



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 8 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 8 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-7-of-2025/>)

Publisher

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Chairman of Institute of Legal Education

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Tiruchirappalli – 620102

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FEMA'S ROLE IN INDIA'S CHANGING FDI POLICY LANDSCAPE

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BEST CITATION – VIDIT SANTOSH MISHRA, FEMA'S ROLE IN INDIA'S CHANGING FDI POLICY LANDSCAPE, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (8) OF 2025, PG. 787-795, APIS – 3920 – 0001 & ISSN – 2583-2344

Abstract

India's journey toward economic liberalization brought about a significant transformation in the way foreign investments and foreign exchange were regulated. Replacing the rigid and restrictive Foreign Exchange Regulation Act (FERA), 1973, the enactment of the Foreign Exchange Management Act (FEMA), 1999 marked a progressive shift towards a more open and business-friendly environment. This paper explores the legal transition from FERA to FEMA and examines how FEMA has shaped India's Foreign Direct Investment (FDI) landscape. By focusing on the regulatory flexibility introduced by FEMA—such as streamlined procedures, improved transparency, and investor-friendly mechanisms—the study highlights its influence on India's investment climate. Additionally, it delves into structural reforms including the RBI's regulatory role and sector-specific liberalization efforts. The research identifies areas where FEMA's regulatory framework could be enhanced to address existing uncertainties and better support India's long-term investment goals. Ultimately, this study offers legal insights that can contribute to making India a more dependable and competitive destination for global investors.

Keywords

Foreign Exchange Management Act (FEMA), Foreign Exchange Regulation Act (FERA), Foreign Direct Investment (FDI), Economic Liberalization, Regulatory Reform, RBI, Investment Law, Ease of Doing Business, Non-Debt Rules, Policy Framework, Legal Modernization.

Introduction

India's foreign investment policies have undergone a major transformation, particularly after the economic reforms of the early 1990s. The earlier regime, governed by the Foreign Exchange Regulation Act (FERA), 1973, was marked by strict regulatory controls aimed at preserving foreign currency. These restrictions often discouraged international investors and created significant operational barriers for businesses.

However, the economic crisis of 1991 served as a turning point, prompting a shift towards liberalization. In response, the government introduced the Foreign Exchange Management Act (FEMA), 1999—a more pragmatic and investor-centric law focused on managing, rather than controlling, foreign exchange. FEMA

emphasized facilitation over regulation, signaling a shift toward a more globally integrated economy.

This paper investigates how FEMA has reshaped the legal and procedural environment for Foreign Direct Investment (FDI) in India. It looks at FEMA's role in simplifying investment processes, enabling sectoral reforms, and empowering institutions like the Reserve Bank of India (RBI) to regulate foreign capital flows with greater flexibility. The analysis also reflects on FEMA's contribution to enhancing business confidence and reducing legal uncertainties. In doing so, the research identifies both strengths and areas where legal reform could further support India's ambitions to attract sustainable, long-term foreign investment.

FEMA'S ROLE IN INDIA'S CHANGING FDI POLICY LANDSCAPE

- FEMA and ease of doing business

The concept of Ease of Doing Business (EoDB) reflects how conducive a country's regulatory framework is to starting, operating, and closing a business. In India, improving EoDB has been a critical objective to promote entrepreneurship and boost both domestic and foreign investments. One transformative step toward achieving this goal was the repeal of the outdated Foreign Exchange Regulation Act (FERA), 1973, and the introduction of the Foreign Exchange Management Act (FEMA), 1999. Unlike FERA, FEMA reshaped how businesses interacted with the foreign exchange regulatory system, ultimately making cross-border business operations significantly more efficient and investor-friendly.

