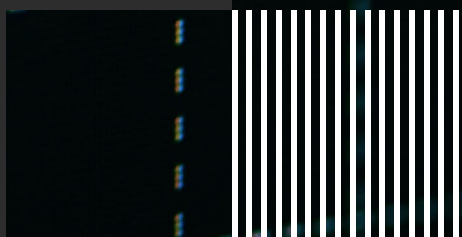




Foreign portfolio investors

Destination India



Regulatory framework

The Securities and Exchange Board of India (SEBI) is the securities market regulator in India. It has issued the SEBI (Foreign Portfolio Investors) Regulations, 2019, and operational guidelines which govern foreign portfolio investors (FPIs).

Eligibility criteria for registering as an FPI

01	The applicant should not be resident in India or a non-resident Indian.
02	The applicant should be a resident of a country: <ul style="list-style-type: none">• whose securities market regulator is a signatory to the International Organization of Securities Commissions' (IOSCO's) Multilateral MOU or a signatory to the bilateral MOU with SEBI• whose central bank is a member of the Bank for International Settlements• against whom the Financial Action Task Force (FATF) has not issued any warnings.
03	The applicant can also be incorporated or established in the International Financial Services Centre (IFSC).
04	The applicant must be a 'fit and proper' person as prescribed.

Overview of categories of FPIs

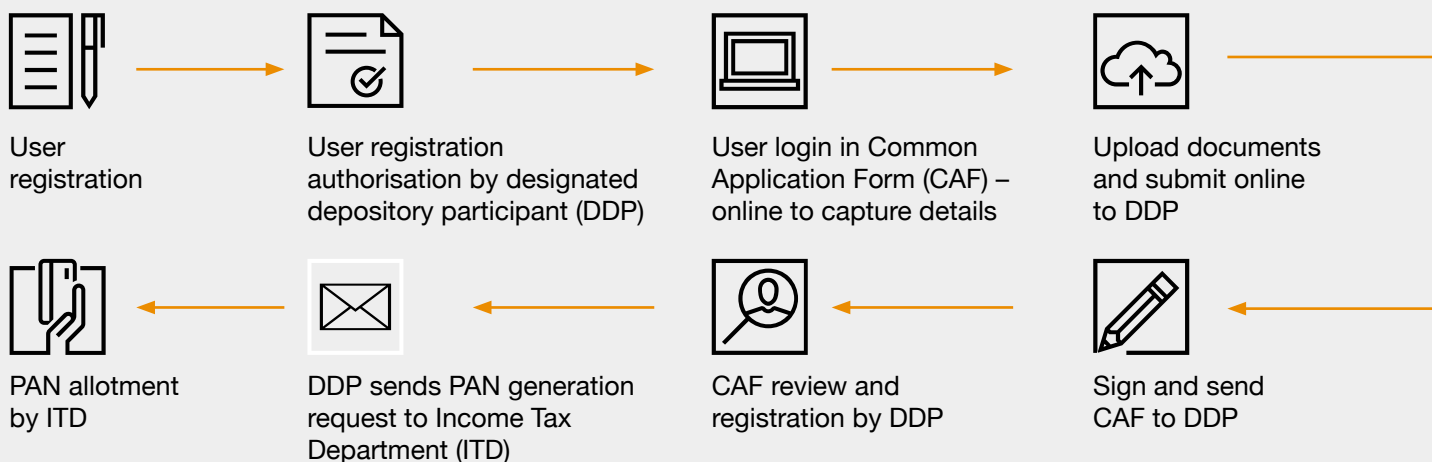
Category I

- Foreign governments and government-related investors
- International and multilateral organisations
- Pension and university funds
- Banks, brokers, asset managers and other appropriately regulated entities
- Other entities where the investment manager is from a FATF member country and registered as a Category I FPI or
- Entities that are at least 75% owned by a Category I FPI

Category II

- Regulated funds from a non-FATF member country
- Endowments, foundations and charitable organisations
- Corporate bodies, family offices, individuals and unregulated funds in the form of limited partnerships and trusts
- Appropriately regulated entities investing on behalf of clients

FPI registration process



Indian economy

India is the world's fifth largest economy by GDP¹ and, with a projected growth rate of 6.1%,² one of the fastest growing developing economies.

