BUILDING THE NEW URBAN INDIA
by

Navaneeth Raj Conjeevaram

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Osmania University, India

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Signature redacted

Signature of Author__
Center for Real Estate
March 9th, 2018

Signature redacted

Certified by__
Professor David M. Geltner
Professor of Real Estate Finance Department of Urban Studies and Planning, Thesis Supervisor

Signature redacted

Accepted by__
Professor Albert Saiz
Daniel Rose Associate Professor of Urban Economics and Real Estate, Department of Urban Studies and Center for Real Estate

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ABSTRACT

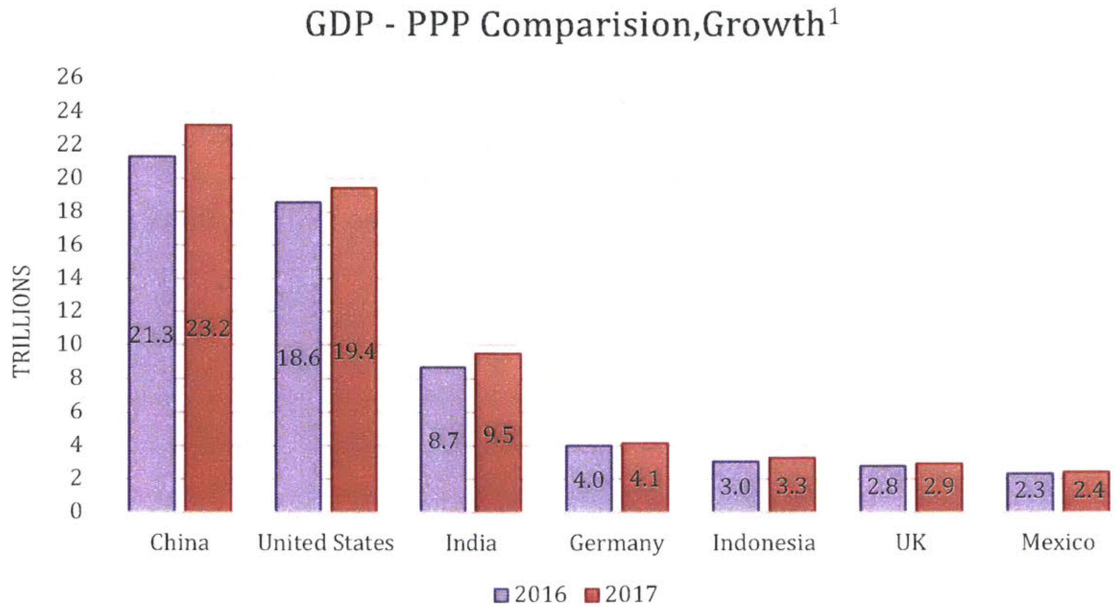
This thesis examines the rules and regulations influencing foreign investments in India's real estate sector. Specifically, this thesis discusses the Foreign Direct Investment Policy, The Foreign Exchange Management Act and the Reserve Bank of India's Foreign Exchange Management Regulations. Combined, they presents a comprehensive regulatory roadmap for the foreign investor evaluating an entry into the country's real estate sector.

Thesis Supervisor: David Geltner
Title: Professor of Real Estate Finance
Department of Urban Studies and Planning

Contents

1. Introduction

Since the economic liberalization of 1991, the Indian economy has grown at a compounded annual growth rate of 8.58%[1]. It is now the 3rd largest in GDP (Purchasing Power Parity) trailing only China and the United States[2].



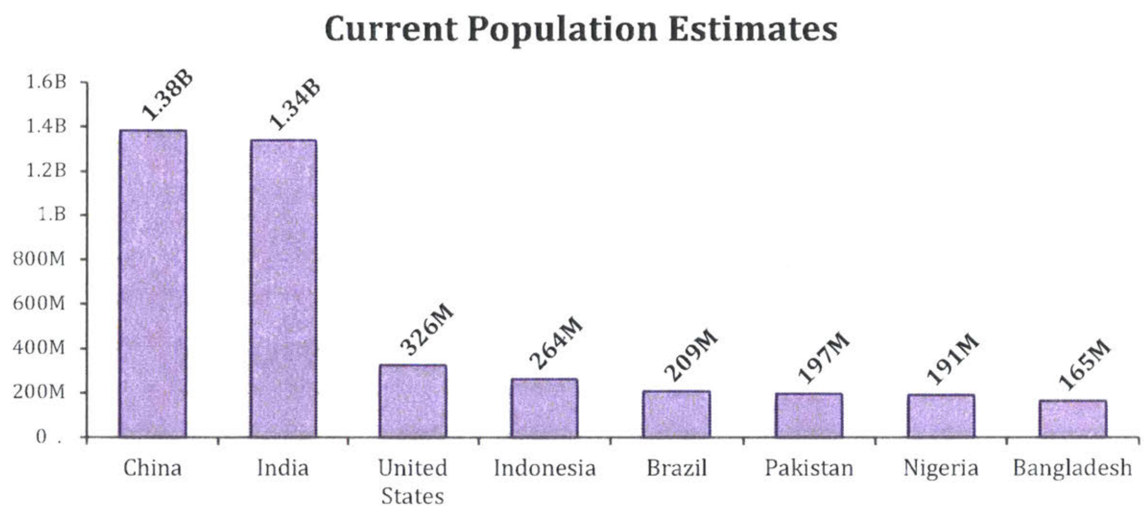
The country's growth was catalyzed by a series of policy and legislative changes that can be traced back to the mid 80's but which picked up steam only in 1991 when India was on the brink of a balance of payment default. These transformative policy and legislative changes opened the gates to foreign investment into the country and are collectively referred to in India as "the economic liberalization policies"..

These winds of liberalization, however, only blew through the real estate sector fourteen years later in 2005 (Non-Residents Indians 2001). Since then, the country has progressively moved on two fronts. On the one hand, it has worked to make the real estate market an attractive investment destination and on the other, it has progressively lowered policy and legislative barriers to entry, as evidenced by the changes to the country's FDI policy.

This thesis examines the challenges and opportunities afforded by India's demographics and FDI policy, and provides an overview of the forces of transformation in India's real estate sector. In doing so, it seeks to serve as a roadmap to the foreign investor evaluating opportunities in the country's real estate market.

2. Overview of the Indian Economy, Demography, and Real Estate Sector

India is the world's second most populous country[3]. It is home to 18% of the world's people equaling that of the five countries trailing it in population size[4]. Its decadal total population increment (2001-2011) of 181 million people was almost equal to the entire population of Brazil today (the 5th most populous country)[5].

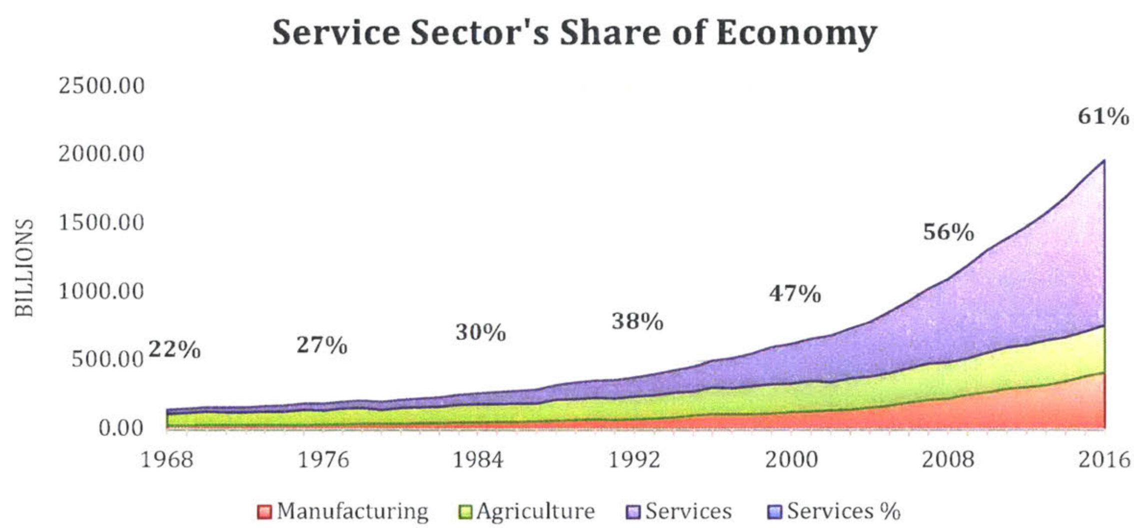


This presents two sets of challenges or opportunities depending on one's perspective. On the one hand are the challenges associated with the size of India's population, and on the other are those associated with the rate and scale of growth of this huge population block.

Any transformation in a population group of this size is significant and India is in the midst of one such transformation. This has been brought on by two interlinked factors one economic and the other demographic. This chapter seeks to examine each of these factors, and the attendant opportunities and challenges, in greater detail.

