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Organising an investment in India
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Basic investment approval

India permits 100% foreign equity in most industries. Companies setting up in export-processing zones or special economic zones, operating in electronic-hardware or software-technology parks, or operating as 100% export-oriented units also may be fully foreign owned.

Nevertheless, the government has set sector-specific caps on foreign equity in some industries, such as basic and cellular telecommunications services, banking and civil aviation. A few sectors permit an initial 100% foreign holding, but the foreign company must later divest 26% to Indian partners or the public (See Foreign investment).

Foreign direct investment (FDI) in India is approved through two routes: automatic and government approval. The automatic route is the simplest for foreign investors since companies do not need permission from the government or the Reserve Bank of India (RBI), the central bank, before investing, and documents need only be submitted ex post facto to the RBI. Where there are sector-specific caps, proposals for stakes up to those caps are automatically approved, with some exceptions (see below).

Those proposals that do not qualify for automatic approval must be submitted to the Foreign Investment Promotion Board (FIPB), which is the usual contact for large multinational companies with extensive investment plans. The FIPB operates under the Department of Economic Affairs in the Ministry of Finance, and it may negotiate project terms with investors.

Indian companies taking the FIPB route do not require any further clearance from the RBI in order to receive inward remittances and issue shares to foreign investors. However, all companies with foreign investment must file documents with the board's relevant regional office within 30 days of issuing shares to the foreign investor.

Wholly owned subsidiaries of foreign companies may be established without prior FIPB approval. But this applies only to sectors where automatic clearance is already granted for FDI and does not apply to investing companies (companies set up only to invest in other companies).

Until January 2005, foreign investors with an existing joint-venture or technology-transfer/ trademark agreement in India needed government approval and a "no-objection" certificate from the Indian partner to set up a new venture in the same or allied field. In January 2005, however, the government said that this certificate would no longer be needed and that prior approval would be required only where the foreign investor has an existing venture in the same field. Approval is not needed if the existing joint-venture investment by either of the two parties is less than 3%, or if the existing joint venture is defunct or in poor financial health, or for proposals in the information-technology and mining sectors.

The government and the RBI have been concerned that Indian companies are raising funds under the FDI route by issuing hybrid debt-like instruments. They want a clear distinction between debt and equity inflows to ensure that debt inflows conform to existing guidelines on foreign debt. Hence, the government said in April 2007 that foreign investment coming in through fully convertible preference shares would be treated as foreign equity. Foreign investment coming through any other type of preference shares (non-convertible, optionally convertible or partially convertible) will be considered

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as debt and must conform to the guidelines on external commercial borrowings. The RBI further clarified in June 2007 that only instruments that are fully and mandatorily convertible into equity within a specified time will count as equity for FDI purposes.

The Secretariat for Industrial Assistance (SIA), which operates within the Ministry of Commerce and Industry, issues industrial licences, provides information and assistance to companies and investments, monitors delays, and reports all government policy relating to foreign investment and technology. Investors may file a package application covering both the licence and the foreign investment with the SIA or the FIPB. The normal processing time is up to three months.

The government has made various attempts to spur FDI. The Foreign Investment Promotion Council in the Ministry of Commerce and Industry specifically targets FDI; its functions are to identify Indian sectors and projects requiring FDI and to target specific regions or countries to obtain it. A one-stop Foreign Investment Implementation Authority established in 1999 in the same ministry helps foreign investors obtain necessary approvals and sort out operational and co-ordination problems among different arms of the government. A strategic management group in the prime minister's office helps resolve problems encountered by large independent projects.

Investment-approval checklist

Foreign investments are approved through two routes: automatic and government approval.

Automatic route. Qualifying proposals are eligible for automatic approval from the Reserve Bank of India (RBI), the central bank. All companies with foreign investments must file documents with the concerned regional office of the RBI within 30 days of the issue of shares to the foreign investor. No fees are charged.

Government approval, via Foreign Investment Promotion Board (FIPB). The FIPB considers all proposals for foreign investment that are not eligible for automatic approval. These cover the following areas:

- proposals in some of the industries that need industrial licences, including the manufacture of electronic aerospace and defence equipment, and holdings that exceed 24% in the manufacture of items reserved for the small-scale sector;
- proposals in which the foreign collaborator has an existing financial or technical collaboration in the same field in India; and
- proposals falling outside notified sectoral policy/caps.

Foreign investors must also approach the FIPB for proposals even up to the sectoral caps in some specified sectors, including the following:

- public-sector petroleum-refining companies;
- print publishing;
- defence production;

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- courier services;
- the tea industry;
- investing companies;
- asset-reconstruction companies, commodity exchanges, credit information companies, stock exchanges, depositories, clearing companies and public-sector banks;
- titanium ores;
- satellites and a range of broadcasting services;
- some trading including retail trading; and
- stakes exceeding 74% in existing airport projects, stakes exceeding 49% in some civil-aviation services, stakes exceeding 49% in private-sector banks, and stakes exceeding 49% in some telecom services.

