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# **FROM OFFSHORE TO ONSHORE: A LEGAL ANALYSIS OF REVERSE FLIPPING IN INDIA'S STARTUP ECOSYSTEM**

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## **Abstract**

Reverse flipping has changed the Indian holding structure of an offshore-incorporated startup and has become the main trend in the development of the technology ecosystem in India. The process, which initially involved firms legally relocating to overseas territories for reasons of easier access to the global capital market, advantageous tax treaties, and IP-friendly jurisdictions, is now migrating as local markets expand and the regulatory environment becomes more favorable. Among the factors that facilitate this transition, the author pays special attention to tax considerations, FEMA and corporate law restrictions, ESOP migration, and multi-jurisdictional compliance. The case studies of PhonePe, Groww, Pine Labs and other recent transformations help the author to pinpoint unresolved issues such as tax uncertainty, limitations on loss carry-forward, and procedural complexity. Finally, it suggests specific changes in the law that will make the creation of predictable, efficient internalization pathways supporting India's ambition to become a global hotspot for tech-driven startups easier.

## **Keywords**

Reverse flipping; internalisation; startup law; inbound merger; share swap; tax neutrality; GAAR; FEMA compliance; ESOP migration; cross-border restructuring; Indian startup ecosystem; regulatory reform.

## **Introduction**

In traditional usage, "flipping" denoted the conduct of many Indian-origin startups during the initial and the intermediate period of India's startup boom when parent or holding companies got incorporated outside India—most often in places such as Singapore, the United States, or other global financial centers.<sup>1</sup> This method was motivated by a mixture of structural and

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<sup>1</sup>National Law School University of India, *Back to Bharat: Analysing the Reverse Flipping Merger – NLS Forum* (Apr. 11, 2025), <https://forum.nls.ac.in/nlsblr-blog-post/back-to-bharat-analysing-the-reverse-flipping-merger/>

strategic factors. By registering the company abroad, it could attract venture capital and institutional investors more easily, thus being more appealing to the global capital pools compared to Indian-domiciled companies. On top of this, offshore locations frequently gave more consistent corporate-law regimes, flexible shareholder structures, easier exit and IPO routes, and relatively investor-friendly governance frameworks. The company's foreign location also helped it to get a higher valuation and made it easier to exit or list internationally, especially for the companies that had world-wide ambitions or were dependent on overseas funding. The use of offshore holding structures was considered to be a way to protect legal rights, be flexible in operations, and easy in managing foreign exchange and international investments when intellectual property ownership, global contracting, or cross-border operations were involved.<sup>2</sup> Thus, flipping was an externalisation strategy—enabling startups to keep their operational base, labor force, and consumer markets in India while placing their corporate and capital structures in a foreign country.

On the other hand, "reverse flipping," or should we say "internalisation" or "homecoming," is meant to explicit the procedure through which startups that were previously registered in foreign lands opt to shift their legal residence back to India.<sup>3</sup> In contrast to typical cross-border mergers or acquisitions that are driven by external motives for consolidation or takeover, reverse flipping is usually a founder- or promoter-led strategic restructuring. Its primary goal is to harmonise the company's legal residence with its main operational base, investor ecosystem, and long-term growth strategy.<sup>4</sup> This new trend is not just a matter of procedure or a mere token gesture. It signifies rather an even deeper change within India's startup and regulatory ecosystem. India has undergone considerable change in this regard, for example, the country has witnessed the gradual development of its domestic venture capital and private equity markets, the increasing participation of institutional and retail investors, and the implementation of reforms focused on reducing corporate compliance and governance burdens. The outcome is that many of the historical benefits of offshore incorporation, like capital access, regulatory clarity, and liquidity for exit, are now increasingly obtainable in India

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<sup>2</sup> **Back to Bharat: Analysing the Reverse Flipping Merger – NLS Forum**, *NLS Forum* (Apr. 11, 2025), <https://forum.nls.ac.in/nlsblr-blog-post/back-to-bharat-analysing-the-reverse-flipping-merger/>

<sup>3</sup> Shashank Bhatt, Zepto's Homecoming Gets NCLT Nod: How Indian Start-Ups' Reverse Flipping Concept Works, *Outlook Bus.* (Jan. 14, 2025), <https://www.outlookbusiness.com/start-up/zeptos-homecoming-gets-nclt-nod-how-indian-start-ups-reverse-flipping-concept-work>

<sup>4</sup> Uma Kannan, Top Start-Ups Move Back Domicile to Home Turf from Other Countries, *N. Indian Express* (Apr. 7, 2025), <https://www.newindianexpress.com/business/2025/Apr/07/top-start-ups-move-back-domicile-to-home-turf-from-other-countries>.

itself.<sup>5</sup> The renewed significance of reverse flipping in 2024–25 has been hastened by various legal, regulatory, and policy developments that all came together. Among these developments are the building up of India's IPO pipeline and domestic capital markets, changes in company law such as the addition of sub-rule (5) in the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Rule 25A), which provides for a fast-track mechanism for certain inbound mergers; the increasing significance of GIFT City as an international financial and listing hub; and tax-policy reforms that are more generous to investors, such as the repeal of the “angel tax” which has been viewed as a signal of a more investor-friendly environment.<sup>6</sup> In the case of those startups, where the majority of customers, employees, revenues, and operations are based in India, reverse flipping is also seen as the way to go—Keithpure governance, compliance, and regulatory engagement while enhancing signaling value for domestic investors and regulators.<sup>7</sup>