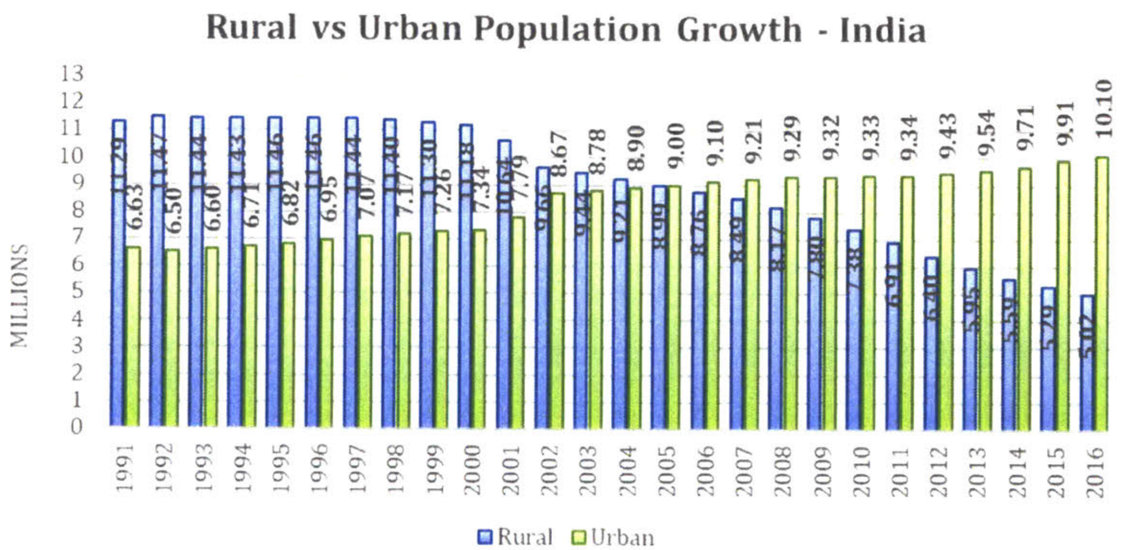
The *economic factor* has its roots in the liberalization of economic policy in 1991 and the resulting inflow of foreign investments. These investments have created economic growth and consequent opportunities that have been dominated by the services and manufacturing sectors while leaving agriculture largely stagnant.

This growth has created employment, wealth and fostered new industries such as Information Technology (IT) and IT-Enabled Services. However, the opportunities created by foreign investment flows have not been uniformly distributed geographically. The jobs created in the growing sectors of the economy have been highly concentrated in urban areas.

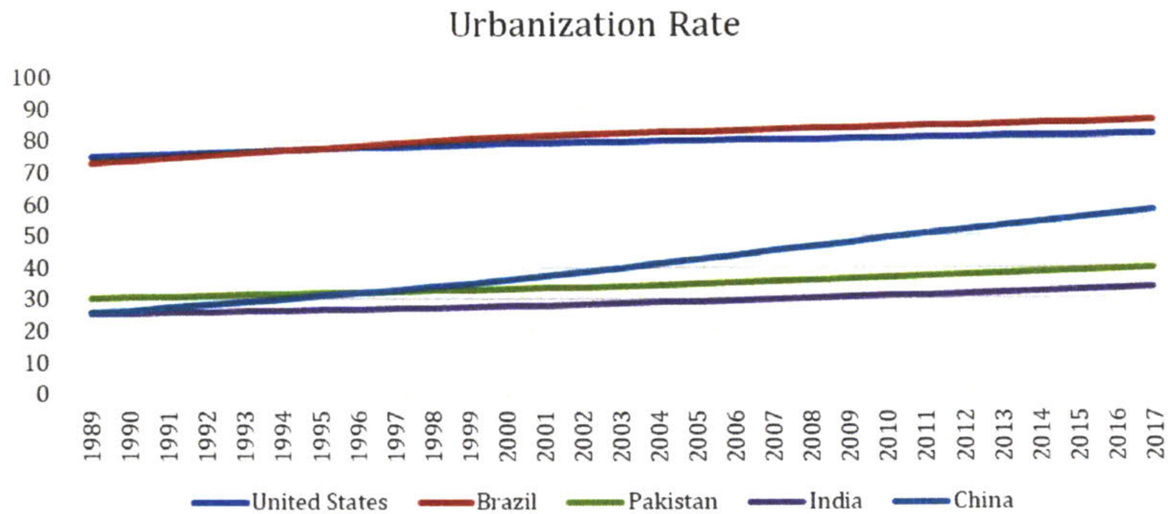


This growth of jobs in urban areas and relative stagnation in the agricultural sector[6] has thus catalyzed a societally transformative demographic factor – rural to urban migration. Evidence of this change may be seen in population growth patterns.

Over the past inter-census decade (2001-2011), the urban population increment (91 million) exceeded the rural increment (85 million)[7] for the first time in the recent past. This trend towards urbanization is projected to continue, leading to a majority of the country's population residing in urban areas by the year 2050.

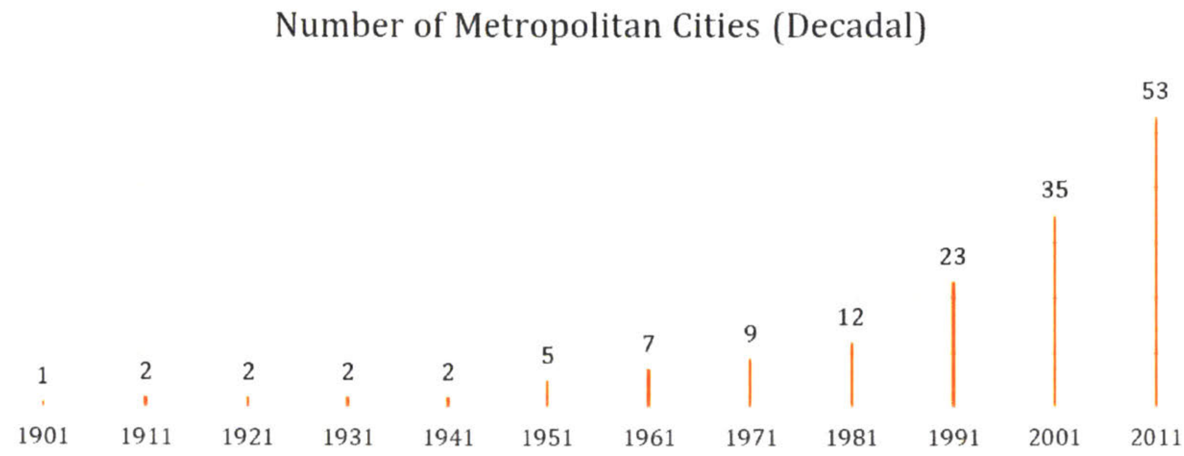


The enormity of this transformation is underscored by the fact that India has one of the lowest rates of urbanization (33%) amongst countries closest to it in population.



However, this low rate of urbanization is changing rapidly. India added the equivalent of New York City to its urban population each year (on average) over the past decade (2001-2011). In absolute terms, India's urban population increased by 91 million representing a 30.4% increase at a compounded annual growth rate of 2.7%. The country's total population, on the other hand, increased by 176 million people, representing a 16.4%[8] increase at a compounded annual growth rate of 1.53%. This has moved the total population to 1.2 billion people.

Urbanization is also reflected in an increase in the number of metropolitan cities with a population greater than 1 million, which grew from 23 in 1991 to 53 in 2011[9]. This is projected to increase to 69 by the year 2025[10].



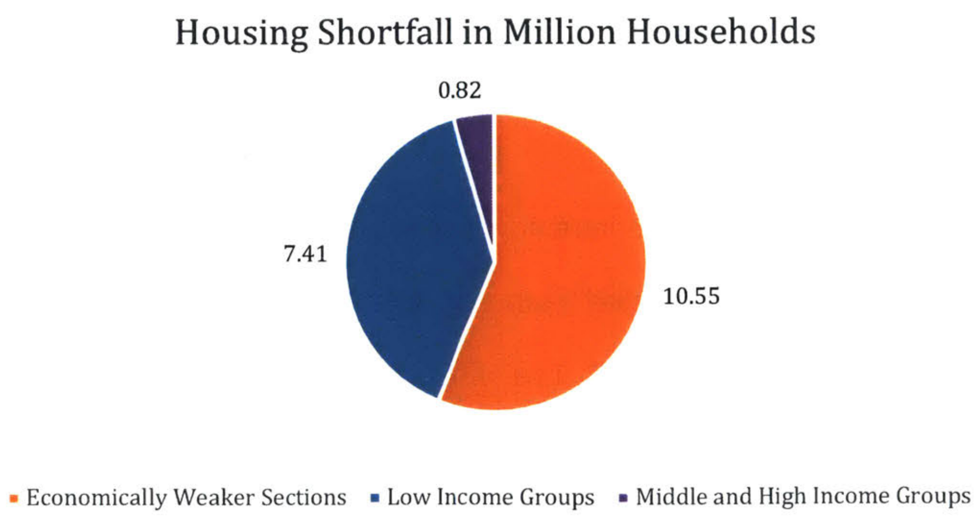
The total number of urban agglomerations have also increased by 54% to 2,774 between 2001 - 2011, far surpassing planning projections[11].

The challenge posed by the demographic response to city-focused foreign investment means that India needs to make significant investments to keep up with the pace and scale of urbanization already underway. This urbanization is projected to continue, through a mix of natural population growth and net urban migration. This growth in urban population is projected to drive the urbanization rate to about to 40% of the population by 2030, and lead to a majority of the country's population residing in urban areas by the year 2050[12].

Changes far less dramatic than those occurring in India would significantly overwhelm the urban infrastructure of even some of the worlds developed economies. For India, a developing country, these changes have led to homelessness, unavailability of basic civic amenities (water, sewage, electricity, roads), the growth of slums, and have hindered urban social mobility.

Urban India today has an estimated number of 33,510 slums housing 8.8 million households, growing at an annual rate of 34%; 56% of these slums are located on government lands (state, central and parastatal)[13]. The International Organization for Migration estimates that up to 50% of all slums are not recognized by the government, thus implying that these numbers are at best under-represented.

The Technical Group on Urban Housing Shortage (TG 2012-2017) estimates the housing shortage contributing to the growth of slums to be in the range of 19 million housing units[14]. This count includes homelessness, household congestion, and housing obsolescence across income groups.

