

Purchasing and Selling Commercial Real Estate: Overview (India)

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A Practice Note discussing the process of purchasing and selling improved commercial real estate in India. This Note addresses the key steps in the purchase and sale of commercial real estate in India, including retaining a agent, entering into preliminary agreements, conducting property due diligence, the key transaction documents, financing considerations, and closing mechanics.

Retain an Agent

Retain Legal Counsel

Preliminary Agreements

Agreement to Sell

Executing the Agreement to Sell

Property Due Diligence

Title and Survey Review

Governmental Searches

Lease Review

Third-Party Reports

Planning/Zoning and Legal Compliance

Third-Party Contracts

Property Insurance

Anti-Money Laundering

Financing

Closing Steps

Pre-Closing

Closing Conditions

Closing Documents

[Apportionments, Closing Costs, and Transfer Taxes](#)

[Recording/Registration](#)

[Post-Closing](#)

Special Considerations for Foreign Investors

The purchase and sale of commercial real estate in India involves a series of steps requiring the coordination of several parties. While the workflows of purchase and sale transactions are generally similar, each transaction varies depending on the specific terms of the transaction, the property type, and local laws and customs.

This Practice Note provides an overview of the workflow for the purchase and sale of a commercial property in India, including:

- Retaining a real estate agent.
- Retaining real estate counsel.
- Entering into preliminary agreements.
- Conducting property due diligence.
- Conducting anti-money laundering due diligence.
- Entering into the agreement to sell.
- Financing considerations.
- Obtaining property insurance.
- Closing conditions, documents, and mechanics.
- Post-closing matters.
- Special considerations for foreign investors.

This Note assumes the buyer acquires a fee interest in the immovable property by deed. It does not address acquisitions of ground leasehold interests or indirect ownership interests in the property owner, but many of the principles and steps in the workflow are similar.

The land forming part of the property may also be granted or leased by the government, in which case the transfer of the property may be subject to a prior permission from the government.

This Note also assumes the property is improved and leased to third-party tenants. While many of the same principles apply, purchasing vacant land for development involves additional considerations that are not addressed in this Note.

Retain an Agent

In India, both sellers and buyers commonly engage real estate agents for commercial deals. Agents range from international property consultants to local consultants. Note that while the term "broker" is more commonly used in practice, "real estate agent" is the correct legal term under current Indian real estate law. Both terms are understood and used interchangeably in practice.

Typical responsibilities of the agents include:

- Market scouting.
- Pricing guidance.
- Marketing and listing of properties.
- Arranging inspections.
- Sharing title and approval documents.
- Coordinating diligence and closing.
- Liaison for stamping and registration of the transaction documentation.

The agency fee is typically borne by the party that engaged the agent (whether the seller or the buyer). Where the same agent represents both parties, the fee is commonly shared. In either case, the fee is usually calculated as a pre-agreed percentage of the sale price.

If a project is registered with the state or union territory Real Estate Regulatory Authority (RERA), the agents must register with the relevant RERA before any of the unit is sold for the first time pursuant to its completion by the project developer. (A union territory is a type of administrative division in India that is directly governed by the central government.) Agents must:

- Display their registration number.
- Maintain requisite records.
- Avoid unfair trade practices.
- Comply with applicable standards.

(Section 9, [Real Estate \(Regulation and Development\) Act, 2016](#) (RE Act).)

Registration is not required for resale transactions of the units.

Retain Legal Counsel

Both the seller and the buyer engage legal counsel in commercial purchase and sale transactions. Typically, real estate lawyers or property law specialists are engaged to, for example:

- Conduct title due diligence (see [Property Due Diligence](#)).
- Verify title and ownership.
- Draft and negotiate the transaction documents.
- Advise on stamp duty and registration requirements.

In larger or more complex transactions involving corporate entities, law firms and tax advisors may also advise on structuring, financing, and regulatory issues. If the buyer is obtaining financing secured by the property, finance lawyers are retained.

