

Gateway to India

Brief FEMA Compliance Guide for
**Foreign Businesses &
Non-Residents
entering Emerging
Indian Market**

[update as on 01.01.2025]

YOUR ROADMAP TO NAVIGATING INDIA'S REGULATORY LANDSCAPE

Welcome to "**Gateway to India: Comprehensive FEMA & Business Compliance Guide for Foreign Investors and Entities**". This guide is meticulously crafted to assist foreign investors and business entities in understanding and complying with India's regulatory landscape. It provides a detailed roadmap to navigate FEMA regulations, taxation, business laws, employee benefits, and other critical compliance areas essential for establishing and operating a business in India.

KEY FEATURES OF THE GUIDE:

- Comprehensive coverage of FEMA regulations, including FDI, ODI, and ECB compliance.
- Step-by-step insights into business setup processes for foreign entities.
- Detailed compliance checklists and timelines for ease of reference.
- Practical case studies, FAQs, and real-world scenarios to enhance understanding.
- Up-to-date information on the latest regulatory changes and compliance requirements.
- Latest Updates: This guide reflects the regulatory framework prevailing as on 01.01.2025 to ensure accuracy and relevance.

WHO IS THIS GUIDE FOR?

- Foreign investors exploring opportunities in India.
- Multinational companies establishing operations in India.
- Business consultants and compliance officers handling international business transactions.

This guide aims to simplify complex regulatory frameworks and empower businesses with the knowledge and tools needed to succeed in India. We hope you find it informative and valuable.

CODISSIA PRESIDENT MESSAGE

CODISSIA team photo and president message to be added here

OUR TEAM AND PARTNERS BEHIND THE GUIDE

This guide is a joint initiative of **CODISSIA (Coimbatore District Small Industries Association)** and a team of expert Chartered Accountants, aimed at sharing vital regulatory information with international delegations visiting India. The contributors include:

CA. S. Prabhu is a Fellow Member of ICAI with 20 years of experience and a certified Arbitrator. He served as Chairman of the Coimbatore Branch of SIRC of ICAI and is an active Rotarian. Specializing in direct tax advisory, fund raising, and financial management, he has advised diverse sectors, including IT, manufacturing, education, and healthcare. Prabhu has led business restructuring projects, mergers, and multi-crore tax dispute resolutions of various MNC's. With expertise in corporate advisory and fund raising matters, his strategic insights and commitment to excellence make him a trusted advisor in navigating complex financial landscapes.



CA. P. Prakash is a Fellow Member of ICAI with over 18 years of professional experience and a Registered Valuer specializing in Securities and Financial Assets. He is a trusted advisor in indirect tax advisory, litigation, and regulatory compliance for various multi-national companies around Coimbatore. Prakash has led GST transitions, implementation, and dispute resolution for numerous corporates, along with handling Central Excise and VAT litigation. His expertise extends to financial and tax due diligence for mergers and acquisitions, as well as bank audits, including stock, concurrent, and revenue audits. With a strong commitment to precision and excellence, he plays a vital role in guiding businesses through complex compliance challenges.



CA. M. Suresh Kumar is a Fellow Member of ICAI with over 20 years of professional experience. As a Chartered Accountant, Insolvency Professional, and Registered Valuer specializing in Securities and Financial Assets, he has extensive expertise in Foreign exchange matters, Compliance, Corporate restructuring, insolvency management, and valuation. Suresh has successfully managed high-stakes corporate insolvency cases and advised on mergers, acquisitions, and regulatory compliance. He is also passionate about inspiring others through his motivational talks and writings on habits and positivity, shared via his blog, www.palakkavalakkam.com. Known for his



strategic insights and dedication, he is a trusted advisor in financial and corporate matters.

CA. G. Thanga Muniappan is a seasoned Chartered Accountant with over 15 years of professional experience. As a Partner at SPP & Co., he specializes in audit and assurance services, financial reporting, and corporate compliance. Throughout his career, CA. Thanga Muniappan has led numerous statutory and internal audits across various industries, including manufacturing, retail, and services. His commitment to precision and adherence to regulatory standards has established him as a trusted advisor in the accounting profession.



CA. Sidharth S is a qualified Chartered Accountant with specialized certifications in Forensic Accounting and Arbitration from ICAI. With extensive experience in insolvency, he has contributed to landmark cases resolution involving partial liquidation. He gained expertise in statutory and tax audits, FCRA and FEMA compliances, and corporate restructuring. Sidharth has led CIRP and liquidation processes for multiple corporate debtors and has proficiency in mergers, acquisitions, and investment valuation. Currently pursuing a Post Graduate Insolvency Programme at the Indian Institute of Corporate Affairs, he continues to enhance his knowledge and professional impact in corporate advisory and insolvency practices.



This booklet has been prepared based on the professional expertise and insights of the contributing team members. CODISSIA (Coimbatore District Small Industries Association) does not express any opinion or recommendation regarding the contents of this guide. Readers are encouraged to seek personalized advice from qualified professionals for specific compliance and regulatory needs.

TABLE OF CONTENTS

Your Roadmap to Navigating India's Regulatory Landscape	2
CODISSIA PRESIDENT MESSAGE	3
Our Team and Partners Behind the Guide	4
Chapter 1: Introduction.....	7
Chapter 2: FEMA Basics.....	8
Chapter 3: Modes of Entry for Foreign Businesses	10
Chapter 4: FEMA Compliance for Foreign Individuals	12
Chapter 5: Foreign Direct Investment (FDI).....	14
Chapter 6: Export and Import Compliance	16
Chapter 7: Foreign Trade Policy (FTP)	18
Chapter 8: External Commercial Borrowings (ECB).....	20
Chapter 9: Overseas Direct Investment (ODI).....	22
Chapter 10: Legal Framework of Doing Business in India	24
Chapter 11: Tax Compliance in India.....	26
Chapter 12: Employment Laws and Employee Benefits in India	29
Chapter 13: Penalties and Dispute Resolution.....	32
Chapter 14: Practical Scenarios and Case Studies.....	34
Chapter 15: Recent Updates and Developments	36
Chapter 16: FAQs	38
Chapter 17: Glossary of Terms.....	40
Chapter 18: Appendix.....	42

CHAPTER 1: INTRODUCTION

1.1 OVERVIEW OF INDIA AS A BUSINESS DESTINATION

- India is the fifth-largest economy in the world and a rapidly growing market.
- Key highlights attracting foreign investors:
 - Large consumer base with a population exceeding 1.4 billion.
 - A well-established legal framework protecting investments.
 - Government initiatives promoting ease of doing business (e.g., Make in India, Atmanirbhar Bharat).
 - Strategic location for trade in South Asia.
- Significant progress in:
 - Infrastructure development.
 - Digitalization and fintech innovations.
 - Availability of skilled labor at competitive costs.

1.2 IMPORTANCE OF FEMA IN FOREIGN INVESTMENTS

- FEMA (Foreign Exchange Management Act, 1999):
 - Governs foreign exchange transactions in India.
 - Ensures the smooth flow of foreign investments into and out of India.
- Key Objectives of FEMA:
 - Promote external trade and payments.
 - Facilitate orderly development of the forex market.
 - Ensure compliance with India's macroeconomic and trade policies.

1.3 OBJECTIVES AND SCOPE OF THE GUIDE

- **Objective:**
 - To provide a comprehensive guide for foreign individuals and businesses navigating FEMA regulations and related compliance in India.
- **Scope:**
 - Detailed coverage of FEMA applicability for:
 - Entry and operation modes for foreign entities.
 - Taxation, GST, and employee benefit compliances.
 - Foreign Trade Policy benefits and export-import compliances.
 - Legal framework and penalties for non-compliance.

1.4 WHY COMPLIANCE IS CRITICAL FOR FOREIGN BUSINESSES

- Ensures business operations are legal and efficient.
- Prevents penalties and reputational damage caused by non-compliance.
- Facilitates better relations with Indian authorities and partners.
- Helps in availing government incentives and trade benefits.

1.5 HOW TO USE THIS GUIDE

- For **new entrants**: Understand the legal framework and processes to establish a presence in India.
- For **existing businesses**: Ensure ongoing compliance with updates to FEMA and other related laws.
- For **advisors and consultants**: Serve as a ready reference for guiding clients.



CHAPTER 2: FEMA BASICS

2.1 WHAT IS FEMA?

- **FEMA (Foreign Exchange Management Act, 1999):**
 - Replaced the restrictive Foreign Exchange Regulation Act (FERA) to promote foreign trade and payments.
 - Governs all foreign exchange transactions in India to ensure alignment with the country's economic framework.
- **Objective:**
 - Facilitate external trade and payments.
 - Promote the orderly development and maintenance of the foreign exchange market.
- **Regulated by:**
 - Reserve Bank of India (RBI) as the primary authority.
 - Directorate of Enforcement (ED) for enforcement actions on non-compliance.

