRelease.aspx?relid=87766">http://pib.nic.in/newsite/PrintRelease.aspx?relid=87766</a> ).
Retailing (multi-brand)	51%	Government	Investors are required to seek: 1) state government approval, 2) open locations in cities with a population greater than a million residents, 3) commit 50% of first \$100 million invested into developing backend infrastructure, and 4) source 30% of the total value of the products sold from Indian SMEs.
Roads	100%	Automatic	Including highways, and mass rapid transport systems.
Satellites	74%	Government	For the establishment and operation of satellites.
Security Agencies	49%	Government	
Shipping	74%	Automatic	
Storage and Warehouse Services	100%	Automatic	Including for cold storage warehousing of agricultural products.
Telecommunications	74%	Government	All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, Unified Access Services, Unified license(Access services),Unified License, National/ International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licenses, Voice Mail/Audiotex/UMS, Resale of IPLC, Mobile Number Portability services, Infrastructure Provider Category – I (providing dark fiber, right of way, duct space, tower) except Other Service Providers.
	100%	Automatic	
Trading/Wholesale	100%	Automatic	For exporting, bulk imports with export warehouse sales, and cash-and-carry wholesale trading. A wholesaler/cash-and-carry trader cannot open a retail shop to sell directly to consumers.

\*Compiled from official GOI publications and regulation

## 2. Conversion and Transfer Policies

The Indian rupee lost nearly 13% of its value in the year 2013, a trend similar to that of currencies in other emerging economies. While the shock to currency values was largely driven by external factors and speculation, the rupee has suffered steady depreciation over

the past two years in line with slowing economic growth. The rupee started the year at 54.83 to the U.S. dollar, dropped by about 25% to 68.36 in August 2013, and closed the year at 61.90. Various measures were announced by the government and the RBI to contain the outflow of capital and curb the depreciation. The government increased the import duty on gold — India's second largest import after oil which helped to narrow the large current account deficit. The RBI announced that Indians could remit only \$75,000 out of the country per year, down from a previous limit of \$200,000. As the rupee stabilized, RBI in June 2014 enhanced this limit to \$125,000. Furthermore, Indian corporations, which were previously allowed to invest four times their net worth overseas were limited to investment equal to their net worth; however, the RBI also reinstated this to the original four times limit in September 2013.

### ***Foreign Exchange***

The rupee is fully convertible for current account transactions, which are regulated under the Foreign Exchange Management Rules, 2000. RBI approval is required for acquiring foreign currency above certain limits for specific purposes (e.g., foreign travel, consulting services, and foreign studies). Capital account transactions are open for foreign investors, but subject to various clearances. Conversion restrictions include the following:

NRI investment in real estate may be subject to a "lock-in" period;

RBI approval is needed to remit the proceeds of sales of assets;

Foreign partners may sell their shares to resident Indian investors without RBI approval, provided the shares were eligible to be repatriated out of India;

Global Depository Receipts and American Depository Receipts proceeds from abroad may be retained without restrictions except for an end-use ban on investment in real estate and stock markets; Foreign Investment Promotion Board (FIPB) approval is also required in some cases. Up to \$1 million per year may be remitted for transfer of assets into India;

Foreign institutional investors (FIIs) may transfer funds from rupee to foreign currency accounts and vice-versa at market exchange rates. They may also repatriate capital, capital gains, dividends, interest income, and any compensation from the sale of rights offerings, net of all taxes, without RBI approval. The RBI authorizes automatic approval to Indian industries for payments associated with foreign collaboration agreements, royalties, and lump sum fees for technology transfers and payments for the use of trademarks and brand names without limits. Royalties and lump sum payments are taxed at 10%.

### ***Remittance Policies***

Profits and dividend remittances, as current account transactions, are permitted without RBI approval; but income tax payment clearance is required. Transactions are usually processed without delay;

Foreign banks may remit profits and surpluses to their headquarters, subject to compliance with the Banking Regulation Act, 1949. Banks are permitted to offer foreign currency-rupee swaps without limits to enable customers to hedge their foreign currency liabilities. They may also offer forward coverage to non-resident entities on FDI deployed after 1993.

### 3. Expropriation and Compensation

India's image as an investment destination was tarnished in 2010 and 2011 by high profile graft cases in the construction and telecom sectors, exacerbating existing private sector concerns about the government's uneven application of its policies. In October 2012, India's Supreme Court cancelled 122 telecom licenses and the authorized spectrum held by eight operators under what came to be known as the 2G scandal. The decision impacted both domestic and foreign telecom operators. Some of the operators affected by this cancellation stated in media that they may exit India rather than wait for the issuance of new market rules. The U.S. Government continues to urge the Government of India to foster an attractive and reliable investment climate by reducing barriers to investment and minimizing bureaucratic hurdles for businesses. India would benefit from providing a secure legal and regulatory framework for the private sector, as well as institutionalized dispute resolution mechanisms that expedite resolution of commercial disagreements.

### 4. Dispute Settlement

#### *Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts*

Foreign investors frequently complain about a lack of "sanctity of contracts." According to a World Bank Study on Ease of Doing Business, it takes nearly four years on average to resolve a commercial dispute in India, the third longest average rate in the world (<http://www.doingbusiness.org/data/exploreeconomies/india?topic=enforcing-contracts#resolving-insolvency>). Indian courts are understaffed and lack the technology necessary to resolve an enormous backlog of pending cases—estimated by the UN at 30-40 million cases nationwide (<http://www.refworld.org/docid/51ab45674.html>).

In an attempt to align its adjudication of commercial contract disputes with the rest of the world, India enacted the Arbitration and Conciliation Act based on the United Nations Commission on International Trade Law model in 1996. Judgments of foreign courts are enforceable under multilateral conventions like the Geneva Convention. The government established the International Center for Alternative Dispute Resolution (ICADR) as an autonomous organization under the Ministry of Law and Justice to promote the settlement of domestic and international disputes through alternate dispute resolution. The World Bank funded ICADR to conduct training for mediators in commercial disputes settlement.

India is a member of the New York Convention of 1958 on the recognition and enforcement of foreign arbitral awards. Despite this, Indian firms have filed cases with Indian courts in several instances to delay paying the awards granted in arbitration to the U.S. party. Seven cases are currently pending, the oldest of which dates to 1983. India has yet to become a member of the International Center for the Settlement of Investment Disputes. The Permanent Court of Arbitration (PCA, The Hague), and the Indian Law Ministry agreed, in 2007, to establish a regional PCA office in New Delhi to provide an arbitration forum to match the facilities offered at The Hague at a far lower cost. Since then, no further progress has been made in establishing the office. In November 2009, the Department of Revenue's Central Board of Direct Taxes established eight dispute resolution panels (DRPs) across the country to settle the transfer-pricing tax disputes of domestic and foreign companies.

#### *Bankruptcy*

According to the World Bank, it takes creditors an average of 4.3 years to recover funds from an insolvent company in India. The Companies Act adopted in 2013 will introduce major changes in bankruptcy law, both in the procedures and the institutions involved; the law will not, however, provide for Chapter 11-type bankruptcy provisions, as many small business owners had urged. Under the current law, the Board for Industrial and Financial Reconstruction (BIFR) is responsible for all efforts to revive “sick” companies, while the high courts are responsible for overseeing their liquidation. Under the new law, both functions will fall to a new National Company Law Tribunal (NCLT) composed of legal and technical experts, and presided over by a high court judge with at least five years of experience. The government will also appoint an appellate tribunal for hearing appeals of NCLT decisions, while the Supreme Court will remain the final arbiter of the Companies Act. Under the new law, a “sick” company is one that can no longer pay its debts (as opposed to the old definition, in which sick companies were those that had suffered a loss of 50% of their net worth). Though the Companies Act represents a step forward in bankruptcy law, the new system as yet remains untested.

