

Foreign Investment & Technology Transfer Act (FITTA) 2019

- The Government of Nepal (GON) enacted the Foreign Investment and Technology Transfer Act (FITTA)-2019 with the strategic intent to overhaul and modernize the existing legal framework governing foreign investment in the country. This bold legislative move aims to significantly boost foreign direct investment by expanding the scope of permissible investment avenues. In addition to the traditional provisions for share investment, reinvestment, and technology transfer, the Act now robustly accommodates a wider range of foreign investment mechanisms. These include the establishment of branch offices, lease financing, participation in the secondary stock market, equity investment through venture capital funds, and the issuance of securities in international stock markets. This comprehensive reform positions Nepal as a more dynamic, competitive, and investor-friendly destination on the global investment map.

Prohibited Sectors for Foreign Investment in Nepal (FITTA 2019)

Foreign investment is strictly prohibited in the following sectors in Nepal, with no exceptions unless explicitly stated:

- Industries, except the large Industries exporting at least seventy five percent of their own products, in the sectors of animal husbandry, fisheries, bee-keeping, fruits, vegetables, oilseeds, pulses, dairy business and other industries or business related to primary products of agriculture.
- Cottage and micro industries,
- Personal service business (hair cutting, tailoring, driving etc.),
- Industries manufacturing arms, ammunition, bullets and shell, gunpowder or explosives, and nuclear, biological and chemical (N.B.C.) weapons; industries producing atomic energy and radio-active materials,
- Real estate business (excluding construction industries), retail business, internal courier service, local catering service, moneychanger, remittance service,
- Travel agency, guide involved in tourism, trekking and mountaineering guide, rural tourism including home stay,
- Business of mass communication media (newspaper, radio, television and online news) and motion picture of national language,
- Management, account, engineering, legal consultancy service and language training, music training, computer training, and
- Consultancy services having foreign investment of more than fifty-one percent.
- Ride Sharing having foreign investment of more than Seventy percent.

These restrictions are non-negotiable and enforced to protect Nepal's economic and cultural interests.

Modes of Foreign Investment in Nepal

Explore Flexible Investment Options under the Foreign Investment and Technology Transfer (FITTA) Regulations, 2077

Invest in Nepal's Growth

The **Foreign Investment and Technology Transfer Act, 2074** and its regulations (2077) provide diverse and investor-friendly modes for foreign investment in Nepal. From equity stakes to technology transfers, these options cater to various business models, enabling global investors to tap into Nepal's emerging market.

Key Modes of Foreign Investment

Equity Investment

Foreign investors can purchase up to 100% of shares or assets of industries established in Nepal, except in sectors restricted by the Act. This mode allows:

- Full or partial ownership of existing or new industries.
- Investment through share acquisition or asset purchase.
- Flexibility to invest in most sectors, including manufacturing, services, and infrastructure.

Key Requirement: Investors must bring at least 25% of the approved investment within one year, with thresholds like 10% for investments over NPR 1 billion.

Lease Investment

Investors can lease high-value assets such as aircraft, ships, machinery, construction equipment, or similar items within limits. This mode is ideal for:

- Industries needing temporary access to expensive equipment.
- Minimizing upfront capital expenditure while maintaining operational efficiency.
- Compliance with structural and management conditions set by the Department of Industry.

Key Requirement: Lease agreements must be submitted to the approving authority for record-keeping.

Technology Transfer

Foreign investors can earn royalties and fees by transferring technology to Nepalese industries, with limits. Benefits include:

- Royalties up to 10% of net sales for exports and 5% for domestic sales, or 20% of net profit for exports and 15% for domestic.
- Special rates for liquor/tobacco (2% domestic, 5% export) and other industries (3% domestic, 6% export).
- Flexibility in agreements for preparatory technology transfers, based on mutual consent.

Key Requirement: Total royalties in a fiscal year must not exceed Schedule-1 limits, and agreements must be recorded.

Branch Establishment

Foreign companies can establish or expand branch industries in Nepal, as per Section 7 of the Act. This mode supports:

- Direct operations for global businesses in Nepal.
- Expansion of existing foreign industries into new markets.
- Compliance with industry registration under prevailing laws.

