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# Regulating Foreign Direct Investment (FDI) in India's Online Gaming Industry

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## ABSTRACT

*Foreign Direct Investment (FDI) has come out as the main force behind India's ever increasing gaming industry. With serious market engagement and quick technical advancements, regulatory frameworks seek to evolve themselves on the basis of protection of consumers and security imperatives of the whole nation. By providing a brief overview on the historical evolution of regulatory framework and shedding light on the recent developments, this paper is aimed at tracking the growth of FDI regulation in India's ever-growing online gaming sector. Besides the already implemented Central and State laws, it discusses the effects of various rules and regulations, including the ones established under different statutes, especially on betting and gambling, improved data privacy and protection, and clarifications of the GST regime. It also discusses the prevailing market trends, its impact on consumer and shareholder behaviour towards the industry and the compliance criteria that are to be adhered by different individuals and entities. By drawing on empirical data and expert commentary from multiple sources, this research offers a holistic view of the FDI regulatory landscape in India's online gaming industry, the jurisdictional challenges that arise as a result of absence of a singular legal framework across the country and provides policy suggestions that could help reframe the existing laws and enhance the economic growth and development of the already booming industry.*

**Keywords:** FDI, Online Gaming, India, Regulatory Framework, Policy Evolution, Investor Confidence, Data Protection.

## I. INTRODUCTION

India's online gaming industry has gone through a significant metamorphosis which has been impacted hugely by FDI, which has advanced India technologically and caused market expansion, and economic growth. The compliance criteria for this region has adapted to confront multiple factors—economic development, consumer protection, and national security concerns. Present research indicates that while recent regulations have established limits for investors outside the country, constant challenges including inconsistent policies, gaps in

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enforcement, and ever-increasing technical dilemmas continue to impact investor sentiment. Market projections estimate the sector could rise to USD 60 billion by 2034, signifying the utter need of establishing a harmonious regulatory framework that balances advancement milestones with social concern. This article examines the evolution of FDI legislation in India's online gaming industry and offers changes and policy recommendations for creating a more co-operative and investor-friendly regulatory scenario.

### **(A) Research Questions**

1. How have changes in foreign investment rules affected the growth of India's online gaming scene?
2. How do the current FDI regulations influence investor trust, market trends, and the protection of consumers in the industry?
3. How does distinguishing between skill-based gaming and gambling shape foreign investment and the way regulations are designed?
4. How do overlapping rules and inconsistent enforcement at both state and central levels create challenges for companies in the online gaming sector?
5. What policy changes could help balance economic growth, innovation, consumer safety, and national security when regulating foreign investment in online gaming?

## **II. HISTORICAL CONTEXT AND GROWTH TRAJECTORY**

The online gaming industry in our country showcases one of the fastest growing technical sectors in the country's economy, driven by a multitude of factors comprising of widespread smartphone access, a digitally driven youth centric core. Over the past years, this sector has morphed from a selective market to an imperative contributor to the digital economy, pulling significant foreign inflow that has fuelled growth and expansion. This industry's growth curve has been uniquely steep, with market forecasts predicting revenues of close to USD 60 Billion by 2034, representing a milestone of compound annual growth rate that is higher than most other sectors.<sup>34</sup> This dramatic growth has set up our country as one of the more lucrative markets globally for investments related to gaming and such startups, where both the established gaming behemoths as well as startup ventures can capitalise on the large user base and technological

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<sup>3</sup> Mukesh Jagota, *E-gaming FDI rules set to be eased*, The Financial Express (Aug. 21, 2024), <https://www.financialexpress.com/business/brandwagon-e-gaming-fdi-rules-set-to-be-eased-3588102/>.

<sup>4</sup> Imran Fazal, *PM Modi's I-Day speech spurs DPIIT to fast-track FDI policy for online gaming: EXCLUSIVE*, (Sept. 6, 2024), <https://www.storyboard18.com/how-it-works/pm-modis-i-day-speech-spurs-dpiit-to-fast-track-fdi-policy-for-online-gaming-exclusive-41500.html>.

pool of people.