## **5. Performance Requirements and Investment Incentives**

### ***Performance Requirements***

The government is currently pursuing local content requirements in specific areas including information and communications technology (ICT), electronics, and clean energy to increase the manufacturing sector’s contribution to GDP. Foreign investors in India express concern about these policies and the negative impact they may have on India’s investment climate, especially if the GOI applies local content requirements to the private sector. The GOI has already issued finalized notifications on local content requirements for ICT equipment in government procurement, but issued guidance in December 2013 to keep them out of private sector transactions

[http://commerce.nic.in/whatsnew/National\\_Manufacturing\\_Policy2011.pdf](http://commerce.nic.in/whatsnew/National_Manufacturing_Policy2011.pdf).

Companies are free to select the location of their industrial projects, but foreign investors complain that difficulties in land acquisition and uneven zoning regulations prevent them from establishing factories in their preferred location. The Ministry of Commerce and Industry, in recognition of these difficulties, has set aside land for 14 integrated industrial townships called National Investment and Manufacturing Zones (NIMZs). NIMZs offer investors a one-stop approval process for investment, state-of-the-art infrastructure, pre-zoned land for industrial use, and other tax benefits. Seven basic No Objection Certificates are required for almost all investments and projects:

1. Tree Authority
2. Storm Water and Drain Department
3. Sewerage Department
4. Hydraulic Department
5. Environmental Department (concerned with debris management)
6. Traffic and Coordination Department

## 7. Chief Fire Officer (fire department clearance)

### **Labor**

Foreign nationals executing projects and/or contracts in India are required to obtain “employment” visas. All foreigners (including foreigners of Indian origin) visiting India for more than 180 days—whether carrying a student visa, medical visa, research visa or employment visa—are required to register with the Foreigners Regional Registration Officer (FRRO) in Delhi or the Foreigners Registration Officer (FRO) in their jurisdiction within 14 days of their arrival.

The employment of foreigners for periods longer than 12 months requires the approval of the Ministry of Home Affairs (MHA). Recently, MHA eased the rule requiring foreign nationals traveling to India on a multiple-entry Indian tourist visa to wait a minimum of two months between visits to India, eliminating it entirely for most travelers.

The Department of Telecommunications under the Ministry of Communications and Information Technology closely monitors the employment of foreign nationals in the telecom sector. Senior leadership and managers of security operations, among others, are required to be citizens of India or obtain a security clearance from the Ministry of Home Affairs (MHA). More details on this and related rules are available on the MHA website: <http://mha.nic.in/foreigDiv/pdfs/TourVISA-Schm.pdf>.

### **Investment Incentives**

The government provides a 10-year tax holiday for knowledge-based start-ups. Many states also use local tax incentives to attract investment, and these benefits vary by state and by sector.

In August 2009, MOCI released its foreign trade policy for fiscal years 2009-14, which highlighted various incentives for exporters with a particular emphasis on labor intensive sectors such as textiles, processed foods, leather, gems and jewelry, tea, and handloom items. The duty credit extended to exporters under this scheme is 3% of the free-on-board (FOB) export value. Exporters are also allowed to import machinery and capital goods duty free. More information can be found here: <http://dgft.gov.in/>

### **Taxation**

Recent government efforts to strengthen general anti-avoidance rules (GAAR) and expand tax authorities’ purview to collect taxes retrospectively on the indirect transfer of shares have created concerns and uncertainties for foreign investors. A coordinated international effort to dissuade the government from implementing these laws in 2012 resulted in a reprieve that may be extended to 2016. If implemented as passed in the 2012 budget, the GAAR and retrospective tax rules would have resulted in large tax payments by companies like Vodafone to the government.

Private industry remains hopeful the government will follow through with promises to overhaul India’s direct and indirect tax regime. In 2009, the Government of India announced its intention to implement a goods and services tax (GST) and streamline its Direct Tax Code DTC. GST seeks to standardize taxes levied at all points in the supply chain concurrently by both the central and state governments. A GST would harmonize India under one tax regime

by eliminating national and state value-added taxes (VATs), central excise taxes, and a number of other state-level taxes. Parliamentary gridlock and uneven support from state governments have stalled progress. Many economists consider GST one of the most critical economic reforms the government could take, estimating that it could increase GDP growth by up to 2%.

## **6. Right to Private Ownership and Establishment**

Foreign and domestic private entities are permitted to establish and own businesses in trading companies, subsidiaries, joint ventures, branch offices, project offices, and liaison offices, subject to certain sector-specific restrictions. The government does not permit foreign investment in real estate, other than company property used to conduct business and for the development of most types of new commercial and residential properties. FIs can now invest in initial public offerings (IPOs) of companies engaged in real estate. They can also participate in pre-IPO placements undertaken by such real estate companies without regard to FDI stipulations.

To establish a business, various government approvals and clearances are required including incorporation of the company and registration under the State Sales Tax Act and Central and State Excise Acts. Businesses that intend to build facilities on land they own are also required to take the following steps: register the land; seek land use permission if the industry is located outside an industrially zoned area; obtain environmental site approval; seek authorization for electricity and financing; and obtain appropriate approvals for construction plans from the respective state and municipal authorities. Promoters also need to obtain industry-specific environmental approvals in compliance with the Water and Air Pollution Control Acts. Petrochemical complexes, petroleum refineries, thermal power plants, bulk drug makers, and manufacturers of fertilizers, dyes, and paper, among others, must obtain clearance from the Ministry of Environment and Forests.

## **7. Protection of Property Rights**

### ***Real Property***

The Foreign Exchange Management Regulations and the Foreign Exchange Management Act set forth the rules that allow foreign entities to own immovable property in India and convert foreign currencies for the purposes of investing in India. These regulations can be found at [http://rbi.org.in/scripts/BS\\_FemaNotifications.aspx?Id=175](http://rbi.org.in/scripts/BS_FemaNotifications.aspx?Id=175) and <http://www.rbi.org.in/scripts/fema.aspx>. Foreign investors operating under the automatic route are allowed the same rights as a citizen for the purchase of immovable property in India in connection with an approved business activity. India ranks 92 out of 189 for ease of registering property in the World Bank's Doing Business Report (<http://www.doingbusiness.org/rankings>).

### ***Informal Transactions***

According to a 2013 report by Credit Suisse, half of India's total GDP and 90% of its employment are informal. According to ILO figures, India has the largest percentage of any country's total work force employed informally ([http://laborsta.ilo.org/applv8/data/INFORMAL\\_ECONOMY/2012-06-Statistical%20update%20-%20v2.pdf](http://laborsta.ilo.org/applv8/data/INFORMAL_ECONOMY/2012-06-Statistical%20update%20-%20v2.pdf)).

In India, a registered sale deed does not confer title ownership and is merely a record of sales transaction. It only confers presumptive ownership, which can still be disputed. Actual title is established through a chain of historical transfer documents that originate from the land's original established owner. Accordingly, before purchasing land, buyers should examine all the link documents that establish title from the original owner. Many owners, particularly in urban areas, do not have access to the necessary chain of documents. This increases uncertainty and risks in land transactions.