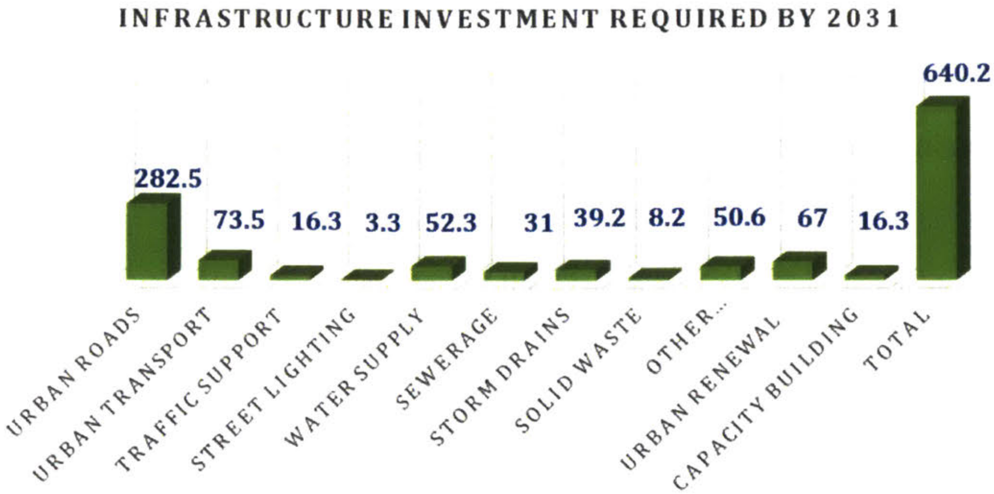


Despite the acute pressures of rapid urbanization, India has had to consistently balance its scarce infrastructure resources between its cities and its villages – where a majority of the country's population continue to live and rightfully require a sustained share of India's finite infrastructure investment resources.

However, with urban India already contributing to 60% of the country's GDP[15], the government has had to undertake a fundamental re-evaluation of its approach to urban investment development and planning.

India is no longer able to approach urban and rural investments as mutually exclusive choices but as simultaneous imperatives. Consequently, there is the realization that domestic capabilities (public and private) are not sufficient to keep up with the pace and scale of India's urban transformation.

This transformation requires infrastructure investment of $640.2 billion between 2012 and 2031 as estimated by the Government of India's High Powered Expert Committee (HPEC)[16]. The HPEC estimates a funding deficit at 0.15–0.39% of GDP per annum for the period 2012 – 2031, which amounts to a gap of $80 – 110 billion[17].



Thus, from a country that restricted its own citizens' ownership and investment in urban land (Urban Land Ceiling Regulation Act 1977), India has taken a continuum of steps in planning, policy and legislation to attract private investment both domestic and foreign into the country's Construction and Development sector.

India's urbanization challenges remain serious in nature and significant in impact. The resources needed to address this problem are non-trivial. The government has sought to encourage the participation of private capital in the sector by granting "infrastructure status" (under Section 80 IB IT Act) to investments and by broadening the types of projects qualifying for this status. The government has also taken a series of steps to professionalize the Indian real estate market, both in legislation and in policy.

The government now seeks to further encourage foreign direct investment from persons resident outside India, and from institutional, venture capital, and sovereign wealth funds. The Foreign Direct Investment Policy (that covers investment into Indian entities and securities), Portfolio Investment Scheme (covering institutional investment), and the Depository Receipts Schemes (allow foreign investors to participate in the DRs of Indian companies) have each been set up to facilitate this.

The following chapters examine in greater detail different elements of government policy designed to promote foreign direct investment in Indian real estate. Chapter 3 provides a general outline of the larger investment process in India and outlines the sectoral policy concepts of investment routes, caps, preconditions, and exits. It also explains how each of the above might impact an investor in India's construction and development sector. Chapter 4 presents a more tactical understanding of the options that investors might encounter during their investment experience, focusing on repatriation and banking channels. Chapter 4 also examines the regulatory role played by the Reserve Bank of India in determining the eligibility of investors and the investment vehicles they may utilize, as specified under the Foreign Exchange Management Act of 1999.

3. Foreign Direct Investment Policy in Indian Real Estate

3.1. Introduction

To the foreign investor, formulating entry strategies into the Indian market, a general overview of India's Foreign Direct investment (FDI)[18] policy is a logical first step. The policy outlines what sectors can be invested in, who may invest in the country, how these investments may be made, when and how they may be traded, and how investments may then be repatriated. This chapter provides an overview of the rules governing each of the above questions.

The Foreign Exchange Management Act, (FEMA) 1999[19], authorizes the Reserve Bank of India – India's Central Bank, to create and enforce regulations under the Act known as the Foreign Exchange Management (FEM) Regulations. Together the Act and its Regulations influence the possibilities and limits for foreign investors in India.

The Department of Industrial Policy and Planning (Ministry of Commerce and Industry) releases FDI policy pronouncements via press note. The Reserve Bank of India (RBI) amends the FEM regulations to reflect changes in the policy. The Act and the Regulations enable the FDI policy and supersede the Policy in case of contradictions.

Key amongst the FEM regulations is TISPRO[20], short for the "Transfer or Issue of Securities to a Person Resident Outside India", promulgated on May 3, 2000. TISPRO is closely related in substance to the subject of the FDI policy, and therefore the following sections of the thesis reference both the FDI policy released on August 28, 2017 and the TISPRO regulations of November 11, 2017.

The policy's coverage linked to FDI offers the reader a strategic view of what investments may be made.

This document divides the FDI policy into two portions,

a) The first portion presents a broader view of the investment process and begins with a review of activities in which foreign investments are permitted and prohibited. It goes on to outlines the concepts of Investment Routes, Caps, Preconditions, and Exits and explains how each of the above might impact an investor in India's Construction and Development sector.

b) The second section presents a more tactical understanding of the options that an investor might encounter through their investment journey.

3.2. Sectoral Policy – Permitted Activities

The FDI policy outlines 26 sectors spanning Construction and Development, Agriculture, Mining, Manufacturing Services and Banking in which foreign investments are permitted. While some of the sectors require government approval prior to investment, a majority of the sectors permit investment under the appropriately named “automatic route”.

3.3. Sectoral Policy – Prohibited Activities

The FDI policy defines eight specific activities in which foreign investments are prohibited:

- Lottery Business
- Gambling, betting, casinos
- Chit Funds
- Nidhi Companies (borrowing and lending within members)
- Trading in transferable development rights
- Real estate business, construction of farm houses
- Manufacture of cigars, cigarettes, cigarillos, cheroots, tobacco, or tobacco substitutes
- Sectors from which the private sector is barred: for example, atomic energy and railways (with exceptions)

The definition of “real estate business” is clarified as being investments of a purely speculative nature aimed at profiting from investments in land and immovable property. It does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, and, city- and regional-level infrastructure. Further, the earning of rental income from the leasing of property, not amounting to a transfer, will not amount to real estate business.

In addition to identifying sectors in which foreign investments are permitted and prohibited, the FDI Policy outlines a number of other important concepts of which foreign investors should be aware, including entry routes, sectoral caps, exits, and transfers.

3.4. Investment Entry Routes

Investments in permitted sectors may be made through two routes: the government route or the automatic route. Generally, routes vary based on the sector of investment. The FDI policy outlines the appropriate route on a sector-by-sector basis.

An investment in a sector under the automatic route does not require prior government permission. India's Construction and Development sector is classified under this route.

In contrast, an investment in a sector classified under the government route requires explicit government permission prior to investment. An example would be an investment in the print media sector.

Investments may also only be made through the government route for two specific cases: i) investments by Persons Resident Outside India who are not Non-Resident Indians (NRIs) investing in a sole proprietorship or a partnership; ii) individual investors and entities registered in certain countries (currently Pakistan and Bangladesh).

3.5. Investment Caps

The FDI Policy uses the term "sectoral cap" to define the proportion of an Indian entity that can be owned by a person resident outside India. Sectoral caps vary based on the sector of investment, and thus the name.

These caps apply to direct investments by a foreign investor as well as to downstream investments by foreign owned Indian entities, a concept explained in greater detail in Chapter 4.

In the context of the Construction and Development sector, India permits foreign ownership of up to 100% of the Indian entity.

The government first opened the Construction and Development sector to NRIs in 2001 and expanded this permission to include non-resident entities other than NRIs in the year 2005 (Press Note - 2 of 2005).

3.6. FDI-linked Investment Conditions

FDI-linked investment conditions layout the basis on which foreign investments are permitted in the country. These conditions are outlined in the FDI policy and vary based on the sector of investment.

Investments in the Construction and Development sector must in turn adhere to the sector specific FDI-Linked investment conditions outlined in greater detail below.

3.6.1. Jurisdiction of States and Urban Local Bodies

Investments in Construction and Development projects must comply with the laws, rules and regulations of the state and local bodies in which the project is located.

The Investor's Indian entity will be responsible for obtaining all necessary permits/approvals prior to, during, and after completion of the project. The state or urban local body in which the project is located will monitor compliance.

3.6.2. Investment Exits

Investments in the Construction and Development sector have FDI-linked conditions that must be met prior to exit. Two key factors influence exit: project stage and the time since the last tranche of foreign funds were transferred.

The foreign investor is permitted to exit upon project completion or at minimum, the completion of trunk infrastructure such as roads, water supply, street lighting, drainage, and sewerage.

Only developed plots may be sold to consumers, i.e. plots with completed trunk infrastructure as outlined above.

In phased projects, the FDI policy views each phase as an individual project and investors are allowed to exit from completed phases.

