

INVESTING IN INDIA'S PHARMACEUTICAL SECTOR: *A Begur & Partners Knowledge Series*

SERIES 1: FOREIGN INVESTMENT AND TRANSACTION STRUCTURING



INTRODUCTION

India's pharmaceutical sector has emerged as one of the most attractive destinations for cross-border investment, driven by its strong manufacturing base, expanding domestic market and globally competitive pharmaceutical industry. The sector continues to attract significant interest from multinational pharmaceutical companies, private equity funds, sovereign investors and strategic healthcare investors. Unlike many other sectors, pharmaceutical investments operate within a highly regulated environment where foreign investment regulations intersect with sector-specific approvals, manufacturing regulations and public health considerations. Consequently, investment structures, transaction timelines and regulatory approvals frequently influence both transaction execution and commercial outcomes.

This article focuses on the foreign investment framework governing pharmaceutical investments and discusses the interaction between the Foreign Exchange Management Act, 1999 ("**FEMA**"), the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 ("**NDI Rules**"), the Consolidated FDI Policy and the sector-specific conditions applicable to pharmaceutical foreign direct investment.

INDIA'S PHARMACEUTICAL MARKET SNAPSHOT: AN ATTRACTIVE INVESTMENT DESTINATION

India's pharmaceutical industry continues to demonstrate strong growth across market size, exports and foreign investment, reinforcing its position as an attractive destination for strategic and financial investors. **The key indicators illustrating the sector's growth and investment potential are set out below.**

INDIA'S PHARMACEUTICAL SECTOR

KEY MARKET HIGHLIGHTS



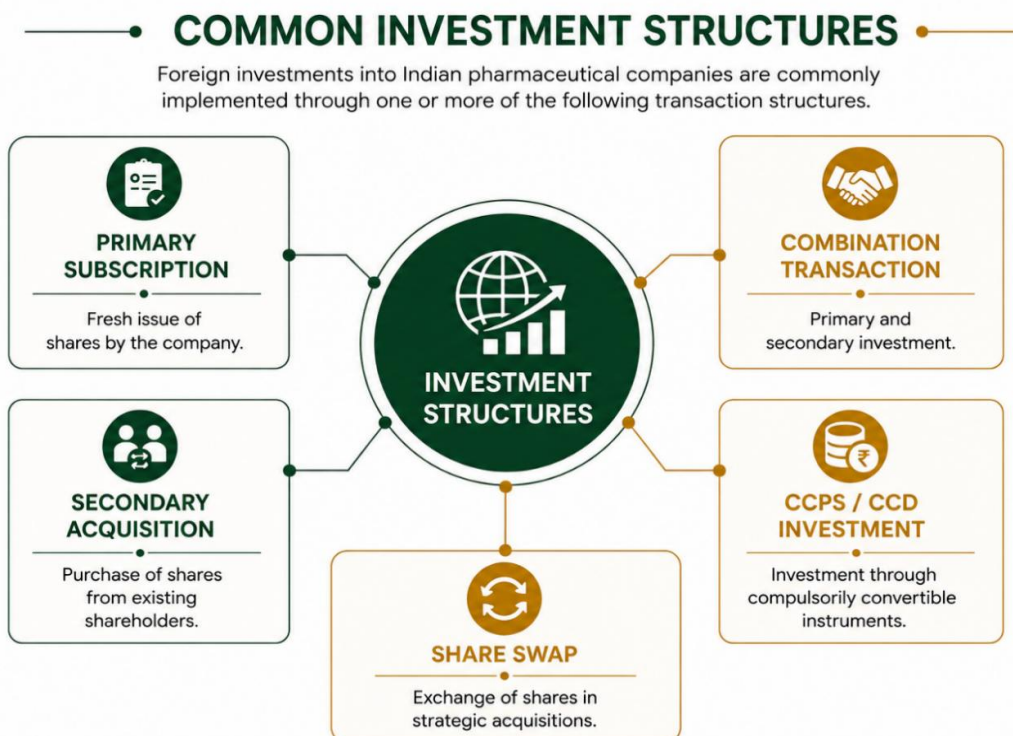
Source: Economic Survey 2025–26, DPIIT (PII Statistics), Mordor Intelligence (Indian Pharmaceutical Market Report 2025)