Applications for approval of such foreign-investment proposals should be on Form FC-IL, though plain-paper applications with all relevant details also are accepted. They should go to the FIPB or the Department of Economic Affairs in the Ministry of Finance. There is no fee. Applications may also go to Indian missions abroad, which forward them to the FIPB for further processing.

Foreign investment proposals normally go before the FIPB within 15 days of receipt, and a decision is communicated within 30 days. The finance minister specifically considers (and approves or rejects) the FIPB's recommendations on proposals involving a total investment of up to Rs12bn; the Cabinet Committee on Economic Affairs considers projects with a total investment exceeding Rs12bn.

Under both automatic and government-approval avenues, import of plant and machinery must conform to the existing Export Import Policy. The general policies applicable to other domestic units also govern the import of components, raw materials and intermediate goods, and the payment of know-how and royalty fees.

Acquisition of an existing firm

Foreign investments in existing companies face the regular investment-approval requirements. Mergers and acquisitions are governed by the Companies Act, listing agreements with the stock exchange (if the company being acquired is listed), the takeover code of the Securities and Exchanges Board of India (SEBI), the capital-markets regulator and regulations from the Competition Commission of India. Clause 372 of the Companies Act limits the amount an "investing" company may acquire in another company to 60% of its paid-up capital and free reserves or 100% of its free reserves—whichever is more. A special resolution of the board must authorise a higher acquisition.

The government said in September 2004 that permission from the Foreign Investment Promotion Board (FIPB) would no longer be needed to convert external commercial borrowings into equity or to increase foreign-equity participation in a company, through either the fresh issue of shares or the conversion of preference shares into equity capital. Such transfers now qualify for automatic approval

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by the Reserve Bank of India (RBI; the central bank) if they are within the prescribed sectoral caps. Investors do not need prior RBI approval for transfers of shares, debentures or other securities in an Indian company from one non-resident to another. Prior approval is also not needed for transfers from non-residents to residents and vice versa, except in the financial-services sector.

However, such transfers must comply with pricing guidelines, which the RBI revised in May 2010. Under the present guidelines from the SEBI, a preferential allotment of shares to foreign investors must be made at the average price of the shares (weekly high and low of the closing prices of the shares quoted on the stock exchange) over the two preceding weeks or the average of the preceding six months, whichever is higher. This is especially favourable if share prices rise in anticipation of demand immediately before a buy-out.

The RBI said in May 2010 that this SEBI price would now apply to transfers of shares of listed companies from residents to non-residents and vice versa. Previously, for share transfers from residents to non-residents, the price was capped at the prevailing market price. For transfers by non-residents to residents, previous guidelines said that the transfer price should have been equal to the average price quotation of the shares for the week preceding the application date, within a 5% variation. If the sale was by foreign owners in favour of existing Indian owners to transfer management control, the transfer price should not have exceeded the average quotation of the shares during the preceding week by more than 25%. For unlisted companies, the RBI said in May 2010 that transfers between residents and non-residents should be made according to the fair value as determined by a chartered accountant using the discounted cashflow method; previous guidelines specified various methods depending on the category of transfer.

In addition to the takeover code under the jurisdiction of the SEBI, the FIPB and the Department of Company Affairs issue additional guidelines. For example, in 1998 the government disallowed takeovers or share acquisitions by foreign holding companies without the FIPB’s permission. Hence, foreign holding companies may usually use the automatic route only for greenfield ventures. Moreover, the government does not allow a foreign company to take over an Indian company without permission of the latter’s board, thus ruling out hostile foreign bids. Corporate-board resolutions approving the purchase of shares or an increase in foreign equity must be submitted to the FIPB to ensure that the acquisition is not hostile.

In February 2006 the government put on the automatic route all transfers of shares from residents to non-residents, including acquisition of shares in an existing company, subject to sectoral FDI caps. Previously, FIPB approval was needed if such transfers involved existing financial-services companies (though RBI permission is still needed here) or if the transfer invoked the SEBI’s takeover regulations.

In September 2011 SEBI revised its takeover code, formally known as the SEBI Regulations (on Substantial Acquisition of Shares and Takeovers) 1997, and replaced it with the SEBI Regulations (on Substantial Acquisition of Shares and Takeovers) 2011. The new regulations took effect from October 23rd 2011 and the following rules will apply:

- An acquirer whose aggregate shareholding in a company tops 5% must disclose its shareholding to the company and to each stock exchange that lists the company’s shares. An acquirer holding 5%

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must make the same disclosures on acquiring an additional 2% and at every additional 2% acquisition thereafter.