In this context, the paper queries if the existing legal, tax, and regulatory framework of India for reverse flipping is attuned to the re-domiciliation needs, in terms of fiscal interests, regulatory objectives, and investor protection, at the same time? The study goes for a doctrinal analysis mining the areas of company law, foreign-exchange regulations, and income-tax provisions, together with a case study of the most recent internalization transactions—Groww, Pine Labs, and Razorpay—to find out how the framework functions in reality and where its drawbacks are.<sup>8</sup>

## 1. Conceptual & Historical Background

### 1.1 Flipping: Externalisation of Indian Startups

During the initial and intermediate stages of the startup boom in India, several Indian-origin companies decided to register their parent or holding companies in foreign countries — usually Singapore, the U.S., or other financial centers — instead of India. This “flipping” was a result

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<sup>5</sup> India Briefing, “Startups Reverse Flipping in India: What’s behind the Re-Domiciling Trend” (India Briefing News, September 1, 2025) <<https://www.india-briefing.com/news/reverse-flipping-india-2025-startup-guide-39504.html/>>.

<sup>6</sup> Kirtika Suneja, Angel Tax Removal Helped Reverse Flipping, Startup Funding \$155 Bln in 2024: DPIIT, *Econ. Times* (Jan. 10, 2025), <https://economictimes.indiatimes.com/news/economy/indicators/angel-tax-removal-helped-reverse-flipping-startup-funding-155-bln-in-2024-dpiit/articleshow/117122705.cms>.

<sup>7</sup> Outlook Start-Up Desk, How GIFT City’s Incentives Could Attract Start-Ups to Return to India, *Outlook Bus.* (June 13, 2024), <https://www.outlookbusiness.com/corporate/how-gift-citys-incentives-could-attract-start-ups-to-return-to-india>

<sup>8</sup> Prince Kariappa, Reverse Flip Gains Momentum: Why Indian Startups Are Coming Home, *Entrepreneur* (July 10, 2025), <https://www.entrepreneur.com/en-in/news-and-trends/reverse-flip-gains-momentum-why-indian-startups-are-coming/494468>

of a combination of factors.<sup>9</sup> To begin with, foreign countries provided the startups with easier access to venture capital and institutional investors from all over the world; incorporation in a foreign country made the startup more appealing to the global capital pools than if it were in India. Moreover, it was quite common for foreign incorporation to bring about good regulatory, legal, and tax conditions — consisting of more predictable corporate law frameworks, simplified exit/IPO paths, and comparatively more investor-friendly stakeholder protection mechanisms. Besides that, the startup's foreign registration could bring about higher valuations as well as easier international exits or listings — particularly if the startup was aiming at worldwide growth or global venture capital backing. Moreover, in cases of intellectual property (IP), global contracts, or cross-border operations, the foreign holding structure was perceived as the best option in terms of legal neutrality, flexibility, and ease in the management of offshore investments or foreign-exchange flows.<sup>10</sup> To sum up, flipping was a strategy of externalisation — keeping the access to capital, exit channels, and a flexible corporate-legal environment, even though the core operations, customers, and workforce remained in India.<sup>11</sup>

## 1.2 Reverse Flipping / Homecoming: Re-domiciling to India

"Reverse flipping" or "internalisation" or "homecoming" in other words is a term used to describe the process of startups that were previously incorporated in a foreign country returning their legal domicile to India. In contrast to a traditional cross-border merger or acquisition that is external takeover or consolidation driven, reverse flipping is mainly a strategic restructuring that the company makes voluntarily— founders or promoters— with the intention of aligning the legal domicile of the company with its operational base, investor base, growth ambitions, and long-term strategy. This transfer is not only administrative but also indicative of the changing business environment in India to a certain extent. India has over the past few years experienced the coming of age of its domestic startup ecosystem; thus, the domestic venture-capital and private equity market has expanded, the regulatory reforms have simplified compliance and corporate governance, and the capital markets have become stronger. Accordingly, the foreign incorporation of the company, not only in terms of easy funding and exit liquidity but also in terms of regulation, is gradually becoming the same as Indian incorporation.

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<sup>9</sup> Reverse Flipping: Why Indian Startups Are Coming Home, *EquityList* (May 26, 2025), <https://www.equitylist.co/blog-post/reverse-flipping>

<sup>10</sup> Shruti Lohia, Nikky Jhamtani & BMR Legal Assocs., *Reverse Flipping: Homecoming for the Indian Startups*.

<sup>11</sup> Daanish Narayan, Reverse Flipping: A Strategic Move for Indian Companies, *InCorp Advisory* (Oct. 10, 2025), <https://www.ascentium.com/in/blog/internalization-why-are-indian-companies-reverse-flipping/>.

Besides, reverse flipping is often seen as a company's strategic move to operate in a less regulated environment and thus, attract more investors, align with a strategic desire for domestic listing, simplify compliance, and carry out structural consolidation—particularly for companies whose business, customers, operations, and workforce are largely based in India.<sup>12</sup>

### 1.3 Macro Trends Underpinning the Shift: Why Homecoming Now

The rise of reverse flipping recently has been bringing India's financial, regulatory, and entrepreneurial ecosystem changes at multiple macro-levels. Among such changes, the biggest one is the progress in capital markets in India and the strengthening of IPO pipeline in the country<sup>13</sup>. The Indian public markets have shown more than ever capability, liquidity, and interest from investors into tech-driven and new-age business models which have led to the reducing of the prior dependency on the offshore listings as the main exit route for the founders and early investors. The domestic investors are getting more and more used to the idea of putting a value and backing a high-growth startup which consequently leads to the diminishing of the strategic necessity of having a foreign holding structure for exit liquidity.