2.2 KEY DEFINITIONS AND TERMS

Term	Definition
Authorized Dealer (AD) Bank	Banks authorized by the RBI to handle foreign exchange transactions.
Capital Account Transactions	Transactions that alter the assets or liabilities outside India (e.g., investments, borrowings).
Current Account Transactions	Transactions involving trade in goods/services and income flows (e.g., exports, imports, remittances).
Non-Resident Indian (NRI)	Indian citizens residing abroad for work, business, or other purposes intending to stay abroad.
Person of Indian Origin (PIO)	Foreign citizens (except from Pakistan/Bangladesh) with Indian ancestry holding foreign passports.

2.3 KEY FEATURES OF FEMA

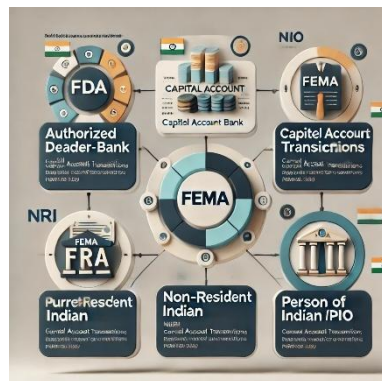
- **Applicability:**
 - Applies to all transactions involving foreign exchange and cross-border payments.
 - Covers entities and individuals operating within India and non-residents in certain cases.
- **Types of Transactions:**
 - **Capital Account Transactions:**
 - Alter assets or liabilities outside India.
 - Examples:
 - Foreign Direct Investment (FDI)
 - External Commercial Borrowings (ECBs)
 - Overseas Direct Investments (ODIs)
 - Compliance Note: Only specified transactions require prior RBI approval. Most are governed by sectoral caps and automatic routes.
 - **Current Account Transactions:**
 - Day-to-day transactions that do not alter assets or liabilities.
 - Examples:
 - Export and import of goods and services
 - Remittance of income, dividends, or royalties
 - Compliance Note: Generally permitted unless explicitly restricted under FEMA.
- **Dual Routes for Foreign Investments:**
 - **Automatic Route:** No prior approval required for most sectors, subject to sectoral caps and guidelines.
 - **Approval Route:** Prior government or RBI approval required for specified sectors (e.g., defense, telecom).

2.4 COMPLIANCE PROCESS

- Steps for Ensuring FEMA Compliance:
 1. Classify the transaction type (Capital or Current Account).

- ## 2.5 COMMON OFFENSES AND PENALTIES UNDER FEMA

- ## 2.6 PRACTICAL IMPLICATIONS OF FEMA



CHAPTER 3: MODES OF ENTRY FOR FOREIGN BUSINESSES

3.1 OVERVIEW

- Foreign businesses and individuals can enter and operate in India through various modes. Each mode has specific FEMA compliance requirements.
- Key options for entry:
 - Liaison Office
 - Branch Office
 - Wholly Owned Subsidiary
 - Joint Ventures

3.2 LIAISON OFFICE (LO)

- **Purpose:**
 - To represent the parent company in India.
 - Conduct liaison activities (e.g., gathering market information, promoting business relationships).
- **Permitted Activities:**
 - Promote export/import and collaborations.
 - Act as a communication channel between the parent company and Indian businesses.
- **Restrictions:**
 - Cannot undertake commercial or business activities directly.
 - Must operate within funds remitted from the parent company abroad.
- **Approval Process:**
 - Approval from RBI required under FEMA.
 - Validity: 3 years (extendable).
- **Compliance Requirements:**
 - File Annual Activity Certificate (AAC) with RBI through AD Bank.
 - Maintain accounts and audit reports in compliance with Indian laws.

3.3 BRANCH OFFICE (BO)

- **Purpose:**
 - To conduct business activities in India on behalf of the parent company.
- **Permitted Activities:**
 - Export/import of goods.
 - Consulting services.
 - Research and development.
 - Acting as a buying/selling agent for the parent company.
- **Restrictions:**
 - Cannot undertake manufacturing directly (can subcontract).
 - Limited to permitted activities approved by RBI.
- **Approval Process:**
 - RBI or AD Bank approval under FEMA.
 - Validity: 5 years (extendable).
- **Compliance Requirements:**
 - File AAC annually.
 - Regular tax compliance and filings.

3.4 WHOLLY OWNED SUBSIDIARY (WOS)

- **Definition:**
 - A private limited company fully owned by foreign entities.
- **Key Advantages:**
 - No restrictions on commercial activities (subject to sectoral caps).
 - Allows manufacturing and trading.
- **FDI Routes:**
 - **Automatic Route:** No prior approval required for most sectors.
 - **Approval Route:** Requires prior government approval (e.g., defense, telecom).
- **Compliance Requirements:**

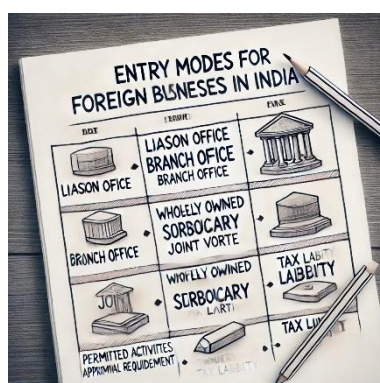
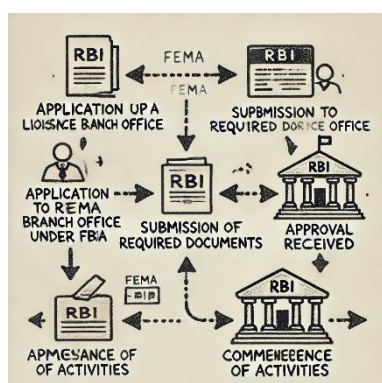
- File Form FC-GPR with RBI after issuance of shares.
- Annual return on Foreign Liabilities and Assets (FLA).
- Tax filings and statutory audits as per the Companies Act.

3.5 JOINT VENTURES (JVS)

- **Definition:**
 - Partnership between a foreign entity and an Indian company.
- **Key Considerations:**
 - Shareholding structure and operational agreements must comply with FEMA.
 - Sector-specific FDI limits and approvals apply.
- **Advantages:**
 - Leverage local expertise and infrastructure.
 - Share risk and costs with local partners.
- **Compliance Requirements:**
 - Approval/Reporting based on FDI sector.
 - Tax compliance and periodic disclosures.

3.6 COMPARISON OF ENTRY MODES

Aspect	Liaison Office	Branch Office	Wholly Owned Subsidiary	Joint Venture
Permitted Activities	Non-commercial	Limited commercial	Broad commercial and manufacturing	Depends on JV agreement
Approval Requirement	RBI	RBI/AD Bank	Automatic/Approval Route	As per FDI route
Ownership	Parent company abroad	Parent company abroad	Fully foreign-owned	Shared with local partners
Tax Liability	Limited	Limited	Corporate tax on profits	Tax as per Indian entity
Compliance	Annual Activity Certificate	Annual filings	Regular filings under various laws	As per agreement and Indian laws



CHAPTER 4: FEMA COMPLIANCE FOR FOREIGN INDIVIDUALS

4.1 OVERVIEW

- FEMA regulates foreign exchange transactions for foreign individuals in India to ensure proper use of resources and alignment with the country's economic policies.
- This chapter provides guidance on compliance requirements for foreign individuals, covering bank accounts, investments, property transactions, and taxation.

4.2 BANK ACCOUNTS FOR FOREIGN INDIVIDUALS

Type of Account	Eligibility	Purpose
Non-Resident External (NRE)	NRIs and PIOs	To park foreign earnings; funds are fully repatriable and tax-exempt.
Non-Resident Ordinary (NRO)	NRIs and PIOs	For income earned in India; funds are repatriable within set limits.
Foreign Currency Non-Resident (FCNR)	NRIs, PIOs, and eligible foreign individuals	To deposit foreign currency earnings; funds are fully repatriable.

4.3 INVESTMENT IN SECURITIES

- **Permitted Investments:**
 - Purchase of shares or convertible debentures of Indian companies under FDI or Portfolio Investment Scheme (PIS).
 - Investments in mutual funds, bonds, or government securities.
- **Compliance Requirements:**
 - Transactions must be routed through SEBI-registered brokers.
 - Reporting of investments to RBI through AD banks as applicable.

4.4 REAL ESTATE TRANSACTIONS

Type of Transaction	Eligibility	Conditions
Purchase of Immovable Property	NRIs and PIOs	- Permitted to buy residential or commercial properties. - Agricultural land and farmhouses prohibited.
Sale of Property	NRIs and PIOs	- Repatriation of proceeds allowed for up to two residential properties.