The incoming of Foreign Investments in this industry has played a imperative role in its development, introducing not only finance but also improved tech, global practices and fresh business models. FDI have significantly improved the evolution of gaming platforms and diversity in content and tech infra, enabling Indian companies to compete in gaming on a global scale. However, this explosive growth and internalization has also created challenges un regulation and careful balancing of economic liberalisation and statutory control. As the industry grows, regulatory bodies have been pushed to develop more complex frameworks which can accommodate newer innovation while addressing social, digital and economic concerns. This interplay between market and regulatory dynamics has created a unique policy scenario than continues to develop in response to upcoming challenges and opportunities in the digital gaming environment.

### **(A) Literature Review**

Experts adopt various angles to examine FDI participation in regulation in a gambling context through the lens of economic theory, legal study and policy analysis in our country. Because of labour-force restrictions on information from 1991 one looks mainly for academic outputs analysing high-level patterns of economic liberalisation, where the more recent literature has tended towards mostly sector specific studies focusing on regulation and in fast-evolving sectors like online gaming, This shift in research focus reflects that of the industry from a generalist to a more specialised model of entertainment industry model with a heavy focus on regulation.

Academic perspectives on FDI regulation in this space typically fall within three frameworks. First, the liberalization of the market viewpoint states that excessive regulatory restrictions on other nations may restrict the flow of capital and technological transfer, which in turn would limit industry growth. Extensive research that appeared on SSRN in 2024 suggests that regulatory certainty and predictability rather than deregulation per se are the main engines of sustainable FDI in the digital entertainment industries.<sup>5</sup>

Second, the consumer protection framework puts a primary importance on safeguards against addictive behavior, fraudulent practices, and exposure of vulnerable populations to inappropriate content. A significant body of work, including complex simulations and analysis of how missions creep when Landing Gears become Mainstream, shows how regulatory

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<sup>5</sup> Centre plans single regulatory framework for India's online gaming industry, aims to attract investment, The Financial Express (Feb. 20, 2025), <https://www.financialexpress.com/business/brandwagon-centre-plans-single-regulatory-framework-for-indias-online-gaming-industry-aims-to-attract-investment-3755217/>.

mechanisms need to evolve to balance avarice with social safety in fast-paced digital marketplaces.<sup>6</sup> Third, the national security framework stresses data sovereignty, financial system integrity, and prevention of illicit fund flows, concerns that have gained prominence in recent regulatory discussions.

Evidence from rules-focused studies of investor behaviour indicate sophisticated reasoning processes that inform the adaptation and risk assessment process. Research published on ResearchGate details how investor confidence is particularly sensitive to regulatory changes, particularly with respect to policy clarity, enforcement consistency, and predictability of compliance costs. However, the relationship is multidimensional and contextual: Investors are willing to work within seemingly complex legal frameworks, given stability and predictability of the rules. Thus, our findings indicate that the quality and consistency of regulatory environments are likely prime factors to draw sustainable foreign investment into the gaming sector, compared to leniency of regulation.<sup>7</sup>

There remain large gaps in the literature in this area related to the effectiveness of different approaches to regulation in producing balanced outcomes. Although studies have widely documented regulatory evolution and investment patterns, comparatively fewer have systematically examined policy outcomes against articulated goals. There is also a lack of comparative analysis that considers how India's regulatory approach measures up against international best practices, especially within jurisdictions with well-established online gaming markets. Indicative comparative perspectives may offer useful lessons in policy adjustment and regulatory innovation in India's evolving digital gaming landscape.