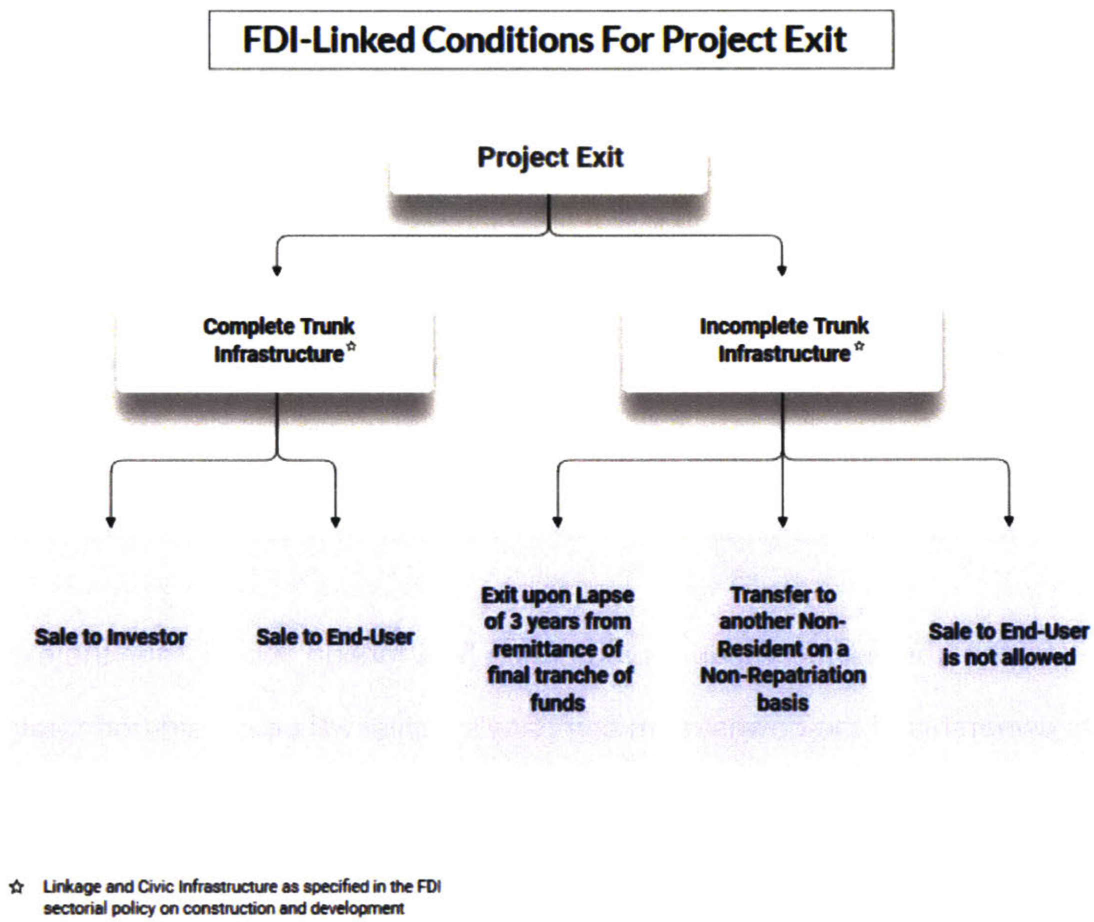
Irrespective of the stage of completion, an investor may exit a project after the passage of three years from the date that the last tranche of foreign funds was originally transferred.

Irrespective of the time since investment or the extent of completion a non-resident investor may transfer its stake to another non-resident investor on a non-repatriation basis.

The FDI policy views the transfer of property as any one of the following:

a. The sale, exchange or relinquishment of the asset
b. The extinguishment of any rights therein
c. The compulsory acquisition under any law
d. Any transaction of a nature referred to in the Transfer of Property Act 1882

e. Any agreement, including share acquisition that has the effect of transferring the enjoyment of any immovable property.



3.7. Down Stream Investments

Indian companies receiving investments from abroad may in turn invest in other Indian companies. The FDI policy refers to these investments as “downstream investments” or “indirect foreign investments” and subjects them to the sectorial policy prohibitions, routes, investment caps.

For our convenience, we will refer to the Indian company receiving the foreign investment in the first place as the "upstream company" that may in turn invest in a downstream company.

Investments and activities of downstream companies are subject to the FDI sectorial policy's FDI-linked prohibitions, limits and preconditions, as follows:

If less than 50% of the upstream company is foreign-owned, then investment in the downstream company will not be considered a foreign investment.

If the upstream company is more than 50% foreign owned, then the extent of its ownership of the downstream company's capital will be considered foreign equity.

If the downstream company is a wholly-owned subsidiary of the upstream company, (i.e. the upstream company owns 100% of its shares) then only 75% of the downstream company's equity is considered foreign equity and the remaining 25% is considered domestic equity.

Combining foreign direct and indirect investment brings us to total foreign investment that must comply with FDI policy investment routes and sectoral caps and FDI-linked conditions as outlined in the previous sections.

In the case of investment vehicles such as Real Estate Investment Trusts (REITs), Infrastructure Investment Trusts (INVITs) and Alternative Investment Funds (AIFs) that have foreign ownership of their units, the extent of foreign ownership of their investment corpus is not a criterion for determining total foreign investment.

The vehicles' investments would be considered domestic if the Sponsor, the Manager, and the Investment Manager are either resident Indian citizens or an Indian entity beneficially owned and controlled by a resident Indian citizen.

Beneficially owned and controlled is defined by the RBI in Notification No. FEMA.362/2016-RB[21]

> "A company shall be considered as owned by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. A Limited Liability Partnership (LLP) will be considered as owned by resident Indian citizens if more than 50% of the investment in such an LLP is contributed by resident Indian citizens and/ or entities which are ultimately 'owned and controlled by resident Indian citizens' and such resident Indian citizens and entities have majority of the profit share."

Understanding the concept and computation of downstream investments enables investors to determine the suitability of potential investment recipients or the viability of potential business plans thus shaping the Non-Resident Investor's strategy. This is covered in some detail in Annexure 5 Clause 1.2 of the FDI policy and is based on Clause 14 of TISPRO Regulations (FEMA, 1999).

3.8. Summary

When viewed together, the specification of permitted and prohibited investments, routes, caps, FDI-Linked investment conditions and downstream investments provide for a broader understanding of sectoral FDI policy.

This understanding of sectoral policy, combined with an understanding of the investment process, enables the non-resident investor to effectively develop a tactical plan to execute an investment strategy. The following chapters look at the elements of the FDI policy, The Foreign Exchange Management Act, 1999 and attendant RBI regulations that could influence an investor's tactical plan.

4. Tactical Considerations to Investing in Indian Real Estate

This chapter takes a process-based view of India's Foreign Direct Investments Policy, by drawing from the policy itself, the rest of TISPRO (FEMA, 1999), and relevant RBI master circulars. To this end, it outlines:

a) Repatriation of investments
b) Banking channels for the flow of Foreign Direct investments
c) Eligible investors and investees
d) The permissible means by which real estate may be owned by non-resident investors.

4.1. Repatriation of Investments

To the Non-Resident Investor, repatriation of cross border investments is a serious consideration. India's laws on external remittances impact investment repatriation. To begin with, these laws differentiate between current and capital account transactions.

Funds from current account transactions are freely repatriable, examples of which are rental income, dividend and interest (RBI Master Circular paragraph 3 No.8/2015-16)[22].

The rules surrounding capital account transactions differ subject to the basis on which the investment was initially made, the source of funds and other parameters as outlined below.

4.1.1. Levels of Restriction on Repatriation

India has three levels of restrictions governing repatriation:

a) Freely repatriable funds may be remitted abroad without restriction

   I. Current income such as dividends rents and interest may be directly remitted abroad
   II. NRI remittances of the sale proceeds of up to two residential properties up to the purchase price are freely repatriable. Capital Gains and the sale proceeds of further residential properties are non-repatriable subject to the rules in (b) – see below.
   III. Refunds on earnest money / application amounts on residential property made by inward remittances or parked in an FCNR(B) account (explained in the following section).
   IV. Remittance in the winding up of a branch or liaison office

b) Non Repatriable funds may be remitted abroad at the rate of 1 million dollars per financial year (April to March):

   I. Capital account transactions involving investments made on a non-repatriation basis
   II. Properties purchased from rupee funds
   III. Principal on loans paid back

c) Repatriation only with prior RBI permission:

I. Remittances in excess of 1 million dollars per financial year

   i. On account of an inheritance, legacy or bequest

   ii. NRI balances in NRO accounts (a type of non-repatriable account explained under account types)

The relevant regulations governing the remittance of assets are covered under RBI notification number FEMA 13(R)/2016-RB, Master Direction – Remittance of Assets No. 13/2015-16[23]

4.1.2. Summary – Repatriation of Investments

This section has sought to build a basic understanding of the rules concerning repatriation, which will be discussed further in the following section on banking regulations.

As evidenced in the preceding paragraphs, multiple factors impact investment repatriation that require tactical consideration given their profound strategic impact on investments. This is evident in the following section on banking channels. Certain bank accounts may be used for investments on a repatriation basis, whereas certain others are for investments on a non-repatriation basis. The following section outlines these rules and provides reference sources as well. These areas are not directly covered in the FDI policy and have been drawn from relevant RBI publications up to date at the time of the writing of this document.

4.2. Banking Channels

The Foreign Exchange Management Act (FEMA), 1999[24] authorizes the Reserve Bank of India (RBI) (under Section 47 (2)), to create, administer, and enforce regulations under the Act and under Section 10 (1) to appoint "authorized persons" to conduct foreign exchange transactions in compliance with the Act.

A subset of these authorized entities, Authorized Dealers Category 1 (AD-1) (normally banks), are permitted to engage in compliant transactions necessary for the flow of current and capital account funds. Other Authorized persons include Category II and Category III Authorized Dealers, fully fledged money changers, and offshore banking units that are less relevant to foreign direct investment, and hence, are addressed in lesser detail.