- An acquirer must make a public open offer to buy shares when its aggregate shareholding tops 25% (raised from 15%).
- The minimum size of the consequent open offer is for 26% (up from 20%) of the company's total shares.
- Once an open offer is made, the acquirer is prohibited from acquiring any more shares in the target company during the following six months, unless that acquisition is through another, voluntary, open offer.
- Even indirect acquisitions exceeding 25% must trigger an open offer. Indirect acquisitions are those where the acquirer has acquired shares, voting rights or other control over a target company that allows the acquirer to exercise, or direct the exercise of, voting rights or control equivalent to a 25% stake. Nevertheless, whenever an acquirer indirectly acquires more than 80% of the net asset value, turnover or market capitalisation of the target company, it will be considered a direct acquisition.
- The pricing of the consequent open offer is specified. Ordinarily, it must be the highest of the following: the highest negotiated acquisition price; or the volume-weighted average acquisition price during the fifty-two weeks preceding the public announcement; or the highest acquisition price during the preceding twenty six weeks; or the volume-weighted average market price of the target company's traded shares during the preceding sixty trading days.
- Share transfers between promoters of the company are exempt from triggering an open offer. This exemption does not apply, however, if the transfer premium is more than 25% above the volume-weighted market price in the preceding sixty days.
- Persons or companies holding 25% or more (raised from 15%) may increase their holdings by 5% a year without triggering an open offer.
- Investors who have tendered shares in acceptance of an open offer are not allowed to withdraw their acceptance during the period of the offer.

Certain takeovers are exempt from public-offer triggers. These include "bailout" takeovers, where an ailing company is to be rehabilitated after acquisition under a scheme approved by a public financial institution or a commercial bank or under a corporate debt restructuring scheme; "sick" companies covered by the Sick Industrial Companies (Special Provisions) Act 1985 and its modifications. The code also exempts, subject to conditions, most share buy-back and rights issues and acquisitions by promoters from venture-capital funds that had invested in their companies. Merchant bankers appointed by the acquirer should not deal in shares of the target company during the offer period. The new code retained a September 2004 modification that provided that the code would not be triggered by a change in management control resulting from actions under the Securitisation Act, which allows lenders to act against defaulting companies. SEBI has the power to relax any of the provisions of the

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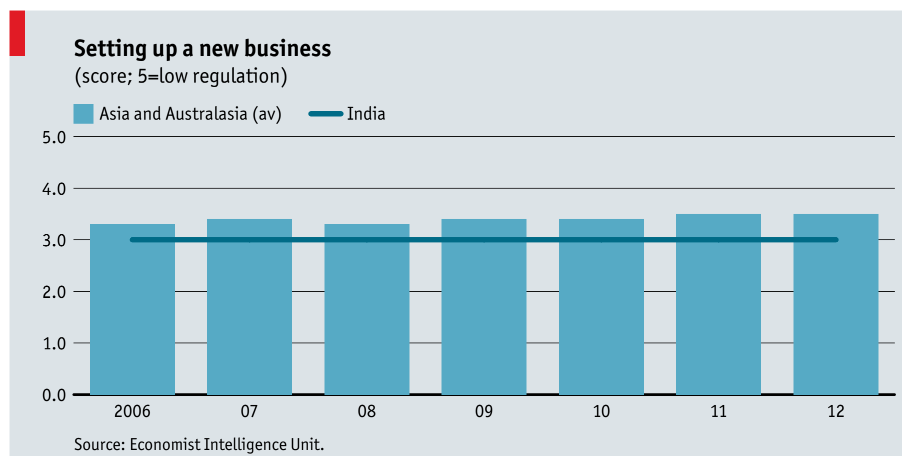
takeover code in special circumstances.

Portfolio investments are subject to an aggregate ceiling of 24% of paid-up equity capital in one company for registered foreign institutional investors (FIIs) and sub-accounts, with a sub-ceiling of 10% for any one FII. The government allows Indian companies to increase this 24% limit up to the FDI cap in the relevant sector, with the approval of the company's board of directors and a specific resolution by the general body of shareholders. The SEBI allows foreign companies and individuals with high net worth to invest through registered FIIs up to a ceiling of 5% of a company's capital. Domestic asset-management companies and portfolio managers can also register as FIIs to manage foreign investments via the portfolio-management route.

Aggregate investment in listed shares or debentures by non-resident Indians (NRIs) and persons of Indian origin (PIOs, a separate category of foreign citizens with Indian ancestry or married to Indians) under the portfolio investment scheme is limited at present to a maximum of 24% of a company's paid-up capital. Approval from the central bank is necessary and is issued for a five-year (renewable) period; shareholder approval is necessary for investments by NRIs and PIOs of more than 10%, up to a maximum of 24%. Moreover, for investments made on a repatriation basis, no single NRI/PIO may invest in more than 5% of the company's paid-up capital or each series of convertible debentures. NRIs and PIOs can invest, without limit and on a repatriation basis, in government securities, Treasury bills, mutual-fund units, public-sector corporate bonds and non-convertible debentures. In addition, they can invest without limit on a non-repatriation basis in government securities, T-bills, units of money-market and other mutual funds, commercial paper, company deposits and partnership or proprietorship firms.