The FERA Regime: A Barrier to Business Fluidity

Under FERA, business operations involving foreign exchange were heavily regulated, reflecting a protectionist mindset driven by a need to conserve foreign reserves. Most international financial activities required prior clearance from the Reserve Bank of India (RBI), even for routine matters such as importing goods, paying for overseas services, remitting royalties, or reimbursing travel expenses for personnel. Dividend repatriation by foreign companies often faced stringent scrutiny. The extensive approval processes created procedural bottlenecks, increased compliance costs, delayed business operations, and introduced uncertainty. Furthermore, violations under FERA were treated as criminal offences, often leading to harsh penalties, including imprisonment. This regulatory atmosphere discouraged global engagement and acted as a significant deterrent to foreign investors.⁸⁴⁴

FEMA's Facilitative Shift: A New Era in Regulation

FEMA marked a substantial departure from FERA's restrictive outlook. The law was designed to support and streamline foreign trade and payments, promoting a more liberal and business-friendly ecosystem. The emphasis shifted from regulation and restriction to management and facilitation of foreign exchange, thereby improving trust and transparency in the regulatory environment.⁸⁴⁵

Liberalization of Current Account Transactions

One of FEMA's most impactful contributions to EoDB was its liberal approach to current account transactions. Section 5 of FEMA enabled individuals and entities to undertake such transactions freely through Authorized Persons (APs), provided they were for bona fide purposes. This greatly enhanced transactional ease:

- **Efficient Trade Execution:** Importers and exporters gained the flexibility to conduct international transactions swiftly, with fewer bureaucratic obstacles. Documentation verification replaced prior RBI permissions, improving cash flow and reliability in trade relationships.
- **Reduced Compliance Burden:** Payments for technology transfers, software services, and international subscriptions became smoother, contributing to a more agile business environment.
- **Increased Investor Trust:** Predictable rules for repatriating dividends and profits improved the post-investment experience, reinforcing investor confidence in the Indian economy.⁸⁴⁶

Improved Predictability in Capital Account Transactions

While FEMA retained oversight of capital account transactions due to their

⁸⁴⁴ Ministry of Finance, Government of India, *FERA to FEMA: A Regulatory Shift*, 2000.

⁸⁴⁵ Foreign Exchange Management Act, 1999, Preamble & Section 3.

⁸⁴⁶ RBI Master Direction on Current Account Transactions, updated 2023.

macroeconomic impact, it introduced structured, transparent procedures. This shift positively affected investment-related activities:

- **Automatic Route for FDI:** FEMA institutionalized the automatic route for foreign investment, removing the need for prior approvals in many sectors. Subject to sectoral caps and reporting norms, this change significantly eased the investment process for foreign entities entering the Indian market.⁸⁴⁷
- **Defined Regulations for Borrowings and Overseas Investments:** FEMA introduced clearer, rule-bound procedures for External Commercial Borrowings (ECBs) and Overseas Direct Investment (ODI), offering predictability and facilitating informed financial planning by businesses seeking international exposure.

Decriminalization and Regulatory Clarity

One of FEMA's defining features was the decriminalization of most violations. Under Section 13, infractions were treated as civil offences, usually resulting in monetary penalties rather than criminal prosecution. This had far-reaching effects on EoDB:

- **Reduced Legal Risks:** Businesses no longer operated under the constant fear of prosecution for minor procedural lapses, creating a more confident operating environment.
- **Compliance-Focused Governance:** The regulatory landscape encouraged voluntary compliance and constructive engagement with authorities.
- **Cost Efficiency:** Lower legal risk translated into reduced costs associated with legal counsel and regulatory risk management.

Operational Simplification and Digital Reforms

FEMA also empowered banks to handle most forex-related transactions, decentralizing execution and expediting service delivery. RBI's issuance of consolidated Master Directions simplified the understanding of regulations. Moreover, initiatives like the FIRMS portal and Single Master Form (SMF) streamlined digital reporting and compliance, further reducing manual paperwork and improving transparency.

Conclusion: FEMA as a Catalyst for Regulatory Efficiency

In essence, the Foreign Exchange Management Act, 1999, has been instrumental in enhancing India's Ease of Doing Business, particularly with regard to cross-border financial activities. Through liberalization, decriminalization, procedural streamlining, and the empowerment of financial intermediaries, FEMA replaced the rigid, punitive environment of FERA with a system grounded in trust, predictability, and operational ease. While part of broader economic reforms, FEMA played a decisive role in removing regulatory friction and positioning India as a more favorable destination for global business engagement.