### ***Intellectual Property Rights***

India has adequate copyright laws, but enforcement is weak and piracy of copyrighted materials is widespread. India is a party to the Berne Convention, UNESCO, and the World Intellectual Property Organization (WIPO). In 2012, India amended its copyright laws and signed WIPO's Beijing Treaty on the Protection of Audiovisual Performances. However, the copyright law still contains several broad exceptions for personal use and "fair dealing," weak protection against unlawful circumvention of technological protection measures, and lacks an effective notice and take-down system for online infringing materials. India was listed on the Priority Watch List in USTR's Special 301 report for 2013. The country hosts six "Notorious Markets" according to USTR latest report of February 2014. These include Nehru Place and Gaffar Markets in New Delhi; Mannish Market and Lamington Road in Mumbai, Cheney Trade Center and Hong Kong Bazaar in Hyderabad (<http://www.ustr.gov/about-us/press-office/press-releases/2014/February/Notorious-markets-list-focuses-fight-against-global-piracy-and-counterfeiting>).

India updated its trademark law in recent years to bring it closer to international standards for filing and granting trademarks. It is worth noting that India acceded to and has implemented the Madrid Protocol as of July 2013. In 2014, the WIPO plans to conduct capacity building programs throughout the country to educate trademark professionals on the Madrid system. WIPO has also been recognized as an International Search Authority/International Preliminary Examination Authority (ISA/IPEA) under the Patent Cooperation Treaty and began accepting applications in October 2013.

Pharmaceutical and agro-chemical products can be patented in India. Plant varieties are protected by the Plant Varieties and Farmers' Rights Act. Software embedded in hardware may also be patented. However, the interpretation and application of the patent law lacks clarity, especially with regard to several important areas such as compulsory licenses, pre-grant opposition provisions, and defining the scope of patentable inventions (e.g., whether patents are limited to new chemical entities rather than incremental innovation). In 2012, India issued its first compulsory license for a patented pharmaceutical. In the case of Natco vs. Bayer, an Indian generics company sought and was granted a compulsory license under India's laws to make a generic version of Bayer's liver and kidney cancer drug, Nexavar. Indian law does not protect against the unfair commercial use of test data or other data submitted to the government during the application for market approval of pharmaceutical or agro-chemical products. The Pesticides Management Bill (2008), which would allow data protection of agricultural chemical provisions, stalled in the previous Parliament.

Indian law provides no statutory protection of trade secrets. The Designs Act meets India's obligations under WTO/TRIPS (Trade-Related Aspects of Intellectual Property Rights) for industrial designs. The Designs Rules, which detail classification of design, conform to the

international system and are intended to take care of the proliferation of design-related activities in various fields. India's Semiconductor Integrated Circuits Layout Designs Act is based on standards developed by WIPO; however, this law remains inactive due to the lack of implementing regulations.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

#### **Resources for Rights Holders:**

##### **Contact at U.S. Embassy**

- Kalpana Reddy
- IP Attaché
- +91-11-2419-2334
- [Kalpana.reddy@trade.gov](mailto:Kalpana.reddy@trade.gov)

##### **Country/Economy resources:**

- Madhvi Kataria
- American Chamber of Commerce in India (AMCHAM)
- Associate Director
- [madhvi.kataria@amchamindia.com](mailto:madhvi.kataria@amchamindia.com)
- 2652 5201 / 02; 2652 5203; 98102-02213

You can find a list of lawyers at the U.S. Embassy website:

<http://newdelhi.usembassy.gov/mobile//service/other-citizen-services/judicial-assistance.html>

## **8. Transparency of the Regulatory System**

Despite progress, the Indian economy is still constrained by conflicting rules and an overly complex bureaucratic system that has broad discretionary powers. India has a decentralized federal system of government in which states possess extensive regulatory powers. Regulatory decisions governing important issues such as zoning, land-use, and the environment vary between states. Opposition from labor unions and political constituencies slows the pace of land acquisition, environmental clearances, investment policy, and labor rights.

The central government has been successful in establishing independent and effective regulators in telecommunications, securities, insurance, and pensions. The Competition Commission of India (CCI), India's antitrust body, has begun to take up its enforcement powers and is now taking cases against cartelization and abuse of dominance, as well as conducting capacity-building programs for bureaucrats and company officials. In



December 2012, the Government of India introduced amendments to the Competition Act, 2002 that would empower CCI to order search and seizure operations. Currently the commission's investigations wing is required to seek the approval of the local chief metropolitan magistrate for a search and seizure operation. In June 2011, the government enacted rules governing mergers and acquisitions. The Securities and Exchange Bureau of India (SEBI) enforces corporate governance and is well regarded by foreign institutional investors. The RBI, which regulates the Indian banking sector, is also held in high regard. Some Indian regulators, including SEBI and the RBI, engage with industry stakeholders through periods of public comment, but the practice is not consistent across the government.

The Companies Act adopted in 2013 brings India's corporate governance rules in line with international standards with regards to transparency and audit procedures. The law will require more time, however, for the creation of new institutional structures.

## **9. Efficient Capital Markets and Portfolio Investment**

In Indian rupee terms, the S&P BSE SENSEX index — India's benchmark 30-share index — was up 9% in 2013, compared with a 25% gain in 2012. However, the S&P BSE dollar index 30, a U.S. dollar linked version of SENSEX, was down 4% due to the rupee's depreciation. The market capitalization of the Bombay Stock Exchange (BSE) was \$1.09 trillion on December 31, 2013. Despite introduction of a new stock exchange, MCX Stock Exchange, the National Stock Exchange and BSE account for 100% of total Indian stock market turnover. Spot prices for index stocks are usually market-driven and settlement mechanisms are in line with international standards. Unlike Indian equity markets, local debt and currency markets are relatively underdeveloped with limited participation from foreign investors. Indian businesses receive the majority of their financing through the banking system, not capital markets. Although private placements of corporate debt have increased, the size of India's corporate bond market is small (equivalent to only 5% of GDP) and daily trading volume remains thin.

Foreign investment in India can be made through various routes, including: FDI, the Portfolio Investment Scheme (PIS), and venture capital investment. The PIS route provides access to a wide range of foreign portfolio investors, including FIIs, FII sub-accounts, Qualified Foreign Investors (QFIs), and Non NRIs. FIIs are divided into two categories: regular FIIs, which invest in both equity and debt; and 100% debt-fund FIIs. Eligible FIIs include: overseas pension funds, mutual funds, banks, foreign central banks, sovereign wealth funds, endowment and university funds, foundations, charitable trusts and societies, insurance companies, re-insurance companies, foreign government agencies, international and multilateral organizations, broad-based funds, asset management companies, investment managers, and hedge funds. FIIs must be registered and regulated by a recognized authority in their home country; as a result, many U.S.-based hedge funds cannot register as FIIs. "Sub-account" refers to any person residing outside India on whose behalf investments are made within India by an FII. These include foreign individuals or corporates, broad-based funds, proprietary funds under the name of a registered FII, endowment and university funds, charitable trusts and societies. NRIs are not eligible to apply as sub-accounts.

FIIs and sub-accounts must register with the SEBI to invest in India's capital markets. As of December 2013, there were 1,739 FIIs and 6,394 sub-accounts registered with SEBI. FIIs purchased and sold equities worth \$20.10 billion in 2013; however, foreign investors repatriated \$8 billion from the local bond market in 2013. As a result, net inbound investment

by FII, in both debt and equity markets, only reached \$1.2 billion. While FIIs are allowed to invest in all listed securities traded in India's primary and secondary markets (as well as unlisted securities, including government and corporate debt, mutual funds, and commercial paper), India does impose various restrictions based on investment type, including quantitative restrictions on debt inflows.