NAVIGATING INDIA'S FOREIGN INVESTMENT FRAMEWORK FOR PHARMACEUTICAL INVESTMENTS

Before evaluating the commercial aspects of a pharmaceutical investment, investors must first determine whether the proposed investment is permissible under India's foreign investment framework. Foreign investment into Indian pharmaceutical companies is principally governed by FEMA, the NDI Rules and the Consolidated FDI Policy, which together prescribe the applicable investment instruments, entry routes, sectoral caps and investment conditions. From a transaction perspective, investors should assess these requirements at the structuring stage itself, as they directly influence transaction timelines, regulatory approvals and closing mechanics.

INVESTMENT STRUCTURES FOR FOREIGN INVESTORS

The FDI framework permits investments through equity shares as well as compulsorily convertible instruments recognised as equity under the NDI Rules. Accordingly, investors have considerable flexibility in selecting a transaction structure that aligns with their commercial objectives, provided the applicable pricing guidelines, reporting requirements and sector-specific conditions are complied with. **The transaction structures most commonly adopted by foreign investors are illustrated below.**

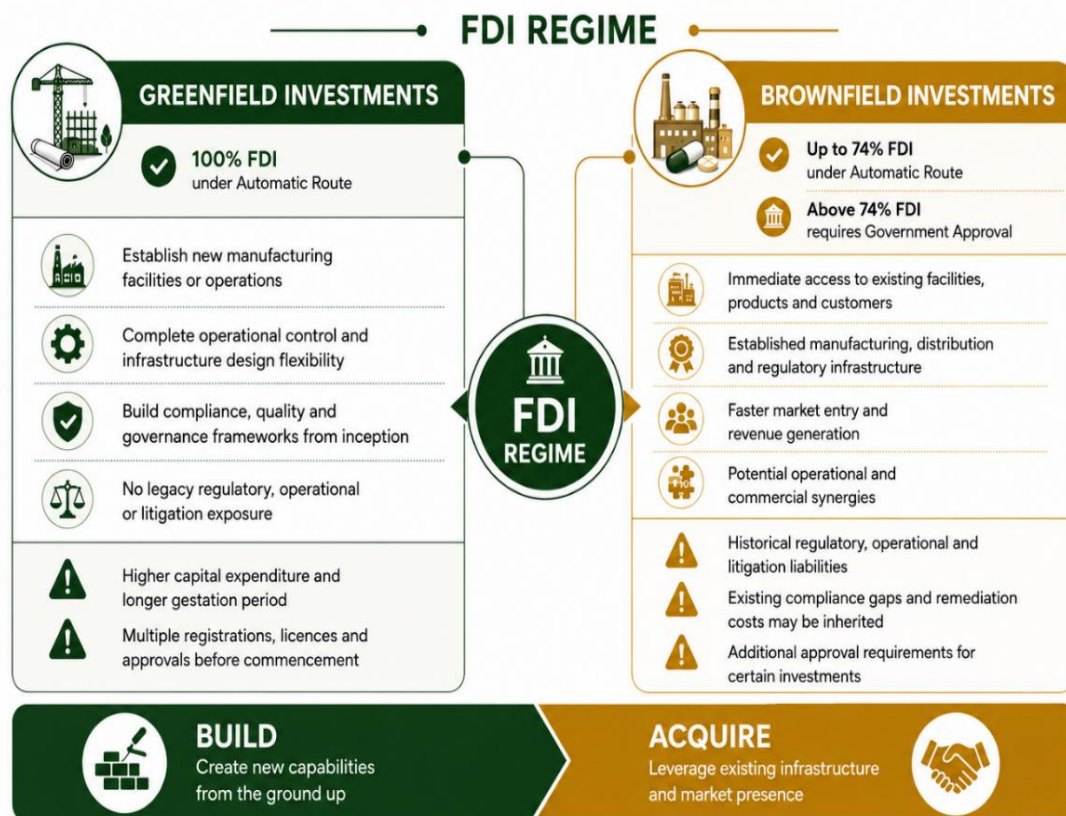


Each of the above structures serves a distinct commercial objective. Primary subscriptions facilitate capital infusion, secondary acquisitions enable changes in ownership, while combination structures and convertible instruments are frequently adopted in private equity transactions. Irrespective of the structure adopted, investments must comply with the applicable pricing guidelines, reporting requirements and sector-specific conditions prescribed under FEMA and the NDI Rules. While the