However, a lawyer's role is limited to:

- Providing legal advice.
- Assisting in negotiating legal terms.
- Preparing documents.

Lawyers do not act as brokers or negotiate commercial terms on behalf of clients.

Preliminary Agreements

Before entering into binding transaction documents, buyers and sellers typically record their understanding under one of the following:

- A memorandum of understanding.
- Letter of intent.
- Term sheet.

This "term sheet" (regardless of the title used) captures the parties' intent to enter into the transaction and the key commercial agreed terms, such as:

- Sale price.
- Property description.
- Timelines for consummating the transaction.
- Property due diligence.
- Conditions precedent (if any).
- Miscellaneous terms relating to:
 - confidentiality;
 - exclusivity;
 - governing law; and
 - dispute resolution.

The parties may choose to make the term sheet binding or non-binding. It serves as the framework from which the definitive agreement to sell (see [Agreement to Sell](#)) and the conveyance deed are prepared and negotiated.

Agreement to Sell

The buyer's counsel typically prepares the first draft of the agreement to sell, based on the terms set out in the term sheet. The agreement includes provisions regarding:

- **The property description.**
- **The transaction's business terms.** This might include:
 - the sale price (depending on the deal structure, part of the sale price might be due at signing or on milestone events);
 - a description of buyer's access rights for fit-out, or inspections;
 - allocation of risk; and
 - seller's obligations through closing.

- **Property due diligence (see [Property Due Diligence](#)).** Title due diligence generally begins after the term sheet is signed (see [Preliminary Agreements](#)). By the time the agreement to sell is signed, outstanding title issues are incorporated as conditions precedent to closing.

For any due diligence scheduled after the parties sign the agreement to sell, the agreement typically requires the seller to furnish all relevant documents, information, and access to the buyer's counsel within defined timelines.

- **Conditions precedent.** Conditions precedent are framed based on findings from title and legal due diligence. These may include:
 - procurement of missing title documents;
 - discharge of encumbrances;
 - updates to land or revenue records;
 - obtaining no-objection certificates or regulatory approvals;
 - resolution of identified title defects; and
 - if the property is allotted or granted by the government, obtaining the government's prior permission.
- **Representations and warranties.** This section also includes survival periods and any indemnities or remedies for a breach. Sellers typically provide representations and warranties as to:
 - title to the property being clear and marketable;
 - possession of the property being exclusive and uninterrupted;
 - no encumbrances and the absence of adverse third-party rights;
 - statutory compliances;
 - litigation status; and
 - payments of taxes and dues.

These statements serve as the foundation for the buyer's risk assessment and are often linked to indemnity protection and termination rights.

- **Interim covenants.** Until execution and registration of the sale deed, the seller commonly agrees to:
 - keep title unencumbered and free of third-party interests;

- maintain the property in substantially the same condition;
- comply with applicable laws; and
- keep all property taxes and utilities paid and current.

The seller may also commit not to grant leases, licences, or other rights of occupancy without the buyer's consent.

- **Deadline for execution of sale deed.** The deadline for executing and registering the sale or conveyance deed is expressly linked to satisfaction or waiver of the conditions precedent.
- **Seller indemnity.** In addition to indemnifying the buyer for losses arising from breaches of representations, warranties, and covenants, sellers generally indemnify buyers against:
 - undisclosed encumbrances;
 - third-party claims; and
 - non-compliance with law identified after the agreement to sell is signed.
- **Termination and consequences of termination.** The agreement sets out termination events, including:
 - failure to satisfy conditions precedent within agreed timelines;
 - discovery of material title defects;
 - third-party claims affecting title or possession; or
 - breach of material obligations.