In September 2003 the RBI stopped recognising overseas corporate bodies (OCBs) as an eligible "class of investor" into India under all deposit and investment schemes. (OCBs are institutions in which NRIs hold at least 60% of the equity.) In 2001 it had already banned OCBs from investing in portfolio-management schemes, since some OCBs were deemed to be misusing the scheme to manipulate the stockmarkets. In May 2008, however, the capital-markets regulator permitted OCBs to register as FIIs or their sub-accounts if they do not invest their proprietary funds.



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Building and related permits

Municipal authorities grant building permits in a two-stage process: first, on approval of the building plan and, second, on approval of the completed structure. Processing time depends on the state, with approvals granted between three weeks and six months after submission of the application. The Indian partner in a joint venture may submit building applications before receiving basic investment approval.

Besides building permits, power and water connections must be obtained from the electricity and water boards. A unit must also register with the central excise commissioner and, at the state level, with the sales tax commissioner and provident-fund commissioner.

An industrial-production licence is required for factories in densely populated areas or engaged in polluting industries. To ease overcrowding in existing industrial areas and to promote decentralisation, the government limits new industries or substantial expansions in densely populated areas.

Most states in India have their own industrial estates with pre-zoned sites. These often include lower-cost power and tax breaks as incentives.

The Industrial Licensing Policy of 1991 abolished all licensing requirements, except in six specific sectors (alcohol, cigarettes, defence aerospace, defence electronics, hazardous chemicals and industrial explosives); in industries reserved for the public sector; those in the small-scale sector; or those subject to regional restrictions. (See Foreign investment.) The regional restrictions stipulate that projects must be at least 25 km from the standard urban area limits of a city with a population exceeding 1m, or be within a region designated an industrial area by the state government before July 25th 1991. Non-polluting industries like electronics, computer software or printing are exempt. All environmental laws (including local zoning and land-use laws) continue to apply.

Manufacturing projects not covered by compulsory licensing must file a memorandum in the prescribed form (Industrial Entrepreneurs' Memorandum) to the Secretariat for Industrial Assistance. Another memorandum should be filed with the secretariat when the unit begins commercial production.

Environmental law

India's main environmental laws include the following: the Environment (Protection) Act 1986; the Water (Prevention and Control of Pollution) Act 1974; the Air (Prevention and Control of Pollution) Act 1981; the Factories Act 1948; and the Public Liability Insurance Act 1991. The Central Pollution Control Board is the main regulatory agency in this area.

The Environment Protection Act makes environmental clearance compulsory for setting up most new industrial units or expanding or modernising existing ones. Clearance may be required from the central or state government, depending on the category of project, industry, investment level and location. The environmental agencies must clear projects within 90 days of receiving an application. In October 2010 the government set up the National Green Tribunal as a specialised body to adjudicate on all environment-related matters. It will hear all civil cases related to the environment and take over all

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such cases currently pending in other courts, though its decisions can be appealed in higher courts.

The Secretariat for Industrial Assistance takes environmental considerations into account before granting an industrial-production licence. A state-government director of industries must also confirm that the project site meets existing environmental guidelines. The company must agree to install appropriate equipment and implement measures to prevent and control pollution. The company must also obtain a “no-objection” certificate from the relevant state pollution authorities, confirming that the proposal meets environmental requirements and that the equipment proposed is adequate and appropriate. The government issued a new Environmental Impact Assessment Notification in September 2006; this supplemented the earlier one issued in 1994. The notification simplifies procedures, sets deadlines for completing public hearings, provides for exemptions from public hearings for some types of projects and allows the screening of some types of projects to be at the state level alone.

All the state pollution-control boards are under pressure from state governments to clear new projects quickly, so the central Ministry of Environment and Forests is often the only body to apply environmental rules. The toughest state boards are reportedly those in West Bengal and Maharashtra. Non-governmental organisations and individual activists often file legal petitions against projects or the government on environmental grounds.

The Ministry of Environment and Forests issued new guidelines in 1999 to restrict the location of certain industrial categories. These include petroleum refineries, petrochemical complexes, chemical and fertiliser units, distilleries, pulp and paper, cement, tanneries, pesticides, pharmaceuticals, and primary metallurgical industries. New units in these categories may not be established within the civic limits of all municipalities and a 25-km belt around cities with a population exceeding 1m.