On April 1, 2013, the government announced rationalization of FII debt investment categories, in an attempt to attract more stable foreign debt capital inflows. The first category consists of government securities of \$25 billion, which merges the \$10 billion investment limit in short-term government paper with the \$15 billion limit in long-term government securities. Subsequently, the government expanded this limit to \$30 billion, earmarking an additional \$5 billion for long-term investors, including: sovereign wealth funds, multilateral agencies, endowment funds, insurance funds, pension funds and foreign central banks. The second category, for corporate debt, has a limit of \$51 billion, following the merger of separate categories for infrastructure and non-infrastructure bonds. In September, 2013 SEBI further simplified foreign investors' direct access to the local debt market by eliminating its debt limit auction system.

Indian equity markets have few restrictions on capital flows, but do limit foreign ownership stakes. FIIs and sub-accounts can own up to 10% and 5%, respectively, of the paid-up equity capital of any Indian company. Aggregate investment in any Indian company by all FIIs and sub-accounts is capped at 24%, unless specifically authorized by that company's board of directors. The short-selling of shares is permitted to all investor classes, except NRIs, including FIIs, domestic institutional and retail investors that are registered with SEBI. However, investors must maintain a minimum margin requirement.

FIIs are not permitted to participate in the new currency futures markets. In order to end speculative trades in the Indian rupee that take place in the offshore non-deliverable forwards (NDF) market, the RBI plans to allow FIIs and NRIs to trade in the currency futures market. This will both deepen the domestic currency market and bring it under the purview of domestic regulators. Foreign firms and persons are prohibited from trading in commodities. SEBI allows foreign brokers to work on behalf of registered FIIs. FIIs can also bypass brokers and deal directly with companies in open offers. FII bank deposits are fully convertible and their capital, capital gains, dividends, interest income, and any compensation from the sale of rights offerings, net of all taxes, may be repatriated without prior approval. NRIs are subject to separate investment limitations. They can repatriate dividends, rents, and interest earned in India and their specially designated bank deposits are fully convertible.

QFIs are allowed to invest in the equity and debt schemes of mutual funds and equities. QFIs are defined as individuals, groups, and associations that reside in a Financial Action Task Force (FATF)-compliant foreign country, a country that has signed onto the International Organization of Securities Commissions' (IOSCO) multilateral Memorandum of Understanding, or a country that has signed a bilateral MOU with SEBI. QFIs which meet prescribed know your customer (KYC) requirements are permitted to invest through SEBI registered Qualified Depository Participants. The limits on individual and aggregate investment for QFIs are 5% and 10% of the company's paid-up capital, respectively, subject to sectorial caps. These limits are over and above the cap earmarked for FIIs and NRIs, who can invest directly in the

Indian equity market. QFIs can also invest in listed, or to-be-listed, corporate debt and mutual funds.

Foreign venture capital investors (FVCIs) must register with SEBI to invest in Indian firms. They can also set up domestic asset management companies to manage funds. All such investments are allowed under the automatic route, subject to SEBI and RBI regulations and FDI policy. FVCIs can invest in many sectors including software business, information technology, pharmaceutical and drugs, bio-technology, nano-technology, biofuels, agriculture, and infrastructure.

Foreign Portfolio Investors (FPI): In October 2013, SEBI approved combining existing FIs, sub-accounts, and QFIs into a new class termed as Foreign Portfolio Investors (FPIs). The FPI regulations attempt to provide uniform entry norms and simplify compliance requirements for all FPIs in India. FPIs are required to register with SEBI-authorized Designated Depository Participants and to meet risk-based KYC norms.

Companies incorporated outside India can raise capital in India's capital market through the issuance of Indian Depository Receipts (IDRs). These transactions are subject to RBI and SEBI monitoring per conditions outlined at:

[www.rbi.org.in/Scripts/NotificationUser.aspx?Id=5185&Mode=0](http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=5185&Mode=0). Companies are required to have pre-issued, paid-up capital and free reserves of least \$100 million, as well as an average turnover of \$500 million during the three financial years preceding the issuance. In addition, the company must have been profitable for at least five years preceding the issuance, declaring dividends of not less than 10% each year and maintaining a pre-issue debt-equity ratio of no more than 2:1. Standard Chartered Bank, a British bank which was the first foreign entity to list in India in June 2010, is the only foreign firm to have issued IDRs. On March 1, 2013, SEBI issued a detailed framework a detailed framework for conversion of IDRs into equity shares ([http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1362136042656.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1362136042656.pdf)).

External commercial borrowing (ECB or direct lending to Indian entities by foreign institutions) is allowed if the funds will be used for outward FDI or domestically for investment in industry, infrastructure, hotels, hospitals, or software, self-help groups or microfinance activities or to buy shares in disinvestment of public sector entities

([http://www.rbi.org.in/scripts/BS\\_ViewMasCirculardetails.aspx?id=8101](http://www.rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=8101)). ECBs may not be used for on-lending, investments in financial assets, or acquiring real estate or a domestic firm. In September 2013, the RBI permitted use of ECBs with minimum average maturity of seven years for financing general corporate purposes subject to the condition that the minimum paid-up equity of 25% should be held directly by the lender. As of July 2013, the all-in-costs ceilings for ECBs with an average maturity period of three to five years was capped at 350 basis points over six month LIBOR and 500 points for loans maturing after five years. Indian companies have borrowed close to \$34.12 billion in foreign currency through ECBs and \$400 million through FCCBs in 2013.

Takeover regulations require disclosure upon acquisition of shares exceeding 5% of total capitalization. SEBI regulations require that any acquisition of 15% or more of the voting rights in a listed company will trigger a public offer. The public offer made by the acquiring entity (i.e., an individual, company, or other legal entity) must be for at least 20% of the company's voting rights. Since October 2008, an owner holding between 55% and 75% of voting rights can acquire additional voting rights of up to 5% without making a public offer (i.e., creeping

acquisition). However, the buyer can make a creeping acquisition only by open market purchases and not through bulk/block/negotiated deals or preferential allotment. Furthermore, subsequent to this acquisition, the buyer's total shares should not cross the 75% threshold. RBI and FIPB clearances are required to assume a controlling stake in an Indian company. Cross shareholding and stable shareholding are not prevalent in the Indian market. SEBI regulates hostile takeovers.

### **Banking System**

Banking in India is largely dominated by public sector banks (PSB). There are currently 27 PSBs in India, the largest of which is the State Bank of India (SBI). In 2012-2013 the PSBs held a 77% share of total deposits versus 13% for private banks (including 4% by foreign banks). PSBs are not technically subject to any excess regulations over commercial banks, neither in terms of lending practice nor deposits. They do, however, have their CEOs, upper management, and a number of their board of directors appointed by the government, making the government extremely influential in credit decisions. As of the first quarter of 2014, non-performing assets (NPA) accounted for approximately 4% of total banking system assets, and 5% of PSB assets. The RBI in April 2014 proposed a set of recommendations to the Ministry of Finance for the government to reduce its ownership stake and control of PSBs.