At the same time, India's VC and PE ecosystem has undergone significant maturation. The domestic venture capital and private equity funds' expansion, and at the same time, the growing participation of institutional and sovereign investors have diverted the whole attention of the startups away from overseas sources of capital<sup>14</sup>. To a large extent, this change has favoured the Indian domicile in the cost-benefit analysis for foreign incorporation, thus turning it into a commercially viable and in most cases, preferable option for raising capital and for long-term growth overall.

This trend has been further supported by regulatory and legal reforms. Reforms to various legal frameworks, especially those for inbound mergers, and internal reorganizations have made re-domiciliation less difficult and expensive by cutting down on the procedure and compliance barriers. The government through these reforms suggests that it is a policy to allow movement to abroad while still monitoring with regulations thus making it easier for the founders and the investors to predict a reverse flip for them. A big change in the investor and market's view is very important too. Home investors have become bolder in technology and platform-based

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<sup>12</sup> Asmita Dey, India Calling: Why Top Startups Are Moving Back Home, *Times of India* (Mar. 7, 2025), <https://timesofindia.indiatimes.com/business/india-business/india-calling-why-top-startups-are-moving-back-home/articleshow/118772136.cms>

<sup>13</sup> Lohia, Jhamtani and BMR Legal Associates (n 10).

<sup>14</sup> Arpan Sheth *et al.*, *India Venture Capital Report 2024* (Bain Mar. 14, 2024), <https://www.bain.com/insights/india-venture-capital-report-2024/>.

businesses while startups are more and more aware of being an Indian-residing company which has the advantages of good image, good governance, and less regulation. The positive connotation of an Indian holding company—especially when it comes to local listings, communicating with regulators, and public view—has become a decisive factor in the overall strategy.

In the end, reversal of flipping leads to a corporate structure that matches the operational reality. The situation is such that for many Indian origin startups, the great majority of customers, employees, revenues, and assets are located in India. Re-domiciliation makes it easier to manage governance, compliance, and operational decisions by aligning legal form with economic substance. When considered together these changes have turned reverse flipping from a rare and exceptional restructuring exercise into a mainstream strategic choice thus marking a new and more mature phase in the evolution of Indian startups.

## 2. Regulatory and Policy Drivers

The trend of reverse-flip has been significantly influenced by regulatory and policy interventions along with market forces. The government has shown its intention to support the internalisation of Indian startups through recent reforms in corporate restructuring, foreign-exchange regulation and startup-focused policy-making without withdrawing its regulatory control. The aforementioned measures have greatly alleviated the legal friction, compliance uncertainty, and execution risk that come with re-domiciling foreign-incorporated Indian startups.

**2.1 Fast-track merger rules under 2024 amendment:** In September 2024, the addition of sub-rule (5) to Rule 25A of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 considerably reduced the procedural difficulty for inbound mergers (foreign holding → Indian subsidiary). The “fast-track” route is now available to the startups rather than the slower, litigation-heavy process under the National Company Law Tribunal (NCLT) which continues to be the option for regular companies<sup>15</sup>.

**2.2 Simplified cross-border merger compliance under foreign-exchange laws:** In addition to the corporate law reforms, the regulatory structure of the Foreign Exchange Management regime has become more accommodating towards cross-border mergers — thereby making it

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<sup>15</sup> Unlocking the Potential of Fast-Track Mergers in India, *IP STARS*, <https://www.ipstars.com/NewsAndAnalysis/unlocking-the-potential-of-fast-track-mergers-in-india/Index/10629>.

legally and operationally operational for foreign holding companies to unify with Indian subsidiaries, provided they follow RBI/FDI rules<sup>16</sup>.

**2.3 Government push toward building a strong domestic ecosystem:** Wider range of policies that encourage startups growth - the main ones being domestic company incentives, business operations made easier and local startups being recognized - have gradually changed the mindset of both founders and investors, i.e., they have started preferring India for staying or coming back<sup>17</sup>.

**2.4 Emergence of financial-service hubs like GIFT City offering favourable regulatory & capital-market infrastructure:** Gift City has been pointed out as a strategic factors which are enabling ones to provide a middle ground: the framework of financial services that is globally competitive while it is still an Indian incorporation—thus making reverse-flipping more appealing than keeping an offshore holding.

When taken together, these changes in regulation and policy are an indication of intentional move towards the encouragement of internalization<sup>18</sup>. Besides, they have turned reverse flipping from a complicated exception into a practically possible and, thereby, a more and more preferred restructuring strategy through the reduction of procedural bottlenecks and the increase of legal certainty.

### 3. Tax and Treaty-Related Drivers

Tax policy has always been one of the main reasons why Indian startups chose their corporate domicile. The recent changes in India's domestic tax regime together with changes in international tax norms have significantly influenced the relative advantages of offshore incorporation. Thus, these developments have minimized the fiscal uncertainty surrounding the onshore entities while at the same time, they have reduced the tax arbitrage that was previously common with foreign holding structures<sup>19</sup>.

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<sup>16</sup> Reverse-Flipping: Indian Startups Return 'Home' amid Regulatory Reforms, *Moneycontrol* (Nov. 18, 2024), <https://www.moneycontrol.com/news/opinion/reverse-flipping-indian-startups-return-home-amid-regulatory-reforms-12869503.html>.