FEMA's role in promoting sectoral investment

The Foreign Exchange Management Act (FEMA), 1999 plays a pivotal yet often misunderstood role in India's investment ecosystem. While FEMA does not define which sectors should receive foreign investment—that responsibility lies with the Foreign Direct Investment (FDI) Policy, managed by the Department for Promotion of Industry and Internal Trade (DPIIT)—it provides the foundational legal and procedural framework necessary for handling cross-border financial transactions. In doing so, FEMA acts as an essential facilitator, ensuring that India's foreign exchange regulations align with broader investment goals. Since FEMA replaced the more stringent Foreign Exchange Regulation Act (FERA), 1973, its influence has been crucial in making India a more appealing

⁸⁴⁷ Department for Promotion of Industry and Internal Trade (DPIIT), *FDI Policy*, Consolidated FDI Circular, 2020.

destination for foreign investment across sectors.

Creating a Supportive Foreign Exchange Framework

The transition from the control-heavy FERA regime to FEMA's more liberal and managerial approach laid the foundation for smoother foreign investment flows. FERA was marked by complex permissions and penal provisions that made international business cumbersome. In contrast, FEMA emphasizes facilitating external trade and ensuring a well-regulated forex market, which significantly reduced bureaucratic barriers and boosted confidence among investors.⁸⁴⁸

Enabling Entry Through Investment Routes

FEMA operates as the functional backbone for implementing the FDI policy's investment routes.

Automatic Route
For sectors where FDI is allowed without prior government clearance, FEMA facilitates a straightforward process. Investors can transfer funds via Authorized Dealer (AD) banks, while the Indian investee company is tasked with filing post-investment documentation—primarily through platforms like the FIRMS portal using the Single Master Form (SMF). This process significantly cuts down on red tape, particularly in liberalized sectors like IT and manufacturing.

Government Approval Route
For sectors requiring prior government approval due to sensitivity or strategic importance, FEMA still governs the actual foreign exchange transaction after clearance is granted. It ensures that such investments follow prescribed norms—covering aspects like fund remittance, valuation, and permissible instruments (mainly governed by the Non-Debt Instruments Rules, 2019).⁸⁴⁹ FEMA ensures compliance and transparency in these regulated investments.

Ongoing Operations: Current Account Flexibility

FEMA's utility continues beyond just initial capital inflows. Its liberal treatment of current account transactions under Section 5 plays a critical role in supporting the daily operations of businesses with foreign participation:

- **Facilitating Trade Payments:** Companies in sectors like pharmaceuticals, electronics, and manufacturing benefit from efficient payment mechanisms for importing inputs and receiving export proceeds.
- **Access to Global Expertise:** Sectors dependent on foreign collaborations—such as IT services or biotechnology—can easily remit payments for software licenses, royalties, or technical services.
- **Profit Repatriation:** A key factor for sustaining foreign investor interest is the ability to repatriate profits and dividends with minimal restrictions. FEMA provides a reliable structure for such remittances, subject to applicable tax norms.⁸⁵⁰

Supporting Sectoral Financing Through Capital Regulations

FEMA also governs various capital-raising instruments tailored to sectoral needs through Section 6 and associated regulations:

- **Equity and Hybrid Instruments:** Investments via equity shares or compulsorily convertible debentures fall under the FEMA (Non-Debt Instruments) Rules, 2019. These are the primary modes of FDI in sectors such as services, manufacturing, and tech.
- **Foreign Borrowings:** The framework for External Commercial Borrowings (ECBs), regulated by the RBI under FEMA, offers a route for accessing foreign loans—commonly used in infrastructure and capital-intensive sectors. These borrowings must meet criteria like

⁸⁴⁸ Ministry of Finance, Transition from FERA to FEMA: A Liberalisation Milestone, 2000.

⁸⁴⁹ The Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, Ministry of Finance, Government of India.