4.5 REPATRIATION OF INCOME AND ASSETS

Type of Repatriation	Limit/Conditions
Sale Proceeds of Property	- Proceeds can be repatriated up to two residential properties. - Tax compliance certificate required.
Income (Rent/Dividends)	- Freely repatriable after applicable taxes.
Balance in NRO Account	- Up to USD 1 million per financial year can be repatriated, subject to documentation and tax compliance.

4.6 TAXATION CONSIDERATIONS

- **Tax Residency Rules:**
 - Foreign individuals spending more than 182 days in India during a financial year may become tax residents.
- **TDS Applicability:**
 - Income from property, dividends, or other sources in India is subject to Tax Deducted at Source (TDS).
- **Double Taxation Avoidance Agreement (DTAA):**
 - Relief from double taxation through DTAA provisions between India and the individual's resident country.

4.7 KEY FEMA REPORTING REQUIREMENTS

Type of Reporting	Form/Process	Timeline
Purchase of Shares/Debentures	Reporting to AD Bank via Form FC-GPR	Within 30 days of share issuance.

CHAPTER 5: FOREIGN DIRECT INVESTMENT (FDI)

5.1 OVERVIEW OF FDI IN INDIA

- **Definition:** FDI involves investments made by foreign entities in Indian businesses, including equity, convertible instruments, and other capital instruments.
- **Purpose:**
 - Facilitate economic growth through foreign capital.
 - Promote technology transfer, infrastructure development, and employment generation.
- **Regulation:**
 - Governed by FEMA, 1999 and the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019.
 - Regulated by the Reserve Bank of India (RBI) and the Department for Promotion of Industry and Internal Trade (DPIIT).

5.2 ENTRY ROUTES FOR FDI

Route	Description
Automatic Route	No prior approval required; investment must comply with sectoral caps and conditions.
Government Route	Requires government approval for investment in restricted sectors or beyond prescribed limits under the automatic route.

5.3 KEY SECTORS AND FDI LIMITS

Sector	FDI Cap	Route	Conditions
Defense	Up to 74%	Automatic	Beyond 74% under the government route; access to modern technology encouraged.
Telecom	Up to 100%	Up to 49% Automatic; Above 49% Government Approval	Subject to licensing and security norms.
E-commerce	100%	Automatic	Inventory-based models not permitted; marketplace model allowed.
Multi-brand Retail	Up to 51%	Government Approval	Local sourcing norms apply; subject to minimum investment conditions.

Note: For Detailed sector-wise limits, readers are encouraged to refer to the latest Consolidated FDI Policy available on the DPIIT website for updated and comprehensive information.

5.4 PERMITTED INSTRUMENTS FOR FDI

Instrument	Conditions
Equity Shares	Issued as per sectoral regulations.
Fully Convertible Debentures	Must be mandatorily converted into equity within the specified time.
Compulsorily Convertible Preference Shares	Treated as equity instruments under FEMA guidelines.
Warrants	Issued with specified terms, adhering to pricing and sectoral caps.

5.5 KEY PROVISIONS OF FORM FC-GPR AND FORM FC-TRS

Form	Purpose	Key Provisions
Form FC-GPR	Reporting of issue of capital instruments (e.g., equity shares, convertible instruments) to foreign investors.	- Must be filed within 30 days of issue of capital instruments. - Includes details such as issue price, number of instruments, and foreign investor particulars. - Pricing must comply with RBI guidelines (not less than fair value).

CHAPTER 6: EXPORT AND IMPORT COMPLIANCE

6.1 OVERVIEW OF IMPORT AND EXPORT REGULATIONS UNDER FEMA

- **Purpose of Regulations:**
 - To ensure that cross-border trade aligns with India's economic policies.
 - Facilitate seamless movement of goods and services while maintaining compliance.
- **Regulatory Authorities:**
 - Reserve Bank of India (RBI): www.rbi.org.in
 - Directorate General of Foreign Trade (DGFT): www.dgft.gov.in
 - Customs Department: www.cbic.gov.in

6.2 EXPORT PROCEDURES

Realization of Export Proceeds

- Proceeds from exports must be realized within 9 months from the date of shipment.
- Special extensions may be granted as follows:
 - **Authorized Dealer (AD) Banks:** Extensions up to 6 months, subject to specific conditions.
 - **RBI:** Extensions beyond 6 months require approval from the RBI.

Payment and Realization Timelines

Transaction Type	Standard Timeline	Extension Authority
Realization of Export Proceeds	Within 9 months from the date of shipment.	Authorized Dealer (AD) banks can grant extensions up to 6 months; beyond this, RBI approval is required.
Submission of SOFTEX Form	Within 30 days from the date of export.	Software Technology Parks of India (STPI) or SEZ authorities.
Payment for Import Transactions	Within 6 months from the date of shipment.	AD banks may allow extensions for deferred payment arrangements, imports on supplier's credit, etc.
Bill of Entry Filing	Within 15 days of goods arrival.	Customs authorities can grant extensions with applicable penalties.

Reporting Requirements

Form	Purpose	Submission Deadline
Shipping Bill	Declaration of export goods.	Before export shipment.
SOFTEX Form	For export of IT/ITES services.	Within 30 days from export realization.
Export Declaration Form (EDF)	For physical exports.	Before the shipment.

Export Declaration Forms

- Ensure that export documentation includes:
 - Invoice and Packing List.
 - Shipping Bill or Bill of Lading.
 - Customs and bank clearance documents.

Important Notes:

- Maintain a proper record of all export proceeds.
- Penalties may apply for discrepancies or delayed reporting.

6.3 IMPORT PROCEDURES

Advance Remittance and Payment Methods

- Payments must be made through authorized banking channels.
- Import payments should comply with the following:
 - Transactions under the automatic route (subject to conditions).
 - Reporting in the Bill of Entry (BOE).

Import Licensing and Restrictions

Category	Description
----------	-------------

Restricted Items	Items requiring specific licenses from DGFT.
Prohibited Items	Goods listed under the negative import list, not permitted for import.
Freely Importable Items	Goods allowed without restrictions but must comply with customs requirements.

Documentation Requirements

- **Essential Documents for Imports:**
 - Commercial Invoice.
 - Packing List.
 - Bill of Entry (BOE).
 - Insurance and Transport Documents.
 - Import Licenses (if applicable).

6.4 MERCHANTING TRADE TRANSACTIONS

- **Definition:** Merchanting trade involves the purchase of goods by a trader (based in India) from a supplier outside India and subsequent sale to a buyer outside India without the goods entering Indian territory.
- **Regulatory Guidelines:**
 - Transactions must be routed through Authorized Dealer (AD) banks.
 - Both legs of the trade (import and export) must be completed within 9 months.
 - Goods must not be in the restricted or prohibited categories as per the Indian trade policy.
- **Compliance Requirements:**
 - Maintain proper documentation for both import and export transactions.
 - Ensure adherence to FEMA and DGFT guidelines for merchanting trade.
 - Report merchanting transactions to AD banks.
- **Key Risks:**
 - Exchange rate fluctuations.
 - Non-compliance with timelines for completion of both trade legs.

6.5 PENALTIES FOR NON-COMPLIANCE IN EXPORT-IMPORT TRANSACTIONS

Violation	Penalty
Delayed realization of export proceeds	Monetary fines or restrictions on future transactions.
Non-submission of export/import forms	Penalties up to three times the value of the transaction.
Unauthorized transactions	Heavy fines, seizure of goods, and legal actions.

6.6 PRACTICAL TIPS FOR COMPLIANCE

- Ensure timely submission of required export/import documentation.
- Use Authorized Dealer (AD) banks for all foreign exchange transactions.
- Regularly review DGFT notifications for updates on restricted/prohibited items.
- Maintain a systematic record of all trade-related documents for audit purposes.

6.7 ADDITIONAL CONSIDERATIONS

- **Prohibited/Restricted Items:** Ensure strict adherence to DGFT's updated negative list.
- **Export Incentives:** Leverage schemes such as RoDTEP and EPCG for cost reduction and benefits.
- **Digital Documentation:** Use DGFT's online services (dgft.gov.in) for licensing and form submissions.



CHAPTER 7: FOREIGN TRADE POLICY (FTP)

7.1 OVERVIEW OF INDIA'S FOREIGN TRADE POLICY

- The FTP is a strategic framework designed to promote India's exports, facilitate imports, and integrate the economy into global trade.
- Latest FTP:** Effective from April 1, 2023, the policy emphasizes:
 - Export promotion.
 - Ease of doing business.
 - Integration of Indian enterprises into global value chains.
- For the latest updates, visit the official DGFT website: <https://www.dgft.gov.in/CP/?opt=ft-policy>.