This exponential growth is attributable to factors such as:

- strong macroeconomic fundamentals due to controlled fiscal and current account deficit
- demographic advantage
- deeply embedded digital revolution across the country
- Government-driven enablers such as Production Linked Incentive (PLI) schemes
- an independent judiciary and autonomous democratic institutions.

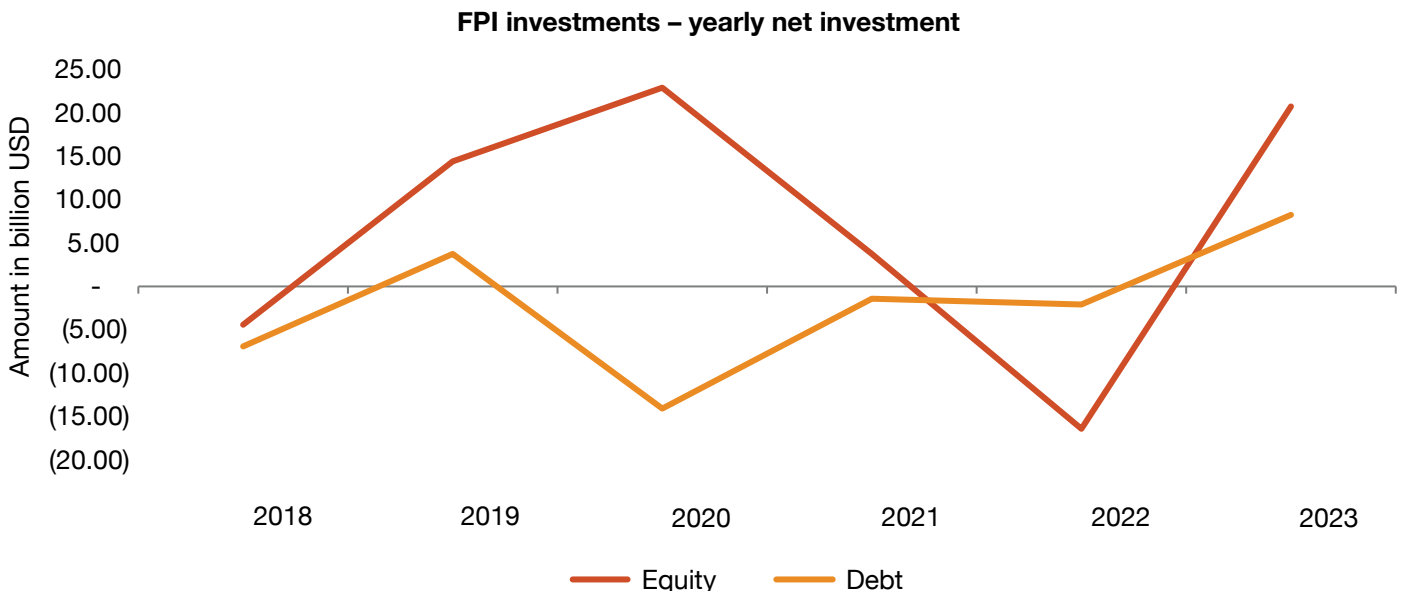
India remains one of the largest recipients of foreign investments categorised, from a regulatory perspective, into the following baskets:

- foreign direct investment (FDI)
- FPI
- foreign venture capital investment (FVCI).

FPIs

FPIs play a crucial role in India's financial landscape as they help deepen the Indian capital markets for listed securities, bonds, derivatives, etc. Given India's robust growth prospects, FPIs have continued to show confidence in Indian markets despite the uncertain global macroeconomic backdrop. Apart from the cash equities segment, FPIs are actively investing in the debt market due to the attractive yield offered by Indian debt securities.