The agreement to sell also clarifies the consequences of termination, such as:

- refund of any advance consideration;
 - payment of agreed pre-estimated damages or liquidated sums;
 - restoration of possession (if granted); and
 - survival of certain provisions like confidentiality and indemnities.
- **Miscellaneous.** Standard clauses typically cover the following aspects:
 - exclusivity;

- confidentiality;
- relationship of the parties;
- assignment and transfer;
- notices;
- governing law and jurisdiction;
- dispute resolution;
- severability;
- waiver; and
- entire agreement and amendment mechanics.

Care should be taken to align these boilerplate provisions with the transaction and agreement of the parties.

- **Closing conditions.** For example:
 - third-party approvals;
 - stamping and registration of the conveyance deed or sale deed; and
 - delivering possession of the property and the original documents.

(See [Closing Conditions](#).)

- **Closing documents (see [Closing Documents](#)).** To avoid later disputes, often the agreed form of the conveyance deed or sale deed is attached as an exhibit to the agreement to sell.
- **Apportionments and closing costs (see [Apportionments, Closing Costs, and Transfer Taxes](#)).**
- **Post-closing obligations (see [Post-Closing](#)).**

Executing the Agreement to Sell

An agreement to sell may be executed either electronically (for instance, via DocuSign) or in wet ink. However, electronic execution of documents is less prevalent in India. In either case, appropriate stamp duty must be paid before execution, and the agreement to sell must be signed on properly stamped paper.

The registration requirements of an agreement to sell vary from each state in India. If possession is delivered to the buyer, the agreement to sell could be required to be registered with the jurisdictional sub-registrar of assurances (depending on the applicable laws of the state where the property is located) (section 17, [Registration Act, 1908](#) (Registration Act)). (A sub-registrar of assurances is a government office that is responsible for registering property-related documents under the Registration Act.) If the law requires registration, the parties typically execute a hard copy of the agreement at the time of registration, along with the signatures of two witnesses (one for each party). Delivering possession when the agreement to sell is signed often results in a higher stamp duty amount.

Notarisation in India involves verifying identities and attesting execution of an agreement. It does not examine the substance of the contract. For notarisation:

- Parties sign the agreement in the notary's presence.
- The notary:
 - verifies identity and authority;
 - records the act; and
 - affixes the prescribed seal and signature.

Notarial fees are nominal and regulated. Notarisation is not mandatory for an agreement to sell. It adds an authentication layer but does not enhance title, extend limitation, or cure under#stamping or non#registration.

Property Due Diligence

Depending on the parties' negotiations, property due diligence can be conducted either:

- Before signing the agreement to sell.
- During a due diligence period negotiated in the agreement to sell.

Depending on the transaction requirements, the buyer's due diligence typically includes reviewing:

- Title and survey (see [Title and Survey Review](#)).
- Governmental searches (see [Governmental Searches](#)).
- Leases (see [Lease Review](#)).
- Third-party reports (see [Third-Party Reports](#)).

- Compliance with laws (see [Planning/Zoning and Legal Compliance](#)).
- Third-party contracts (see [Third-Party Contracts](#)).

Counsel should as a preliminary matter:

- Provide a comprehensive due diligence request list to the seller's attorney tailored to the specifics of the transaction.
- Request access to any online data rooms and all real estate information the seller possesses or controls.
- Confirm the client's requirements for the form of due diligence reports.

Title and Survey Review

Buyer's counsel conducts a focused title review to:

- Confirm the seller's clear, marketable, and transferable title.
- Identify encumbrances.

In India, documents affecting property or evidencing transfer of rights, title, and interest in the property must be registered with the jurisdictional sub-registrar of assurances. The process involves:

- Review of historical title information, including:
 - title deeds and related documents evidencing ownership; and
 - transfer history of the real property.

The number of years' worth of title reviewed can vary from 12 to 30 years. Generally, for purchase and sale transactions, title review is for the last 30 years. If the property is granted or leased by a governmental authority, the review period starts from the date of the grant or the lease deed.