7.2 KEY OBJECTIVES OF THE FTP

- Diversification of Export Markets:** Expanding India's presence in emerging and non-traditional markets.
- Enhancement of Export Competitiveness:** Providing schemes and incentives to make Indian goods and services globally competitive.
- Trade Facilitation:** Reducing transaction costs and simplifying processes.
- Digital Transformation:** Promoting paperless and technology-driven compliance.

7.3 KEY SCHEMES UNDER THE FTP

Scheme	Objective
Remission of Duties and Taxes on Exported Products (RoDTEP)	Refunds embedded duties and taxes not covered under GST.
Export Promotion Capital Goods (EPCG)	Allows duty-free import of capital goods for export-oriented production.
Advance Authorization Scheme	Enables duty-free import of inputs used in the manufacturing of export goods.
Duty Drawback Scheme	Refunds customs duties paid on inputs used for exported goods.

7.4 HANDBOOK OF PROCEDURES

- The Handbook of Procedures complements the FTP by providing operational guidelines for exporters and importers.
- Key Areas Covered:**
 - Steps for availing export incentives.
 - Documentation required for licensing.
 - Detailed procedures for schemes like EPCG and RoDTEP.
- Access the latest Handbook here: <https://www.dgft.gov.in/CP/?opt=ft-procedures>.

7.5 COMPLIANCE AND REGULATORY FRAMEWORK

Requirement	Details
Importer Exporter Code (IEC)	A mandatory code for conducting import/export activities.
Export Promotion Councils (EPCs)	Sector-specific bodies that assist exporters in policy navigation and market intelligence.
Quality Standards	Adherence to international quality standards for enhanced credibility.

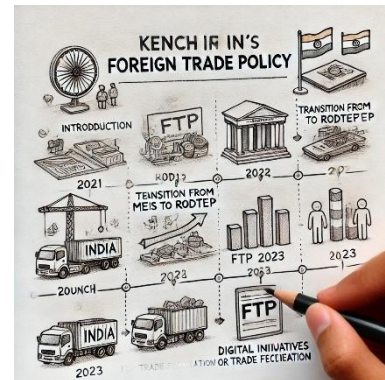
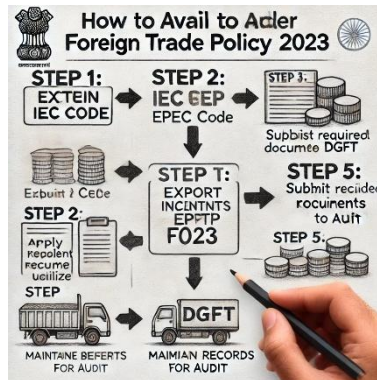
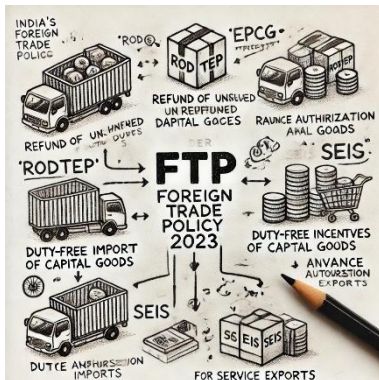
7.6 RECENT UPDATES AND AMENDMENTS

- The FTP is periodically updated to adapt to global trade dynamics.
- Recent Updates:**
 - Simplified compliance requirements for MSMEs.
 - Increased focus on promoting exports from SEZs.

- Integration of blockchain technology for traceability in trade.
- Stay updated with DGFT notifications: <https://www.dgft.gov.in/CP/>.

7.7 PRACTICAL TIPS FOR EXPORTERS

- **Stay Informed:** Regularly check the DGFT website for updates on policies and procedures.
- **Ensure Accurate Documentation:** Compliance with the Handbook of Procedures is critical to avoid penalties.
- **Utilize Incentives:** Leverage schemes like RoDTEP and EPCG to reduce costs.
- **Engage with EPCs:** Export Promotion Councils can offer valuable sector-specific guidance.



CHAPTER 8: EXTERNAL COMMERCIAL BORROWINGS (ECB)

8.1 OVERVIEW OF ECB

- **Definition:** External Commercial Borrowings (ECB) refers to borrowing by Indian entities from foreign sources to fund specific purposes.
- **Objective:** Facilitate access to global financial markets for capital-intensive needs.
- **Governing Authority:** Reserve Bank of India (RBI), under FEMA regulations.

8.2 PERMITTED BORROWERS AND LENDERS

Permitted Borrowers	Examples
Corporates	Indian companies in manufacturing, infrastructure, and services.
Non-Banking Financial Companies (NBFCs)	For financing infrastructure and other approved sectors.
Special Purpose Vehicles (SPVs)	For infrastructure projects.
Startups	Under specific conditions as per RBI guidelines.

Permitted Lenders	Examples
International Banks	Banks registered outside India.
Export Credit Agencies	Entities offering trade finance to promote exports.
Foreign Equity Holders	Equity holders holding at least 25% in the borrowing entity.

8.3 ELIGIBLE INSTRUMENTS AND END-USE RESTRICTIONS

Eligible Instruments	Conditions
Loans	Secured or unsecured loans from permitted lenders.
Debentures	Fully convertible debentures permitted under ECB guidelines.
Notes	Foreign Currency Convertible Bonds (FCCBs) and Rupee Denominated Bonds (RDBs or Masala Bonds).

End-Use Restrictions	Prohibited Uses
Real Estate	Financing of real estate activities.
Capital Market	Investment in stock markets or speculative activities.
Working Capital	General corporate purposes or repayment of domestic loans, except under specific conditions.

8.4 FRAMEWORK FOR ECB

Category	Description
Automatic Route	No prior approval required; subject to compliance with prescribed conditions and limits.
Approval Route	Requires prior approval from the RBI for specific cases or non-compliance with automatic route conditions.

8.5 REPORTING AND COMPLIANCE REQUIREMENTS

Requirement	Form	Timeline
Loan Agreement Filing	Form ECB (with AD Bank)	Within 7 days of signing the loan agreement.

CHAPTER 9: OVERSEAS DIRECT INVESTMENT (ODI)

9.1 OVERVIEW OF OVERSEAS INVESTMENT (OI)

- **Definition:** Overseas Investment (OI) includes both Overseas Direct Investment (ODI) and Overseas Portfolio Investment (OPI) by Indian entities and individuals.
- **Objective:**
 - Facilitate international business expansion.
 - Encourage strategic global partnerships and economic integration.
- **Regulatory Framework:**
 - Governed by the Foreign Exchange Management (Overseas Investment) Rules, 2022, Regulations, and Directions issued by the RBI.
 - Administered by the Reserve Bank of India (RBI).

9.2 CLASSIFICATION OF OVERSEAS INVESTMENT

Type of Investment	Description
Overseas Direct Investment (ODI)	Acquisition of at least 10% equity in a foreign entity or control over the management of the entity.
Overseas Portfolio Investment (OPI)	Investment in less than 10% equity of a listed foreign entity or investments in debt instruments.

9.3 ELIGIBILITY CRITERIA FOR OVERSEAS INVESTMENT

Category	Eligibility
Indian Companies	Registered entities under the Companies Act, 2013, eligible for ODI and OPI.
Partnership Firms and LLPs	Allowed to invest abroad under specific conditions with prior RBI approval.
Individuals	Permitted to make ODI or OPI within the Liberalized Remittance Scheme (LRS) limit of USD 250,000 per financial year.

9.4 STRATEGIC SECTORS FOR ODI

- **Definition of Strategic Sectors:** Includes energy, natural resources, defense, insurance, and telecommunications.
- **Special Provisions:**
 - Investment in these sectors may qualify for additional flexibilities.
 - Prior government or RBI approval may be required depending on the nature and scale of the investment.

9.5 REPORTING AND COMPLIANCE REQUIREMENTS

Requirement	Form	Timeline
Intimation of Financial Commitment	Form FC (Financial Commitment)	Within 30 days of making the investment.
Reporting Annual Performance	Form APR (Annual Performance Report)	Annually by June 30 for the preceding financial year.
Disinvestment Reporting	Form FC (Financial Commitment, including disinvestment details)	Within 30 days of disinvestment or cessation of the foreign entity.

9.6 KEY PROVISIONS UNDER THE OVERSEAS INVESTMENT RULES, 2022

- **Automatic Route:**
 - ODI and OPI are allowed under the automatic route within prescribed financial and sectoral limits.
 - Investments must comply with sectoral restrictions and end-use conditions.
- **Approval Route:**
 - Prior RBI approval required for:
 - Investments exceeding financial limits.