Key Requirement: Approval from the Department of Industry and registration under Nepalese laws are mandatory.

Reinvestment of Earnings

Profits from foreign investments can be reinvested in the same or other permitted industries, fostering long-term growth. This mode allows:

- Reinvestment in the same industry with a minimum of 10% of the specified investment limit.
- Investment in new industries, meeting the full minimum investment threshold.
- Enhanced capital utilization for scaling operations.

Key Requirement: Reinvestment must comply with minimum investment thresholds and be approved by the authority.

Share Purchase of Operating Industries

Foreign investors can acquire shares of existing industries within one year of approval, providing a quick entry into established businesses. This includes:

- Investment in operational industries for immediate market access.
- Up to 100% share acquisition in non-restricted sectors.
- Streamlined approval for share transfers or sales.

Key Requirement: Share transactions must be reported with audited financials and tax clearance.

Regulatory Bodies for Foreign Investment

- Department of Industries (“DOI”)
- Investment Board of Nepal (“IBN”)
- Nepal Rastra Bank (“NRB:)

Approving Authority for Foreign Investment

The FITTA requires that foreign investment and technology transfer should be approved by the approving authority according to the investment amount which is as follow:

- Foreign investment to be made as per this act shall be approved by the Department of Industry (DOI)

Limit of Ownership

Foreign investment can be made by purchasing upto 100% of shares or property of an industry other than those listed in the negative list of FITTA 2019. However, there are certain sectors which has ceiling of foreign ownership such as:

S.N.	Sectors	Maximum foreign ownership %	Relevant Act/ Law
1	Telecommunication	80	Tele communication policy, 2004
2	Aviation		
	▪ Domestic air Passenger Service	49	
	▪ Repairs & Maintenance Institutions	80	
	▪ International Air Passenger Service	95	
3	Insurance	80	Directives on Registration of Insurer and Operation of Insurance Services 2019

Time Taken for A Foreign Investor to Obtain Approval and Set Up Business:

It generally takes about 2-3 months to obtain approval from DOI & NRB and set up business in Nepal for foreign investors. However, if approval from IIPB/IBN is necessary, it may take up to 6 months.

Process: Setting up a foreign investment project in a new industry

The process of obtaining approval for foreign investment in Nepal for establishing a new Industry is as follows:

- Identify a project and initial consultation with approving authority stated above.
- File an application in the prescribed form together with the relevant document (foreign investment approval document) with the approving authority. The timeframe for the receipt of the investment must also be provided.

- An approval letter will be obtained within 7 days from the date of the application, if the application is complete in all respects.
- Approval for reinvestment in the same company, or in other industries, from profits earned, not included in the negative list is not required by an industry which has already been granted approval.
- Once approval of foreign investment is obtained, the investor must incorporate a company under the Companies Act 2006 and submit the relevant documents.
- Register the entity with the Inland Revenue Department and obtain a Permanent Account Number (PAN).
- Open Bank Account with the prior approval of NRB.
- Register the industry with the DOI and obtain an industry registration certificate.
- Register the business with the local authority.
- After obtaining foreign investment approval, the foreign investor should notify NRB when the investment can be obtained in Nepal (through the banking channel) in a convertible currency [except for Indian investors who can invest in Indian currency].
- Other approvals may be required prior to commencement of business, for Environmental clearances where applicable, and licenses for specific industries.
- Project Development Agreement (PDA) for PPP Projects and Project Investment Agreement (PIA) for Private Projects shall be negotiated for industries with project of more than NPR 6 billion.

Documents required to obtain approval for foreign investment- New Company At IBN for FDI approval for projects above NPR 6 billion:

- Preliminary Feasibility Report
 - a. Project Design of the Project
 - b. Estimated Cost of the Project
 - c. Proposed Financial Resources
 - d. Business/Operation Plan of the project
 - e. Preliminary EIA Report
 - f. Proposed Revenue Model
 - g. Proposed Royalty / Fee to Government
- Joint Venture Agreement (JVA), in case of more than one investor,
- Citizenship certificate of local investor or Certificate of Incorporation, including Memorandum of Association and Articles of Association, Shareholder's register, tax clearance certificate if the local investor is a company
- Notarized Copy of passport of foreign investor or Certificate of Incorporation, including Memorandum of Association and Articles of Association if the party is a company
- Bio-data / Company profile of the foreign party
- Financial Credibility Certificate (FCC) of the Foreign Investor provided by a home country bank or domiciled country bank.
- Authority letter from the concerned companies or individuals to carry out any necessary work on their behalf, if applicable