Under the Foreign Exchange Management (FEM) regulations, the RBI drafts and disseminates Regulations, Notifications, Master Circulars, Press Notes, and Amendments to these "Authorized Persons". These Authorized Persons are required to comply with RBI regulations and are subject to RBI oversight as outlined in Section 11 and 12 of FEMA, 1999.

Through its Authorized Persons (AD1/ banks), the RBI controls and monitors the types of accounts that Foreign Direct investors might use, the types of transactions in which they may engage (capital vs current account transactions), and the repatriation of these investments.

This section provides an overview on the seven types of accounts available to persons resident outside India. It does so by looking at the rules concerning the transfer of immovable property using Foreign Exchange Deposit Regulations FEMA 5(R)/2016-RB, FEMA,1999 as a reference.[25]

4.2.1. Special Non-Resident Rupee Account (SNRR) Account

Eligibility

Any person resident outside India with a business in India may open a Special Non-Resident Rupee (SNRR) account.[26]

Account Type

SNRRs are fully repatriable, rupee-denominated, non-interest bearing, and taxable accounts. They have a finite maximum life of 7 years from the date of opening. Debits and credits from the account must be incidental and commensurate to the business proposed. Regulations governing SNRRs accounts are available under Schedule 4 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[27]

4.2.2. Non-Resident External (NRE) Account

Eligibility

These accounts may be opened by Non-Resident Indians with RBI authorized entities (authorized dealers/banks).

Account Type

NRE accounts are rupee-denominated, repatriable accounts that may be maintained as a savings, current, recurring, or fixed deposits with interest rates determined by the RBI.

Account Operations

This account may be funded by inward remittances in permitted foreign currency, transfers from similar accounts (NRE/FCNR-B), income from India after taxes and current income in India, including interest accruing on the account. Interest from the account is exempt from income tax and balances from wealth tax.

This account may be used for purchase of immovable property and permissible securities, local disbursements, and for investments made under general or special permission from the RBI. It may also be used to receive funds from the sale of compliant investments originally purchased through the account.

Regulations governing NRE accounts are available in Schedule 1 of the

Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[28]

4.2.3. Non-Resident Ordinary Accounts (NRO)

Eligibility

Any person resident outside India may open an NRO account with an authorized dealer/bank.

Account Type

This is a rupee denominated, non-repatriable account that may be maintained as a savings or current account, recurring, or fixed deposit with interest rates determined by the RBI.

Permitted Uses and Funding

The account may be used to invest and/or divest in permitted investments (in India), to make local payments compliant with FEMA,1999, to repatriate after-tax current income and to make transfers to other NRO accounts. Funds may also be used as surety for rupee loans to the account holder or to third parties subject to restrictions outlined in the deposit regulations.

The account may be funded by foreign currency from abroad, current income earned in India, transfers from other NRO accounts, or other payments compliant with FEMA, 1999.

Regulations governing NRE accounts are available under Schedule 3 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[29]

4.2.4. Foreign Currency (Non-Resident) Account (Banks) – FCNR(B)

Eligibility

An NRI may open and operate a Foreign Currency Non-Resident Bank (FCNR-B) account with an authorized depository/bank.

Account Type

FCNR-(B) is a foreign currency-denominated, repatriable account that may only be held in the form of a term deposit. The Reserve Bank of India designates the permissible currencies in which deposits may be made and the rate of interest that may be offered to the account holder.

Permitted Uses and Funding

This account may be used for purchase of immovable property and permissible securities, local disbursements, and for investments made under general or special permission from the RBI. It may also be used to receive funds from the sale of compliant investments originally purchased through the account.

This account may be funded by remittances in permitted foreign currency, transfers from similar accounts (NRE/FCNR-B), income from India after taxes and current income in India including interest accruing on the account. Interest from the account is exempt from income tax and balances are exempt from wealth tax. Deposits in non-designated currencies must first be swapped into designated currencies prior to deposit.

Regulations governing FCNR-B accounts are available under Schedule 2 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[30]

4.2.5. Escrow Accounts

Eligibility

An escrow account may be opened with an authorized dealer jointly and severally by non-resident corporates, and other resident and non-resident acquirers.

Account Type

These are non-interest bearing, rupee-denominated, accounts created to enable share transactions under Securities and Exchange Board of India's (SEBI's) Substantial Acquisition and Shares Takeover (SAST) rules and the FEMA, 1999 (TISPRO) Regulations 2000.

The account may be kept open for the lesser of six months or the completion of the transaction. Any extension beyond this period requires explicit permission from the RBI.

Balances after the close of transactions, or in the event that a transaction fails to materialize, are repatriable.

Regulations governing Escrow accounts are available under Schedule 5 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[31]

4.2.6. Deposits Schedule 6

Eligibility

Non-Resident Indians (NRIs) may make repatriable deposits in a company incorporated in India under the Public Deposit Scheme subject to the company receiving deposits having been registered with the RBI. Non-Banking Finance Companies are exempt from such registration.

Account Type

These are repatriable deposits made from inward remittances with maturities of up to three years. Interest and return of principal may either be deposited in repatriable (NRE/FCNR-B) or non-repatriable (NRO) accounts.

Permitted Uses and Funding

The amount of aggregate deposits shall not exceed 35% of a company's net owned funds, may only be re-lent if the company accepting deposits is a non-banking finance company, and may not be used (directly or indirectly) in the purchase of agricultural land, plantations, and in real estate business (the purchase of real estate for the purpose of speculation).

The interest rate offered is regulated by the RBI in the case of non-banking finance companies accepting such deposits and by the Companies Act (Acceptance of Deposit) Rules, 2014 for all other companies.

Regulations governing these deposits are available under Schedule 6 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[32]

4.2.7. Deposits Schedule 7

Eligibility

Non-Resident Indians (NRIs) may make non-repatriable deposits in a company incorporated in India either through private arrangement or under the Public Deposit Scheme subject to the company receiving deposits having been registered with the Reserve Bank of India (Non-Banking Finance Companies are exempt from such registration).

Account Type

These are non-repatriable deposits made from inward remittances with maturities of up to three years that may only be made from an NRO account.

The interest rate offered is regulated by the RBI in the case of non-banking finance companies accepting such deposits, and by the Companies (Acceptance of Deposit) Rules, 2014 for all other companies.

Regulations governing these deposits are available under Schedule 7 of the Foreign Exchange Management (Deposit) Regulations 2016 - FEMA 5(R)/2016-RB.[33]

4.2.8. Summary: Banking Channels

Eligibility and investment repatriation are key factors in choosing the type of account through which non-resident funds may be channeled into the country.

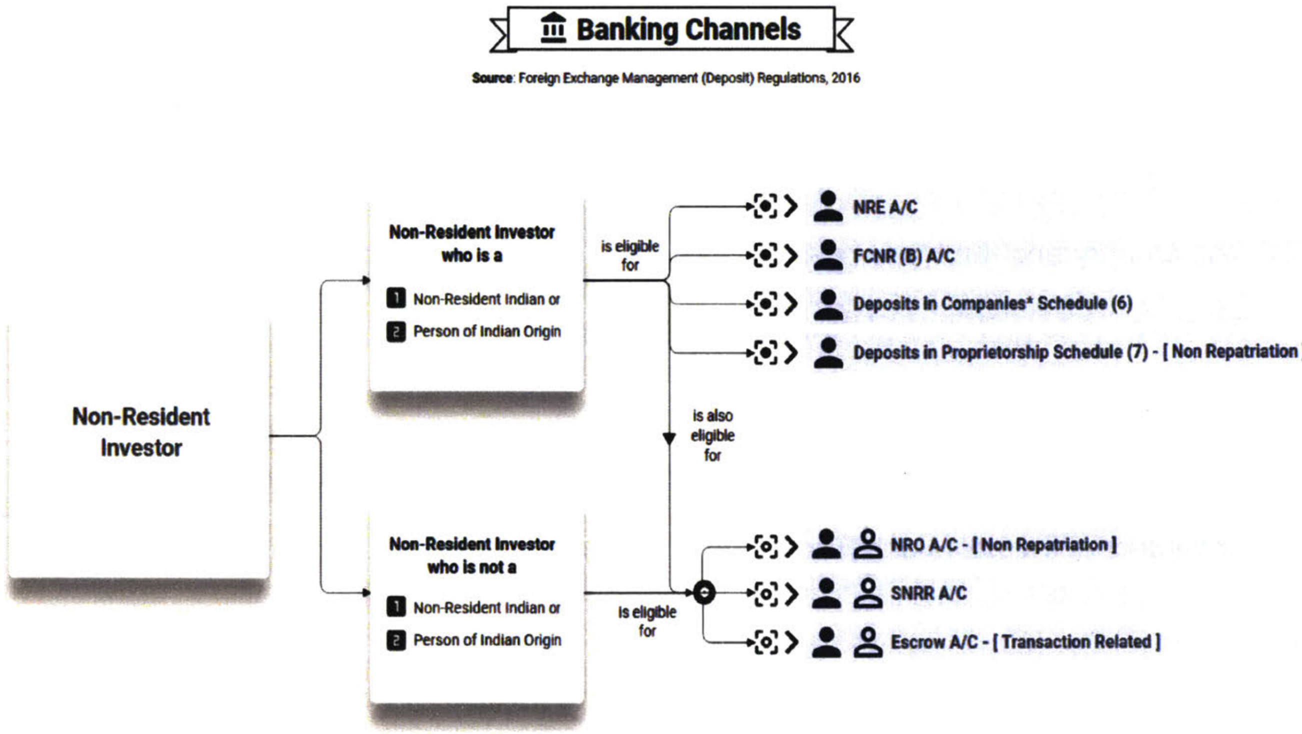
Non-Resident Indians (NRIs) have a greater number of options, being able to choose between accounts that permit investment on a repatriation basis, such as NRE, FCNR-B, SNRR accounts or on a non-repatriation basis such as NRO Accounts or the deposit schedules.