The ministry said in May 2011 that proposals in the building and construction sectors that have obtained green ratings will be allowed to jump the application queue for environmental clearances. Green ratings for buildings are obtainable either under the Green Rating for Integrated Habitat Assessment (GRIHA) programme, a green building design evaluation system for all kinds of buildings, developed jointly by the ministry of new and renewable energy and The Energy and Resources Institute, a policy organisation; or from the Indian Green Building Council, an industry body with representatives from the government and from industry.

The government issued a new Coastal Regulation Zone (CRZ) notification in January 2011 specifying restrictions on the setting up and expansion of industries in the coastal regulation zone, a zone extending 500 metres from the seafront. Facilities for non-conventional energy generation are exempt from the restrictions. It continued the policy of the previous CRZ notification of 2001, to allow three kinds of petroleum-related activities along the coast. These activities are (1) exploration for and extraction of oil and natural gas; (2) establishment of storage facilities for petroleum products; and (3) setting up of facilities for receipt, storage and re-gasification of liquefied natural gas (LNG). Facilities to store petroleum products and for LNG re-gasification are allowed only in areas not specified as CRZ-1—that is, in immediate proximity to the high-tide line.

The central government, with the help of the World Bank, operates a capacity-building project for industrial-pollution management. It aims to strengthen the capacity of national and state-level

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institutions for better environmental regulation, improved enforcement for pollution prevention and improved industrial compliance. The government also operates a scheme for the abatement of pollution, under which it provides grants to various governmental organisations and agencies to strengthen their technical capabilities. Under its Eco-Cities programme, the government selects small and medium-sized towns to implement environment improvements by protecting resources like water bodies and forests, and improving infrastructure and sanitary conditions.

Since 1991 the Environment Ministry has also operated a government-sponsored scheme to enable clusters of small industries to set up or upgrade common-effluent-treatment plants (CETPs). After revisions to the scheme in September 2011, the scheme is open only for new CETPs, not for upgrades. The central government will bear 50% of the project cost, and the state government will provide the land for the CETP. A similar scheme provides assistance for the disposal of hazardous wastes.

The government labels environmentally friendly products with the "Ecomark" label. These are granted to household and other consumer products that meet certain environmental criteria and the quality requirements of the Bureau of Indian Standards (BIS), the government's quality-control agency. The BIS issues internationally accepted quality certification for food products, in line with norms set by the World Trade Organisation. The move should benefit small food-processing units in particular, since it de-links this quality mark from ISO 9000 certification.

The Centre for Science and Environment has a scheme to develop a green rating for industry sponsored by the United Nations Development Programme. It aims to develop a single indicator of environmental risk and has prepared such a rating for four categories: cars, caustic chlorine, paper and pulp, and cement (the rating criteria is different for each industry).

Accelerated depreciation of 80–100% is available for companies employing energy-saving, environmental-protection and pollution-control equipment.

Acquisition of real estate

Foreign citizens of Indian origin may acquire any immovable property in India, except for farmland, farmhouses and plantations. Foreign citizens of non-Indian origin who reside abroad are not allowed to buy property in India. Foreign citizens of non-Indian origin resident in India, and foreign companies that have established a place of business in India for a permitted activity can acquire and transfer immovable property in India. Foreign companies from outside India may not remit either rental income or proceeds from a property sale without permission from the Reserve Bank of India (the central bank).

Although the government provides assistance in acquiring land for projects, farmers and activist groups have recently been very vocal in their opposition to such acquisitions. This can present a major hurdle for local or foreign companies looking to set up large projects. In October 2008, for example, opposition caused the Tata Group to shut down its car plant in West Bengal state and move it to another state. Local farmers and activists had opposed the project from its inception in 2006 and during the following two years.

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Establishing a local company

The limited company is the corporate form most often used in India, though the Companies Act 1956 recognises other types. Unlimited companies are permitted but relatively uncommon.

The Companies Act provides for the establishment of both private and public companies. A private company operates with restrictions on share transfers, allows 2–50 shareholders and must have minimum capital of Rs100,000. It is barred from public subscription to its equity or debt issues and may not accept public deposits. Private companies are subject to few limitations. They need not publish financial data, and they may allot shares without a prospectus.

All limited companies that do not meet the specifications for a private company are considered public. The Companies Act also treats as public companies those Indian businesses that are subsidiaries of public companies. Public companies must have at least seven shareholders and capital of at least Rs500,000.

Whether private or public, a company is formed by registering the memorandum and articles of association (specifying its name and objective) with the registrar of companies in the state where the headquarters or main office is to be located. If the documents are in order, the registrar grants a certificate of incorporation. The registration process can be completed online (at www.mca.gov.in). Changing either document (particularly the memorandum) can be complicated. Hence, it is essential that they be properly drafted.