- Review of encumbrance certificates for same period as the title review. If the authorities in certain states do not issue encumbrance certificates, counsel undertakes searches in the records maintained at the relevant sub-registrar of assurances.
- For properties that were earlier classified as agricultural (before being converted to non-agricultural commercial use), review of the revenue records maintained at the jurisdictional revenue offices. These are typically reviewed for a period of at least 12 years, extending up to 30 years (the cut-off date being the date on which the property was converted for non-agricultural commercial use).

- Review of property tax bills and receipts to confirm local tax compliance.
- Inspection of original title documents of the seller.

Property surveys and technical due diligence are typically commissioned by the buyer from independent agencies and does not require counsel's participation.

Typical issues that the buyer's counsel should be aware of are:

- Restrictions on the sale of the property, which are more common for properties that are granted or leased by the government.
- Ensuring that the property can be used for commercial purposes per the applicable zoning laws.
- Existing encumbrances, such as mortgages and leases. Depending on the transaction structure, counsel should also review any no#objection certificates issued by the party benefitting from the encumbrance.

Governmental Searches

To check for encumbrances on the property, the buyer's counsel undertakes searches at the repositories and in records maintained by the following authorities:

- [Ministry of Corporate Affairs](#), in case the property is owned by a corporate entity.
- [Central Registry of Securitisation Asset Reconstruction and Security Interest](#).
- The governmental authority that has leased or granted the real property, if applicable.

In addition, to identify if any litigation affects the property, the buyer's counsel undertakes searches on the websites of:

- The jurisdictional district courts.
- The jurisdictional High Court.
- The Supreme Court.

The above searches are generally included in the title due diligence. Therefore, the buyer pays for these searches.

The buyer's counsel also commonly makes enquiries to the seller or its counsel as to any existing encumbrances, charges, litigation, and other matters that may affect the seller's title to the property or the sale to the buyer. These enquiries are typically included in the requests for documents and information, and the seller's responses are considered in preparing the title due diligence report.

Lease Review

The buyer and its counsel should review all lease documents and other occupancy agreements affecting the property. Typically:

- Based on the duration of the lease, leases may be:
 - short term (ranging between 2 to 5 years); or
 - long term (ranging between 5 to 20 years).
- Based on the state of the property, leases may be on an:
 - as is where is basis; or
 - built-to-suit (where the seller or lessor undertakes fit-outs within the property to suit the tenant's requirements).

The lease documents should be reviewed to confirm:

- That the rental and other business terms provided to the buyer are accurate, such as:
 - duration of the leases;
 - lock-in period for the landlord or tenant;
 - rent and its escalation; and
 - security deposit.
- Any outstanding landlord monetary obligations.
- Whether the tenant's consent is required for the lease to be assigned to the buyer. Additionally, the procedural requirements for attornment of the lease on the buyer's purchase of the property are evaluated to confirm if:
 - any attornment deed or novation agreement must be executed; and
 - if so, whether a form of the attornment deed or novation agreement has been agreed on.

- Whether the tenant has a right to assign the lease, sub-lease the leased premises, or create a licence in relation to the leased premises. If so, it is also imperative to confirm that the lease has not been assigned, sub-leased, or licensed to a third party.
- Whether the landlord has the right to consent to a lease assignment, sub-lease, or licence.
- Whether there is any renewal option or termination rights.
- Any other unusual provisions that may affect the landlord's rights or property income.

In addition to the above, the seller often must confirm that:

- No events of breach or termination of the lease have occurred.
- No notices of breach or termination have been issued by any of the tenants.
- The tenants have consistently paid rent, car parking charges, maintenance charges, or other amounts.
- The security deposit from the tenants is up to date.

Third-Party Reports

The buyer may commission third-party reports, such as:

- Technical due diligence.
- Property survey.

These reports are not part of the title due diligence undertaken by the buyer's counsel.