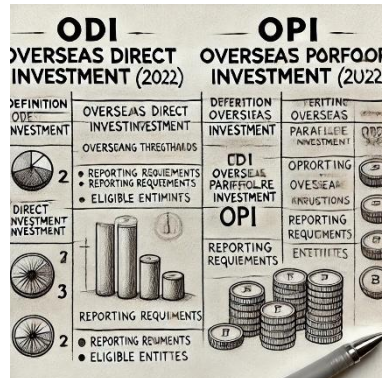
- Investments in strategic or restricted sectors.
- Investments in entities under financial distress.
- **Prohibited Investments:**
 - Direct or indirect investments in real estate or gambling activities abroad.
 - Activities prohibited under Indian law.

9.7 COMMON VIOLATIONS AND PENALTIES

Violation	Penalty
Non-reporting of financial commitments	Monetary fines up to three times the contravention amount or INR 2 lakh, whichever is higher.
Exceeding sectoral or financial limits	Restrictions on future overseas investments and additional penalties.
Misuse of funds	Confiscation of assets and legal proceedings for severe violations.

9.8 PRACTICAL TIPS FOR OVERSEAS INVESTMENT COMPLIANCE

- **Understand Investment Type:** Determine whether your investment qualifies as ODI or OPI.
- **Monitor LRS Limits:** Individuals must ensure their overseas investments do not exceed the annual limit of USD 250,000 under LRS.
- **Adhere to Strategic Sector Norms:** Obtain necessary approvals for investments in sensitive or strategic sectors.
- **Engage AD Banks:** Route all overseas investment transactions through Authorized Dealer banks for reporting and compliance.
- **Timely Reporting:** Submit required forms (FC, APR) within prescribed timelines.
- **Stay Updated:** Regularly review RBI circulars and notifications for amendments to OI rules and regulations.



CHAPTER 10: LEGAL FRAMEWORK OF DOING BUSINESS IN INDIA

10.1 OVERVIEW OF KEY BUSINESS LAWS IN INDIA

- **Companies Act, 2013:** Governs the incorporation, operation, and dissolution of companies in India.
- **Contract Act, 1872:** Provides the legal framework for contracts, covering essentials like offer, acceptance, and breach.
- **Arbitration and Conciliation Act, 1996:** Framework for resolving disputes through arbitration and conciliation.
- **Mediation Act, 2021:** Establishes a legal framework for mediation as an alternative dispute resolution mechanism, ensuring confidentiality and enforceability of settlements.
- **Insolvency and Bankruptcy Code (IBC), 2016:** Provides a unified framework for the resolution of insolvency for corporates, partnerships, and individuals in a time-bound manner.
- **Intellectual Property Rights (IPR):** Laws governing patents, trademarks, copyrights, and designs.

10.2 KEY COMPLIANCE REQUIREMENTS FOR FOREIGN INVESTORS

Compliance Area	Details
Incorporation	Register under the Companies Act, 2013. Obtain necessary licenses for specific sectors.
Statutory Registrations	PAN, TAN, GST registration, and Importer Exporter Code (IEC).
FEMA Compliance	Adhere to regulations for Foreign Direct Investment (FDI), External Commercial Borrowings (ECB), etc.
Tax Compliance	File Income Tax, GST, and TDS returns as applicable.

10.3 INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION IN INDIA

IPR Type	Description	Regulating Authority
Patents	Protects innovations and inventions. Valid for 20 years.	Controller General of Patents, Designs, and Trademarks (CGPDTM).
Trademarks	Protects brand identity through logos, slogans, and symbols.	CGPDTM.
Copyrights	Covers artistic, literary, and musical works.	Copyright Office, India.
Designs	Protects the aesthetic aspects of an article.	CGPDTM.

10.4 ANTI-MONEY LAUNDERING (AML) AND KYC NORMS

- **Objective:** Prevent money laundering and combat financing of terrorism.
- **Key Requirements:**
 - Maintain detailed Know Your Customer (KYC) records.
 - Adhere to Prevention of Money Laundering Act (PMLA), 2002.
 - File Suspicious Transaction Reports (STRs) with the Financial Intelligence Unit (FIU).

10.5 CONSUMER PROTECTION AND DIGITAL REGULATIONS

Law	Applicability	Key Provisions
Consumer Protection Act, 2019	Governs consumer rights and product liability.	Establishes Consumer Dispute Redressal Commissions (CDRCs) and defines penalties for unfair trade practices.

CHAPTER 11: TAX COMPLIANCE IN INDIA

11.1 OVERVIEW OF THE TAXATION SYSTEM IN INDIA

- **Direct Taxes:** Levied on income, profits, or capital gains. Key components include:
 - Income Tax.
 - Corporate Tax.
 - Capital Gains Tax.
- **Indirect Taxes:** Levied on goods and services. Key component:
 - Goods and Services Tax (GST).

11.2 INCOME TAX COMPLIANCE

Requirement	Applicability	Timeline
PAN (Permanent Account Number)	Mandatory for all individuals and entities earning taxable income.	At the time of starting business or earning taxable income.
Filing of Income Tax Returns	Individuals, companies, LLPs, and HUFs.	By July 31 (individuals) and October 31 (companies).
Advance Tax Payments	Taxpayers with tax liability exceeding INR 10,000.	Quarterly payments by 15th of June, September, December, and March.
TDS (Tax Deducted at Source)	Entities deducting tax at source on payments.	Monthly deposit by the 7th of the following month; quarterly returns.

11.3 CORPORATE TAX COMPLIANCE

Corporate Tax Slabs	Applicable Entities	Tax Rate
Domestic Companies (Turnover < INR 400 Cr)	Small and medium enterprises.	25%
Domestic Companies (Other Cases)	Larger enterprises.	30%
Foreign Companies	Entities operating in India through branches.	40%

11.4 GOODS AND SERVICES TAX (GST)

Aspect	Details
Registration	Mandatory for entities with turnover exceeding INR 40 lakh (INR 20 lakh for services).
Return Filing	Regular monthly returns (GSTR-1, GSTR-3B) and annual returns (GSTR-9).
Input Tax Credit (ITC)	Credit for GST paid on inputs used in production/supply of taxable goods and services.
GST Compliance Timelines	Monthly filings by the 20th of the following month; annual returns by December 31 of the next year.

11.5 DOUBLE TAXATION AVOIDANCE AGREEMENTS (DTAA)

- **Objective:** Avoid double taxation of income earned in India and abroad.
- **Key Provisions:**
 - Tax relief through exemption or credit methods.
 - Applicable to countries with which India has signed DTAA treaties.

11.6 ADVANCE RULINGS FOR TAX DISPUTE AVOIDANCE

Statute	Provision for Advance Rulings
Income Tax	Application to the Authority for Advance Rulings (AAR) for clarifications on tax implications.
GST	Application to the Advance Ruling Authority (ARA) for GST-related issues.
Customs	Advance rulings available for tariff classification, valuation, and duty applicability.

11.7 TAX IMPLICATIONS FOR FOREIGN INVESTORS

Tax Type	Description	Rate
Withholding Tax	Tax deducted at source on payments to non-residents.	10%-40% depending on income type.
Capital Gains Tax	Tax on sale of capital assets (e.g., shares, property).	Short-term: 15%-30%; Long-term: 10%-20%.
Dividend Tax	Dividends taxed in the hands of shareholders as per applicable income tax rates.	Rates as per applicable tax slab.

11.8 TRANSFER PRICING REGULATIONS

- **Objective:** Ensure that international transactions between related parties are conducted at arm's length price.
- **Applicability:**
 - Transactions involving parent companies, subsidiaries, or associated enterprises.
 - Cross-border transactions such as royalties, management fees, and inter-company sales.
- **Documentation Requirements:**
 - Maintain transfer pricing documentation and submit Form 3CEB certified by a chartered accountant.
- **Safe Harbour Rules:**
 - Prescribed margins for specific industries to simplify compliance and reduce disputes.
 - Applicable to IT/ITES services, manufacturing, and financial transactions with predefined arm's length ranges.
- **Penalties for Non-Compliance:**
 - Up to 2% of the transaction value for failure to maintain documentation.

11.9 STARTUP RECOGNITION AND TAX BENEFITS

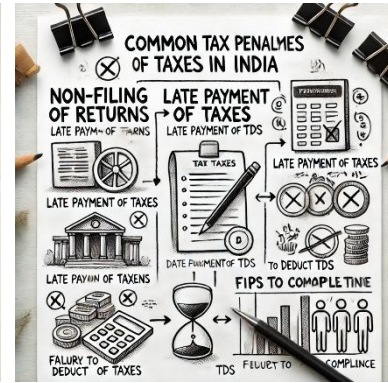
- **Startup India Initiative:**
 - Startups recognized by DPIIT (Department for Promotion of Industry and Internal Trade) qualify for specific tax exemptions.
- **Key Benefits:**
 - 3-year tax holiday on profits within the first 10 years of incorporation.
 - Exemption from angel tax under Section 56(2)(viib) for DPIIT-recognized startups.
 - Capital gains exemption for investment in eligible startups.
- **Eligibility Criteria:**
 - Entity must be less than 10 years old.
 - Turnover should not exceed INR 100 crore.