Parliament passed the Companies (Amendment) Act 2000 in December 2000 to ensure better corporate governance, more-transparent company operations, and the protection of shareholders and depositors. It incorporates several amendments to the Companies Act, including the following:

- It requires that companies inform the company law board about defaults in repaying deposits within 60 days of maturity.
- It gave the Securities and Exchange Board of India exclusive powers to deal with all matters related to the issue and transfer of securities and the non-payment of dividends. The act allows the board to inspect the books of listed companies.
- It allows shares with different voting and dividend rights.
- It increased various penalties for non-compliances, by up to ten times.
- It requires companies with paid-up capital of Rs50m or more to set up audit committees.

Establishing a branch

The government allows foreign companies engaged in manufacturing and trading to open branches to transact the following activities: representing parent companies or other foreign companies; conducting research; undertaking foreign trade; and promoting foreign investment and technical collaboration between Indian and foreign companies.

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Branches are liable for corporate tax at the highest rate of 40% (applicable to foreign companies; with the addition of a 2% surcharge and a 3% education cess, the rate is in effect 42.02%), compared with 30% (in effect 32.44%, with a 5% surcharge and 3% education cess) for a locally incorporated company. The Reserve Bank of India (RBI; the central bank) said in May 2010 that permission was no longer needed to remit royalties on technology transfers and trademark use to foreign parents. All foreign banks, companies and project offices can remit profits and dividends without permission from the RBI.

Foreign companies may open liaison offices in India with permission from the central bank. The activities of such an office are limited to the following: collecting information about possible market opportunities, providing information about the company and its products to prospective Indian customers, promoting exports and imports from and to India, and facilitating technical and financial collaborations between its parent and Indian companies. Liaison offices may not undertake any commercial activity directly or indirectly. Since they cannot earn any income in India, they must meet all their expenses via inward remittances.

Requirements of a public company

Capital.

Minimum capital of Rs500,000. A firm must state in its memorandum of association the amount of authorised share capital and the minimum cash subscription to be paid before commencing business. When a company declares dividends exceeding 10% of paid-up capital, it must transfer 2.5–10% of its current profits to reserves.

Founders, shareholders.

Minimum: seven shareholders. A foreign national or a non-resident may be a shareholder.

Board of directors.

Minimum: three members; maximum: 12 members, as set down in the articles of incorporation (an increase requires special permission and government approval). No restrictions on residency or citizenship of directors. Directors may not hold more than 15 directorships of public companies and must disclose their interest in any contract with another company (they may not vote at board meetings when resolutions affecting such contracts are passed). Directors are elected by simple majority or by methods provided in the articles of association.

Board meetings must be held once every three months. The Reserve Bank of India (the central bank) approves payment of transport costs and reasonable living expenses to allow overseas directors to attend board meetings. Managing or full-time directors are not entitled to any board fees. Barring a few exceptions, the board has full powers and may delegate its powers to a committee of the board.

Salaries and perquisites for company directors face ceilings at companies with inadequate profits.

Sole selling agencies.

The company may appoint a sole selling agent for a period of five years with the approval of the board.

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However, the Company Law Board has the power to prohibit the appointment of sole selling agents in certain industries in which demand substantially exceeds supply.

Management.

No nationality restrictions. A foreign partner with more than 15% equity may appoint one full-time managing director, though this right is limited to the first ten years for partners with equity of 26% or less. The term of a managing director is initially five years but may be extended every five years. Managing directors may hold that position in up to two public companies. Since December 2000, every company with paid-up capital of Rs50m or more must set up an audit committee.

Labour.

Industrial establishments employing 100 workers or more (50 or more in Maharashtra) must have works committees, on which labour and management are equally represented; each side must have 5–20 representatives.

Disclosure.

Books must be maintained and open to inspection by any director, government officer, or officer of the Securities and Exchange Board of India, and they must be kept for the preceding eight years. Companies must appoint outside auditors. Holders of shares or debentures must receive audited balance sheets and profit-and-loss statements before the annual meetings.

Taxes and fees on incorporation.

Minimum fee is Rs4,000 and maximum fee is Rs20m. Registration fee is Rs4,000; increments are as follows: Rs300 for every Rs10,000 of share capital for Rs100,000–500,000; Rs200 for every Rs10,000 for Rs500,000–5m; Rs100 for every Rs10,000 for Rs5m–10m; and Rs50 for every Rs10,000 exceeding Rs10m.

Types of shares.

Common or preferred (including cumulative). A company may issue shares with different voting rights, including non-voting shares for up to 25% of the total share capital issued, if it has distributable profits in the preceding three years. Shareholders, in a general meeting, must approve such issues. However, a company may not convert its existing equity capital with regular voting rights into non-voting shares.

Control.

General shareholders' meetings must be held at least once a year, not more than 15 months apart. Directors or holders of 10% of paid-up share capital may call extraordinary general meetings.