Other persons resident outside India (i.e. non-resident investors who are not NRIs) may only use SNRR accounts to invest in India's Construction and Development sector. This is because ownership of real estate by a non-resident not classified as an NRI is only allowed in very selective cases in India.

However, this group is permitted to invest in an Indian property ownership entity (entity types explained in further sections) that could take the form of a wholly owned subsidiary or a joint venture company, qualifying them to open and operate an SNRR account.

In past sections we have looked at types of permitted investments and the banking channels they may use. Moving ahead over the next sections, we look at eligible investor and recipient entities. This is a key part of an investor's tactical strategy.

4.2.9. Banking Channels Graphical Overview



☆ Foreign Exchange (Deposit) Regulations, FEMA 13(R)/2016 - RB
Link: https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTINO5(R)DE2833D3DFA8415BA5B586CFA3D4A946.PDF

4.3. Eligible Investors

While the previous section outlines the banking channels through which foreign investors may invest in India, this section outlines the types of entities that might use these banking channels to make foreign direct investments into the country and the types of entities in which they may invest. A first step in this direction is to understand how the policy classifies investors.

India permits FDI by Non-Resident Entities, Non-Resident Indians, Foreign Institutional Investors and Foreign Venture Capital investors.

The following section looks at each of these investor groups and outlines the rules governing them. The schematic diagram in this section also presents a graphic description of these groups.

4.3.1. Persons Resident Outside India

For the purposes of the FDI policy and our discussion ahead, Persons Resident Outside India are subdivided into two groups: NRIs (and the entities owned and controlled by them) and Non-Residents who are **not** NRIs (and the entities owned and controlled by them).

This section outlines the options available to the universal set of Persons Resident Outside India who are evaluating investing in India's Construction and Development sector. NRIs are offered special dispensations under the FDI policy and these are outlined separately in the chapter on the Non-Resident Indian opportunity.

Entities in this case include individuals, companies, firms, associations of people, and every artificial juridical person resident or incorporated outside India who will collectively be referred to as "Persons Resident Outside India" in the following paragraphs.

Persons Resident Outside India may make investments on a repatriation basis in the Capital of Indian Companies and through investment vehicles such as Real Estate Investment Trusts, Infrastructure Investment Trusts and Alternative Investment Funds.

4.3.2. Investments by Persons Resident Outside India

Persons Resident Outside India may invest in Indian Companies and investment vehicles such as Real Estate Investment Trusts, Infrastructure Investment Trusts and Alternative Investment Funds on a repatriation basis against the issue of FDI compliant capital instruments. These investments are subject to sectorial policy routes (automatic or government route) and FDI-linked investment caps and conditions (see Chapter 3).

The Indian company may in turn issue equity shares, fully compulsorily and mandatorily convertible debentures, and preference shares priced in compliance with FEMA, 1999 and SEBI's Issue of Capital and Disclosure Requirements (ICDR). Warrants, fully and partly paid shares, shares with optionality clauses, and depository receipts may be issued in return for FDI.

These instruments may be issued against funds remitted, against capital swap, external commercial borrowings, sweat equity, as a rights issue, or under a merger, demerger, or amalgamation.

Any security in which a person resident outside India may invest is also an eligible instrument for the issue of global depository receipt in terms of the depository receipt scheme of 2014. A person may issue or transfer eligible instruments to a foreign depository or a domestic custodian may purchase eligible instruments for the purpose of converting the instruments into depository receipts. Eligible securities may only be issued or transferred at a price equal to or greater than that offered to domestic investors. The aggregate of eligible instruments held by foreign entities must not exceed the limit placed on foreign holdings by regulations under FEMA, 1999.

This FDI-compliant equity may be acquired on a stock exchange or by private transaction or from the incorporation of an Indian entity. This could take the form of an investment in an existing Indian company, a startup or the creation of a wholly owned subsidiary or a joint venture company.

4.3.3. Transfer of FDI-Compliant Capital Instruments

Persons resident outside India may acquire capital under general permission as follows.

- Purchase by a Person Resident Outside India of FDI compliant instruments including subscriber's equity from a resident.
- A Person Resident Outside India may sell or gift instruments to another Person Resident Outside India in sectors such as Construction and Development that are under the automatic route.
- A Person Resident Outside India may transfer instruments by way of gift or private sale to a resident or by sale on a stock exchange through a stockbroker or a merchant banker.
- A Person Resident Outside India may also participate in a company "buy-back".
- An NRI may transfer instruments by way of sale or gift to another NRI.

Sales and purchases between Persons Resident Outside India and Resident Indians must adhere to pricing guide lines outlined in clause 5.2 Section 1 of Annexure 3 of the FDI policy.[34]

Payment for capital instruments must be made through Inward remittances or funds in NRE/FCNR(B) accounts. Sale proceeds, dividends and profit may be remitted outside India through NRE or FCNR(B) accounts.

4.4. Investment Vehicles

A Person Resident Outside India, including a SEBI Registered Foreign Portfolio Investor, may acquire units in an investment vehicle such as a Real Estate Investment Trust (REIT),[35] Infrastructure Investment Trust (INVIT)[36], or an Alternative Investment Fund (AIF)[37] under Schedule 8 of TISPRO, FEMA, 1999[38]. These vehicles are registered and regulated by SEBI and must comply with its regulations (AIF Regulations 2012, REIT regulations 2014, INVIT regulations 2014).

This section seeks to provide an overview of the structure of these investment vehicles, permitted and prohibited investments, and the means by which a person resident outside India may invest in them.

4.4.1. REITS – Structure

REITs are investment vehicles registered under the SEBI Real Estate Investment Trust Regulations 2014. An entity structured as a REIT is required to comply with requirements under the regulations governing the nature of its income, the type of assets it invests in and the extent of its distribution.

The REIT regulations of 2014 specify that entities registered these regulations must hold a minimum of 80% of its assets and derive a minimum of 75% of its value from completed rent-generating property.

These entities must generate a minimum of 51% of their revenues from renting and leasing property and are required to distribute of 90% of their annual earnings to their unit holders.

The vehicle's investments would be considered foreign investment if the Sponsor or the Manager or the Investment Manager is not a resident Indian citizen or beneficially owned and controlled by an Indian entity that in turn is beneficially owned and controlled by a resident Indian citizen. The extent of foreign ownership of a REIT's investment corpus is not a criterion for determining total foreign investment.

4.4.2. Infrastructure Investment Trusts (INVITS)

Infrastructure Investment Trusts are vehicles that may invest in Public Private Partnerships (PPP) or in non-PPP infrastructure projects.

An INVIT must invest a minimum of 80% of its value either directly or through its SPVs or Hold Cos in the purchase of a completed and revenue generating infrastructure project. Up to 20% of the value of the INVIT may be invested in projects under construction up to a maximum of 10% of the value of the INVIT's assets, and the remaining in listed or unlisted corporate debt or equity of companies in the infrastructure sector, government securities, or money market instruments or cash equivalents.

Non-Residents investing in an INVIT may either do so by inward remittances from abroad or from funds in NRE/FCNR(B) accounts and divestment proceeds similarly may either be remitted outside India (net of taxes) or held in an NRE/FCNR(B) account.

4.4.3. Alternative Investment Funds

India uses the term "Alternative Investment Fund" (AIF) to refer to a privately pooled investment vehicle established or incorporated under SEBI's AIF Regulations 2012. AIFs include Venture Capital, Private Equity Funds, and Angel funds. AIFs are classified into 3 categories that differ based on the types of investments they make.

AIFs may accept investments from persons resident within or outside India through private placement on the basis of SEBI approved placement memorandum outlining purpose, strategy, and methodology of investment.

Each scheme of a Category I and II AIF must have a minimum size of about 3.1 million USD (200,000,000 Rupees), a minimum individual inward investment size of about 157,000 USD (10,000,000 Rupees) and a maximum of a thousand investors.

Category I & II AIFs must be structured as close ended funds with a minimum tenure of 3 years while. Close ended funds may be listed on stock exchanges after final close of the scheme and subject to a minimum tradable lot of 157,000 USD (10,000,000 Rupees). Category III AIFs may either be structured as open or close ended schemes with no minimum tenure mentioned in the regulations.

AIF - Category 1

These funds invest in startup/early stage or Social ventures, in government or regulator defined priority sectors such as infrastructure and in Small and Medium Enterprises. They may invest in existing venture capital undertakings, Special Purpose Vehicles (SPVs), Limited Liability Partnerships or in other AIFs.

AIFs are required to invest at least two thirds of their investable funds in the unlisted equity shares or the equity linked instruments of a venture capital undertaking (as defined in SEBI's AIF regulations 2012) or in Small and Medium Enterprises listed or proposed to be listed on an exchange.

They may invest up to the remaining one third in the equity of a VCU that proposes to be listed, the debt of a VCU, preferential allotment of a listed company, equity or linked instruments of a financially weak company or in SPVs engaged in investing under these regulations.

Category 1 AIF are further subdivided based on their area of investment focus and the AIF regulations place further sector specific requirements.

- Venture Capital Funds
- Social Venture Funds
- Small and Medium Enterprise Funds
- Infrastructure Funds
- Angel funds and other category 1 AIFs

AIF - Category 2

These are close-ended funds that do not fall in either Category 1 or 3, and do not undertake leverage other than to meet day to day operational requirements as permitted in the SEBI's AIF regulations 2012. They may invest in unlisted investee companies or in other AIFs.