<sup>17</sup> *ibid*

<sup>18</sup> Kumar M, Regulatory Boost: How India Is Winning Back Its Startups through Reverse Flipping, *Corp. & Co. Law – India* (June 17, 2025), <https://www.mondaq.com/india/corporate-and-company-law/1637830/regulatory-boost-how-india-is-winning-back-its-startups-through-reverse-flipping>.

<sup>19</sup> OECD, *Addressing the Tax Challenges of the Digitalisation of the Economy* (BEPS Project), <https://www.oecd.org/tax/beps/>

### **3.1 Removal of “angel tax” increases domestic investment attractiveness:**

The removal of the so-called "angel tax"—considered a major obstacle to early-stage investments for a long time—greatly increased the plus points of domestic incorporation for both startups and investors. This change has cut down on tax disputes and valuation arguments, which in turn has made it possible for the founders to reconsider the option of continuing in or going back to India.

### **3.2 Diminished benefits of treaty-shopping and shifting global tax/regulatory norms:**

The evolution of international tax systems, which include the strict enforcement of anti-abuse rules, indirect-transfer provisions, and transparency standards globally, has led to the gradual reduction of the benefits traditionally linked to offshore domiciliation<sup>20</sup>. These benefits included treaty shopping and tax neutrality, among others. As a result, the offshore tax and cost-benefit calculation has been altered with the priority being given to the factors of regulatory certainty and domestic listing potential over tax advantages.

All the tax and treaty-related changes work together to support the trend of internalisation that has been going on for some time. India will be seen as a more predictable and fiscally viable domicile for high-growth startups, whilst the incorporation of offshore companies will lose their structural advantages.

## **4. Legal and Regulatory Architecture of Reverse Flips**

### **4.1 Company-Law Framework**

The Companies Act, 2013 (CA 2013) and the associated Companies (Compromises, Arrangements & Amalgamations) Rules, 2016 (CAA Rules)<sup>21</sup> are the basis for cross-border and reverse mergers in India. Sections 230 through 234 of CA 2013<sup>22</sup> describe the steps a corporation must take to establish a cross-border merger or reverse merger and require the approval of NCLT (National Company Law Tribunal) before proceeding with the merger.

In the past, corporations would have to follow the procedures set forth in this section of CA 2013 when they entered into a cross-border merger or reverse merger with an Indian subsidiary, because the NCLT had to approve the proposed scheme of arrangements. The approval process would take anywhere from 8 to 12 months, depending on the complexity of the case and how

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<sup>20</sup> OECD, 'Tax Treaties' (OECD) <https://www.oecd.org/en/topics/tax-treaties.html>

<sup>21</sup> Companies Act, No. 18 of 2013 (India), <https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/acts.html?act=NTk2MQ==>

<sup>22</sup> COMPANIES A, *Compromise Arrangement and Mergers* (2013), <https://www.icsi.edu/media/portals/0/CORPORATE%20RESTRUCTURING.pdf>

quickly the NCLT made its decision.

Nonetheless, a significant reform in September 2024 revised the CAA Rules: the legislature permitted through the introduction of sub-rule (5) to Rule 25A a particular type of inbound merger — where the transferor is a foreign holding company, and the transferee is its wholly-owned Indian subsidiary — the option to use the “fast-track merger” route under Section 233 CA 2013. A merger under this route can be approved by the relevant Regional Director (on behalf of Central Government) instead of NCLT sanction, subject to prior approval of the Reserve Bank of India (RBI) and certain compliance steps (including a declaration if the foreign company is incorporated in a land-border country). This amendment simplifies and speeds up reverse flips: instead of getting into a full NCLT-sanctioned scheme, companies may complete the merger through the faster, more business-friendly fast-track route — thus significantly reducing the procedural burden, time, and cost involved<sup>23</sup>.

The 2024 amendment is therefore a milestone in the legal architecture — transforming inbound mergers from a complex, litigation-heavy process to a leaner administrative procedure where eligible.

#### 4.2 Foreign Exchange & Investment Framework

Reverse flipping as a process between countries includes cross-border companies, also resulting in changes in foreign shareholding and ownership. Hence, the Indian foreign exchange and inbound investment laws have to be strictly followed. The main regulation that covers such transactions is the Foreign Exchange Management (Cross Border Merger) Regulations, 2018<sup>24</sup> (“CBM Regulations”), which were issued by the Reserve Bank of India. According to these Regulations, an “inbound merger” is a cross-border merger that results in an Indian company. After such a merger, the Indian company is allowed to offer or sell shares to non-resident shareholders according to the foreign-investment rules that are current at that time, provided that the required entry routes, sectoral limits, pricing guidelines, and reporting requirements are adhered to.

One of the main supportive features of the CBM Regulations is that an international merger

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<sup>23</sup> Hardeep Sachdeva & Ravi Bhasin, Widening the Fast-Track Route: Enabling Cross-Border Reverse Flips and Streamlining Process Frictions, *ETLegalWorld.com* (Oct. 28, 2025), <https://legal.economicstimes.indiatimes.com/news/opinions/indias-new-fast-track-route-for-cross-border-mergers-navigating-corporate-transformations/124872517>

<sup>24</sup> Foreign Exchange Management (Cross-Border Merger) Regulations, 2018, Reg. No. FEMA 389/2018-RB (Reserve Bank of India Mar. 20, 2018), [https://enforcementdirector.gov.in/sites/default/files/Act%26rules/Foreign%20Exchange%20Management%20%28Cross%20Border%20Merger%29%20Regulations%2C%202018\\_0.PDF](https://enforcementdirector.gov.in/sites/default/files/Act%26rules/Foreign%20Exchange%20Management%20%28Cross%20Border%20Merger%29%20Regulations%2C%202018_0.PDF).

executed under its rules is regarded as having been approved by the RBI in advance. This "deemed approval" system eliminates the requirement of separate regulatory consent under the foreign-exchange framework, thus simplifying the procedure. On the other hand, the Regulations lay down rigorous valuation and transparency requirements: internationally accepted methodologies are to be used for the evaluation of the stock or assets and the valuation is to be certified by recognized experts like chartered accountants or investment bankers, so that undervaluation or manipulation is prevented.