- Other documents as demanded later based on the progress

Process For Registration and Approval of FDI

Mandatory Documentation for Foreign Investment Registration with Department of Industry

- 1. Completed Online Form**

A fully completed online application form, submitted via the Department of Industry's official portal. All fields must be accurately filled, ensuring compliance with DOI requirements.
- 2. Core Company Documents**

Certified copies of the following documents, each verified and fully compliant with regulatory standards:

 - Company Registration Certificate, confirming legal establishment.
 - Tax Registration Certificate (PAN), verifying tax compliance.
 - FDI Approval Letter, issued by the DOI, validating foreign investment.
 - Memorandum of Association and Articles of Association, meticulously drafted and legally compliant.
- 3. No Objection Certificate**

A No Objection Certificate (NOC) from the Local Authority, explicitly endorsing the proposed foreign investment and associated business operations.
- 4. Additional Foreign Investment Documents**

Any supplementary documents required by the Department of Industry for foreign investment must be submitted promptly, ensuring completeness, accuracy, and adherence to all specified guidelines.

Mandatory Requirements for Company Name Reservation and Registration

- 1. Online Application for Company Name Reservation**

A formal application must be submitted via the official online portal to reserve the proposed company name, ensuring strict adherence to all naming regulations and guidelines.
- 2. Approved Company Name and Core Documents**

The officially approved company name must be accompanied by two complete sets of the Articles of Association and Memorandum of Association. These documents must be thoroughly prepared, legally compliant, and aligned with all statutory requirements.
- 3. Unanimous Promoters' Agreement**

Where applicable, a unanimous agreement among promoters must be provided. This legally binding document shall clearly articulate the roles, responsibilities, and mutual commitments of all promoters.
- 4. Promoters' Minutes for Company Registration**

If required, detailed minutes of the promoters' meeting must be submitted, explicitly documenting the resolution to register the company. These minutes must conform to all applicable legal standards.
- 5. FDI Approval and Joint Venture Documentation**

For companies involving foreign investment, a Foreign Direct Investment (FDI) approval letter and, if applicable, a Joint Venture (JV) agreement must be obtained from the Department of

Industry (DOI). These documents must be fully compliant with regulatory requirements and submitted as part of the application.

6. **Local Party Documentation**

1. **Individual:** A valid citizenship certificate of the local party must be submitted, verified, and current.
2. **Company:** If the local party is a company, provide the Certificate of Incorporation, along with the Memorandum of Association and Articles of Association. These documents must be comprehensive, legally compliant, and aligned with regulatory requirements.

7. **Foreign Party Documentation**

1. **Individual:** A certified copy of the foreign party's valid passport is required, duly authenticated by the relevant authorities.
2. **Company:** If the foreign participant is a company, submit the Certificate of Incorporation, accompanied by the Memorandum of Association and Articles of Association. All documents must be authenticated and fully compliant with applicable legal standards.

8. **Additional Documents**

Any supplementary documents mandated by the Office of Company Registrar (OCR) must be provided in a timely manner. These documents must be complete, accurate, and strictly adhere to the OCR's specified guidelines.

Mandatory Documentation for FDI Approval at Nepal Rastra Bank

1. **FDI Approval Letter**

A valid Foreign Direct Investment (FDI) approval letter from the Department of Industry (DOI) must be submitted, unequivocally demonstrating compliance with all investment regulations.

2. **Foreign Company Documents**

Notarized copies of the foreign company's Charter, Certificate of Incorporation, Memorandum of Association, and Articles of Association are required. Certified Nepalese translations of these documents must accompany the originals, ensuring accuracy, completeness, and legal compliance.

3. **Investor Identification**

- **Local Investor:** A notarized copy of the citizenship certificate, duly verified.
- **Foreign Investor:** A notarized copy of the foreign investor's or their authorized representative's valid passport, authenticated by the relevant authorities.