⁸⁵⁰ RBI, Master Direction – Liberalised Remittance Scheme (LRS) and current account transactions guidelines, 2023.

maturity periods and use restrictions, often reflecting national policy goals.⁸⁵¹

- Investment Vehicles: FEMA provisions also extend to structured investment platforms like REITs, InvITs, and AIFs, which channel foreign capital into sector-specific projects such as real estate, infrastructure, and startups.

Promoting Global Integration via Outbound Investment

FEMA also regulates Overseas Direct Investment (ODI), allowing Indian businesses to invest in foreign markets. This enables companies to access international technologies, acquire global assets, or build integrated supply chains—boosting their global competitiveness and reinforcing their domestic capabilities.

FEMA: A Neutral Enabler, Not a Sector Driver

It's essential to understand that FEMA does not prioritize or promote specific sectors. That role is played by government schemes and incentives like the Production-Linked Incentive (PLI) scheme. FEMA's contribution lies in ensuring that the foreign exchange management system operates as a support structure—not a hurdle—for these policy-driven investments. By simplifying compliance, reducing uncertainty, and decentralizing execution (e.g., allowing AD banks to handle many transactions), FEMA enhances the ease of cross-border business across all approved sectors.

Data and Monitoring: Enabling Policy Feedback

FEMA also mandates comprehensive reporting of foreign investment data through platforms like the FIRMS portal. This real-time information helps the RBI and policymakers assess trends, track sectoral investment performance, and make informed adjustments to policy and forex management strategies.

The Foreign Exchange Management Act, 1999, functions as a foundational framework that facilitates sectoral investments in India—not by choosing the sectors, but by ensuring seamless,

rule-based management of the foreign exchange aspects linked to those investments. FEMA enables capital inflows through clear operational routes, supports ongoing business operations via liberalized current account norms, regulates diverse capital structures suited to different sectors, and provides tools for global integration and performance tracking. While sectoral strategy is shaped by broader policy measures, FEMA ensures that the financial side of these strategies is executed efficiently and predictably, making India a more attractive and reliable destination for global investors.

- Analysis of major FDI policy decisions influenced by FEMA

Before FEMA, the FERA regime presented significant constraints not just for businesses but arguably also for policymakers contemplating liberalization. FERA's control-centric philosophy, its cumbersome approval mechanisms, and its criminalization of violations created a system that was difficult to calibrate finely. Opening a sector to foreign investment under FERA might have felt like opening floodgates without adequate tools to manage the ensuing flows or risks.

FEMA, conversely, introduced a far more flexible and nuanced architecture:

Management Philosophy: Its core aim of 'managing' foreign exchange rather than merely 'controlling' it allowed for policies that embraced inflows while retaining oversight mechanisms.

Clear Distinction (Current vs. Capital):

Separating current account transactions (generally liberalized under Section 5) from capital account transactions (subject to regulation under Section 6) allowed policymakers to open up trade and operational flows significantly while maintaining specific controls over potentially volatile capital movements.⁸⁵²

⁸⁵¹ RBI, ECB Framework under FEMA, Circulars updated in 2023.

⁸⁵² The Foreign Exchange Management Act, 1999, Sections 5 and 6.

RBI's Regulatory Power (esp. Sec 6): Granting the RBI explicit power to frame regulations for permissible capital account transactions, specifying limits and conditions, provided a crucial tool for gradualism. This allowed for sector-specific conditions or phased liberalization concerning capital flows, which was structurally difficult under FERA.

Reporting & Monitoring Framework: FEMA, coupled with RBI's systems (like FIRMS), established a much more robust mechanism for tracking capital inflows and outflows compared to the FERA era, providing valuable data for policy assessment and macroeconomic management.⁸⁵³

This flexible toolkit provided by FEMA arguably gave policymakers greater comfort and capability to undertake bolder FDI policy reforms than might have been conceivable under the rigid constraints of FERA.

Enabling Gradualism: Phased Sectoral Liberalization

One of the hallmarks of India's FDI policy journey post-2000 has been gradualism – opening sectors incrementally, raising caps in phases, and moving activities from the approval route to the automatic route over time. FEMA's structure was instrumental in enabling this calibrated approach.