transaction structures discussed above determine how a foreign investment is implemented, the applicable FDI entry route depends upon whether the investment relates to a greenfield or brownfield pharmaceutical undertaking. This distinction assumes particular significance in the pharmaceutical sector and directly influences the applicable approval requirements.

GREENFIELD AND BROWNFIELD INVESTMENTS

Once the investment structure has been identified, investors must determine the applicable FDI entry route. In the pharmaceutical sector, this assessment assumes particular significance because the regulatory treatment differs depending upon whether the proposed investment relates to a newly established pharmaceutical undertaking (greenfield) or an existing pharmaceutical business (brownfield). The applicable entry route directly influences the regulatory approvals, transaction timelines and implementation process. **The principal distinctions between greenfield and brownfield pharmaceutical investments are illustrated below.**



While greenfield and brownfield investments each present distinct commercial advantages, the choice between the two is ultimately driven by the investor's strategic objectives, desired speed of market entry and long-term business plan. Brownfield acquisitions generally facilitate faster market access through established operations, whereas greenfield investments provide greater flexibility in developing manufacturing and compliance frameworks from inception. More importantly, the two routes are subject to different regulatory treatment, with certain brownfield investments requiring prior Government approval. Investors should therefore evaluate the applicable entry route at an early stage

to ensure that transaction timelines, conditions precedent and closing mechanics appropriately accommodate the regulatory requirements.

GOVERNMENT APPROVAL PROCESS FOR BROWNFIELD INVESTMENTS

While greenfield pharmaceutical investments are permitted under the Automatic Route, certain brownfield pharmaceutical investments require prior Government approval. Accordingly, investors should identify the applicable approval requirements at the transaction structuring stage and factor the approval process into the overall transaction timeline. The Government approval mechanism enables the Government to evaluate investments that may have implications for public health, domestic pharmaceutical manufacturing and the availability of essential medicines. Consequently, investors should identify approval requirements early in the transaction lifecycle and build sufficient flexibility into transaction documents to accommodate the regulatory review process. **The approval process, together with the key information generally submitted and the indicative regulatory timeline, is summarised below.**

GOVERNMENT APPROVAL PROCESS FOR BROWNFIELD PHARMACEUTICAL INVESTMENTS

The process for obtaining prior Government approval for brownfield pharmaceutical investments requires multiple inter-ministerial consultations and sectoral review.

KEY INFORMATION SUBMITTED WITH THE APPLICATION		INDICATIVE APPROVAL TIMELINE		
		STEP	PROCESS STAGE	TYPICAL TIMELINE*
	1. TRANSACTION OVERVIEW Investment structure, rationale, use of proceeds and details of the proposed transaction.	01	 DISSEMINATION OF PROPOSAL DPIIT disseminates the proposal to the concerned Ministries/ Departments, RBI, MHA and MEA.	 2 days
	2. INVESTOR & TARGET DETAILS Background of the investor and target company, business activities and sectoral presence.	02	 INITIAL SCRUTINY & INFORMATION REQUIREMENT DPIIT undertakes initial scrutiny of the proposal and documents attached therewith, and seeks relevant additional information/documents from the applicant.	 12 days (2 Weeks)
	3. SHAREHOLDING & BENEFICIAL OWNERSHIP Existing and proposed shareholding pattern and details of beneficial owners in the ownership chain.	03	 CLARIFICATION ON FDI POLICY ISSUES Time limit for submission of clarification by DPIIT on specific issues of FDI Policy.	 2 Weeks (4 Weeks)
	4. VALUATION & FINANCIAL INFORMATION Valuation reports (where applicable), audited financial statements and other financial information.	04	 COMMENTS FROM STAKEHOLDERS Time limit for submission of comments by MHA, MEA and any other consulted Ministry/Department / RBI / Regulator / Stakeholder.	 6 Weeks (8 Weeks)
		05	 APPROVAL BY COMPETENT AUTHORITY Time limit for approval on proposals by Competent Authority for grant of approval.	 4 Weeks (12 Weeks)
			ADDITIONAL PROVISIONS (i) Additional time of two (02) weeks shall be given to DPIIT for consideration of those proposals which are proposed for rejection or where additional conditions are proposed to be imposed by the Competent Authority. (ii) Time-limits allocated shall exclude time taken by applicants in removing deficiencies in the proposals or in supplying additional information, as may be required by the Competent Authority.	