11.10 COMMON NON-COMPLIANCE ISSUES AND PENALTIES

Non-Compliance	Penalty
Non-filing of Income Tax Returns	INR 5,000 (if filed after due date but before December 31); INR 10,000 (if filed later).
Late Payment of GST	18% per annum on unpaid GST amount.
Failure to Deduct TDS	1%-1.5% per month on tax amount not deducted.

11.11 PRACTICAL TIPS FOR TAX COMPLIANCE

- **Maintain Records:** Keep detailed records of income, expenses, and tax payments.
- **Engage Professionals:** Consult tax advisors for complex compliance requirements.
- **Use Technology:** Leverage online tax filing portals and software for accuracy and timely submissions.
- **Stay Updated:** Monitor changes in tax laws and deadlines to avoid penalties.



CHAPTER 12: EMPLOYMENT LAWS AND EMPLOYEE BENEFITS IN INDIA

12.1 OVERVIEW OF EMPLOYMENT LAWS IN INDIA

- **Objective:** Regulate employer-employee relationships, ensuring fair treatment and protection of workers.
- **Applicability:**
 - Varies based on the type and size of the organization.
 - Includes central and state-specific labor laws.

12.2 KEY EMPLOYMENT LAWS

Law	Description	Applicability
Factories Act, 1948	Regulates working conditions in factories, including safety and welfare provisions.	Manufacturing units employing 10+ workers (with power) or 20+ workers (without power).
Shops and Establishments Act	Governs working hours, leave policies, and employment conditions in commercial establishments.	Varies by state; applicable to all commercial establishments.
The Payment of Wages Act, 1936	Ensures timely payment of wages to employees.	Applicable to employees earning up to INR 24,000 per month.
Industrial Disputes Act, 1947	Provides mechanisms for resolving industrial disputes.	Applies to all industries with employer-employee relationships.
The Equal Remuneration Act, 1976	Mandates equal pay for equal work irrespective of gender.	All employers.
Employees' Provident Fund and Miscellaneous Provisions Act, 1952	Regulates provident fund contributions to ensure post-retirement security.	Establishments with 20+ workers.
Employees' State Insurance Act, 1948	Provides medical and disability benefits to employees.	Establishments employing 10+ workers (threshold may vary by state).
Payment of Gratuity Act, 1972	Ensures financial support for employees after long-term service.	Establishments employing 10+ workers.
Child Labor (Prohibition and Regulation) Act, 1986	Prohibits employment of children in hazardous occupations.	All establishments.
Bonded Labor System (Abolition) Act, 1976	Abolishes bonded labor and ensures freedom from coercive practices.	All employers.
Contract Labour (Regulation and Abolition) Act, 1970	Regulates contract labor and mandates welfare provisions.	Establishments employing 20+ contract workers.

12.3 KEY SOCIAL SECURITY BENEFITS

Benefit	Objective	Applicability	Details
Provident Fund (PF)	Ensure post-retirement financial security.	Establishments with 20+ workers.	Employee and employer contribute 12% of basic wages. Includes pension benefits under EPS.
Employee State Insurance (ESI)	Provide medical, disability, and maternity benefits.	Establishments with 10+ workers; employees earning up to INR 21,000/month.	Employer contributes 3.25% and employee 0.75% of wages. Covers medical care, sickness, and disability benefits.

Benefit	Objective	Applicability	Details
Gratuity	Financial support after long-term service.	Establishments with 10+ workers; employees completing 5 years of service.	Gratuity = (Last Drawn Salary × 15 × No. of Years of Service) / 26.
Maternity Benefits	Provide job security and financial assistance during maternity.	Establishments employing women workers.	26 weeks of paid leave for the first two children, 12 weeks for subsequent children. Crèche facility mandatory for establishments with 50+ employees.

12.4 EXPATRIATE EMPLOYMENT LAWS AND COMPLIANCE

- **Work Visa Requirements:**
 - Foreign nationals must obtain an appropriate visa (Employment Visa or Business Visa).
- **Minimum Salary Threshold:**
 - Expatriates must earn a minimum salary of USD 25,000 annually (exceptions for certain categories like language teachers).
- **Taxation:**
 - Subject to Indian income tax laws; eligible for benefits under Double Taxation Avoidance Agreements (DTAA).
- **Provident Fund Compliance:**
 - Expatriates working in establishments covered under PF laws must contribute unless exempt under a Social Security Agreement (SSA).

12.5 COMPLIANCE CHECKLIST FOR EMPLOYERS

Compliance Area	Description	Timeline
Registration	Register under PF, ESI, and applicable labor laws.	At the time of establishment or upon crossing thresholds.
Monthly Contributions	Deposit PF and ESI contributions.	By the 15th of the following month.
Annual Returns	Submit returns for PF, ESI, and gratuity.	As per statutory deadlines (e.g., March 31).
Wage Records	Maintain records of wages and deductions.	Continuous maintenance for inspection.
Employee Welfare Committees	Form committees for employee grievances and welfare.	Where required by law (e.g., for establishments employing 100+ workers).

12.6 EMPLOYEE COST TABLE

Cost Component	Percentage of Basic Wages	Description
Basic Salary	Typically 40%-50% of CTC	Fixed component forming the basis for PF and ESI calculations.
Provident Fund (PF)	Employer: 12%; Employee: 12%	Contributions towards employee retirement benefits.
Employee State Insurance (ESI)	Employer: 3.25%; Employee: 0.75%	Contributions towards medical and disability benefits.
Gratuity	Approx. 4.81%	Cost borne by the employer for long-term employee benefits.
Bonus (if applicable)	8.33%-20% (statutory minimum)	Applicable under the Payment of Bonus Act, 1965 for employees earning up to INR 21,000/month.

CHAPTER 13: PENALTIES AND DISPUTE RESOLUTION

13.1 TYPES OF CONTRAVENTIONS UNDER FEMA

- **Procedural Contraventions:**
 - Delayed or non-filing of mandatory forms (e.g., FC-GPR, FC-TRS).
 - Non-reporting of inward or outward remittances.
- **Substantive Contraventions:**
 - Undertaking prohibited transactions under FEMA.
 - Exceeding permissible limits without requisite approvals.

13.2 PENALTIES FOR NON-COMPLIANCE

Late Submission Fee (LSF): To promote timely compliance, the Reserve Bank of India (RBI) has introduced a uniform LSF for reporting delays related to Foreign Investment (FI), External Commercial Borrowings (ECBs), and Overseas Investment transactions.

Type of Reporting Delays	LSF Amount (INR)
Forms not capturing flows or periodical reporting (e.g., Form ODI Part-II/APR, FCGPR (B), FLA Returns, Form OPI, evidence of investment)	7,500 per return or instance of delay.
Forms capturing flows or transactional reporting (e.g., FC-GPR, FCTRS, Form ESOP, Form LLP (I), Form LLP (II), Form CN, Form DI, Form InVi, Form ODI-Part I, Form ODI-Part III, Form FC, Form ECB, Form ECB-2, Revised Form ECB)	$7,500 + (0.025\% \times A \times n)$ where: - A = amount involved in the delayed reporting - n = number of years of delay, rounded up to the nearest month and expressed up to two decimal points.

Note: The detailed LSF structure is outlined in the RBI circular.

Penalties for Substantive Violations:

For substantive contraventions, penalties can be up to three times the amount involved in the violation.

13.3 DISPUTE RESOLUTION MECHANISMS

1. **Compounding of Offenses by RBI:**
 - **Voluntary Disclosure:** Entities can voluntarily disclose contraventions to the RBI for compounding.
 - **Process:**
 - Submission of a compounding application to the RBI.
 - Resolution within 180 days from the application date.
 - **Benefits:**
 - Avoids litigation.
 - Provides closure with minimized penalties.
2. **Adjudication by Enforcement Directorate (ED):**
 - Handles substantive violations.
 - Involves formal adjudication proceedings and potential appeals.
3. **Judicial Remedies:**
 - Appeals can be made to the Appellate Tribunal for Foreign Exchange (ATFE).
 - Further appeals may be directed to High Courts and the Supreme Court.

13.4 RECENT TRENDS IN FEMA COMPLIANCE ENFORCEMENT

- **Technological Integration:** Enhanced monitoring through advanced technology.