Managing Associated Flows: When the government decided to increase the FDI cap in a sector (e.g., insurance, aviation, retail), FEMA provided the mechanisms (under Section 6 regulations) to manage the anticipated increase in capital inflows.⁸⁵⁴ RBI could specify reporting requirements, ensure compliance with valuation norms, and monitor the flows without needing to revert to an overly restrictive default posture. This ability to manage, rather than just block or fully permit, allowed for sector-specific liberalization to proceed at a pace deemed appropriate by policymakers, balancing growth objectives with stability concerns.

Route Calibration: Similarly, the ability to shift sectors from the government approval route to the automatic route was facilitated by FEMA's framework. Once policymakers gained comfort with investment patterns in a sector and established necessary conditions within the FDI policy, FEMA's automatic route procedures (reporting via AD Banks) provided a ready-made, efficient mechanism for handling the forex inflows, making the policy shift operationally feasible.

Facilitating Investment in Complex and Evolving Sectors

Modern investment landscapes often involve sophisticated structures and instruments, particularly in areas like infrastructure, technology startups, and financial services. FEMA's framework demonstrated greater adaptability than FERA in accommodating these complexities, thereby enabling FDI policies targeting such sectors.

Diverse Instruments: FEMA and its subordinate regulations (including the NDI Rules for equity and RBI regulations for debt/hybrids) provided clearer pathways for various investment instruments beyond simple equity – including compulsorily convertible instruments, investment through vehicles like Alternative Investment Funds (AIFs), Infrastructure Investment Trusts (InvITs), and Real Estate Investment Trusts (REITs), and specific instruments like Convertible Notes for startups.⁸⁵⁵ This flexibility allowed FDI policy to encourage investment using structures suited to the specific needs of sectors like infrastructure (requiring long-term debt and equity via InvITs) or venture capital (using AIFs and convertible instruments). FERA's more rigid structure might have struggled to accommodate such diverse financial engineering effectively.

Downstream Investment Rules: FEMA's framework (particularly within NDI Rules) provided specific rules for regulating

⁸⁵³ Reserve Bank of India, FIRMS Portal Guidelines, accessed 2024.

⁸⁵⁴ RBI Master Direction on Foreign Investment in India, updated 2023.

⁸⁵⁵ The Foreign Exchange Management (Non-Debt Instruments) Rules, 2019.

downstream investments made by foreign-owned or controlled Indian entities. This allowed policymakers to set rules for multi-layered investment structures, crucial for implementing nuanced FDI policies in sectors with complex ownership patterns or specific sensitivities about indirect foreign control.⁸⁵⁶

Current Account Convertibility: Building Investor Confidence for Entry

While Section 5 of FEMA directly liberalized current account transactions, this had a significant indirect influence on capital account policy decisions, including FDI. The assurance provided by FEMA that routine operational payments (imports, services, royalties) and, critically, the repatriation of dividends and profits would be handled smoothly and predictably, was a game-changer for investor confidence. Knowing that returns could be reliably accessed significantly lowers the risk premium associated with investing in India.⁸⁵⁷ This enhanced confidence, built on the back of FEMA's current account guarantees, arguably made policymakers more willing over time to liberalize the entry conditions for FDI (i.e., raise caps and expand the automatic route), knowing that a key investor concern regarding operational flows and profit repatriation was already addressed by the robust FEMA framework.

Informed Policy-Making through Enhanced Monitoring

Compared to the FERA era, the reporting and monitoring systems established under FEMA (culminating in the integrated FIRMS portal managed by RBI) provided authorities with far more timely and comprehensive data on the quantum, source, destination (sector/entity), and type of foreign capital flows.⁸⁵⁸ This improved visibility allowed for better assessment of the impact of previous FDI policy changes and provided a stronger empirical

basis for future decisions. The ability to track flows effectively under FEMA likely gave policymakers greater confidence to proceed with further liberalization, knowing they had better tools to monitor the consequences and manage potential risks, compared to operating with less visibility under FERA. The experience gained in managing large inflows in sectors like IT or Telecom without major disruptions, facilitated by FEMA's framework, potentially emboldened policy decisions to open other sectors.

