



# DIVERSIFY YOUR INVESTMENTS GLOBALLY FROM INDIA

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AN LCR WEALTH WHITE PAPER

One of the top areas of discussion in the Indian ultra-high net worth community is how to globally diversify substantial amounts of capital, in a compliant manner. Currently, there are regulations that allow for two viable methods, which we will explore in this paper.



- 1 Overseas direct investment (ODI) through a company.
- 2 Family Investment Fund (FIF) available through GIFT CITY.

## How Did We Get Here?

In 2022, new financial legislation was passed into law by the Modi administration that adjusted overseas investment regulations. The new legislation was intended to improve the fast-growing financial services industry in India, for both investors and businesses.

### 1 Method #1: Overseas Direct Investment (“ODI”):

The 2022 legislation modified the existing rules and regulations, includes ODI. Prior to the new legislation, performing an ODI required an extensive approval process. It also restricted investments into financial services companies.

Under the new rules, **an Indian company can make an ODI of up to 400% of its net worth into an offshore vehicle.** That offshore vehicle is permitted to be in the business of financial services, which includes entities created for investment activity purposes. In other words, business owners can remit capital from a business to create a US-based investment company.



For this method to be used, there are two core considerations:

- ➔ 100% ownership of a genuine operating business
- ➔ Sufficient business capital for an ODI

If you (or your family) do not own 100% of the company, the other owners may take issue with using business capital for personal investment. If you do own 100% of the business, the business needs to have

sufficient cash from operations to make the ODI, without additional funding. It would be heavily scrutinized by the regulators if an individual attempted to fund a business using their personal wealth, only to relocate a significant portion of that funding through an ODI.



That said, this method is extremely beneficial for successful Indian entrepreneurs. Instead of pulling cash out of the business for personal usage, the entrepreneur can move the capital to the US to be invested. Our partners at Dhruva Advisors are one of the top firms assisting clients in both planning and executing this method.

## 2 Method #2: Family Investment Fund (“FIF”) available through GIFT CITY

### What is GIFT City?

A key part to of legislation is the creation of the Gujarat International Finance Tec-City, commonly referred to as GIFT City. Financial services companies that are set up in GIFT City generally have a regulatory advantage compared with companies in other jurisdictions in India. GIFT City also offers certain tax breaks and subsidies to encourage the city’s development.

Companies operating in GIFT City are “outside of India”. This means that investments into GIFT City funds/schemes generally need to follow the

investment rules for moving capital out of India. Once the capital is in the GIFT City fund/scheme, the capital no longer needs to follow standard LRS rules, since the capital is already “outside of India”.

### What is an FIF?

A Family Investment Fund (“FIF”) is a fund/scheme structure created by the 2022 legislation. FIFs allow individuals in a single family to pool their money to make global investments. As mentioned earlier, GIFT City entities receive special regulatory treatment under FEMA/IFSCA frameworks. Once the FIF is funded in compliance with the applicable funding route, that money can be invested globally with far greater ease.

### How do I fund the FIF?

By including companies in the definition of single family, funding the FIF becomes more achievable. An Indian company can fund an FIF with an Overseas Portfolio Investment (“OPI”), subject to FEMA conditions, limits (including the 50% of net worth cap for OPI), documentation, and reporting. This helps to reduce reliance on family member’s individual LRS quotas; however, LRS/ODI/OPI

requirements may still apply depending on the source of funds and the chosen funding route. Any transfer of personal assets into a company should be evaluated for tax, valuation, and compliance implications.

### **Should I Set up the FIF as a Company, LLP, or Trust?**

There are benefits and drawbacks to each structure, so the optimal choice will depend on each person's unique situation. Broadly speaking, a trust would allow you to implement estate/succession planning along with the initial setup, all in one go. By doing this, the FIF achieves several goals of high-net-worth Indian investors at the same time:

- Moving money in amount greater than USD \$250k out of India.
- Opportunity to diversify investments and currency into USD & US investments.
  - ~ Lowers risk without sacrificing investment returns in the long run.
- Estate planning for passing wealth to heirs.

Each family will need to work with both an accountant and an estate attorney to determine the most optimal structure for achieving their goals.