### **Hostile Takeovers**

Takeover regulation in India applies equally to domestic and foreign companies. The regulations do not recognize any distinct category of hostile takeovers. RBI and FIPB clearances are required to acquire a controlling stake in Indian companies. Takeover regulations require disclosure on acquisition of shares exceeding 5% of total capitalization. As per SEBI's Substantial Acquisition of Shares and Takeovers (Amendment) Regulations, 2013, acquisition of 25% or more of the voting rights in a listed company triggers a public offering of an additional 26% stake at least. Under the creeping acquisition limit, the acquirer holding 25% or more voting rights in the target company can acquire additional shares or voting rights up to 5% of the total voting rights in any financial year, up to a maximum permissible non-public shareholding limit of 75% generally. Acquisition of control over the target company, irrespective of shares or voting rights held by the acquirer, will trigger a mandatory open offer

([http://www.sebi.gov.in/cms/sebi\\_data/commondocs/takeovernotifi\\_p.pdf](http://www.sebi.gov.in/cms/sebi_data/commondocs/takeovernotifi_p.pdf) and

[http://www.sebi.gov.in/cms/sebi\\_data/commondocs/sa\\_p.pdf](http://www.sebi.gov.in/cms/sebi_data/commondocs/sa_p.pdf) ).

## **10. Competition from State-Owned Enterprises**

India's public sector enterprises (PSEs), both at the central and state levels, play an important role in the country's industrialization. As of December 31, 2013, 249 Central Public Sector Enterprises (CPSEs) (excluding 7 insurance companies) were operating in India. The number of profit making CPSEs increased steadily from 143 in 2004-05 to 160 in 2010-11. The manufacturing sector constitutes the largest component of investment in CPSEs (45%) followed by services (35%), energy (12%), and mining (8%). Foreign investments are allowed in the CPSEs in all four of these sectors. The Ministry of Heavy Industries and Public Enterprises' Department of Public Enterprises oversees CPSEs. CPSEs have boards of directors, wherein at least one third of the directors are externally appointed. The chairman, managing director,

and directors are appointed independently. Companies can appoint private consultants, senior retired officers, and politically affiliated individuals to their boards. Detailed guideline on CPSE corporate governance can be found at <http://164.100.47.134/intranet/CorporateSocialResponsibility.pdf>

As of 2011, the government had granted five CPSEs in the energy and mining and metal manufacturing and products sectors — Indian Oil Corporation, NTPC Limited, Oil and Natural Gas Corporation, Coal India Limited (CIL) and Steel Authority of India — “Maharatna” status, which allows the management greater financial and operational freedom to expand the CPSEs’ operations. Maharatna-designated CPSEs are allowed to invest up to \$1.1 billion without government approval. The government plans to continue divesting itself of CPSEs, but intends to retain at least 51% ownership. Foreign investors are allowed to buy equity stakes in all CPSEs via IPOs.

Although there do not appear to be systemic advantages, CPSEs in some sectors enjoy pricing and bidding advantages over their private sector and foreign competitors. Over the last few years the government has increased the pace of its divestment from CPSEs, although there are no immediate plans to sell majority shares of CPSEs to the private sector or to list more than 50% of the shares on any of the Indian stock exchanges.

## **11. Corporate Social Responsibility**

The passage of the Companies Act of 2013 marks a dramatic change in India’s corporate social responsibility (CSR) policy, as the law requires a minimum level of CSR spending for large, profitable companies, as well the formation of a CSR committees by company boards of directors. Section 135 of the new legislation requires publicly-held companies to spend 2% of annual domestic profits on CSR-related activities. As of the law’s enactment on April 1, 2014, domestic companies (including subsidiaries of multinational companies) generating approximately \$200 million or more in sales, with a net worth greater than \$100 million, and that have earned annual profits greater than \$1 million for three consecutive years must issue a public report of their CSR expenditures or provide an explanation of why the company did not meet the minimum CSR spending requirements. The directors of companies that fail to report will be held personally accountable under the law and can face fines or imprisonment. This act is among the most prescriptive CSR laws in the world, but implementation remains untested. While there is widespread support for encouraging greater CSR activity in India, some companies have expressed concern about the lack of clarity and enforcement mechanisms provided in the law.

Until the implementing regulations for foreign companies operating in India have been clarified under the new Companies Law, foreign companies should also verify whether they are subject to the Ministry of Corporate Affairs’ “National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business,” which encourages large companies to voluntarily spend 2% of their profits on CSR activities. The guidelines also require companies to disclose details regarding their CSR-related expenditures:

<http://164.100.47.134/intranet/CorporateSocialResponsibility.pdf> .

India has a number of companies that are world-class leaders in CSR. For example, in 2012, Microsoft India was a semifinalist in the annual Secretary of State’s Award for Corporate

Excellence because of its significant contributions to improving environmental awareness in India.

There are many NGOs working on CSR in India, including the following:

- ICCSR, the Indian Centre for Corporate Responsibility <http://www.iccsr.org/>
- Transparency International India (TII) <http://www.transparencyindia.org/>
- Samhita Social Ventures <http://www.samhita.org>

TII sponsors the Advocacy and Legal Action Center, which runs an Anti-Corruption Hotline and provides training sessions on corporate governance and CSR.

### ***Shareholder Protection***

Also under the Companies Act, 2013, company finances are subject to regular audits, and auditors change every five years. The company's chief financial officer is held personally accountable for the contents of financial statements. The law provides for sundry mechanisms to promote transparency and accountability, such as whistleblower protections. The legislation discourages the use of confusing corporate structures to avoid taxation, hide losses, or launder money. The law sets tough penalties for embezzlement, including mandatory jail time and hefty fines for offenders, and introduces class-action lawsuits, as well as provisions to prevent conflicts of interest and insider trading. The Act also establishes a new committee, the National Financial Reporting Authority, tasked with prescribing and monitoring accounting and auditing standards—a first in India.

## **12. Political Violence**

In Andhra Pradesh, there were protests, strikes, and violence leading up to the creation of a separate Telangana state on June 2. Bombings in Hyderabad, Bangalore, and Bodh Gaya in 2013 disrupted tourism and business in those areas, but no U.S. companies were reported to have been affected. The CEO of a major direct selling company was arrested repeatedly in the past two years under the "Prize Chits and Money Circulation Schemes (Banning) Act," although the state in which it operates had previously given the company a green light.

Outbursts of violence related to insurgent movements continue in Jammu and Kashmir and some northeastern states. Maoist/Naxalite insurgent groups remain active in some eastern and central Indian states, including the rural areas of Bihar, Jharkhand, Chhattisgarh, West Bengal, and Orissa. Travelers to India are invited to visit the U.S. Department of State travel advisory website at: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1139.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1139.html) for the latest information and travel resources.

## **13. Corruption**

While India's struggle against corruption has had a distinct influence on Parliament, media, and public debate over the last year, little concrete action, apart from the Parliament's passage of the Lokpal (Citizen's Ombudsman) bill, has been undertaken to curb the problem. Anti-corruption activist Arvind Kejriwal launched a series of corruption allegations against some of India's richest and most high-profile individuals, including a senior cabinet minister, family members of the ruling Congress party's leader, and the president of the

leading opposition party. Kejriwal successfully launched the Aam Aadmi Party(AAP), whose key plank is anti-corruption. AAP made its spectacular debut during the December 2013 Delhi state assembly elections, receiving the second highest seat share and subsequently forming a short-lived (49 days) Delhi State government with Kejriwal as Chief Minister. U.S. firms continue to point toward corruption as the single greatest disincentive to doing business in India. In private conversations, foreign firms note the lack of transparency in rules of governance, extremely cumbersome official procedures, and excessive and unregulated discretionary powers afforded to politicians and lower-level bureaucrats as major obstacles to investing in India.