### **III. EVOLUTION OF THE FDI REGULATORY FRAMEWORK**

#### **(A) Historical Foundations and Early Regulatory Approaches**

The FDI regulatory landscape of the online gaming domain in India has seen significant evolution over the last decade, aligned with the transformational change in the country's broader economic and digital governance mantra. The pillars of this architecture were laid down in the early 1990s, when India liberalized its economy by moving to a more open, globally integrated regime of trade and investment after decades of protectionism. In this early stage, online gaming wasn't acknowledged as an industry needing industry-specific

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<sup>6</sup> *Advancing India's online gaming regulation: One measure at a time*, Grant Thornton (Nov. 27, 2024), <https://www.grantthornton.in/en/insights/articles/advancing-indias-online-gaming-regulation-one-measure-at-a-time/>.

<sup>7</sup> Basu Chandola, *Harnessing the Potential of Online Gaming in India*, (Dec. 4, 2024), <https://www.orfonline.org/research/harnessing-the-potential-of-online-gaming-in-india>.

As digital entertainment platforms gained prominence in the early 2000s, regulatory authorities began developing more tailored approaches to address the unique characteristics of online gaming. Early regulatory efforts primarily focused on distinguishing between skill-based games and gambling, a distinction that has far-reaching implications for both legality and investment permissions. Even though its provisions remained rooted in a space far removed from the digital world, the Public Gambling Act of 1867 continued to serve as an important point of reference for courts and regulators that were struggling to make sense of this complex space. The other state governments also passed state laws regulating various aspects of gaming and gambling, creating a patchwork of laws that made pan-India operations for gaming companies with foreign investment much more complex. This developing regulatory terrain encapsulated the friction between established legal paradigms, which were crafted for brick-and-mortar gambling venues, and the unprecedented dilemmas posed by the cross-border nature of online gaming platforms accessible through increasingly ubiquitous mobile devices.

### **(B) Recent Policy Developments and Regulatory Advancements**

Over the past decade, regulatory frameworks governing the online gaming industry have evolved significantly, with a sharper focus on foreign direct investment (FDI). Policymakers have introduced a range of targeted regulations, acknowledging both the economic opportunities and societal challenges posed by this fast-growing sector. The Ministry of Electronics and Information Technology (MeitY) has taken on a pivotal role, working in coordination with the Reserve Bank of India (RBI), the Ministry of Finance, and various state governments to establish more structured policies. These efforts aim to balance technological advancements with concerns related to social impact, economic sustainability, and security.

By 2015, regulations shifted making clearer distinction between skill-based gaming platforms, which generally enjoy automatic FDI approvals, and gambling or betting-related services, which remain heavily restricted. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, though originally intended for digital media and social networking platforms, have indirectly shaped online gaming regulations by reinforcing platform accountability. Reports from the industry suggest that these regulatory clarifications, while still developing, have provided foreign investors with a more stable and transparent framework regarding acceptable business operations and investment models.

Data security and user privacy have also become central to FDI regulations in online gaming. Foreign investors are now required to adhere to stringent compliance measures, including data localization, user consent protocols, and cybersecurity standards. These policies align with

concerns over data sovereignty and financial security, given the volume of sensitive user data processed by gaming platforms. Inspired by international regulations like the European Union's General Data Protection Regulation (GDPR), India's data protection framework aims to strike a balance between robust security measures and avoiding excessive regulatory burdens that could hinder investment. While industry leaders acknowledge the importance of these safeguards, they continue to push for a regulatory approach that fosters both compliance and market competitiveness.

Taxation policies, particularly those related to the Goods and Services Tax (GST), have also undergone substantial changes. Recent clarifications have resolved long-standing uncertainties about applicable tax rates for different gaming categories, providing foreign investors with greater financial predictability. The GST Council has refined its classification of online gaming services, differentiating between games of skill and chance to determine applicable tax structures. While ongoing revisions are expected, these refinements indicate an effort to create a more predictable tax environment that supports business growth while ensuring regulatory compliance.