If the foreign transferor company possesses overseas assets or liabilities—like foreign borrowings, guarantees, or subsidiaries—the resulting Indian company takes over such assets and liabilities. Any foreign debt or borrowings shall be made in line with the applicable external commercial borrowing or trade-credit norms under FEMA and related regulations within two years of the merger. In the same way, the resulting Indian company can have foreign branch offices, overseas operations, or foreign bank accounts for a maximum of two years to help in the winding-up of foreign operations or settlement of overseas obligations, provided that they comply with the regulations, report regularly, and eventually repatriate or restructure the funds according to the regulatory requirements.

Due to recent adjustments made to India's foreign-investment regulations, the inverse-flip transactions and foreign ownership after merger need to be in conformity with the new legal framework which consists of the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019<sup>25</sup> and the Overseas Investment Rules, 2022. These regulations bring in requirements regarding sectoral limits, entry routes, pricing norms, reporting obligations, and countries whose investments are banned including land-border nations. As a result, reverse flipping is forced to operate in a very complicated and dynamic regulatory environment, which not only demands regulatory legitimacy at the merger stage but also compliance with corporate, foreign-exchange, and investment law during the entire internalization process<sup>26</sup>.

### **4.3 Sectoral and Competition / Regulatory Considerations**

Reverse-flip transactions may result not only in company law and foreign-exchange regulation

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<sup>25</sup> Foreign Exchange Management (Overseas Investment) Rules 2022 (Notification G.S.R. 646(E) under the Foreign Exchange Management Act, 1999 (42 of 1999), 22 August 2022) <https://incometaxindia.gov.in/Documents/Provisions%20for%20NR/FEM-Overseas-Investment-Rules-2022.htm> accessed 18 December 2025.

<sup>26</sup> Trilegal, *Trilegal Update | India Eases Reverse Flipping Norms: Amendment to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016* (Sept. 17, 2024), [https://trilegal.com/knowledge\\_repository/trilegal-update-india-eases-reverse-flipping-norms-amendment-to-the-companies-compromises-arrangements-and-amalgamations-rules-2016/](https://trilegal.com/knowledge_repository/trilegal-update-india-eases-reverse-flipping-norms-amendment-to-the-companies-compromises-arrangements-and-amalgamations-rules-2016/).

issues but also in the application of specific regulatory requirements and competition-law scrutiny depending on the business nature and the restructuring scale. If the enterprise is operating in a heavily regulated sector such as financial services, payments, telecommunications, defence, or pharmaceuticals, then they may need to go through the process of re-domiciliation, which would require getting either completely new or modified approvals from the relevant sectoral regulator. This is especially true if there will be a change in ownership, control, or management brought about by the transaction. Such requirements pull regulatory engagement into the picture that is extra to corporate and FEMA-based norms compliance. Reverse flipping may also pose merger-control issues under the Competition Act, 2002<sup>27</sup>. Although these transactions are usually internal reorganisations, they can still be subject to notification if the new structure creates a merger of assets or business lines, or if the new entity's asset or turnover thresholds exceed the limits set. This risk is even greater when the foreign parent company used to have several subsidiaries, and the reverse flip leads to their unification in one Indian company, which can then trigger mandatory notification requirements<sup>28</sup>.

Moreover, assessing the concept of “control” under competition law would complicate the issue even further. In contrast to traditional purchases involving third-party buyers, reverse flips usually result in the reallocation of ownership and voting rights within a corporate group, with no obvious external acquisition. Whether such a restructuring connotes control acquisition or a significant change in assets or operations may, therefore, necessitate a fine-grained, fact-based analysis. The dearth of publicly available precedents that extensively address the issues of competition and sectoral approvals in the context of reverse flips keeps this area of law in a state of underdevelopment. However, these factors are still important and deserve to be considered, especially in the case of start-ups that are in the sectors with strict regulations or are in high-growth markets, where the oversight of the regulators and scrutiny by competitors are more pronounced.

## 5. Structuring Options & Doctrinal Analysis

When a foreign-incorporated holding company of an Indian-origin start-up seeks to internalise (reverse-flip) its structure, there are principally three structuring routes — each with its own legal, tax and regulatory implications<sup>29</sup>. Below is a doctrinal analysis of those options.

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<sup>27</sup> Competition Act 2002 (India), ss 5–6.

<sup>28</sup> Merger Control in India: Overview – AZB, AZB (Sept. 28, 2021), <https://www.azbpartners.com/bank/merger-control-in-india-overview/>.

<sup>29</sup> KM Team, Reverse Flipping – An Overview of the Legal, Tax and Regulatory Regime in India, *Acuity Law*

## 5.1 Inbound Merger

The foreign holding company surviving its Indian subsidiary, the Indian company receiving shares in the form of foreign shareholders, and so on—these are some of the implications of the recently amended regime<sup>30</sup>. This way of getting the foreign holding company-Indian subsidiary deal done utilizes cross-border merger provisions of the Companies Act, 2013 (Sections 234 read with merger rules) and the newly amended Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 — particularly the 2024 amendment that introduced sub-rule (5) to Rule 25A<sup>31</sup>. As per the new rule, mergers eligible for tax exemptions can now take the "fast-track" route under Section 233, Companies Act, 2013, thus avoiding the earlier requirement of having to obtain sanction from the National Company Law Tribunal (NCLT)<sup>32</sup>.