- ## 13.5 PRACTICAL TIPS FOR AVOIDING PENALTIES

- [illegible]

CHAPTER 14: PRACTICAL SCENARIOS AND CASE STUDIES

14.1 COMMON COMPLIANCE CHALLENGES

- **Delayed Reporting:**
 - Missing deadlines for mandatory forms such as FC-GPR, FC-TRS, or ECB returns.
 - Causes: Lack of awareness, administrative delays, or poor compliance systems.
 - Impact: Attracts Late Submission Fee (LSF) or penalties, leading to unnecessary financial and reputational costs.
- **Violation of FDI Caps:**
 - Exceeding sectoral caps or failing to obtain approval for investments requiring prior government clearance.
 - Impact: Leads to adjudication by the Enforcement Directorate or restrictions on future transactions.
- **Non-Reporting of Remittances:**
 - Neglecting to report inward and outward remittances.
 - Impact: Regulatory scrutiny and financial penalties.

14.2 ILLUSTRATIVE CASE STUDIES

Case Study 1: Procedural Contravention

- **Scenario:** A manufacturing company delayed filing Form FC-GPR by 90 days after receiving foreign direct investment.
- **Issue:** The delay attracted Late Submission Fee (LSF) under FEMA regulations.
- **Resolution:** The company calculated the LSF using RBI's framework and submitted the payment along with the delayed filing.
- **Outcome:** The contravention was regularized, avoiding escalation to the Enforcement Directorate.

Case Study 2: Substantive Violation

- **Scenario:** A real estate company received FDI exceeding the permissible cap without prior government approval.
- **Issue:** This substantive contravention resulted in adjudication by the Enforcement Directorate.
- **Resolution:** The company revised its FDI structure and paid the penalty imposed after adjudication.
- **Outcome:** Compliance measures were strengthened, but the company faced reputational damage.

Case Study 3: Export Transaction Non-Compliance

- **Scenario:** An exporter failed to realize export proceeds within the 9-month timeline prescribed under FEMA.
- **Issue:** The AD Bank flagged the delay, requiring an extension request to the RBI.
- **Resolution:** The company filed an extension application with supporting documentation, followed by voluntary disclosure under compounding provisions.
- **Outcome:** The matter was resolved, and internal controls were updated to prevent future delays.

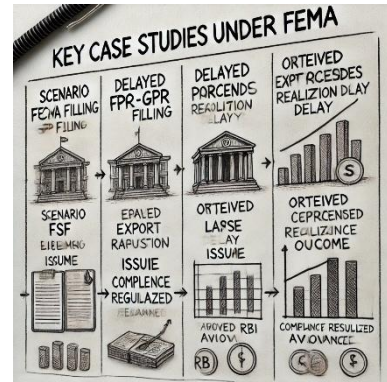
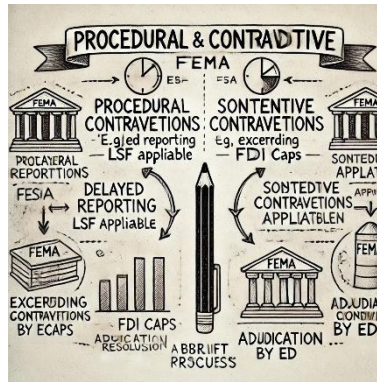
Case Study 4: Overseas Direct Investment (ODI) Violation

- **Scenario:** A company failed to file the ODI-Part II form after making an overseas investment.
- **Issue:** This non-compliance attracted procedural scrutiny by RBI.
- **Resolution:** The company paid the applicable LSF and filed the overdue forms.
- **Outcome:** The violation was compounded without further penalties.

14.3 BEST PRACTICES FOR STAYING COMPLIANT

- **Centralized Compliance Monitoring:** - Implement a compliance management system to track deadlines and filing requirements.
- **Regular Training:** - Educate staff on FEMA regulations and their implications.
- **Professional Advice:** - Engage FEMA consultants or legal experts to navigate complex transactions and reporting.

-
- HOW TO RESOLVE DETELED REPORTING**
under the LSI mechunne
- DATE SUBMISSION REPORTING TYPE
- LSF
- COLCULATE THE APPLICABLE RBI GUIDELINES
- COLCULATE APPLICABLE LSF LSF
- COLCULATE APPLICABLE LOWE FORM OR RETURNS
- ACRINT ACCOISSAMISATION
- SUBMITTE FILE DE FORMS TOR REGULIZATION
- SUBMIT ACCOISSAMITION OR RETURNS



CHAPTER 15: RECENT UPDATES AND DEVELOPMENTS

15.1 KEY AMENDMENTS IN FEMA REGULATIONS

- **Foreign Exchange Management (Non-Debt Instruments) (Fourth Amendment) Rules, 2024:**
 - Issued on August 16, 2024, these amendments aim to simplify rules for Foreign Direct Investment (FDI) and Overseas Investment (OI), enhancing regulatory mechanisms.
- **Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Fourth Amendment) Regulations, 2024:**
 - Notified on May 6, 2024, this amendment allows authorized dealers in India to permit non-residents to open interest-bearing accounts in Indian Rupees and/or foreign currency for the purpose of posting and collecting margin in India for permitted derivative contracts.
- **Foreign Exchange Management (Debt Instruments) (Third Amendment) Regulations, 2024:**
 - Issued on August 16, 2024, this amendment aligns regulations concerning Indian companies, facilitating direct listing on international exchanges in permissible jurisdictions.
- **Uniform Late Submission Fee (LSF) Mechanism:**
 - A simplified penalty structure introduced by RBI for delayed reporting of Foreign Investment (FI), External Commercial Borrowings (ECBs), and Overseas Investment (OI) transactions.
 - The mechanism applies uniform calculations based on the type of reporting delay, duration, and the amount involved in the transaction.

15.2 UPDATES IN THE FOREIGN TRADE POLICY (FTP)

- **New Foreign Trade Policy:**
 - Effective from April 1, 2023, the policy focuses on boosting exports, attracting investments, and promoting ease of doing business.
- **Interest Equalization Scheme Extension:**
 - Extended up to August 31, 2024, providing interest subsidies on pre and post-shipment rupee export credit to eligible exporters.
- **Ease of Doing Business Improvements:**
 - Enhanced single-window clearance systems for FDI approvals and export-import processes.

15.3 DEVELOPMENTS IN THE STARTUP SECTOR

- **Tax Benefits for Startups:**
 - Startups recognized by DPIIT (Department for Promotion of Industry and Internal Trade) can avail benefits such as a 3-year tax holiday within their first 10 years of operation.
 - Exemption from angel tax for eligible startups.
 - Capital gains tax exemption on investments in eligible startups.
- **Startup India Initiative:**
 - Continues to drive innovation with financial support through dedicated funds of funds.
 - Simplified compliance processes for startups, including self-certification for labor and environmental laws.
- **Focus on Sustainability and Green Technology:**
 - Increased incentives for startups working in renewable energy, electric vehicles, and clean technology.

15.4 TRENDS IMPACTING FOREIGN INVESTMENT IN INDIA

- **Digital Monitoring of Transactions:**
 - Increased use of AI and data analytics by regulators to track compliance.

- **India-US Trade Relations:**
 - Ongoing negotiations for a broader trade and investment deal, enhancing bilateral economic ties.
- **India-EU Strategic Dialogue:**
 - Agreements to promote trade, technology, and green investments between India and the EU.
- **UK-India Business Activity Surge:**
 - Significant increase in cross-border business transactions, strengthening economic relations.

15.5 PRACTICAL INSIGHTS FOR FOREIGN INVESTORS

- **Adapting to Regulatory Changes:**
 - Stay informed about the latest amendments in FEMA regulations and Foreign Trade Policy to ensure compliance.
- **Leveraging Emerging Opportunities:**
 - Explore investment prospects in sectors highlighted by recent trade negotiations and policy shifts, such as technology, renewable energy, and manufacturing.
- **Strengthening Internal Compliance:**
 - Implement robust compliance systems to adapt to evolving regulations and facilitate smooth operations in the Indian market.