#### **IV. MARKET DYNAMICS AND INVESTMENT PATTERNS**

##### **(A) Growth of the Online Gaming Market and Foreign Investments**

India's online gaming industry has experienced rapid growth, expanding from around \$1 billion in 2020 to a projected \$5 billion by 2025, with long-term estimates reaching up to \$60 billion by 2034.<sup>8</sup> This surge is a result of India's young population, where over 65% of the population is under 35, a massive smartphone user base exceeding 750 million, and continuous advancements in internet infrastructure with lower data costs. These factors have made India a hotspot for gaming companies, attracting significant foreign investment across various segments such as casual gaming, esports, fantasy sports, and skill-based gaming.

Foreign investments in this sector have evolved over the years. Initially, foreign capital went into well-established gaming firms, however, recent trends indicate that investors are showing interest in startups developing new technologies and niche markets. Reports suggest that foreign investment in India's gaming industry totalled approximately \$2.8 billion from 2020 to 2023, with major contributions from the U.S., China, Japan, South Korea, and the European Union. Capital has increasingly been directed toward segments with greater regulatory clarity, particularly skill-based gaming, which faces fewer legal restrictions than gambling or betting-

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<sup>8</sup> Mukesh Jagota, *E-gaming FDI rules set to be eased*, The Financial Express (Aug. 21, 2024), <https://www.financialexpress.com/business/brandwagon-e-gaming-fdi-rules-set-to-be-eased-3588102>.

related businesses.

Investment patterns also vary by region. While metropolitan cities like Bangalore, Mumbai, and Delhi NCR have attracted most of the funding, emerging tech hubs in tier-2 cities are gaining attention due to their lower operational costs and growing talent pools. Additionally, the investment landscape is diversifying, with global gaming firms making strategic investments alongside venture capital and private equity. This reflects strong investor confidence in India's long-term potential.

### **(B) Regulatory Impact on Investment Decisions and Market Structure**

Regulatory policies play a key role in shaping investment trends. Clear and consistent regulations encourage foreign investment, while sudden changes or ambiguous policies create uncertainty, leading investors to delay funding.

Typically, regulatory changes impact investment decisions in a phased manner. Initially, when new policies such as changes in GST regulations or data security laws are introduced, they cause uncertainty slowing investments as companies assess risks. Over time, businesses adjust by restructuring operations or redirecting investments to more stable market segments. This was clear after major policy changes like the revision of GST rules for online gaming and stricter data security laws.

Regulations also shape the market's competitive structure. Sectors with clear legal frameworks, such as casual and skill-based gaming, attract more investment, while those with legal uncertainty grow at a slower growth. This has led to industry consolidation, with larger, well-funded companies using their compliance capabilities as a competitive edge. As a result, regulatory developments are not only influencing investment flows but also reshaping market dynamics.

## **V. REGULATORY CHALLENGES AND GAPS IN IMPLEMENTATION**

### **(A) Overlapping Jurisdictions and Regulations**

A major challenge in regulating foreign direct investment (FDI) in India's online gaming sector is the uneven division of regulatory authority between the Central and State governments. While states regulate gambling and betting, the central government oversees digital commerce, telecom, and foreign investment. This creates inconsistencies in a digital sector that operates across state boundaries, forcing companies to comply with up to 28 different state regulations, each having their own interpreting gaming and gambling laws. As a result, foreign investors often face legal uncertainties, high compliance costs, and operational inefficiencies.



Beyond jurisdictional issues, multiple agencies, including the Ministry of IT, Finance, Broadcasting, and the RBI, each impose different regulations on gaming platforms. This regulatory overlap and lack of coordination leads to conflicting rules, redundant compliance requirements, and increased administrative burdens. Without a centralized regulatory body, investors find it difficult to cope up with the different mandates, making market entry or expansion in India's gaming industry.

### **(B) Inconsistent Enforcement and Business Uncertainty**

India's online gaming sector suffers from inconsistencies in enforcement across jurisdictions resulting in:

- a. Different interpretations of skill-based gaming vs. gambling across different states.
- b. Inconsistent application of data protection laws.
- c. Confusion over GST compliance due to irregular tax enforcement.