AIF - Category 3

These are funds that may either be open or close-ended, that employ diverse or complex trading strategies including leverage through investment in listed or unlisted derivatives.

4.4.4. Startup Companies

A startup is a private company or a limited liability partnership that is within seven years of its incorporation, and one in which the annual turnover in any year has not exceeded 3.9 million dollars (INR 25 Crore). However, entities formed by splitting or reconstructing a business already in existence, do not qualify as startups.

Also, these entities must be engaged in innovation, development, deployment, or commercialization of new products, processes or services driven by technology or intellectual property. Alternatively, they could be companies with a scalable business model with high potential for employment and/or wealth generation. This section references G.S.R. 180(E) and the superseding notification G.S.R. 501(E)[39].

Startups satisfying the above conditions may enjoy an income tax exemption for a period of three years (subject to non-distribution of dividends) upon certification from an Inter-Ministerial Board and are allowed to self-certify on labor and environmental laws.

Persons Resident Outside India may purchase the convertible notes of startups in a minimum tranche size of 40 thousand USD (25 Crore INR). Startups may also issue equity or debt linked instruments to Foreign Venture Capital Investors and NRIs may acquire convertible notes on a non-repatriation basis

(Schedule 4 – FEMA 20/2000 RB- 3rd May 2000) as outlined in the section on NRIs.

Persons Resident Outside India may invest by inward remittances of funds or from funds in an NRE/FCNR(B)/Escrow account.

4.4.5. Summary

This section reviews the types of entities that might receive investments from Persons Resident Outside India. These include Companies, Joint Ventures, and Investment Vehicles such as REITS, INVITS, and AIFs. It also looks at the instruments of investment such as equity, debt, and depository receipts that investors may use to make these investments.

However, one key subgroup of Persons Resident Outside India, the Non-Resident Indian, enjoys a broader set of investment options that the following section examines.

5. The NRI Opportunity

5.1. The Non-Resident Indian (NRI) Status

While each of the previously mentioned investment routes are available to persons resident outside India, a subset of this group is the Non-Resident Indian (NRI). They have historically received special dispensations for their investments in India in recognition of their strategic significance to the flow of foreign investments into the country. This chapter covers the privileges and restrictions applicable only to this group.

NRIs are citizens of India who have lived abroad for more than 182 days in the preceding year for work or business, and have indicated an intention to stay outside India indefinitely as defined in 2v and 2w of FEMA, 1999.[40]

Starting in 2015, the Department of Industrial Policy and Planning (DIPP) broadened the meaning of NRIs in the FDI policy to include Overseas Citizens of India (OCI) and Persons of Indian Origin (PIO) via Press Note 7 of 2015.[41]

OCIs include former Indian citizens, and the non-Indian descendants of former and current Indian citizens (Section 7A of the citizenship Act)[42]. PIOs are a group that has been subsumed by Overseas Citizens of India. The Department of Industrial Policy and Planning refers to NRIs, OCIs, and PIOs collectively as NRIs.[43]

5.2. Special Investment Privileges available to NRIs

NRIs and the non-Indian Entities, Trusts and Partnerships owned and controlled by them, have the choice of investing in India on a repatriation or on a non-repatriation basis. Investments made by NRIs and the non-Indian Entities owned and controlled by them, on a non-repatriation basis are viewed on par with investments made by a domestic investor, and are thus exempt from the FDI-linked investment conditions placed on them by the policy (e.g. lock-ins etc.).

However, when an investment is made on a non-repatriation basis, the investor may only repatriate up to 1 million USD per financial year (April 1 to March 31 of the next calendar year) from capital account transactions. The rules for non-repatriation investments are outlined in Schedule 4 – TISPRO regulations, FEMA, 1999. Current account transactions such as rents, interest, and dividends are freely remittable under FEMA, 1999.

NRIs are permitted to invest in Capital Instruments, Limited Liability Partnerships, and Sole Proprietorships, on a non-repatriation basis, details of which are covered in the following sections.

5.2.1. Purchase of Capital Instruments on a Repatriation Basis

Non-resident Indians may purchase or sell capital instruments in listed Indian companies on a repatriation basis subject to individual limits and aggregate limits. Individual limits refer to the individual holding of an NRI and aggregate limits refer to the total NRI holding in a company.

The total holding by any individual NRI cannot exceed 5% of the paid-up capital of a listed Indian company on a fully diluted basis, and in the case of debentures the ownership cannot exceed 5% of each series.

The aggregate holding by all NRIs cannot exceed 10% of the equity or of each series of debentures. This aggregate limit may be increased to 24% by a resolution of the company's general body and with RBI approval.

Securities may be purchased by NRIs through inward remittance or from funds in NRE/FCNR(B) accounts that will be re-designated as Portfolio Investment Scheme accounts and used solely for transactions such as those outlined in TISPRO schedule 4. Funds from the Sale of these securities may be deposited in a NRE/FCNR(B) account and may be remitted outside India.

5.2.2. NRI - Limited Liability Partnership

FDI from a person resident outside India is permitted under the automatic route in Limited Liability Partnerships (LLPs) engaged in sectors that permit 100% FDI without any FDI-linked performance conditions. The Construction and Development sector has FDI-linked investment conditions and thus, LLPs in the sector would not normally be eligible to receive FDI.

However, NRI funds on a repatriation basis are viewed on par with domestic investments and may thus invest in limited liability partnerships subject to the sectoral prohibitions mentioned in section 3.3. NRIs are permitted to invest in the capital, units, or non-convertible debenture issued by an LLP without any limit either on a stock exchange or private sale. Non-repatriation investments by NRIs in an LLP are covered under schedule 4 of TISPRO, FEMA 1999[44].

Investments may be made by inward remittances or from funds in NRE/FCNR(B)/NRO accounts. Any principal and capital appreciation from the Sale proceeds of capital investments in an LLP cannot be repatriated as the original investment was made on a non-repatriation basis and must be deposited in an NRO account.

5.2.3. NRI - Investment in Sole Proprietorships on a non-repatriation basis

NRIs may invest in the capital of sole proprietorships on a non-repatriation basis in an Indian firm provided that it is not engaged in agriculture, plantations, print media, or real estate business.

Investments may be made by inward remittances or from funds in NRE /FCNR(B)/NRO accounts. Sale proceeds of capital investments in a firm/ sole proprietorship cannot be repatriated and must be deposited in an NRO account. Any such investment or capital appreciation cannot be repatriated.

5.3. Restrictions on NRI Investments

Even on a non-repatriation basis, NRIs continue to be restricted from investing in agricultural property, transferable development rights, real estate business (speculative trading), and in the construction of farmhouses.

While the FDI policy has merged OCIs with NRIs (and the now discontinued PIOs) and refers to them jointly as "NRI", the rest of the Foreign Exchange Management Act does not do so. Thus, property transfers by these groups are bound by differing rules as outlined in the table below.

<table>
<tr><th></th><th>NRI</th><th>PIO/OCI</th></tr>
<tr><td>Purchase (non agri land/ farm) from</td><td>Resident/ NRI</td><td>Resident/ NRI</td></tr>
<tr><td>Acquire as gift (non agri land/ farm) from</td><td>Resident / NRI/ PIO</td><td>Resident/ NRI/ PIO</td></tr>
<tr><td>Inherit any type of property from</td><td colspan="2">(a) Any person who has acquired it under laws in force
(b) under section 6(5)[iii] of FEMA</td></tr>
<tr><td>Sell (non agri land/ farm) to</td><td>Resident / NRI/ PIO</td><td>Resident</td></tr>
<tr><td>Sell (agricultural land) to</td><td>Resident</td><td>Resident Indian citizen</td></tr>
<tr><td>Gift (other than agricultural land) to</td><td>Resident / NRI/ PIO</td><td>Resident / NRI/ PIO</td></tr>
<tr><td>Gift (agricultural land) to</td><td>Resident</td><td>Resident Indian citizen</td></tr>
<tr><td>Gift residential/ commercial property to</td><td>Resident / NRI/ PIO</td><td>Resident / NRI/ PIO</td></tr>
</table>

https://www.rbi.org.in/scripts/FAQView.aspx/FAQView.aspx?Id=117

6. The FII/FPI Opportunity

6.1. Foreign Institutional Investors (FII) or Foreign Portfolio Investors (FPI)

Foreign Institutional Investors (FII) and Foreign Portfolio Investors (FPI)[45] may invest in the capital of an Indian company through the Portfolio Investment Scheme either through public offer or private placement.

The Portfolio Investment Scheme limits the holding of each foreign investing entity to less than 10% of each series of debentures, preference shares or share warrants issued by an Indian company. In case the individual holdings of an FPI equals 10% or more of the paid-up value, the total investment made by the FPI will be reclassified as Foreign Direct Investment and will be subject to SEBI and RBI rules for the same.

The aggregate holding by all FPIs must not exceed 24% of the paid-up capital of an Indian company. This limit may be increased to the sectoral cap by a resolution of the company's board of directors and with the approval of the Reserve Bank of India.

Foreign Portfolio Investors making a public offer for capital instruments of a company must satisfy FEM-TISPRO (Foreign Exchange Management – Transfer or Issue of Security by a person Resident Outside India) pricing guidelines for public or private offers outlined in Schedule 2 clause 3 and the valuation thus arrived at must be certified by a SEBI registered Merchant Banker, a Chartered Accountant, or a Cost Accountant.

Inward remittances or funds held in compliance with the Foreign Exchange Management Deposit Regulations 2016 (FEMA 5(R)/2016-RB) may be used for purchase of securities of Indian companies. These funds may be held in a foreign currency account, or Special Non-Resident Rupee (SNRR) account to make the purchase. Sale proceeds net of taxes may be remitted outside India or to the foreign currency account or the SNRR account. The rules outlining investments by Foreign Portfolio Investors are outlined in Schedule 2 of FEMA 20(R)/2017-RB.