Cross-border mergers are treated as a single transaction from a foreign-exchange point of view and are subject to the Foreign Exchange Management (Cross Border Merger) Regulations, 2018 (CBM Regulations). Such mergers that are done as per the CBM Regulation provisions—valuation, disclosure, and other regulatory requirements—automatically receive RBI approval thus easing up the approval process<sup>33</sup>.

On the tax side, the merger really well that this structure has the greatest advantage: if the merger is considered as an "amalgamation" under the Income-tax Act, 1961 (ITA), then the transfer of shares or assets does not be regarded as a taxable "transfer," and thus may be tax-neutral for both the company and its shareholders<sup>34</sup>. This option is often regarded as the "cleanest" and "most coherent" in terms of the structure. It permits full legal success of assets, liabilities, and contracts; it minimizes governance issues by unifying the operations of only one Indian legal entity; and — if properly structured — it does not cause immediate tax liabilities to arise. The 2024 fast-track amendment makes it even more attractive because it

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(Jan. 7, 2025), <https://acuitylaw.co.in/reverse-flipping-an-overview-of-the-legal-tax-and-regulatory-regime-in-india/>.

<sup>30</sup> Bcl India, New Amendment: Streamlined Mergers for Foreign Companies with Indian Subsidiaries under Section 233 (Sept. 20, 2024), <https://www.linkedin.com/pulse/new-amendment-streamlined-mergers-foreign-companies-indian-subsidiaries-zkzic/>.

<sup>31</sup> Companies Act Section 234: Overview & Key Points, *Credence Corporate Solutions*, <https://www.credencecorpsolutions.com/blog/companies-act-section-234-bg1614>.

<sup>32</sup> Ritu Garg, Can a Cross-Border Merger Proceed under Section 233 (Fast Track Merger) of Companies Act, 2013?, *TaxGuru* (Sept. 16, 2024), <https://taxguru.in/company-law/cross-border-mergers-fast-track-section-233.html>.

<sup>33</sup> PwC, *Foreign Exchange Management (Cross Border Merger) Regulations, 2018* (2018), [https://www.pwc.in/assets/pdfs/news-alert-tax/2018/pwc\\_news\\_alert\\_26\\_march\\_2018\\_fema\\_cross\\_border\\_merger.pdf](https://www.pwc.in/assets/pdfs/news-alert-tax/2018/pwc_news_alert_26_march_2018_fema_cross_border_merger.pdf).

<sup>34</sup> Vishesh C. Chandio, Cross Border Mergers & Demergers in India – Finer Aspects, *Grant Thornton Bharat* (June 28, 2022), <https://www.grantthornton.in/insights/blogs/cross-border-mergers-demergers-in-india-finer-aspects/>.

cuts down on both the time and expense involved in the procedure.

Nonetheless, there are certain obligations that accompany this: in the case of a merger, any foreign assets or liabilities (including, but not limited to, borrowings, guarantees, and foreign subsidiaries) that the Indian entity inherits must adhere to the rules of external borrowing or foreign asset regulations as per the applicable foreign-exchange / external-commercial borrowing (ECB) norms.

## **5.2 Share Swap / Share-Transfer (Equity Exchange without Merger)**

A share swap is an option for the parties involved to merge partially. The stocks of the foreign company will be exchanged for the Indian company's (that can be of any form: new entity or an existing one) shares by the foreign shareholders. After the exchange, the foreign company may choose to either liquidate or close down<sup>35</sup>. The route basically changes the ownership without any immediate asset/liability reallocation. From the angle of regulation, the issuance or transfer of shares in the Indian entity to non-resident shareholders falls within the jurisdiction of foreign-investment rules, more specifically the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules)<sup>36</sup>, and if applicable, the more recent Foreign Exchange Management (Overseas Investment) Rules, 2022. It is a must to be in compliance with sectoral caps, pricing guidelines, and entry-route requirements. The share swap/transfer is assumed to be a “transfer” under the ITA (as per Section 2(47)) for tax purposes. Therefore, the foreign shareholders may be liable to capital-gains tax which is computed by taking the fair market value of the Indian shares received and the cost of acquisition of the foreign shares and finding the difference between them. The indirect-transfer provisions may also be applied especially if the value of Indian assets is underlying the value of the foreign shares.

There are some advantages of choosing the share-swap route, such as (no full merger; less structural disruption); however, to a large extent, it comes with a significant financial disadvantage and a possible complicated compliance process for many foreign investors, particularly if they had acquired a foreign entity that had become more valuable over time. Moreover, with it, one of the main merger benefits could be lost—the unified legal status, consolidated governance, liability succession, and regulatory clarity<sup>37</sup>.

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<sup>35</sup> What Happens to an Indian Subsidiary Company If the Parent Company Registered in a Foreign Country Gets Delisted from the Stock Exchange?, *LegalDev*, <https://legaldev.in/blog/what-happens-indian-subsidiary-company-if-parent-company-registered-foreign-country>.

<sup>36</sup> Ruchi Anand & Assocs., *Foreign Exchange Management (Overseas Investment) Rules, 2022* (Blog | Chartered Accountant in India Mar. 12, 2024), <https://raaas.com/blog/foreign-exchange-management-overseas-investment-rules-2022/>.