Planning/Zoning and Legal Compliance

The buyer's counsel reviews the following:

- Approvals or any other document confirming that the permitted use of the land is for commercial purposes.
- Pre-construction approvals, to confirm that the construction and occupancy complies with applicable law and approvals, such as:
 - approved building plans;

- commencement certificate; and
- height clearance.

- Completion-related approvals, to confirm that the construction and occupancy complies with applicable law and approvals, such as:
 - completion certificate;
 - occupancy certificate; and
 - fire no-objection certificate.

- Certificates of registration. Every real estate project exceeding 500 square metres of land or more than eight apartments, inclusive of all phases, requires registration (section 3, RE Act). The certificate of registration of the project is issued by the RERA (applicable to commercial projects where units are intended to be sold). Currently, in some of the states (such as Maharashtra and Delhi), projects where the developer is proposing to lease units on a long-term basis must be registered.

- Environmental approvals, as required by applicable environmental laws, including:
 - environmental clearance;
 - consent to establish; and
 - consent to operate.

- Depending on the location of the real property, no-objection certificates issued under:
 - the forest laws;
 - eco-sensitive zones;
 - wildlife conservation zones; and
 - coastal regulation zone notifications.

Third-Party Contracts

As part of title diligence, the following types of third-party contracts are reviewed:

- Maintenance-related, such as a facility management services agreement executed between the seller and a maintenance agency setting out the broad terms and conditions of maintenance of the real property. Additionally, separate maintenance agreements are executed between the maintenance agency and the tenants.
- Build-out related, including agreements executed between the seller or tenant and interior designers and architects for undertaking build-out work.
- Infrastructure-related, such as agreements executed by the seller with the other owners in the larger project (in instances where the real property forms part of a larger project such as a township, where there are multiple entities who own properties, apart from the seller's property) for use of common areas.

Property Insurance

When selling and purchasing property, the parties must consider when the risk of damage or destruction to the property passes from the seller to the buyer. Suitable insurance should be arranged so that the property is adequately insured from the date that the insurance risk passes. In India, the risk passes to the buyer.

It is customary to obtain the following types of insurance for improved real property:

- All-risk covering property damage.
- Business interruption and rental loss insurance.
- Terrorism insurance. However, this is not very common.
- Depending on the property location:
 - earthquake;
 - windstorm; or
 - flood.
- Commercial general liability insurance.
- Workers' compensation insurance.
- During construction or alterations at the property, builder's risk insurance.

The buyer's lender may require additional insurance coverage. The above aspects generally do not form part of the buyer's title due diligence. The insurance may be reviewed by an insurance broker or other third party, but this is typically decided by the buyer without engaging any lawyers.

Anti-Money Laundering

The seller and the buyer are required to comply with the [Prevention of Money Laundering Act, 2002](#) and the rules thereunder, which set out the scope of money laundering and its prosecution and punishment. Transaction documents contain suitable representations and warranties from the seller that they are not in breach of and will ensure compliance with anti-money laundering laws.

Financing

If the buyer is obtaining financing secured by the property, counsel should obtain the lender's requirements for:

- Title opinions and surveys. Typically, counsels do not deal with title insurance. Such requirements (if any) are dealt with by the buyer.
- Legal opinions.
- Other property-specific deliveries.

The buyer's counsel must coordinate with the lender's counsel on who prepares which closing documents. The lender's counsel generally is responsible for preparing the financing documents. The primary financing documents typically include:

- A term sheet or sanction letter.
- Loan agreement.
- Indenture of mortgage or memorandum of deposit of title deeds (depending upon the nature of the mortgage).
- Deed of hypothecation.
- Pledge agreement.
- Escrow agreement.
- Personal or corporate guarantee deed.

For third-party closing deliverables, such as local law opinions, the lender's counsel and the local counsel should communicate directly with each other. However, the buyer's counsel often serves as an intermediary between the parties negotiating these documents.

Closing Steps

In India, property is conveyed by executing a sale deed or conveyance deed (after paying the applicable stamp duty) and registering it with the jurisdictional sub-registrar of assurances. Accordingly, closing occurs in person.