6.1.1. Foreign Venture Capital Investors

SEBI registered Foreign Venture Capital Investors (FVCI)[46] may invest in the 10 sectors listed below and notified in Schedule 7 of TISPRO FEMA, 1999.

- Infrastructure
- Hotel convention centers with seating in excess of 3000
- Biotechnology
- IT related hardware and software
- Nanotechnology
- Seed research and development
- Pharmaceuticals (R&D of new chemical entities)
- Dairy

- Poultry
- Bio-fuel production

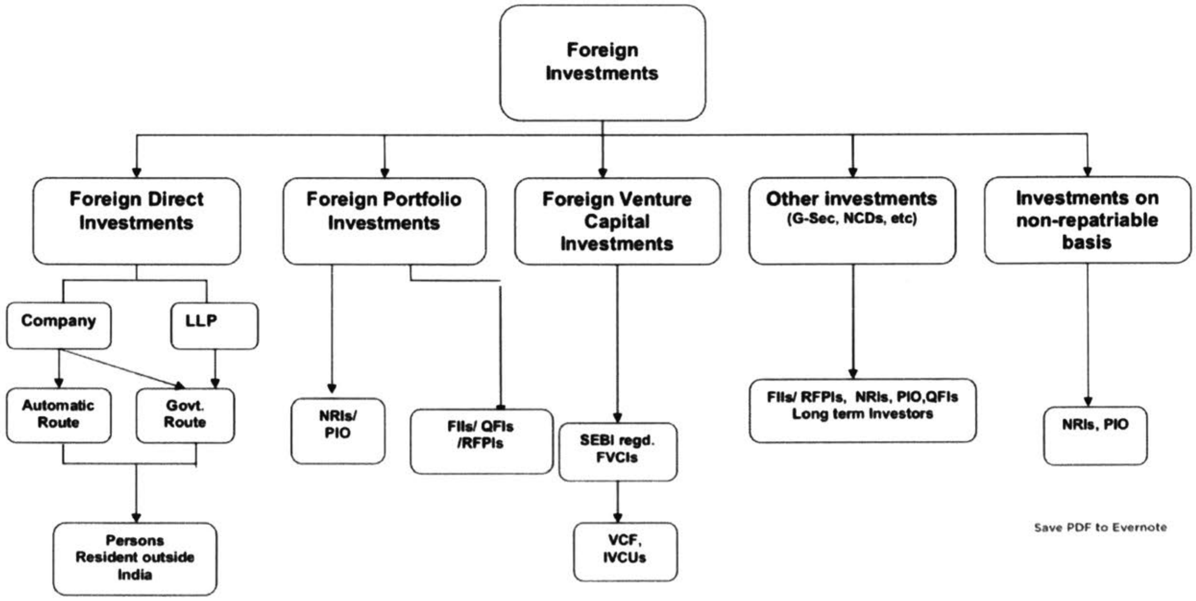
Subject to FDI-linked caps, routes and investment conditions, an FVCI may invest in securities of those companies (in the above listed sectors) that were not listed at the time of issue or in securities of a startup in units of a Venture Capital Fund, Category I Alternative Investment Fund or in the units of schemes setup by them.

FVCIs may acquire these securities directly from the company, or from the holder of securities or on a recognized stock exchange at a mutually acceptable price.

The amount of consideration may be paid by inward remittance, in a foreign currency account or an SNRR account of the FVCI. Sale proceeds may be remitted abroad via the foreign currency account or an SNRR account of the FVCI. The rules governing investments by FVCIs are outlined in Schedule 7 of FEMA 20(R)/2017-RB.[47]

Part – I

Foreign Investments in India—Schematic Representation:



7. Conclusion

The focus of this thesis has been to present a road map for the foreign investor evaluating an entry into India's Construction and Development Sector. Chapters 2 and 3 explore the general nature and scale of the investment opportunity in India as well as the rules governing foreign direct investment in the real estate sector of the economy. Liberalization of economic policy in 1991 and the resulting inflow of foreign investments led to rapid growth of India's economy, particularly in the services and manufacturing sectors. The fact that job creation in these sectors has been concentrated in the country's urban areas, coupled with the relative stagnation of rural-based agriculture, has generated a demographic wave of rural–urban migration that in turn has intensified the need for further investment in urban infrastructure, particularly housing, to accommodate the population influx.

Foreign investment in India's Construction and Development sector (as well as other sectors of the economy) is regulated primarily by: (1) India's Foreign Direct Investment (FDI) Policy, which outlines what sectors can receive investment, who may invest in the country, how these investments may be made, when and how they may be traded, and how these investments may ultimately be repatriated; and (2) the Foreign Exchange Management Act (FEMA), 1999, which authorizes the Reserve Bank of India to create and enforce regulations under the Act known as the Foreign Exchange Management (FEM) Regulations. Key amongst the FEM Regulations is the "Transfer or Issue of Securities to a Person Resident Outside India" (TISPRO), promulgated on May 3, 2000.

Chapters 4, 5, and 6 then proceed to explore tactical issues encountered by the foreign investor in the real estate sector, focusing on repatriation, appropriate banking channels for investment, the eligibility of particular groups of investors, and available investment vehicles. Depending on eligibility and circumstance, three levels of restriction on repatriation are available to the foreign investor (freely repatriable, non-repatriable [limited repatriation], and repatriation only with prior RBI permission) as well as seven banking channels for foreign exchange transactions.

A diverse pool of investment vehicles is available to eligible foreign investors, including: Real Estate Investment Trusts; Infrastructure Investment Trusts; Alternative Investment Funds; Startup Companies; Global Depository Receipts; Limited Liability Partnerships; and Sole Proprietorships on a Non-Repatriation Basis.

By synthesizing and drawing context from the FDI Policy and FEMA regulations, this thesis provides an in-depth examination of India's FDI Policy and process. While the considerations involved in the development of a cross-border investment plan are broader than the country's investment policy alone, this thesis provides the investor with the valuable foundation essential to the formulation of an effective plan for investment in India's real estate sector.

8. Citations & Bibliography

1 "World Bank, World Development Indicators." The World Bank, Data Bank, The World Bank, databank.worldbank.org/data/reports.aspx?source=world-development-indicators&Type=CHART&preview=on&savedlg=1&l=en#. GDP (current US$) GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used. World Bank national accounts data, and OECD National Accounts data files.

3 "World Bank, Population Estimates and Projections, Population Comparison." The World Bank, DataBank, The World Bank, databank.worldbank.org/data/reports.aspx?ReportId=66008&Type=Table. Figure.2Total population is based on the de facto definition of population, which counts all residents regardless of legal status or citizenship. The values shown are midyear estimates.(1) United Nations Population Division. World Population Prospects, (2) Census reports and other statistical publications from national statistical offices, (3) Eurostat: Demographic Statistics, (4) United Nations Statistical Division. Population and Vital Statistics Report (various years), (5) U.S. Census Bureau: International Database, and (6) Secretariat of the Pacific Community: Statistics and Demography Programme.

4 "World Bank, Population Estimates and Projections, Population Comparison." The World Bank, DataBank, The World Bank, databank.worldbank.org/data/reports.aspx?ReportId=66029&Type=Table. Total population is based on the de facto definition of population, which counts all residents regardless of legal status or citizenship. The values shown are midyear estimates.(1) United Nations Population Division. World Population Prospects, (2) Census reports and other statistical publications from national statistical offices, (3) Eurostat: Demographic Statistics, (4) United Nations Statistical Division. Population and Vital Statistics Report (various years), (5) U.S. Census Bureau: International Database, and (6) Secretariat of the Pacific Community: Statistics and Demography Programme.

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6 "World Bank, World Development Indicators, GDP Composition." The World Bank, DataBank, The World Bank, databank.worldbank.org/data/reports.aspx?ReportId=66020&Type=Table. Services, etc., value added (constant 2010 US$) Services correspond to ISIC divisions 50-99. They include value added in wholesale and retail trade (including hotels and restaurants), transport, and government, financial, professional, and personal services such as education, health care, and real estate services. Also included are imputed bank service charges, import duties, and any statistical discrepancies noted by national compilers as well as discrepancies arising from rescaling. Value added is the net output of a sector after adding up all outputs and subtracting intermediate inputs. It is calculated without making deductions for depreciation of fabricated assets or depletion and degradation of natural resources. The industrial origin of value added is determined by the International Standard Industrial Classification (ISIC), revision 3. Data are in constant 2010 U.S. dollars. World Bank national accounts data, and OECD National Accounts data files. Manufacturing, value added (constant 2010 US$) Manufacturing refers to industries belonging to ISIC divisions 15-37. Value added is the net output of a sector after adding up all outputs and subtracting intermediate inputs. It is calculated without making deductions for depreciation of fabricated assets or depletion and degradation of natural resources. The origin of value added is determined by the International Standard Industrial Classification (ISIC), revision 3. Data are expressed constant 2010 U.S. dollars. World Bank national accounts data, and OECD National Accounts data files. Agriculture, value added (constant 2010 US$) Agriculture corresponds to ISIC divisions 1-5 and includes forestry, hunting, and fishing, as well as cultivation of crops and livestock production. Value added is the net output of a sector after adding up all outputs and subtracting intermediate inputs. It is calculated without making deductions for depreciation of fabricated assets or depletion and degradation of natural resources. The origin of value added is determined by the International Standard Industrial Classification (ISIC), revision 3. Data are in constant 2010 U.S. dollars. World Bank national accounts data, and OECD National Accounts data files.

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