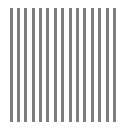
Trends in FPI investment³



1. Forbes India - The top 10 largest economies in the world in 2023 - <https://www.forbesindia.com/article/explainers/top-10-largest-economies-in-the-world/86159/1>

2. IMF - World Economic Outlook Growth Projections - <https://www.imf.org/en/Publications/WEO/Issues/2023/07/10/world-economic-outlook-update-july-2023>

3. NSDL FPI Monitor



Ecosystem for FPIs

Ecosystem for FPIs

Stockbroker	Reserve Bank of India (RBI)	Tax consultant
Stock exchange		
Clearing corporations	SEBI	
Depositories	International Financial Services Centres Authority (IFSCA)	Tax authorities
Clearing members		
	Custodian and authorised dealer bank	

Permitted investment avenues for FPIs

Equity and other securities



- Listed shares or 'to be listed' shares
- Exchange-traded derivatives (stock, index, currency, commodity)
- Units of mutual funds
- Indian depository receipts
- Units of Real Estate Trusts (REITs), Infrastructure Investment Trusts (InvITs) and Category III Alternative Investment Funds (AIFs)

Debt instruments



- Dated government securities and treasury bills
- Listed and unlisted non-convertible debentures (NCDs), commercial papers
- Units of specified debt-oriented mutual funds
- Securitised debt instruments and security receipts
- Listed non-convertible/redeemable preference shares
- Rupee-denominated bonds/units issued by infrastructure debt funds
- Municipal bonds
- Debt securities issued by REITs and InvITs

Clubbing of investment limits

Aggregate holdings in equity shares of any Indian company by an FPI and its 'investor group' should not exceed 10% of the total paid-up equity capital on a fully diluted basis of the company. Multiple entities registered as FPIs shall be treated as part of same investor group and the investment limit of all such FPIs shall be clubbed where such entities:

have common ownership of more than 50%

or

have common control

The clubbing provisions do not apply to FPIs which are:

- appropriately regulated public retail funds⁴
- public retail funds where the majority stake is owned by an appropriately regulated public retail fund on a look-through basis or investment managers of such FPIs are appropriately regulated.

4. Public retail funds include –

- mutual funds or unit trusts which are open for subscription to retail investors and which do not have specific investor type requirements like accredited investors
- insurance companies where a segregated portfolio with one-to-one correlation with a single investor is not maintained
- pension funds.



Reporting requirements

Reporting of beneficial owners (BOs): Any person holding more than 10% shares, capital or profits of the company or 10% beneficial ownership of a trust shall be treated as a BO. FPIs have to intimate such BOs to the DDP and/or SEBI.

Additional disclosures: In order to mitigate the concerns around concentrated investments by FPIs in a single investee company or corporate group and threshold for identification of BOs, some objectively identified FPIs have to provide specified granular information of persons to SEBI.

On the cards:

- A non-resident Indian NRI to be permitted to own 100% of an FPI which is based out of the IFSC in India and regulated by the IFSCA
- SEBI proposing to introduce optional T+0 and instant settlement of trades in addition to the T+1 settlement cycle

Tax framework for FPIs

Securities Transaction Tax (STT)

STT is required to be paid in respect of dealings in Indian securities purchased or sold on Indian stock exchanges. The STT levy is collected by the respective stock exchange at the time of trade. STT rates are as follows:

Taxable securities transaction	STT rate	Payable by
Purchase or sale of equity shares	0.1 %	Purchaser and seller
Sale of futures	0.0125 %	Seller
Sale of options	0.0625 %	Seller
Sale of options, where exercised	0.125 %	Purchaser
Sale of a unit of equity-oriented fund to the mutual fund	0.001 %	Seller





Income tax

- Any security held by an FPI is treated as a 'capital asset'. Thus, any income arising from the transfer of such security by an FPI is in the nature of 'capital gains'.
- FPIs may earn the following streams of income:
 - capital gains, i.e. income on transfer of capital assets
 - 'income from other sources' such as dividend income and interest income.
- FPIs are required to compute the tax liability on income in Indian rupees and are obligated to discharge taxes on income prior to repatriation of proceeds out of India.
- Classification of capital assets:






Nature of asset	Short-term capital asset	Long-term capital asset
For a security (other than a unit) listed in a recognised stock exchange in India	Held for not more than 12 months	Held for more than 12 months
Unlisted shares	Held for not more than 24 months	Held for more than 24 months
For assets other than those specified above	Held for not more than 36 months	Held for more than 36 months

- Overview of tax rates*#
 - Long-term capital gains: 10%
 - Short-term capital gains: 15% or 30%
 - Income in respect of securities – includes dividends and interest: 20%

* In addition, applicable surcharge (ranges from 2–37%) and health and education cess (4%) are leviable.

The above indicated base tax rates are subject to the applicability of the respective country's Double Taxation Avoidance Agreement (DTAA) with India. This is subject to fulfilment of the prescribed conditions under anti-avoidance rules and any conditions applicable under the respective treaties.

Key tax compliance requirements

	Obtaining a Tax identification Number in India
	Obtaining computation from an appointed India tax consultant on tax payable on gains or income
	Payment of taxes before remittance of funds or on a quarterly basis in the form of advance taxes, whichever is earlier
	Filing annual India tax returns – 31 July/31 October/30 November (as applicable)
	Tax audit by Revenue authorities

General Anti-Avoidance rules (GAAR)

An FPI is eligible to avail the benefits of the DTAA of the respective country if it is a resident of and with which India has a DTAA.

The provisions of the DTAA prevail over the provisions of Indian tax laws to the extent that the DTAA provisions are beneficial.

- GAAR provisions are codified to counter aggressive tax planning arrangements and would get triggered if the **'main purpose'** is obtaining tax benefit **and any of the specified** conditions are met.
- Threshold provided for tax benefit on aggregate basis > USD 363K (approximately) in a year

Opportunities in GIFT IFSC

- GIFT IFSC is a specialised hub, strategically designed to cater to clients venturing into cross-border financial activities. It offers a comprehensive suite of financial services coupled with world-class infrastructure facilities and highly skilled workforce.
- The IFSC assumes a pivotal role in the global finance landscape by ensuring regulatory adherence, providing tax advantages and enabling ease of doing business.
- The current ecosystem spans the entire spectrum of financial services, encompassing banking, capital markets, insurance, fund management, global distribution of financial products, and other ancillary services.
- In a forward-looking approach, initiatives are underway to facilitate direct listing of Indian securities on IFSC stock exchanges.
- Entities establishing a presence in the GIFT IFSC benefit from preferential direct and indirect tax treatment, complemented by state subsidies.

Benefits for Category III AIFs in GIFT IFSC (IFSC AIF)

- Tax is paid at fund level, i.e. taxes to be paid by the IFSC AIF. FPI tax principles will apply and investments are treated as capital assets.
- IFSC AIF can avail exemption from tax on income from:
 - transfer of securities (other than shares of an Indian company), including debt, derivatives, offshore securities, mutual funds and securities listed on IFSC
 - securities issued by a non-resident (not being a permanent establishment) with no accrual of income in India
 - securitisation trust chargeable under the head 'PGBP'.
- Any income received by investors from the IFSC AIF or on transfer of units of such AIF is exempt in the hands of the investors.
- Overseas transfer provisions are not applicable if the IFSC AIF is registered as a Category I FPI under the SEBI (Foreign Portfolio Investors) Regulations, 2019.

Largest team of over 350 qualified and experienced professionals based in Mumbai and GIFT City, with a focus on the financial services sector

Currently serving over 3,000 FPIs
Good connect with FPI ecosystem in India

A strong dedicated team of litigation professionals to help clients with tax litigation

Excellent in-house software for efficient data processing – FPI tax tool

Highly automated processes with robust data security protocols capable of keeping pace with the T+1 trade settlement cycle

In-house centre of excellence to carry out in-depth research on technical issues

ISO certified

Business Continuity Management System – ISO 22301:2012
Information Security Management System – ISO/IEC 27001:2013

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