



MARS & Partners

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REAL ESTATE IN INDIA - ACQUISITION & SALE BY NON - RESIDENT

Restrictions –

1. Real estate business or construction of farm houses falls within the restricted activities, wherein FDI is totally prohibited;
2. Only Non Resident Indian (NRI) and Person of Indian Origin (PIO) are permitted to acquire immovable properties including agricultural land in India, that too in compliance with the required procedure;
3. Foreign National, foreign entities and their liaison offices are not allowed to acquire / own any type of immovable properties in India;

Permissibility –

1. Branch office of a foreign company is eligible to acquire immovable property in India, necessary for or incidental to carrying on its permitted activity;
2. Indian Companies having foreign equity are also permitted to acquire immovable property in India, necessary for or incidental to carrying on its business activity;
3. **Housing and Real Estate Sector – 100% FDI is permitted but ONLY NRIs are allowed to invest** in the areas listed below:
 - a) Development of serviced plots & construction of built-up residential premises;
 - b) Investment in real estate covering construction of residential and commercial premises including business centers and offices;
 - c) Development of townships;
 - d) City and regional level urban infrastructure facilities, including both roads and bridges;
 - e) Investment in manufacture of building materials;
 - f) Investment in participatory ventures in (a) to (e) above;
 - g) Investment in housing finance institutions, also opened to FDI as an NBFC.
4. **Township, Housing, Built-Up Infrastructure & Construction-Development Projects –** In this sector, Press Note 2 of 2005 dt. 3rd March 2005 r/w RBI Master Circular on Foreign Investment in India, allows FDI upto 100% under the automatic route. This sector includes housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure. FDI in this sector is further subject to following **Additional conditions –**
 - a. Requirement of Minimum area development –
 - i. For Development of serviced housing plot – Minimum land area of 10 hectares;
 - ii. Construction-development projects – Minimum built up area of 50000 sq. mtrs;
 - iii. In case of combination project, either of said two conditions would suffice.
 - b. Minimum capitalization requirement – For wholly owned subsidiary, \$10 million and for joint venture Company, \$5 million. Investments to be brought in within 6 months of commencement of company's business.
 - c. Lock-in period of 3 years from completion of minimum capitalization for repatriating the original investments. Prior exit only with FIPB approval.
 - d. Time limit of developing atleast 50% of the project within 5 years from obtaining all statutory clearances. Investor is also not permitted to sell undeveloped plots.



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- e. Obtaining all necessary approvals, make necessary payments and to confirm to applicable building control regulations, bye-laws, rules and other regulations of State Government / Municipal / Local Body concerned.