A quorum is established when five members (or more, depending on a company's articles) are personally present at a meeting; if a quorum is not present, the meeting is adjourned until the following week, at which time all members present, regardless of number, constitute a quorum. There are two kinds of resolutions: ordinary and special. An ordinary resolution may be passed by a simple majority of members present or represented by proxy. Special resolutions require a 75% vote; these include proposals for liquidation, transfer of the company's offices, increases in inter-corporate investment, salary rises for managerial personnel related to directors or other matters as specified in the articles.

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Key contacts

- Authority for Advance Rulings (part of the Central Board of Direct Taxes), NDMC Building, Fifth Floor, Yashwant Place, Satya Marg, Chanakya Puri, New Delhi 110 021; Tel: (91.11) 2611 7802/2611-7935; Fax: (91.11) 2611 3407/2611 3890; Internet: http://www.aar.gov.in/.
- Board for Industrial and Financial Reconstruction (BIFR), Jawahar Vyapar Bhawan, 1 Tolstoy Marg, New Delhi 110 001; Tel: (91.11) 2370 1200; Fax: (91.11) 2370 1211; Internet: http://www.bifr.nic.in.
- Bureau of Indian Standards (BIS), Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi 110 002; Tel: (91.11) 2323 0131/3375; Fax: (91.11) 2323 4062/9399; Internet: http://www.bis.org.in.
- Central Board of Direct Taxes (CBDT), Income Tax Department, Department of Revenue, Ministry of Finance, North Block, New Delhi 110 001; Tel: (91.11) 2309 2648; Fax: (91.11) 2309 2544; Internet: http://incometaxindia.gov.in/ccit/CBDT.asp.
- Central Board of Excise and Customs (CBEC), North Block, New Delhi 110001; Tel: (91.11) 2309 2849; Fax: (91.11) 2309 2890; Internet: http://www.cbec.gov.in.
- Central Pollution Control Board, Ministry of Environment and Forests, Parivesh Bhawan, East Arjun Nagar, New Delhi 110 032; Tel: (91.11) 2230 7223; Fax: (91.11) 2230 4948; Internet: http://www.cpcb.nic.in.
- Company Law Board, Third Floor, B Block, Parayavaran Bhavan, CGO Complex, New Delhi 110 003; Tel: (91.11) 2436 6123; Fax: (91.11) 2436 1235; Internet: http://www.clb.nic.in.
- Competition Commission of India (CCI), Hindustan Times House, 18–20 Kasturba Gandhi Marg, New Delhi, 110 001; Tel: (91.11) 2370 4651; Fax: (91.11) 2370 4652; Internet: http://www.cci.gov.in.
- Controller-General of Patents, Designs and Trademarks, Bhaudik Sampada Bhavan, near Antop Hill head post office, S.M. Road, Antop Hill, Mumbai, 400 037; Tel: (91.22) 2413 2735; Fax: (91.22) 2412 3322; Internet: http://www.ipindia.nic.in.
- Controller of Certifying Authorities (CCA), Electronics Niketan, 6 CGO Complex, Lodhi Road, New Delhi 110 003; Tel: (91.11) 2436 4757; Fax: (91.11) 2436 9578; Internet: http://www.cca.gov.in.
- Copyright Office, Copyright division, Department of Higher Education, Ministry of Human Resources Development, Fourth Floor, Jeevan Deep Building, Parliament Street, New Delhi 110 001; Tel: (91.11) 2336 2436; Internet: http://www.copyright.gov.in.
- Directorate-General of Foreign Trade (DGFT), Ministry of Commerce and Industry, Udyog Bhavan, H-Wing, Gate 2, Maulana Azad Road, New Delhi 110 011; Tel: (91.11) 2306 1562; Fax: (91.11) 2306 2225; Internet: http://dgft.gov.in.
- Export Credit Guarantee Corp (ECGC), Express Towers, Nariman Pt, Mumbai 400 021; Tel: (91.22) 6659 0500/0510; Fax: (91.22) 6659 0517; Internet: https://www.ecgc.in/Portal/Welcome.aspx.

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- Export-Import Bank of India (Exim Bank), Centre One, World Trade Centre, Cuffe Parade, Mumbai 400 005; Tel: (91.22) 2217 2600; Fax: (91.22) 2218 2572; Internet: http://www.eximbankindia.com.

- Foreign Investment Promotion Board (FIPB), Department of Economic Affairs, Ministry of Finance, North Block, New Delhi 110 011; Tel: (91.11) 2309 4031/5123; Fax: (91.11) 2309 3881; Internet: http://www.fipbindia.com.

- Indian Investment Centre (IIC), Office of the Chief Commissioner (Investments and NRIs), Ministry of Finance, Jeevan Vihar Bldg, Sansad Marg, New Delhi 110 001; Tel: (91.11) 2373 3679; Fax: (91.11) 2373 2245; Internet: http://www.iic.nic.in.

- Ministry of Commerce and Industry, Udyog Bhavan, New Delhi 110 001; Tel: (91.11) 2306 2261; Fax: (91.11) 2306 3418; Internet: http://commerce.nic.in.