4. **Tax Registration**

A valid Tax Registration Certificate (PAN Certificate) of the local company, confirming full compliance with tax obligations.

5. **Industry Registration**

A certified copy of the Industry Registration Certificate of the local company, validating its operational and legal status.

6. **Investment Commitment**

A formal, binding commitment letter from the foreign investor, explicitly guaranteeing that the investment will not be repatriated for at least one year.

7. **Financial Proof**

A verified bank statement from the foreign investor's bank, accompanied by indisputable proof of the investment's source, ensuring transparency and compliance with regulatory standards.

8. **Investment Schedule**

If the investment is not transferred in a single payment, a detailed investment schedule or a

legally binding commitment to adhere to the investment timeline outlined in the Industrial Enterprise Regulation must be provided.

9. Audit Report

For foreign companies operational for more than one year, a certified audit report must be submitted, fully compliant with applicable financial and legal standards.

10. Credit Information Bureau (CIB) Report

A CIB report for the local company, confirming it is not blacklisted and maintains good financial standing.

11. Ultimate Beneficiary Disclosure

For foreign investors that are companies, comprehensive documentation identifying the ultimate beneficiary must be provided, ensuring complete transparency and regulatory compliance.

Mandatory Documentation for Business Registration at Local Authority

1. Board Resolution

A formal board minute, duly signed and dated, explicitly resolving to register the business with the Local Authority. The document must adhere to all legal and regulatory standards.

2. Completed Forms

All registration forms must be fully and accurately completed, ensuring compliance with the Local Authority's specific guidelines and requirements.

3. Company Registration Certificate

Certified copies of the company's Certificate of Incorporation, confirming its legal establishment and registration with the relevant authority.

4. Articles and Memorandum of Association

Certified copies of the Articles of Association and Memorandum of Association, meticulously drafted and fully compliant with statutory regulations.

5. Rental Agreement

A certified copy of the office rental agreement, legally executed, valid, and accompanied by all necessary supporting documentation.

6. TDS Deposit

Proof of deposit of the Tax Deducted at Source (TDS) for the rent amount, verified and compliant with applicable tax regulations.

7. Company Stamp

The official company stamp, affixed to all required documents to authenticate their validity and compliance.

8. Additional Documents

Any further documentation required by the Local Authority must be submitted promptly, ensuring completeness, accuracy, and adherence to all specified guidelines.

Mandatory Documentation for PAN Registration at Inland Revenue Department

1. Online Application Form

A fully and accurately completed PAN registration form, submitted via the Inland Revenue Department's official website. The acknowledgment receipt generated upon submission must be included.

2. Company Registration Certificate

Certified copies of the company's Certificate of Incorporation, confirming its legal establishment with the relevant authority.

3. **Articles and Memorandum of Association**
Certified copies of the Articles of Association and Memorandum of Association, comprehensively prepared and fully compliant with all statutory requirements.
4. **Rental Agreement and TDS Proof**
A certified copy of the office rental agreement, legally valid and executed, accompanied by the Tax Deducted at Source (TDS) deposit slip, verifying adherence to tax regulations.
5. **Company Stamp**
The official company stamp, affixed to all required documents to authenticate their legitimacy and compliance.
6. **Additional Documents**
Any further documentation required by the Inland Revenue Department must be submitted promptly, ensuring completeness, accuracy, and strict adherence to IRD guidelines.