* The timelines are indicative and may vary depending on the complexity of the proposal, inter-ministerial consultations and information sought.

Applications requiring Government approval are processed through the Foreign Investment Facilitation Portal ("**FIFP**"), with the Department for Promotion of Industry and Internal Trade ("**DPIIT**") acting as the nodal authority. Depending on the nature of the proposed investment, the proposal is examined by the Department of Pharmaceuticals and other relevant ministries or regulatory authorities before the Government communicates its decision. Although the approval process follows prescribed timelines, the actual time required may vary depending on the complexity of the transaction and the information sought during the review process. Investors should therefore build adequate flexibility into transaction documents by incorporating appropriate conditions precedent, long-stop dates and cooperation obligations.

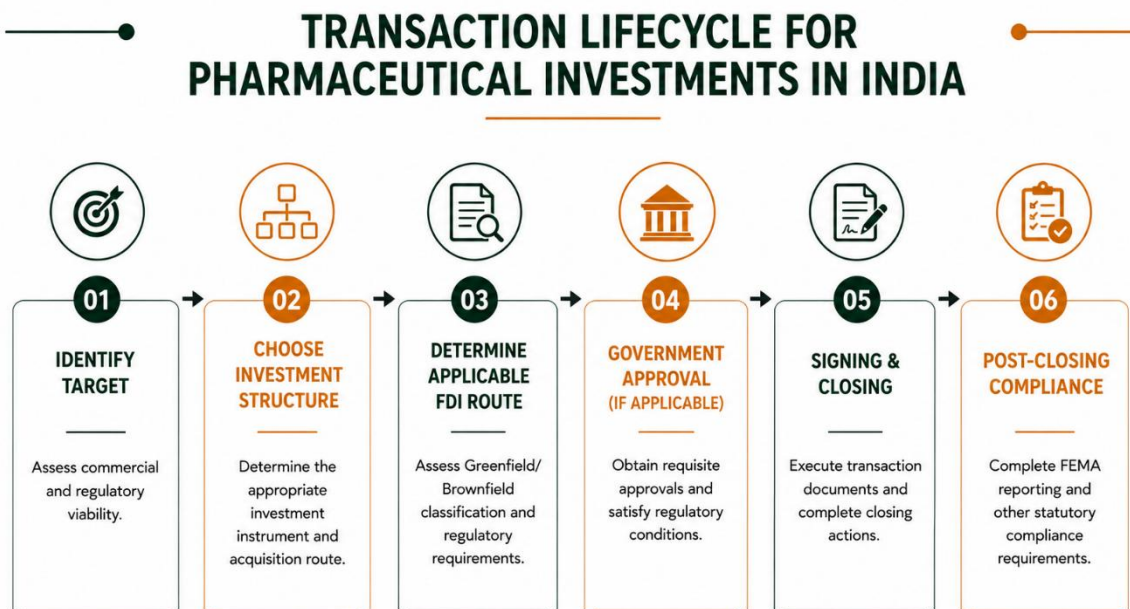
ADDITIONAL REGULATORY CONSIDERATIONS

Obtaining the requisite FDI approval is only one aspect of structuring a cross-border pharmaceutical investment. Investors should also evaluate several additional regulatory considerations that may influence transaction timelines, transaction documentation and post-closing compliance.