Another issue is the limited resources and expertise within enforcement agencies. Many regulatory bodies struggle to understand digital gaming technologies, resulting in either too lenient (allowing unregulated activities) or too strict (imposing restrictions on legitimate businesses) measures. Additionally, rapid technological advancements often outpace regulatory adaptation, resulting in gray areas where businesses operate without clear legal guidance. For foreign investors these pose significant risks, sometimes delaying or preventing investments.

### **(C) Balancing Economic Growth, Consumer Protection and National Security**

From an economic perspective, the government tries to encourage foreign investment and industry expansion by reducing regulatory burdens. However, consumer protection policies, focuses on preventing fraud, minimizing addiction risks, and ensuring age-appropriate content, which often leads to stricter regulations.

National security concerns add another layer of complexity. Data localization laws, meant to enhance data security, can increase operational costs and discourage foreign gaming companies that rely on cross-border data management. Meanwhile, content regulations, implemented to address cultural sensitivities and protect minors, impose another layer of compliance that may not align with global gaming strategies.

## **VI. POLICY RECOMMENDATIONS AND FUTURE DIRECTIONS**

### **(A) Establishing a Unified Regulatory Framework**

To overcome the challenges of fragmented regulations, India must establish a centralized, well-

coordinated framework for the online gaming sector. A dedicated regulatory body could serve as a bridge between federal and state authorities, ensuring consistency while respecting jurisdictional differences. The government's recent efforts to introduce a uniform legal structure is a positive step in reducing ambiguity for businesses and investors.

An effective regulatory framework should:

- a. Clearly define and differentiate skill-based gaming from gambling.
- b. Create standardized compliance rules applicable across India.
- c. Implement coordinated enforcement mechanisms to avoid jurisdictional inconsistencies.

There should also be a structured consultation mechanism through which government agencies, industry leaders, and consumer groups can improve regulatory efficiency, ensuring policies are at par with market and technological changes. Additionally, investing in specialized regulatory expertise through training programs and global partnerships would help authorities stay at same pace with industry trends.

### **(B) Simplifying Compliance through Technology**

Improving regulation does not always necessitate added complexity. For instance, automated platforms can simplify reporting and monitoring, reducing manual paperwork. Moreover, regulatory sandboxes can allow gaming companies to test new business models under supervision before large-scale implementation.

Taxa and financial regulations must also be clearer and more predictable to attract investment. Key measures include defining tax categories, simplifying licensing procedures with a single-window approval and setting clear timelines for approvals to ensure business operational transparency and certainty.

### **(C) Strengthening Global Collaboration**

India can enhance its gaming regulations by adopting best international practices and engaging with global markets. Some strategies include participating in global gaming forums to exchange insights on policy frameworks and compliance mechanisms and entering into bilateral agreements with countries such as South Korea, Japan, and the UK for cross-border investments.

## **VII. CONCLUSION**

India's online gaming industry is at a crucial stage, with its future largely dependent on the

regulatory framework governing foreign direct investment (FDI). The sector's rapid growth, technological advancements, and investor interest have positioned it as a potential global powerhouse. However, recognizing this potential requires strategic regulatory reforms that encourage investment while ensuring responsible industry development.

Currently, the regulatory landscape is fragmented, enforcement is inconsistent, and policies still evolving. Although these challenges create uncertainty, they also provide opportunities for improvement. India must focus on -

- a. A centralised and well-coordinated regulatory framework to simplify compliance and reduce legal complexities.
- b. Leveraging technology to create efficient oversight mechanisms without adding unnecessary burdens.
- c. Engaging in global collaboration to adopt best practices from leading gaming market. This ensures a balance growth of the industry with consumer protection.
- d. Keeping the policies flexible and adapting regulations to emerging technologies as gaming continues to integrate AI, blockchain and other innovations.

By implementing clear, consistent, and innovation-friendly regulations, India can establish itself as a global leader in the India can serve as a model for managing other digital industries, helping it to shape and develop a comprehensive and forward-thinking digital economy strategy.

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