Shaping Implementation: Structural Choices and Targeted Measures

Certain structural decisions within the FEMA framework itself, or policy implementations relying heavily on it, also illustrate this interplay:

Debt/Non-Debt Segregation (2019): The formal split in regulatory authority, with the GoI (via NDI Rules) overseeing non-debt/equity and the RBI retaining debt, was a major regulatory policy decision implemented under FEMA's umbrella.⁸⁵⁹ This structural change influences how future policies related to equity versus debt financing for FDI are framed and regulated.

Press Note 3 (2020) Implementation: The FDI policy decision requiring government approval for investments from neighboring countries (especially those sharing a land border with India) was operationalized through FEMA's capital account regulation mechanism, providing a legal route to enforce the strategic policy change.⁸⁶⁰

- COVID-19 and post-pandemic regulatory changes

The global outbreak of COVID-19 in early 2020 brought about unprecedented economic challenges. In India, the disruption was particularly severe for enterprises involved in international trade and finance, as lockdowns, supply chain breakdowns, and mobility restrictions affected operations. Responding to this, the Reserve Bank of India (RBI), under the

⁸⁵⁶ FEMA NDI Rules, Rule 23 on downstream investment compliance.

⁸⁵⁷ RBI, Master Direction – Liberalised Remittance Scheme (LRS) and current account transaction norms, 2023.

⁸⁵⁸ RBI Annual Report on Foreign Exchange Management, 2023.

⁸⁵⁹ Ministry of Finance Notification S.O. 3715(E), dated 15 October 2019, implementing debt-equity regulation split.

⁸⁶⁰ DPIIT Press Note 3 (2020 Series), dated April 17, 2020.

FEMA framework, introduced a series of regulatory adjustments aimed at alleviating immediate pressures and ensuring business continuity in the cross-border economic domain.

Immediate Operational Relief Measures

Export and Credit-Related Easing:

Recognizing the obstacles exporters were facing, the RBI allowed a temporary extension for the realization and repatriation of export earnings. For shipments made within a designated period (initially till July 31, 2020), the usual nine-month deadline was extended to fifteen months. Additionally, banks were permitted to provide export credit—both pre- and post-shipment—for an extended period of up to fifteen months, facilitating greater liquidity for exporters during a time of constrained global demand.

Support for Financial Market Participants:

Foreign investors operating under the Voluntary Retention Route (VRR)—a mechanism that requires maintaining a specific investment level—were given more time to comply due to the financial turbulence caused by the pandemic⁸⁶¹.

Relaxed Compliance Obligations:

To accommodate companies grappling with remote operations and workforce limitations, authorities likely postponed certain filing deadlines under FEMA. Submissions through the FIRMS portal and other statutory reports were possibly deferred to reduce regulatory burdens during peak disruption phases.

These short-term interventions highlighted FEMA's built-in flexibility and the RBI's pragmatic approach in addressing extraordinary economic situations.

Strategic Policy Intervention: The Introduction of Press Note 3

In a parallel policy shift, the government introduced *Press Note 3 (2020 Series)* in April

2020, significantly altering FDI procedures. This directive made it mandatory for investors from countries sharing a land border with India—or where the ultimate beneficial owner resided in such countries—to seek government approval for investment, regardless of sector or stake size.

Objectives and Policy Design:

This safeguard was introduced to prevent opportunistic acquisitions of Indian companies facing financial distress during the pandemic. Importantly, the note was not restricted to any particular industry nor limited to the duration of the pandemic, implying its long-term strategic orientation.

Operationalization through FEMA:

Though issued as a policy directive by the government, the implementation of Press Note 3 was routed through FEMA's infrastructure. Banks, acting as Authorized Dealers, were tasked with vetting incoming FDI transactions to ensure compliance before reporting them on the FIRMS platform. Investments that triggered Press Note 3 conditions had to be routed through the Foreign Investment Facilitation Portal (FIFP) for necessary approvals.