<sup>37</sup> Pawan Khatri, India's New Rules for Cross-Border Mergers Simplified, *White & Brief* (Nov. 19, 2025),

### 5.3 Other Routes: Re-incorporation, New Indian Holding Company, Hybrid or IFSC-Based Structures

A third set of options would be to establish an entirely new Indian holding company (or to use special-purpose structures such as IFSC based entities), in which the shares or some of the main assets may be moved; the foreign company may either be liquidated or kept alive as a shell; or hybrid structures may be used to align the interests of the investors with operational realities and regulatory/tax implications.

These routes come with the greatest flexibility: for example, in the case of early-stage firms or those with very little overseas assets, or if the shareholders do not want to bear the legacy liabilities or foreign debts. Nevertheless, such flexibility usually has a downside: because these structures consist of new incorporation or share transfers (rather than an amalgamation), they often result in capital gains tax becoming due or loss of carried forward losses, and may not provide the clean legal succession or consolidated governance that a full merger offers. The regulatory compliance (such as foreign investment rules<sup>38</sup> and regulations, valuations, and reporting) will be a huge task, just like the need to properly deal with any foreign assets/operations or liabilities.

## 6. Case Studies of Reverse Flipping by Indian Startups

### 6.1 PhonePe

In the year 2022, the company PhonePe, which previously was incorporated outside India, performed a reverse-flip through a share-swap/share-transfer-based internalisation. According to the reverse-flip structure, a company that was not registered in India but had an Indian subsidiary transferred its shares in a way that the latter became the main operating and legal entity. As a part of the process, the Indian subsidiary received all the businesses and subsidiaries of PhonePe — even those that had been routed internationally and the company set up a new ESOP plan in the Indian structure that replaced the old one<sup>39</sup>.

**Tax & Structural Outcome:** The reverse flip caused the parent company or its shareholders to have a capital-gains tax liability that was, by some reports, close to INR 8,000 crore (about USD 1 billion). Besides that, the tax authorities in India considered the foreign-holding entity's

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<https://whiteandbrief.com/indias-new-rules-for-cross-border-mergers-simplified/>.

<sup>38</sup> Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, S.O. 3732(E) (India, Oct. 17, 2019), <https://incometaxindia.gov.in/Documents/Provisions%20for%20NR/FEM-Non-debt-Instruments-Rules-2019.htm>.

<sup>39</sup> Aditi Shrivastava, PhonePe's India Flip Comes with a Billion-Dollar Tax Googly, *The CapTable* (Dec. 6, 2022), <https://the-captable.com/2022/12/phonepe-india-billion-dollar-tax-flipkart-walmart-fintech-india-flip/> (accessed Dec. 18, 2025).

losses (which were estimated to be in the hundreds of millions of dollars) as wasted due to the changing of shareholders exceeding the thresholds that were allowed for carry-forward under loss-set-off provisions<sup>40</sup>.

This example shows that although share-swap internalisation can help to change the country of incorporation, it will at the same time present the shareholders with heavy tax bills and may lead to the loss of previously enjoyed tax attributes and thus non-realization of the advantage of tax-neutral restructuring.

## 6.2 Groww

In the month of March 2024, Groww performed its reverse flip, thereby changing its domicile from the United States to India. The reverse-flip was carried out through an inbound merger: the foreign holding company merged into the Indian subsidiary transferring shareholding to domestic shareholders and making the Indian entity the surviving company. Groww still paid around ₹1,340 crore (approx. USD 160 million) as taxes associated with the move, though it was a structural change<sup>41</sup>.

Experts say that this approach - inbound merger - was a winner because of the revised regulation (post-2024) allowing cross-border mergers through a fast-tracking process (thus, old procedural heavy-lifting was totally avoided). The new company is now in much better shape for IPO, regulatory compliance, and governance under Indian law.

## 6.3 Pine Labs

In the year 2025, the National Company Law Tribunal (NCLT) of India gave Pine Labs the green light to merge its base in Singapore with its Indian base, thus completing the reverse-flip. The merger was allowed after all the statutory and regulatory requirements were met by Pine Labs, which included board approvals, creditor/member meetings, and cross-jurisdictional compliance requirements<sup>42</sup>. The company, after its merger with the Indian entity, has reportedly the plan to go for an IPO in India and therefore the easier domestic structure.

**Implication & Significance:** The inbound-merger route, as seen by Groww and Pine Labs,

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<sup>40</sup> Abhishek Jha, The Great Indian Homecoming: PhonePE's Billion-Dollar Share Swap, *Finncounts Newsletter* (June 7, 2025), <https://abhisho7.substack.com/p/the-great-indian-homecoming-phonapes>.

<sup>41</sup> Groww Pays \$160 Million Tax for Domicile Shift; Losses Rise, *ETtech* (Oct. 22, 2024), <https://economictimes.indiatimes.com/tech/technology/groww-fy24-revenue-more-than-doubles-co-pays-rs-1340-cr-for-domicile-shift/articleshow/114422498.cms>.

<sup>42</sup> Pine Labs Gets NCLT Nod to Reverse Flip Singapore Entity, *ETtech* (Apr. 10, 2025), <https://economictimes.indiatimes.com/tech/technology/pine-labs-gets-nclt-nod-to-reverse-flip-singapore-entity/articleshow/120162888.cms>.

seems to be a more legally and structurally coherent path for internalisation. It enables “universal succession” of assets, liabilities and contracts while aligning the place of incorporation with the business operations in India. This route appears to mitigate some tax and compliance issues compared to share-swap, although not necessarily all, depending on valuation and other factors.