### **Are There Any Tax Advantages Available to FIFs?**

Yes. IFSC units may be eligible for a tax holiday under Section 80LA of the Income-tax Act, subject to conditions and the unit's approved activities. The benefit is commonly described as a 100% exemption for any 10 consecutive years out of the first 15 years from registration. However, eligibility can vary based on the nature of income and compliance requirements, so investors should confirm with qualified India tax counsel.



## Who Should be Chosen as the FIF's PO?

FIFs can be self-managed. The PO can be the leader of the family, or it can be a qualified investment manager. However, the PO needs to be located in the office of the FIF in GIFT City. It is expected that most high-net-worth investors will want to appoint a PO with an agreement in which the PO manages the daily operations, but the head of the family approves the final investment decisions.

Similar agreements are common for US RIAs, such as LCR Wealth, as it allows the head of the family to maintain full investment control while delegating day-to-day operations and execution to a trusted advisor.

## What Can the FIF Invest In?

There is a broad, but comprehensive list of approved investments released by the IFSCA. The list covers almost all traditional and alternative asset classes.

- Securities issues by unlisted entities.
- IFSC-listed securities. (i.e., GIFT City funds/schemes)
- Indian-listed securities.
- Foreign-listed securities.
- Money market instruments.
- Debt securities.
- Securitized debt instruments.
- Derivatives.
- Mutual Funds.
- IFSC Schemes/Funds including limited partnerships.
- Indian Schemes/Funds including limited partnerships.
- Foreign Schemes/Funds including limited partnerships.
- Precious metals aka "bullion".
- Real Estate (domestic may amount to "round tripping" but foreign allowed).

- Commodities (wheat, soy, oil, etc.)
- Collectibles (art, cars, cards, wine, etc.)

Something to consider when reviewing the above list is "round-tripping". The Indian government does not want funds to move out of India only to be invested back into India. If an FIF seeks to invest in a private Indian company, it may face scrutiny for round-tripping. Investments that fall within this area should be discussed with legal experts.



It should be noted that FIFs are authorized to purchase foreign real estate. In the past, foreign purchases of real estate were complex for Indian investors. This greatly simplifies the process for those with enough capital to fund an FIF.

Also worth noting is the ability to trade in bullion. Indian investors historically have a great affinity for investing, and trading, in gold. Instead of purchasing the metal from dealers and other retail outlets; GIFT City intends to create a bullion exchange to make pricing and trading of precious metals, including gold, more efficient.

## How can these methods help Indian families Go Global?

To go global, families need to lower the risk of being affected by any single country, capital market, or asset class. To do this, they need to diversify their investments to better achieve their global goals.

These goals can include wealth building, international business dealings, and supporting family who are living abroad, etc. Moving a portion of your capital to the world's largest and most liquid capital markets, the US, is one of the best ways to safeguard yourself against

any potential volatility in the Indian markets, or depreciation of the rupee. Establishing a US investment base is also key for anyone who wants to establish a US-based estate plan.

The rupee has depreciated in value relative the US dollar over the last 20+ years. We wrote about the effect that this depreciation can have on investment returns in our whitepaper [Investment Returns in the US, Europe, India, and Brazil: A Historical Analysis](#).



## Where do I Start?

It's never too early to start learning about the options available to you and speaking with experts in the field. Start to think through the decisions necessary to put these methods into action. If your children or other family members seek to live and work in the US, you can start asking relevant questions.

- How am I diversifying my currency risk?
- How much liquidity will our children need, and at what points?
- What's do I intend to do with the monies that I bring over to the US?
  - If it's purely for estate planning, do you want to seek aggressive equity growth and focus on passing down a larger estate in 10+ years?
  - Are you seeking to financially support you children during their early working years, and therefore seeking a more balanced portfolio with income?

Build a solid plan now, so that you only need to execute the plan when you're ready to move forward.

LCR aims to help families Go Global. These methods for moving money out of India offer an exciting development that makes it easier for high-net-worth Indians to do just that, Go Global. LCR has deep ties to India, and we assist our clients through all types of major financial decisions every day. These new opportunities are no different. We're excited to continue serving as your trusted partner in US financial services. Please feel free to reach out to LCR Wealth if you would like to discuss any of the topics covered in this paper.

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