Counsel should use the final executed agreement to sell as a road map for the closing conditions and closing deliveries, and to prepare a closing checklist. Counsel must keep track of:

- Important dates.
- Timelines.
- The parties responsible for preparing and delivering closing items.

In certain transactions, the parties may involve escrow mechanisms wherein the buyer agrees to deposit the purchase price (or part thereof) in an escrow account, and the seller agrees to deposit the original title documents (which may include deeds, lease deeds, and allotment documents) in the escrow account. Escrow agents are commonly commercial banks (acting under a triparty escrow agreement). The escrow agreement specifies that upon consummation of the transaction, the purchase price will be released to the seller and the original title documents will be released to the buyer.

Pre-Closing

Between signing the agreement to sell and closing, the seller's and the buyer's counsel should ensure their clients are aware of any deadlines to satisfy pre-closing conditions.

Third-party closing deliverables should be obtained in advance of closing. The agreement to sell often specifies timing requirements that the parties must follow. Although it is often more effective for the seller to request the third-party deliverables, the buyer's counsel should negotiate and approve their forms.

The buyer's counsel is responsible for:

- Undertaking title due diligence (see [Property Due Diligence](#)).
- Issuing public notice(s) inviting claims and objections from the public at large in relation to the seller's title to the property and the sale of the property to the buyer.
- Verifying completion of the conditions precedent (based on the supporting documentation provided by the seller).
- Assisting with negotiating financing documents with lenders.
- Coordinating with the buyer to ensure the lender's closing conditions are satisfied.
- Forming the buying entity (see [Forming the Buying Entity](#)).

- Preparing the draft of the sale deed or conveyance deed (see [Closing Documents](#)) and assisting in negotiating the legal terms of the sale deed or conveyance deed.
- Inspecting the original title documents and other property-related documents.
- Advising on the applicable stamp duty for the sale deed or conveyance deed.

The seller's counsel is typically responsible for:

- Coordinating with the seller on satisfying the conditions precedent and providing related documentation.
- Coordinating with the seller to ensure any closing conditions the seller is responsible for are satisfied.
- Coordinating with the seller on the original title documents and other documents in relation to the property.
- Reviewing and negotiating the sale deed or conveyance deed.

Forming the Buying Entity

It is common for a buyer to acquire property using a single-purpose entity formed solely to own a single real estate asset. The buyer's counsel must advise its client on the appropriate form of buying entity and prepare the entity's formation documents before closing. The most common types of entities used to acquire real estate are:

- Private limited company incorporated under the [Companies Act, 2013](#) (Companies Act), which is the most common entity for owning real property.
- Public company incorporated under the Companies Act.
- Private trust which is governed by [The Indian Trusts Act, 1882](#) and is formed through a trust deed or instrument of trust.
- Limited liability partnerships (LLP) under the [Limited Liability Partnership Act, 2008](#), which is a hybrid entity combining a company and a partnership. The entity has a separate legal entity from its partners and is formed through an LLP agreement.

For additional guidance on entity types in India, see [Practice Note, Trading Vehicles: Overview \(India\)](#).

Closing Conditions

On the date of execution and registration of the sale deed or conveyance deed, the following is undertaken:

- The buyer transfers the purchase price, after deducting:
 - any advances;
 - any applicable taxes; and
 - any other amounts as may be agreed between the parties.
- The seller acknowledges receipt of the purchase price through a consideration receipt.
- The seller delivers all the original title documents and other documents in relation to the property to the buyer.
- The originals of the following are handed over to the buyer (if any):
 - approvals or permissions that have been obtained from any governmental authority; and
 - no-objection certificates that have been obtained from third parties.
- The seller provides the buyer with documents evidencing up-to-date payment of property taxes, utility bills, and any other amounts.
- The seller delivers possession of the property to the buyer. Delivery of possession is also recorded by signing a possession letter.