Implications and Challenges:

This regulation introduced a new layer of scrutiny for cross-border investments from certain jurisdictions, generating debate on the need for clearer definitions—particularly around “beneficial ownership.” As of 2025, policy discussions continue regarding the possible refinement of these rules to better balance national security concerns with investor confidence⁸⁶².

Transition to Recovery: Policy Tools for Growth and Investment

As the public health crisis eased, India shifted its regulatory priorities toward revitalizing the economy, improving industrial resilience, and positioning itself as a preferred investment destination in the new global order.

⁸⁶¹ Reserve Bank of India, COVID-19 related Circulars and Notifications (2020).

⁸⁶² Department for Promotion of Industry and Internal Trade (DPIIT), Press Note 3 (2020 Series).

PLI Schemes for Manufacturing Growth:

The government launched *Production Linked Incentive (PLI)* schemes across multiple industries including electronics, pharmaceuticals, automotive, renewable energy, and textiles. These initiatives offer performance-based incentives to companies achieving higher production volumes, thereby fostering export growth and large-scale manufacturing. While industrial in nature, PLI schemes are closely tied to attracting FDI by providing a predictable, incentive-driven environment for investment.

FEMA as a Facilitator for PLI Investments:

FEMA's liberalized structure underpins the smooth execution of PLI schemes. Its provisions allow for automatic 100% FDI in most manufacturing sectors, streamlining capital inflow processes. Additionally, FEMA facilitates essential transactions such as importing machinery, technology payments, exporting output, and even borrowing through External Commercial Borrowings (ECBs), subject to certain conditions. These capabilities make FEMA a foundational pillar in PLI's success.

Sustained FDI Liberalization and Structural Reforms

Despite the strategic restrictions under Press Note 3, India remained on a liberal trajectory with respect to FDI. Post-pandemic reforms included increasing the FDI cap in the insurance sector to 74% and extending 100% automatic route access to the telecom industry (2021). The space sector too witnessed liberalization in 2024⁸⁶³. These reforms reflected a clear policy intent to attract long-term foreign capital in areas aligned with national growth strategies.

Overhauling Outward Investment Guidelines

Another significant development was the introduction of *Overseas Investment Rules and Regulations* in 2022. These replaced older provisions and streamlined the process for Indian entities making foreign investments. The

revised rules offered more coherence, greater ease of execution, and better alignment with international business norms, boosting India's outward investment capability.

Enhancing Transparency Through Digitalization

The post-pandemic regulatory environment continued to emphasize simplicity and accessibility. The RBI's focus on digital platforms like the FIRMS portal, along with the issuance of Master Directions, has made foreign exchange regulations easier to navigate and more transparent for businesses and investors alike.

FDI Performance During and After the Pandemic

India's FDI performance remained strong despite the economic turmoil caused by COVID-19. The fiscal year 2020–21 marked the country's highest-ever FDI inflow up to that point⁸⁶⁴. While favorable global conditions, such as high liquidity, contributed, the resilience of India's regulatory ecosystem—reflected in flexible FEMA mechanisms, strategic safeguards like Press Note 3, and promotional drives like PLI—also played a decisive role. The nature of FDI inflows evolved as well, with notable increases in digital and manufacturing investments, both of which were reinforced by pandemic-induced shifts and targeted incentives.

India's FEMA-led regulatory architecture effectively responded to the unique demands posed by the COVID-19 crisis. Initially, it provided critical relief by relaxing timelines and procedural obligations. Subsequently, it facilitated strategic interventions such as Press Note 3 to shield vulnerable domestic enterprises. As recovery took center stage, FEMA supported broader policy efforts like the PLI scheme, continued sector-specific FDI liberalization, and simplified outbound investment processes. The post-pandemic period showcased FEMA's capacity to act both as a stabilizer during crises and a catalyst for long-term economic transformation.

⁸⁶³ Ministry of Commerce & Industry, Sectoral Guidelines for PLI and FDI Policies (2020–2024).

⁸⁶⁴ DPIIT, FDI Statistics Annual Report, FY 2020–21.