- Ministry of Finance (MOF), North Block, New Delhi 110 001; Tel: (91.11) 2309 4905; Fax: (91.11) 2309 3422; Internet: http://www.finmin.nic.in.

- Patent Office (head office), Intellectual Property Office Building, CP-2 Sector V, Salt Lake City, Kolkata 700 091; Tel: (91.33) 2367 9101; Fax: (91.33) 2367 1988; Internet: http://www.ipindia.nic.in/ipr/patent/patents.htm.

- Registrar of Trademarks, Intellectual Property Bhavan, near Antop Hill head post office, S.M. Rd, Antop Hill, Mumbai, 400 037; Tel: (91.22) 2412 3313; Fax: (91.22) 2412 3355; Internet: http://www.ipindia.nic.in/tmr_new/default.htm.

- Reserve Bank of India (RBI), Central Office, PO Box 901, Shahid Bhagat Singh Road, Mumbai 400 023; Tel: (91.22) 2266-1602; Fax: (91.22) 2265-0358; Internet: http://www.rbi.org.in.

- Secretariat for Industrial Assistance (SIA), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Udyog Bhavan, New Delhi 110 001; Tel: (91.11) 2306-2983; Fax: (91.11) 2306-1034; Internet: http:// www.dipp.gov.in.

The following chambers of commerce and trade organisations also offer assistance and may provide avenues for meeting with local industrialists:

- Associated Chambers of Commerce and Industry of India (Assocham), 1, Community Centre Zamrudpur, Kailash Colony, New Delhi 110 048; Tel: (91.11) 4655 0555; Fax: (91.11) 4653 6481; Internet: http://www.assocham.org.

- Confederation of Indian Industries (CII), Mantosh Sondhi Centre, 23 Institutional Area, Lodhi Road, New Delhi 110 003; Tel: (91.11) 2462 9994; Fax: (91.11) 2462 6149; Internet: http://www.ciionline.org.

- Federation of Indian Chambers of Commerce and Industry, Federation House, Tansen Marg, New Delhi 110 001; Tel: (91.11) 2373 8760–70; Fax: (91.11) 2332 0714; Internet: http://www.ficci.com.

- Indo-American Chamber of Commerce, 1-C, Vulcan Insurance Building, Veer Nariman Road,

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Churchgate, Mumbai 400 020; Tel: (91.22) 2282 1413; Fax: (91.22) 2204 6141; Internet: http://www.iaccindia.com.

- Indo-German Chamber of Commerce, Maker Tower E, First Floor, Cuffe Parade, Mumbai 400 005; Tel: (91.22) 6665 2121; Fax: (91.11) 6665 2120; Internet: http://www.indo-german.com.

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Americas: +1 212 698 9717
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Media Enquiries for the Economist Intelligence Unit

Europe, Middle East & Africa

Grayling PR
Jennifer Cole
Tel: +44 (0)207 592 7933
Sophie Kriefman
Tel: +44 (0)20 7592 7924
Ravi Sunnak
Tel : +44 (0)207 592 7927
Mobile: + 44 (0)7515 974 786
Email: allgraylingukeiu@grayling.com

Americas

Grayling New York
Ivette Almeida
Tel: +(1) 917-302-9946
Ivette.almeida@grayling.com
Katarina Wenk-Bodenmiller
Tel: +(1) 646-284-9417
Katarina.Wenk-Bodenmiller@grayling.com

Asia

The Consultancy
Tom Engel
+852 3114 6337 / +852 9577 7106
tengel@consultancy-pr.com.hk
Ian Fok
+852 3114 6335 / +852 9348 4484
ifok@consultancy-pr.com.hk
Rhonda Taylor
+852 3114 6335
rtaylor@consultancy-pr.com.hk

Australia and New Zealand

Cape Public Relations
Telephone: (02) 8218 2190
Sara Crowe
M: 0437 161916
sara@capepublicrelations.com
Luke Roberts
M: 0422 855 930
luke@capepublicrelations.com

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LONDON
26 Red Lion Square
London
WC1R 4HQ
United Kingdom
Tel: (44.20) 7576 8000
Fax: (44.20) 7576 8500
E-mail: london@eiu.com

NEW YORK
750 Third Avenue
5th Floor
New York, NY 10017
United States
Tel: (1.212) 554 0600
Fax: (1.212) 586 1181/2
E-mail: newyork@eiu.com

HONG KONG
6001, Central Plaza
18 Harbour Road
Wanchai
Hong Kong
Tel: (852) 2585 3888
Fax: (852) 2802 7638
E-mail: hongkong@eiu.com

GENEVA
Boulevard des Tranchées 16
1206 Geneva
Switzerland
Tel: (41) 22 566 2470
Fax: (41) 22 346 93 47
E-mail: geneva@eiu.com