Closing Documents

The agreed forms of key closing documents are often attached to the agreement to sell as exhibits. The buyer's counsel should coordinate with the seller's counsel on who prepares each of the closing documents.

The seller's counsel is typically not responsible for preparing any closing documents. They are typically responsible for reviewing the closing documents that are prepared by the buyer's counsel.

The buyer's counsel often prepares:

- The sale deed or conveyance deed.
- The possession handover letter.
- The consideration receipt.
- The list of original title documents and other documents to be delivered by the seller to the buyer.

In the event the land forming part of the property is leased by a governmental authority, after obtaining permission for its transfer, an assignment deed or transfer deed for the transfer of leasehold rights may be executed.

Apportionments, Closing Costs, and Transfer Taxes

In property purchase and sale transactions in India, closing statements are typically not used.

The seller typically pays:

- The property tax, utilities, and other property expenses until the date of execution and registration of the sale deed or conveyance deed.
- Any fee payable to the relevant governmental authority if any approval or permission is required. However, the parties can negotiate who pays this expense.
- Any payments to any third party for settlement of claims, objections, or any encumbrance in relation to the property to ensure clear, valid, and marketable title is delivered.
- The seller's agent and legal fees.

The buyer typically pays:

- The stamp duty and the registration costs in connection with the sale deed or conveyance deed.
- The property tax, utilities, and other property expenses from the date of execution and registration of the sale deed or conveyance deed.
- Cost of issuing public notices.
- The buyer's agent and legal fees.

Transfer Taxes

Stamp duty must be paid before the sale deed or conveyance deed is executed. Stamp duty is generally computed as a prescribed percentage of the higher of the purchase price or the circle rate/ready reckoner value of the property. (Circle rate or ready reckoner values are the minimum values set by the local government for real estate properties in a specific area and ensure that properties are not undervalued for tax purposes.) The applicable rates vary across states and union territories and may also be coupled with a special purpose tax (referred to as a cess) or surcharge.

These charges are typically borne by the buyer. However, the parties can negotiate sharing the costs or allocating them entirely to the seller.

Recording/Registration

After paying the required stamp duty, all sale deeds or conveyance deeds must be registered with the jurisdictional sub-registrar of assurances upon payment of the prescribed registration fee (section 17, Registration Act). Calculation of the registration fee is similar to that of stamp duty, and it varies across states and union territories.

Post-Closing

At or immediately after closing, counsel should prepare a list of post-closing matters, including receipt of:

- The registered sale deed or conveyance deed.
- Change in the name of the owner of the property in the relevant records maintained by the appropriate governmental authorities.

Special Considerations for Foreign Investors

Foreign direct investment (FDI) is prohibited in "real estate business." For this purpose, "real estate business" means trading or dealing in land and property with an intent to earn profit. It does **not** include:

- The development of townships.
- The construction of residential or commercial premises, roads, or bridges.
- The development of:
 - educational institutions;
 - recreational facilities;
 - city and regional level infrastructure; or
 - townships.

Further, earning rent or other income from leasing property, where the lease does not amount to a transfer, is not considered "real estate business."

Foreign investment in ownership is permitted in completed projects for the operation and management of:

- Townships.
- Malls or shopping complexes.
- Business centres.

Following such investment, a transfer of ownership, control, or both, of the investor from residents to non-residents is also permitted. However, a lock-in of three years applies, calculated with reference to each tranche of FDI, during which no transfer of the underlying property (in whole or in part) is permitted.

Foreign parties who are not India residents may not acquire property in India. An exception applies where a person inherits property from a resident of India. Such foreign parties may, however, acquire or transfer property in India through a lease with a term not exceeding five years without prior permission of the [Reserve Bank of India](#) (RBI). Where a foreign party has acquired property in India by inheritance with the specific approval of the RBI, or has purchased such property with the specific approval of the RBI, any subsequent transfer of that property requires the RBI's prior permission.