Mandatory Documentation for FDI Approval at Department of Industry

1. **Proposed Business Plan and Shareholding Structure**
A detailed business plan outlining operational objectives, financial projections, and a clearly defined shareholding structure, meticulously prepared to meet the Department of Industry's rigorous standards.
2. **Investor and Seller Requests**
Formal, written requests from both the foreign investor and the seller, explicitly articulating their intent and commitment to the investment transaction.
3. **Share Purchase Agreement**
Two certified copies of the Share Purchase Agreement, legally executed, comprehensive, and fully compliant with all applicable regulatory requirements.
4. **Foreign Investor Identification (Individual)**
For natural persons, a notarized copy of a valid passport or other official identification proving citizenship, accompanied by comprehensive personal bio-data.
5. **Foreign Investor Documentation (Company)**
For corporate entities, notarized copies of:
 - Certificate of Incorporation.
 - Memorandum of Association and Articles of Association.
 - Register of directors and shareholders.
 - A detailed company profile.
 - Minutes of the board meeting explicitly resolving to invest in Nepal.
6. **Foreign Investor Documentation (Firm)**
For firms, notarized copies of:
 - Certificate of registration.
 - Documents evidencing the partners of the firm.
 - A firm profile.
 - Minutes of the partners' meeting explicitly resolving to invest in Nepal.
7. **Foreign Investor (Nepalese Origin or Non-Resident Nepalese)**
For foreign citizens of Nepalese origin or Nepalese citizens residing abroad, certified documents unequivocally verifying such status.
8. **Foreign Investor (International Organization)**
For international organizations, certified copies of:
 - Charter documents.
 - Profiles of directors.
 - An organizational profile.
 - A formal decision document authorizing investment in Nepal.

9. **Financial Credibility Certificate**
An original Financial Credibility Certificate (FCC) issued by the foreign investor's home country bank or domiciled country bank, unequivocally verifying financial capacity.
10. **Authorization Letter**
If the foreign investor cannot be present, a duly authenticated authority letter from the relevant company or individual, accompanied by certified identification documents of the authorized representative.
11. **Additional Documents**
Any supplementary documents mandated by the FDI approving authority, submitted promptly, ensuring completeness, accuracy, and full compliance with specified guidelines.
12. **Local Company Shareholding and Directorship**
A current list of shareholders and directors of the local company, certified by the Office of the Company Registrar, verifying ownership and governance.
13. **Local Company Financials**
The latest Auditor's Report of the local company, providing a comprehensive and accurate financial overview.
14. **Tax Compliance**
A valid Tax Registration Certificate and the latest Tax Clearance Certificate of the local company, confirming full compliance with all tax obligations.
15. **Valuation Report**
A detailed Valuation Report of the local company, prepared by a qualified professional, accurate, and fully compliant with regulatory standards.

Mandatory Documentation for FDI Approval at Nepal Rastra Bank

1. **FDI Approval Letter**
A valid Foreign Direct Investment (FDI) approval letter from the Department of Industry (DOI), unequivocally confirming compliance with all investment regulations.
2. **Company Registration Certificate**
A certified copy of the Company Registration Certificate, verifying the legal establishment of the local company with the relevant authority.
3. **Articles and Memorandum of Association**
Certified copies of the Articles of Association and Memorandum of Association, comprehensively prepared and fully compliant with all statutory requirements.
4. **Tax Compliance Certificates**
A valid Tax Registration Certificate (PAN) and the latest Tax Clearance Certificate, confirming the local company's full adherence to tax obligations.
5. **Credit Information Bureau (CIB) Report**
A CIB report for the local company, confirming it is not blacklisted and maintains good financial standing with relevant authorities.
6. **Financial Credibility Certificate**
An original Financial Credibility Certificate (FCC) issued by the foreign investor's bank, verifying their financial capacity and the legitimacy of the investment.
7. **Payment Schedule**
If the investment is to be made in phases or tranches, a detailed payment schedule, strictly adhering to the guidelines prescribed by Nepal Rastra Bank, must be provided.
8. **Investor Identification**
 - **Individual Investor:** A notarized copy of the investor's valid passport, duly authenticated.

- **Company Investor:** A notarized copy of the valid passport of the authorized representative, authenticated by the relevant authorities.
9. **Investor Registration Documents (Company)**
If the investor is a company, notarized copies of:
- Certificate of Incorporation.
 - Memorandum of Association.
 - Articles of Association.
- All documents must be fully compliant with applicable regulatory standards.
10. **Audit Report of Foreign Company**
For foreign companies operational for more than one year, a certified audit report, comprehensive and compliant with international financial reporting standards.
11. **Letter of Commitment**
A formal, legally binding Letter of Commitment from the foreign investor, explicitly guaranteeing compliance with all investment terms, including non-repatriation of funds for the stipulated period.
12. **Letter of Declaration and Proof of Investment Source**
A notarized Letter of Declaration from the foreign investor, accompanied by verifiable and indisputable proof of the investment's source, ensuring complete transparency and legitimacy.
13. **Valuation Report of Local Company**
A professionally prepared Valuation Report of the local company, meticulously detailing its market value and fully compliant with all applicable regulatory standards.
14. **Ultimate Beneficiary Documentation**
Comprehensive documentation unequivocally identifying the ultimate beneficiary of the foreign company, including certified copies of their valid IDs or passports, ensuring full transparency and adherence to regulatory requirements.