India is ranked 94 out of 177 countries surveyed in Transparency International's 2013 Corruption Perception Index, similar to the previous year's rank of 94 of 183. The legal framework for fighting corruption is addressed by the following laws: the Prevention of Corruption Act, 1988; the Code of Criminal Procedures, 1973; the Companies Act, 1956; the Indian Contract Act, 1872; the Prevention of Money Laundering Act, 2002; and the Companies Act, 2013. Anti-corruption laws amended since 2004 have granted additional powers to vigilance departments in government ministries at the central and state levels. The amendments elevated India's Central Vigilance Commission (CVC) to a statutory body. On December 18, 2013, Parliament enacted the Lokpal bill, which will create a national anti-corruption ombudsman that also requires states to create state-level ombudsmen within one year of the law's passage.

Although India is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, in May 2011, the government ratified the United Nations Convention against Corruption. Also in 2011, Prime Minister Manmohan Singh set an ambitious legislative agenda to curb corruption, including bills to protect whistleblowers, eliminate graft in government procurement, punish bribery of foreign public officials, address grievances against poor and corrupt delivery of government services, and amend the Prevention of Money Laundering Act to expand definitions of money laundering. Most of these bills stalled in Parliament. While many NGOs and citizens' groups had hoped that the Companies Act, 2013 would contain provisions akin to the U.S. Foreign Corrupt Practices Act, there remains no particular legislation applicable to corrupt corporate practices overseas.

The national Right to Information Act, 2005, and equivalent state acts function similarly to the U.S. Freedom of Information Act, requiring government officials to furnish information requested by citizens or face punitive action. Increased computerization of services, coupled with central and state government efforts to establish vigilance commissions, is in many areas opening up new avenues to seek redress of grievances.

#### **14. Bilateral Investment Agreements**

As of July 2012, India had concluded 82 bilateral investment treaties (BIT) including with the United Kingdom, France, Germany, Switzerland, Malaysia, and Mauritius. Of these, 72 agreements are currently in force. The complete list of agreements can be found at: [http://www.finmin.nic.in/bipa/bipa\\_index.asp](http://www.finmin.nic.in/bipa/bipa_index.asp). In early 2012 local media reported that Coal India lost in international arbitration against an Australian firm. The Australian firm reportedly won its case based on more favorable treaty language from a third country investment

treaty, leading the Government of India to temporarily suspend all BIT negotiations until it had drafted a new model agreement.

In 2009, India concluded a Comprehensive Economic Cooperation Agreement (CEPA) with ASEAN and a free trade agreement (FTA) in goods, services, and investment with South Korea. In February 2011, India signed CEPAs with Japan and Malaysia. FTA negotiations with the EU and Canada are still under way, and India is negotiating a CEPA with Thailand.

In February 2014, the United States and India held technical discussions on a BIT. The U.S. Department of Commerce's International Trade Administration's "Invest in America" program (now known as "SelectUSA"), and "Invest India," a joint venture between DIPP and the Federation of Indian Chambers of Commerce and Industry (FICCI), signed a Memorandum of Intent in November 2009, to facilitate FDI in both countries.

### **15. OPIC and Other Investment Insurance Programs**

The United States and India signed an Investment Incentive Agreement in 1987, which covers Overseas Private Investment Corporate (OPIC) programs. OPIC is currently operating in India in the areas of renewable energy and power, telecommunications, manufacturing, housing, services, education, clean water and logistics in infrastructure. In 2013, OPIC was on track to support an additional \$3.5 million in clean energy and other projects in India. Since 1974, OPIC has committed more than \$2.6 billion to financing and insurance in India and supported 140 projects. OPIC's current portfolio in India totals \$671 million across 17 projects particularly focusing in on energy, financial services, manufacturing and services.

### **16. Labor**

Although there are more than 20 million unionized workers in India, unions represent less than 5% of the total work force. Most unions are linked to political parties. According to provisional figures from the Ministry of Labor and Employment (MOLE), two million workdays were lost to strikes and lockouts during the first nine months of 2012, as opposed to 10 million workdays lost in 2011, and 20 million in 2010.

Labor unrest occurs throughout India, though the reasons and affected sectors vary widely. The largest car manufacturer in India experienced violent strikes in 2012. The company was forced to shut down for a month leading to estimated losses around \$300 million. In 2011, foreign companies in the manufacturing sector experienced labor problems in Gujarat, while others in the same sector have reported excellent labor relations. Some labor problems are the result of workplace disagreements over pay, working conditions, and union representation. The states of Gujarat, Kerala, Andhra Pradesh, Karnataka, and Rajasthan experience the most strikes and lockouts, according to government statistics. Sectors with the most labor unrest include banks and the automobile industry.

India's labor regulations are among the world's most stringent and complex, and over time have limited the growth of the formal manufacturing sector. The rules governing the payment of wages and salaries are set forth in the Payment of Wages Act, 1936, and the Minimum Wages Act, 1948. Industrial wages vary by state, ranging from about \$3.50 per day for unskilled workers to over \$200 per month for skilled production workers. Retrenchment, closure, and layoffs are governed by the Industrial Disputes Act, 1947, which requires prior government permission to lay off workers or to close businesses employing more than 100



people. Foreign banks also require RBI approval to close branches. Permission is not easily obtained, resulting in greater use of contract workers in the manufacturing sector to circumvent the law. Private firms successfully downsize through voluntary retirement schemes.

In August 2010, Parliament passed the Industrial Disputes (Amendment) Bill, 2010, which contains provisions to effect the following: increase the wage ceiling prescribed for supervisors; bring disputes between contractors and contracted labor under the purview of the MOLE, in consultation with relevant state or central government offices; provide direct access for workers to labor courts or tribunals in case of disputes; seek more qualified officers to preside over labor courts or tribunals; establish a grievance process; and empower industrial tribunals-cum-courts to enforce decrees.

### 17. Foreign Trade Zones/Free Ports

The government established several foreign trade zone schemes to encourage export-oriented production. These include Special Economic Zones (SEZ), Export Processing Zones (EPZ), Software Technology Parks (STP), and Export Oriented Units (EOU). The newest category is the National Industrial and Manufacturing Zones (NIMZ), of which 14 are being established across India. These schemes are governed by separate rules and granted different benefits, details of which can be found at: [www.sezindia.nic.in](http://www.sezindia.nic.in); [www.stpi.in](http://www.stpi.in); and [www.eouindia.gov.in/handbook\\_procedures.htm](http://www.eouindia.gov.in/handbook_procedures.htm).

SEZs are treated like foreign territory and therefore, businesses operating within SEZs are not subject to customs regulations, are not bound by FDI equity caps, receive exemptions from industrial licensing requirements, and enjoy tax holidays and other tax breaks. EPZs are industrial parks with incentives for foreign investors in export-oriented businesses. STPs are special zones with similar incentives for software exports. EOUs are industrial companies established anywhere in India that export their entire production and are granted the following: duty-free import of intermediate goods; income tax holidays; exemption from excise tax on capital goods, components, and raw materials; and a waiver on sales taxes.

As part of its new industrial policy, the government has started to establish NIMZs. Fourteen NIMZs have been approved to date, of which eight are planned on the Delhi-Mumbai Industrial Corridor route. NIMZs are slated to be established as green-field integrated industrial townships with a minimum area of 5000 hectares and managed by a special purpose vehicle, headed by a government official. The available information about NIMZ suggests that foreign and domestic companies that establish their operations in a NIMZ will be able to seek government authorizations via a single approval window for all clearances.