CHAPTER 16: FAQs

16.1 GENERAL QUERIES ON FEMA

1. **What is FEMA, and why is it important for foreign investors?**
 - FEMA regulates all foreign exchange transactions in India, ensuring compliance with policies related to FDI, ODI, ECBs, etc.
 - It promotes orderly development and maintenance of the foreign exchange market.
 2. **What are the common forms that need to be filed under FEMA?**
 - **For FDI:** FC-GPR, FC-TRS.
 - **For ODI:** Form ODI Part I, Part II, Part III.
 - **For ECBs:** ECB Form and ECB-2.
 3. **Who monitors FEMA compliance in India?**
 - The Reserve Bank of India (RBI) handles procedural compliance, while the Directorate of Enforcement (ED) handles substantive violations.
-

16.2 BUSINESS ENTRY INTO INDIA

1. **What are the common modes of entering the Indian market?**
 - **Liaison Office (LO):** For market research and acting as a communication channel.
 - **Branch Office (BO):** For conducting specific business activities like consulting or technical services.
 - **Wholly Owned Subsidiary (WOS):** For full-fledged operations with 100% foreign ownership.
 - **Joint Venture (JV):** For shared ownership and resources with an Indian partner.
 2. **What are the tax implications for foreign businesses entering India?**
 - Tax rates depend on the type of entity established (e.g., BOs are taxed as foreign companies).
 - Transfer pricing rules apply to inter-group transactions.
-

16.3 FDI-RELATED FAQs

1. **What sectors are fully open to FDI under the automatic route?**
 - Examples include IT and ITES, healthcare, and single-brand retail (up to specified caps).
 2. **What is the difference between the automatic and approval routes?**
 - **Automatic Route:** No prior approval required; report to RBI within 30 days.
 - **Approval Route:** Requires prior government approval via the DPIIT portal.
 3. **Can foreign investors repatriate profits?**
 - Yes, profits can be repatriated after withholding applicable taxes and ensuring compliance with FEMA guidelines.
 4. **Is capital repatriation allowed in India?**
 - Repatriation of the initial capital investment is permitted upon closure of the business or sale of shares, subject to tax and compliance with RBI reporting requirements.
-

16.4 EXPORT-IMPORT FAQs

1. **What is the timeline for realizing export proceeds?**
 - Export proceeds must be realized within 9 months from the export date.
 - Extensions can be sought from the authorized dealer (AD) bank.
 2. **What are the penalties for non-realization of export proceeds?**
 - Penalties include fines or restrictions on future transactions.
-

16.5 OVERSEAS INVESTMENT FAQs

1. **What is the difference between ODI and OPI?**
 - **ODI:** Significant ownership in a foreign entity (10% or more equity stake).
 - **OPI:** Passive investment (less than 10% stake) in listed foreign securities.
 2. **Are there restrictions on overseas investments?**
 - Prohibited activities include real estate and gambling.
 - Investments in strategic sectors like defense require additional approvals.
-

16.6 PRACTICAL COMPLIANCE FAQs

1. **How can I avoid penalties under FEMA?**
 - File all required forms and returns within stipulated timelines.
 - Consult experts for complex transactions.
2. **What are the benefits of compounding violations?**
 - Minimizes penalties and avoids litigation.

CHAPTER 17: GLOSSARY OF TERMS

This glossary provides definitions and explanations of key terms across FEMA, Foreign Trade Policy, and Taxation, aimed at enhancing the reader's understanding of compliance and regulatory frameworks.

Term	Definition
Authorized Dealer (AD)	A bank or financial institution authorized by the RBI to deal in foreign exchange transactions.
Advance Remittance	Payment made in advance by an importer to a foreign exporter for goods or services.
Arbitration	A method of dispute resolution involving an impartial third party, often used in cross-border business disputes.
Balance of Payments (BOP)	A statement summarizing a country's transactions with the rest of the world, including trade, investment, and transfers.
Branch Office (BO)	An extension of a foreign company in India, permitted to carry out specific activities such as export/import, research, and consulting.
Capital Account Transactions	Transactions that alter the assets or liabilities of residents in relation to non-residents, including FDI and ODI.
Compounding	A mechanism provided by RBI for regularizing contraventions under FEMA by imposing monetary penalties.
Directorate of Enforcement (ED)	The agency responsible for investigating substantive violations under FEMA.
Double Taxation Avoidance Agreement (DTAA)	An agreement between two countries to avoid taxation of the same income in both jurisdictions.
ECB (External Commercial Borrowing)	Loans availed by Indian entities from non-resident lenders in foreign currency.
Export Promotion Capital Goods (EPCG) Scheme	A scheme under FTP to promote exports by allowing duty-free import of capital goods.
FC-GPR (Foreign Currency-Gross Provisional Return)	A form filed with RBI for reporting FDI inflows into Indian companies.
FC-TRS (Foreign Currency-Transfer of Shares)	A form for reporting transfer of shares between residents and non-residents.
FATF (Financial Action Task Force)	An intergovernmental organization that develops policies to combat money laundering and terrorism financing.
FEMA (Foreign Exchange Management Act, 1999)	The Indian law governing foreign exchange transactions.
Goods and Services Tax (GST)	An indirect tax levied on the supply of goods and services in India, replacing multiple indirect taxes.
Income Tax	A tax levied on the income of individuals and entities by the Indian government.
Import Substitution	A policy aimed at reducing dependency on imports by promoting domestic production.
Joint Venture (JV)	A business arrangement where two or more parties collaborate and share ownership and responsibilities.
Late Submission Fee (LSF)	A penalty mechanism introduced by RBI for delays in reporting transactions under FEMA.

Letter of Credit (LC)	A guarantee issued by a bank to the exporter that payment will be made upon fulfilling specific terms.
Merchanting Trade	A trade transaction where goods are shipped from one foreign country to another without entering the importing country.
Non-Resident Indian (NRI)	An Indian citizen residing outside India for more than 182 days in a financial year.
ODI (Overseas Direct Investment)	An investment made by an Indian entity in a foreign entity through equity, debt, or guarantees.
OPI (Overseas Portfolio Investment)	Passive investment in foreign securities with less than 10% equity ownership in the entity.
Permanent Account Number (PAN)	A unique identifier issued by the Income Tax Department for tracking financial transactions.
Portfolio Investment	Passive investment in securities with less than 10% ownership in a company.
Remittance	Transfer of money by a person or entity from one country to another.
Reserve Bank of India (RBI)	India's central bank, responsible for regulating the financial and banking systems.
SEZ (Special Economic Zone)	Designated areas in India that offer tax and business incentives to attract investment and promote exports.
Transfer Pricing	Pricing of goods, services, and intangibles between associated enterprises to ensure fair taxation.
Trade Facilitation	Measures to simplify and streamline international trade processes.

CHAPTER 18: APPENDIX

This appendix serves as a comprehensive resource for compliance, reference materials, and essential tools for foreign investors and businesses in India.

18.1 LIST OF KEY FEMA FORMS

Form Name	Purpose	Filing Authority
Form FC	Reporting Overseas Direct Investment (ODI) by Indian entities, including initial investment, Annual Performance Report (APR), and disinvestment/restructuring.	Reserve Bank of India (RBI) via Authorized Dealer (AD) Bank
Form FC-GPR	Reporting Foreign Direct Investment (FDI) inflows into Indian companies.	RBI via AD Bank
Form FC-TRS	Reporting transfer of shares between residents and non-residents.	RBI via AD Bank
Form ECB	Reporting External Commercial Borrowings (ECBs).	RBI
Form DI	Reporting downstream investments by Indian companies receiving FDI.	RBI
Form InVi	Reporting investment in Infrastructure Investment Trusts (InvITs).	RBI
FLA Return	Reporting Foreign Liabilities and Assets annually.	RBI

18.2 KEY NOTIFICATIONS AND CIRCULARS

Notification/Circular Number	Subject	Date Issued
RBI/2022-23/10	Introduction of Uniform Late Submission Fee (LSF).	April 1, 2022
RBI/2023-24/15	Amendments to Overseas Investment (OI) Regulations.	August 22, 2023
FTP Notification No. 1/2023	Launch of New Foreign Trade Policy.	April 1, 2023
RBI/2024-25/8	Updated Non-Debt Instruments Rules.	August 16, 2024

18.3 USEFUL RESOURCES AND WEBSITES

Resource	Website
Reserve Bank of India (RBI)	www.rbi.org.in
Directorate General of Foreign Trade (DGFT)	www.dgft.gov.in
Ministry of Finance, Government of India	www.finmin.nic.in
Central Board of Direct Taxes (CBDT)	www.incometaxindia.gov.in
Central Board of Indirect Taxes and Customs (CBIC)	www.cbic.gov.in
Foreign Investment Facilitation Portal (FIFP)	fifp.gov.in
Employees' Provident Fund Organisation (EPFO)	www.epfindia.gov.in
Employees' State Insurance Corporation (ESIC)	www.esic.nic.in

18.4 SUMMARY OF COMPLIANCE DEADLINES

Compliance	Form/Requirement	Deadline
FDI Reporting	FC-GPR	Within 30 days of allotment of shares.
Transfer of Shares	FC-TRS	Within 60 days of transaction.
Overseas Investment	Annual Performance Report (APR)	By December 31 each year.
ECB Reporting	ECB-2	Monthly, by the 7th of the following month.
Foreign Liabilities & Assets (FLA)	FLA Return	By July 15 each year.

18.5 LIST OF EXPORT INCENTIVE SCHEMES

Scheme Name	Benefit
RoDTEP (Remission of Duties and Taxes on Exported Products)	Refunds embedded taxes/duties not covered under GST.
EPCG (Export Promotion Capital Goods) Scheme	Allows duty-free import of capital goods for export production.
Duty Drawback Scheme	Refund of customs duty on inputs used in exported goods.
Advance Authorization Scheme	Duty-free import of raw materials for manufacturing export products.