Mandatory FDI Thresholds, Time Limits, and Provisions under FITTA Rules 2077

Minimum and Maximum Threshold for Foreign Investment

1. **Minimum Threshold**
Foreign investors are required to commit a minimum investment of NPR 20 million (approximately USD 155,000.00). This amount may be invested in tranches, provided it strictly adheres to the prescribed timeline.
2. **Maximum Threshold**
No maximum ceiling applies to the amount or share of foreign investment in Nepal, unless explicitly stipulated by regulatory authorities. Restrictions may be imposed in the following cases:
 - Investments through a Venture Capital Fund (VCF).
 - Investments in the Service Sector, which must comply with Nepal's commitments under its World Trade Organization (WTO) agreement.

Time Limit to Bring FDI into Nepal

The approved FDI amount must be invested according to the following mandatory schedule, based on the investment size:

1. **Up to NPR 20 Million:** A minimum of 25% of the approved amount must be invested within 1 year of approval.
2. **Above NPR 20 Million to NPR 250 Million:** A minimum of 15% of the approved amount must be invested within 1 year of approval.
3. **Above NPR 250 Million to NPR 1,000 Million:** A minimum of 10% of the approved amount must be invested within 1 year of approval.
4. **Above NPR 1,000 Million:** A minimum of 5% of the approved amount must be invested within 1 year of approval.

General Requirements:

- At least 70% of the approved FDI amount must be invested prior to the commencement of commercial production or transaction.
- The remaining balance must be invested within two years from the date of commencement of commercial production or transaction.

Share Purchase Investments:

For FDI approvals involving the purchase of shares in an existing operating industry, the entire approved amount must be invested within 1 year of approval.

Existing Industries:

Industries with FDI that have not yet brought foreign investment as of the enactment of FITTA Rules 2077 must submit a comprehensive foreign investment plan for approval and execute the investment strictly in accordance with the approved plan.

Reinvestment of Earnings from Foreign Investment

Foreign investors are authorized to reinvest earnings from their foreign investment in either the same industry or other industries where foreign investment is permitted. The following minimum thresholds must be strictly adhered to:

1. **Reinvestment in the Same Industry**
A minimum of 10% of the existing minimum threshold (NPR 20 million) must be reinvested, ensuring continued commitment to the industry.
2. **Reinvestment in a Different Industry**
The full existing minimum threshold (NPR 20 million) must be reinvested, aligning with the initial investment requirement for new foreign investments in Nepal.

Alternative Modes of Foreign Investment

1. **Investment through a Venture Capital Fund**
Foreign investors seeking to invest in the equity shares of a Nepalese company through a Venture Capital Fund (VCF) must obtain prior approval from the Securities Board of Nepal (SEBON). All investments must be executed in strict accordance with SEBON's regulatory guidelines.

2. Dealing in Securities Transactions

Entities managing a Venture Capital Fund are permitted to transact in securities through the secondary market of the stock exchange, provided they are formally registered with SEBON. Pending regulations will prescribe the minimum shares to be purchased, investment limits, minimum shareholding period, and foreign currency reserve fund requirements.

3. Issuance of Foreign Currency Bonds, Debentures, or Securities

Only public and listed companies incorporated in Nepal, or companies explicitly authorized under the relevant legal framework, may issue bonds, debentures, or securities to raise loans or foreign currency. All funds raised through such instruments must be invested exclusively within Nepal. This provision shall be effective upon the Government of Nepal's publication of a notice in the Nepal Gazette.

4. Raising Foreign Currency Loans

Companies with foreign investment are authorized to secure loans from foreign governments, banks, or financial institutions to meet project loan or project financing requirements. Such loans mandate prior approval from the Ministry of Industry, Commerce and Supplies (MOICS) and Nepal Rastra Bank (NRB), ensuring strict adherence to regulatory protocols.