### 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

**TABLE 3: Key Macroeconomic data, U.S. FDI in India**

	Host Country Statistical source*	USG or international statistical source	Source of data

	Source: DIPP, MOF, RBI				
<b>Economic Data</b>	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (Millions U.S. Dollars)	2012	\$1.895 trillion	2012	\$1.895 trillion	<a href="http://www.worldbank.org/en/country">http://www.worldbank.org/en/country</a> <a href="http://indiabudget.nic.in/budget2013-2014/survey.asp">http://indiabudget.nic.in/budget2013-2014/survey.asp</a>
<b>Foreign Direct Investment</b>	Host Country Statistical source: DIPP; RBI		USG or international statistical source		World Bank <a href="http://www.worldbank.org/en/country">http://www.worldbank.org/en/country</a>
U.S. FDI in partner country (Millions U.S. Dollars, stock positions)	2012	\$36,860 million *	2012	\$29,583 million	(BEA) click selections to reach. <a href="http://dipp.nic.in/">http://dipp.nic.in/</a>
Host country's FDI in the United States (Millions U.S. Dollars, stock positions)	2012	\$3,970 million	2012	\$3,970 million	(BEA) click selections to reach <a href="http://rbidocs.rbi.org.in/rdocs/Speeches/PDFs/OV27022012.pdf">http://rbidocs.rbi.org.in/rdocs/Speeches/PDFs/OV27022012.pdf</a>

Total inbound stock of FDI as % host GDP	2012	1.95%	2012	1.49%	
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\* DIPP figures include equity inflows, reinvested earnings and "other capital," and therefore are not directly comparable with the international data.

**TABLE 4: Sources and Destination of FDI**

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (U.S. Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	218,134	100%	Total Outward	79,857	100%
Mauritius	57,727	26%	Singapore	21,481	27%
United Kingdom	35,595	16%	Mauritius	12,355	15%
United States	32,562	15%	Netherlands	11,134	14%
Singapore	17,654	8%	United States	7,066	9%
Japan	15,470	7%	United Arab Emirates	3,874	5%

**TABLE 5: Sources of Portfolio Investment**

Portfolio Investment Assets as of End of 2012								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
World	1,021	100%	World	1,002	100%	World	19	100%
Luxembourg	329	32%	Luxembourg	329	33%	Philippines	18	97%
Bermuda	207	20%	Bermuda	207	21%	Luxembourg	0.35	2%
United States	106	10%	United States	106	11%	Korea, Republic of	0.09	0.49%

China, P.R.: Hong Kong	62	6%	China, P.R.: Hong Kong	62	6%	Singapore	0.09	0.49%
Thailand	52	5%	Thailand	52	5%	United States	0.07	0.39%

Source: <http://cpis.imf.org/>

## Section 5 - Government

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

Common law system based on the English model; separate personal law codes apply to Muslims, Christians, and Hindus; judicial review of legislative acts

### International organization participation:

ABEDA, ADB, AfDB (nonregional member), ARF, ASEAN (dialogue partner), BIMSTEC, BIS, BRICS, C, CD, CERN (observer), CICA, CP, EAS, FAO, FATF, G-15, G-20, G-24, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAS (observer), MIGA, MONUSCO, NAM, OAS (observer), OECD, OPCW, PCA, PIF (partner), SAARC, SACEP, SCO (observer), UN, UNCTAD, UNDOF, UNESCO, UNHCR, UNIDO, UNIFIL, UNISFA, UNITAR, UNMISS, UNOCI, UNSC (temporary), UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

### Exchange control

The foreign exchange regulations have been substantially liberalised in India, whereby no licence is required for setting up an industry except in a few cases such as electronic aerospace and defence equipment, industrial explosives, hazardous chemicals, distillation and brewing of alcoholic drinks, cigars and cigarettes, items reserved for small-scale sector and industries/sectors reserved for the public sector.

India has one of the most liberal and transparent policies on Foreign Direct Investment (FDI) among the emerging economies. The FDI policy has been rationalised on an ongoing basis to avoid multiple layers of regulatory approvals to facilitate foreign investment. FDI can be divided into two broad categories:

- (1) FDI under Automatic Approval route
- (2) FDI with prior approval of the Government.

Under the automatic approval route, no government approval is required if the FDI is within the notified sectoral caps. In such situations, only intimation needs to be given to the Reserve Bank of India within 30 days of making the investment. However, if the FDI is above the prescribed sectoral cap, the approval of government through the Foreign Investment Promotion Board (FIPB) is required.

FDI is allowed under the automatic route in almost all activities/sectors except the following, which require FIPB approval:

- activities/items that require an Industrial Licence (except some cases)
- proposals in which the foreign collaborator has an existing financial/technical collaboration in India in the same field
- all proposals falling outside notified sectoral policy/caps.

In certain cases, such as distillation and brewing of alcohol, industrial explosives and manufacture of hazardous chemicals, FDI is permitted without FIPB approval subject to obtaining an industrial licence from the appropriate authority.

However, FDI is prohibited in the following cases:

- gambling and betting
- lottery business
- atomic energy
- retail trading (except in single brand retail)
- agricultural or plantation activities or agriculture (excluding floriculture, horticulture, development of seeds, animal husbandry, etc. and plantations, other than tea plantations).

## Treaty and non-treaty withholding tax rates
































India has signed **111 agreements** (97 DTC and 14 TIEA agreements) providing for the exchange of information.