Regulatory Consideration	Particulars
<u>Press Note 3 and Beneficial Ownership</u>	Investors should first evaluate the applicability of Press Note 3 (2020), which requires prior Government approval for investments originating from, or where the beneficial owner is situated in, a country sharing a land border with India. Accordingly, ownership and control structures, ultimate beneficial ownership and indirect shareholding arrangements should be assessed at the outset to determine whether the additional approval requirement is triggered.
<u>Pricing Guidelines</u>	Foreign investments must comply with the pricing guidelines prescribed under FEMA and the NDI Rules. Depending upon the nature of the transaction, investors should ensure compliance with, inter alia: (i) valuation by a registered valuer/merchant banker (as applicable); (ii) pricing norms applicable to the issue or transfer of securities; (iii) sector-specific pricing restrictions, where applicable; and (iv) consideration and payment mechanics prescribed under FEMA.
<u>Post-Investment Reporting</u>	Completion of a foreign investment triggers various reporting obligations under FEMA. Depending upon the structure of the transaction, the following filings may be relevant: (i) Form FC-GPR for the issue of securities to non-residents; (ii) Form FC-TRS for transfers between residents and non-residents; (iii) Form DI, where applicable; (iv) Annual reporting requirements, including the Foreign Liabilities and Assets (FLA) Return; and (v) Any other RBI reporting requirements applicable to the transaction.
<u>Transaction Documentation</u>	From a transaction structuring perspective, investors should also ensure that transaction documents appropriately address: (i) Government approvals as conditions precedent; (ii) Regulatory cooperation obligations; (iii) Long-stop dates; (iv) Closing deliverables and FEMA compliances; (v) Responsibility for regulatory filings; and (vi) Consequences of delayed or rejected approvals.

TRANSACTION LIFECYCLE FOR PHARMACEUTICAL INVESTMENTS IN INDIA

The regulatory considerations discussed above arise at different stages of a pharmaceutical investment transaction rather than at a single point in time. Investors should therefore adopt a structured transaction roadmap that integrates regulatory compliance with commercial decision-making from the initial evaluation of the target through to closing and post-investment compliance. **A typical transaction lifecycle is illustrated below.**



Although the sequence of activities may vary depending on the structure and complexity of a transaction, early identification of regulatory requirements enables investors to allocate risks appropriately, minimise execution delays and achieve greater certainty throughout the investment process.

B&P VIEW

India's pharmaceutical sector continues to present compelling opportunities for multinational pharmaceutical companies, private equity funds and strategic investors. However, successful investments require considerably more than identifying an attractive target. The applicable FDI framework, sector-specific conditions, Government approval requirements and broader regulatory considerations should be evaluated alongside commercial objectives from the earliest stages of the transaction. In our experience, the most successful pharmaceutical transactions are those in which regulatory planning is integrated with commercial negotiations from the outset, rather than being addressed as a post-signing exercise. Early assessment of the investment structure, regulatory approvals and compliance requirements enables investors to allocate execution risks more effectively, minimise delays and achieve greater deal certainty. As cross-border investment into India's pharmaceutical sector continues to grow, a well-planned regulatory and transactional strategy will remain central to efficient deal execution.

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Latest Awards and Recognitions

RSGI Resight (RSG India)

IBLJ A List

A List (2023-2024)

ALB India Law Awards 2025

Notable Firm (2024)

Legal 500

Private Equity (Including Venture Capital) - Tier 5 (2025)

IFLR1000 (34th Edition) 2024

1. Rajesh Begur B Ranking: Leading Lawyer – Highly Regarded
2. Firm Ranking: Recommended Firm
3. Southern Asia, Australasia and Central Asia Ranking: Highly Regarded

Corporate INTL Global Awards

Cross Border Private Equity Transactions Law Firm of the Year in India - 2025

Forbes India – Legal Powerlist 2023

Top Law Firm (above 10 years' experience)

Asia Law 2022

Notable Firm – Private Equity, Investment Funds, Banking and Finance, Corporate and M&A

Global Law Expert 2021

Cross Border Private Equity Transactions Law Firm of the year

RSG Consulting 2019

Top 40 Indian Law Firm