### About this list of agreements »

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Afghanistan	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Argentina	TIEA	21 Nov 2011	28 Jan 2013	Yes	Yes	
Armenia	DTC	31 Oct 2003	9 Sep 2004	Unreviewed	No	
Australia	DTC	25 Jul 1991	30 Dec 1991	Yes	Yes	
Austria	DTC	8 Nov 1999	5 Sep 2001	No	No	
Bahamas, The	TIEA	11 Feb 2011	1 Mar 2011	Yes	Yes	
Bahrain	TIEA	31 May 2012	11 Apr 2013	Yes	Yes	
Bangladesh	DTC	27 Aug 1991	27 May 1992	Unreviewed	No	
Bangladesh	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Belarus	DTC	27 Sep 1997	17 Jul 1998	Unreviewed	No	
Belgium	DTC	26 Apr 1993	1 Oct 1997	Yes	No	
Bermuda	TIEA	7 Oct 2010	3 Nov 2010	Yes	Yes	
Bhutan	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Botswana	DTC	8 Dec 2006	30 Jan 2008	No	No	
Brazil	DTC	26 Apr 1988	11 Mar 1992	Yes	No	
Bulgaria	DTC	26 May 1994	23 Jun 1995	Unreviewed	No	
Canada	DTC	11 Jan 1996	6 May 1997	Yes	No	
Cayman Islands	TIEA	21 Mar 2011	8 Nov 2011	Yes	Yes	
China	DTC	18 Jul 1994	21 Nov 1994	Yes	No	
Chinese Taipei	DTC	12 Jul 2011	12 Aug 2011	Unreviewed	Yes	
Colombia	DTC	13 May 2011	not yet in force	Unreviewed	Yes	
Cyprus	DTC	13 Jun 1994	21 Dec 1994	Yes	No	
Czech Republic	DTC	1 Oct 1998	27 Sep 1999	Yes	No	
Denmark	DTC	8 Mar 1989	13 Jun 1989	Yes	No	
Egypt	DTC	20 Feb 1969	30 Sep 1969	Unreviewed	No	
Estonia	DTC	19 Sep 2011	20 Jul 2012	Yes	Yes	
Ethiopia	DTC	25 May 2011	15 Oct 2012	Unreviewed	Yes	
Faroe Islands	DTC	8 Mar 1989	13 Jun 1989	Unreviewed	No	
Finland	DTC	15 Jan 2010	19 Apr 2010	Yes	No	
France	DTC	29 Sep 1992	1 Aug 1994	Yes	No	
Georgia	DTC	24 Aug 2011	8 Dec 2011	Unreviewed	Yes	
Germany	DTC	19 Jun 1995	26 Oct 1996	No	No	
Gibraltar	TIEA	1 Feb 2013	11 Mar 2013	Yes	Yes	
Greece	DTC	11 Feb 1965	17 Mar 1967	No	No	
Guernsey	TIEA	20 Dec 2011	11 Jun 2012	Yes	Yes	
Hungary	DTC	3 Nov 2003	4 Mar 2005	Yes	No	
Iceland	DTC	23 Nov 2007	21 Dec 2007	Yes	No	
Indonesia	DTC	7 Aug 1987	19 Dec 1987	Yes	No	
Indonesia	DTC	27 Jul 2012	not yet in force	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Ireland	DTC	6 Nov 2000	26 Dec 2001	Yes	No	
Isle of Man	TIEA	4 Feb 2011	17 Mar 2011	Yes	Yes	
Israel	DTC	29 Jan 1996	15 May 1996	Yes	No	
Italy	DTC	19 Feb 1993	23 Nov 1995	Yes	No	
Japan	DTC	7 Mar 1989	29 Dec 1989	Yes	No	
Jersey	TIEA	3 Nov 2011	8 May 2012	Yes	Yes	
Jordan	DTC	20 Apr 1999	16 Oct 1999	Unreviewed	No	
Kazakhstan	DTC	9 Dec 1996	2 Oct 1997	Unreviewed	No	
Kenya	DTC	12 Apr 1985	20 Aug 1985	Unreviewed	No	
Korea, Republic of	DTC	19 Jul 1985	1 Aug 1986	Yes	No	
Kuwait	DTC	15 Jun 2006	17 Oct 2007	Unreviewed	No	
Kyrgyzstan	DTC	13 Apr 1999	10 Jan 2001	Unreviewed	No	
Liberia	TIEA	10 Mar 2011	30 Mar 2012	Yes	Yes	
Libya	DTC	2 Mar 1981	1 Jul 1982	Unreviewed	No	
Liechtenstein	TIEA	28 Mar 2013	not yet in force	Yes	Yes	
Lithuania	DTC	26 Jul 2011	10 Jul 2012	Yes	Yes	
Luxembourg	DTC	2 Jun 2008	9 Jul 2009	Yes	No	
Macao, China	TIEA	3 Jan 2012	16 Apr 2012	Yes	Yes	
Malaysia	DTC	9 May 2012	26 Dec 2012	Yes	Yes	
Maldives	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Malta	DTC	8 Apr 2013	not yet in force	Yes	Yes	
Malta	DTC	28 Sep 1994	8 Feb 1995	Yes	No	
Mauritius	DTC	24 Aug 1982	11 Jun 1985	Yes	No	
Mexico	DTC	10 Sep 2007	1 Feb 2010	Yes	Yes	
Monaco	TIEA	31 Jul 2012	3 Apr 2013	Yes	Yes	
Mongolia	DTC	22 Feb 1994	29 Mar 1996	Unreviewed	No	
Montenegro	DTC	8 Feb 2006	23 Sep 2008	Unreviewed	No	
Morocco	DTC	30 Oct 1998	20 Feb 2000	Unreviewed	No	
Mozambique	DTC	30 Sep 2010	28 Feb 2011	Unreviewed	Yes	
Myanmar	DTC	2 Apr 2008	30 Jan 2009	Unreviewed	Yes	
Namibia	DTC	15 Feb 1997	22 Jan 1999	Unreviewed	No	
Nepal	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Nepal	DTC	27 Nov 2011	16 Mar 2012	Unreviewed	Yes	
Netherlands	DTC	30 Jul 1988	21 Jan 1989	Yes	Yes	
New Zealand	DTC	17 Oct 1986	3 Dec 1986	Yes	No	
Norway	DTC	2 Feb 2011	20 Dec 2011	Yes	Yes	
Oman	DTC	2 Apr 1997	3 Jun 1997	Unreviewed	No	
Philippines	DTC	12 Feb 1990	21 Mar 1994	Yes	No	
Poland	DTC	21 Jun 1989	26 Oct 1989	Yes	No	
Poland	DTC Protocol	29 Jan 2013	not yet in force	Yes	Yes	
Portugal	DTC	11 Sep 1998	30 Apr 2000	Yes	No	
Qatar	DTC	7 Apr 1999	15 Jan 2000	Yes	No	
Romania	DTC	10 Mar 1987	14 Nov 1987	Unreviewed	No	
Russian Federation	DTC	25 Mar 1997	11 Apr 1998	No	No	
Saudi Arabia	DTC	25 Jan 2006	1 Nov 2006	Yes	No	



Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Serbia	DTC	8 Feb 2006	23 Sep 2008	Unreviewed	No	
Singapore	DTC	24 Jan 1994	27 May 1994	Yes	Yes	
Slovakia	DTC	27 Jan 1986	13 Mar 1987	Yes	No	
Slovenia	DTC	13 Jan 2003	17 Feb 2005	Yes	No	
South Africa	DTC	4 Dec 1996	28 Nov 1997	No	No	
Spain	DTC	8 Feb 1993	12 Jan 1995	Yes	No	
Spain	DTC Protocol	26 Oct 2012	not yet in force	Yes	Yes	
Sri Lanka	DTC	13 Nov 2005	19 May 2010	Unreviewed	No	
Sri Lanka	DTC	27 Jan 1982	24 Mar 1983	Unreviewed	No	
Sudan	DTC	22 Oct 2003	15 Apr 2004	Unreviewed	No	
Sweden	DTC	24 Jun 1997	25 Dec 1997	Yes	Yes	
Switzerland	DTC	2 Nov 1994	29 Dec 1994	Yes	Yes	
Syrian Arab Republic	DTC	10 Nov 2008	18 Jun 2008	Unreviewed	No	
Tajikistan	DTC	20 Nov 2008	10 Apr 2009	Unreviewed	Yes	
Tanzania	DTC	27 May 2011	12 Dec 2011	Unreviewed	Yes	
Thailand	DTC	22 Mar 1985	13 Mar 1986	Unreviewed	No	
Trinidad and Tobago	DTC	8 Feb 1999	13 Oct 1999	No	No	
Turkey	DTC	31 Jan 1995	1 Feb 1997	Yes	No	
Turkmenistan	DTC	25 Feb 1997	7 Jul 1997	Unreviewed	No	
Uganda	DTC	30 Apr 2004	27 Aug 2004	Unreviewed	No	
Ukraine	DTC	7 Apr 1999	31 Oct 2001	Unreviewed	No	
United Arab Emirates	DTC	29 Apr 1992	22 Sep 1993	Yes	Yes	
United Kingdom	DTC	25 Jan 1993	26 Oct 1993	Yes	No	
United Kingdom	DTC Protocol	30 Oct 2012	not yet in force	Yes	Yes	
United States	DTC	12 Sep 1989	1 Jan 1991	Yes	No	
Uruguay	DTC	8 Sep 2011	21 Jun 2013	Yes	Yes	
Uzbekistan	DTC	29 Jul 1993	25 Jan 1994	Unreviewed	Yes	
Uzbekistan	DTC Protocol	11 Apr 2012	20 Jul 2012	Unreviewed	Yes	
Viet nam	DTC	7 Sep 1994	2 Feb 1995	Unreviewed	No	
Virgin Islands, British	TIEA	9 Feb 2011	22 Aug 2011	Yes	Yes	
Zambia	DTC	5 Jun 1981	18 Jan 1984	Unreviewed	No	

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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