These cases show that the reverse-flip trend is not limited to one sector it spans fintech, commerce, quick-commerce, etc. The structuring choices vary (inbound merger vs share swap), reflecting firm-specific histories, investor preferences, and strategic aims<sup>43</sup>.

## 7. Key Challenges & Legal Uncertainties

The growing wave of reverse-flipping by Indian-origin enterprises brings significant structural benefits but also exposes critical unresolved issues and policy tensions. Among the most important are:

### 7.1 Tax Uncertainty & Anti-Avoidance Risk.

Even in cases where inbound mergers are classed as “amalgamations” according to the Income-tax Act, 1961 (ITA) and therefore request tax-neutral treatment under Sections 47(vi)/(vii), the application of anti-avoidance measures (especially General Anti-Avoidance Rule — GAAR) and indirect-transfer taxation still stand as significant risks. The tax authorities can recharacterise a reverse flip if they see it as primarily tax-driven rather than commercial<sup>44</sup>. Besides, changes in the structure may result in loss of treaty benefits for the foreign shareholders and cause them to be liable for Indian tax, even though they might have already relied on tax-treaty benefits<sup>45</sup>.

### 7.2 Loss Carry-Forwards, ESOPs & Stakeholder Impact.

In case the changes in shareholding or power to vote the shares surpass the statutory limits, the portion of tax losses of the foreign company merging that would have been allowed to carry forward will be disallowed under Section 79<sup>46</sup> and similar provisions contained in the Income-

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<sup>43</sup> Supriya Roy, Off the Boat: Inside India’s Reverse Flipping Wave, *Times of India* (Apr. 24, 2025), <https://timesofindia.indiatimes.com/business/india-business/off-the-boat-inside-indias-reverse-flipping-wave/articleshow/120582558.cms>.

<sup>44</sup> Anisha Patnaik, The Great Indian Homecoming: Why Startups Are Back, *Law.asia* (June 19, 2025), <https://law.asia/great-indian-homecoming/> (accessed Dec. 18, 2025)

<sup>45</sup> **India’s Reverse-Flip Wave: Regulatory Breakthroughs and Enabling Frameworks**, *IndiaCorpLaw* (Oct. 29, 2025), <https://indiacorplaw.in/2025/10/29/indias-reverse-flip-wave-regulatory-breakthroughs-and-enabling-frameworks/>.

<sup>46</sup>

tax Act, 1961. This is particularly hard on the pre-flip foreign-holding companies with tax-deductible losses, thus depreciating one of the benefits of internalisation.

Employee stock option plans (ESOPs) and other stakeholders' rights — which are often seen in startup companies — might need to be recalibrated or reissued and this might lead to tax events, changes in vesting schedules, or even loss of value for employees. This not only creates uncertainty for employees but also their retention and incentives may be affected negatively.

### 7.3 Procedural, Regulatory & Multi-jurisdictional Complexity.

Notwithstanding the recent reforms (among which the 2024 amendment that permits "fast-track" inbound mergers under Companies Act, 2013 ranks highest), reverse flips continue to involve a long and tortuous process through overlapping regulatory regimes corporate law, foreign-exchange (FEMA/FDI), tax law, foreign-jurisdiction law (for legacy offshore entities), and sector-specific regulations when applicable. Delays, valuation disputes, compliance risk, and high transaction costs still count as common hurdles<sup>47</sup>.

In case of deals being of great importance (for instance, restructuring of leading fintechs or tech firms with very high value), the possibility of additional regulatory scrutiny under competition law (e.g. review by Competition Commission of India (CCI) if thresholds are crossed) or sector-specific regulators being involved adds to the risk of non-fulfillment of the deal.

## 8. Reform Proposals & Normative Considerations

In order to achieve a balance between the valid commercial advantages of reverse flipping and the necessity of fiscal integrity, investor protection, and regulatory certainty, a carefully calibrated reform method is essential. One of the main actions could be the provision of tax law that would allow the safe-harbours or advance-ruling mechanisms for the good faith internalizations done as amalgamations to be clearly articulated<sup>48</sup>. These mechanisms are to define objective and substance-based criteria—like business operations continuity, economic presence creation, and no tax abuse legacy—that would justify tax neutrality and the maintaining of the accumulated losses. This will cut down the ex ante uncertainty greatly and

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<https://incometaxindia.gov.in/layouts/15/dit/pages/viewer.aspx?grp=act&cname=cmsid&cval=102120000000063889&k=&isdlg=0> (accessed Dec. 18, 2025).

<sup>47</sup> SRL, *Out and Back Again: The Legal Realities of Startup Reverse Flips* (July 30, 2025), <https://spiceroutelegal.com/publications/out-and-back-again-the-legal-realities-of-startup-reverse-flips/>.

<sup>48</sup> Amit Jain, (India) **Income Tax Bill 2025: Key Proposals Impacting Cross Border Transactions and Capital Flows**, *BTG Advaya* (May 5, 2025), <https://www.btgadvaya.com/post/india-income-tax-bill-2025key-proposals-impacting-cross-border-transactions-and-capital-flows>.

also lower the chances of the tax challenges becoming partly retrospective in cases of genuine corporate restructuring. Another aspect of the reform process is the parallel reform in the treatment of employee stock ownership plans (ESOPs) and securities regulation in cross-border restructurings. If there are clear and efficient mechanisms for converting offshore ESOPs into Indian securities along with proper valuation and tax treatment, it would help to eliminate disruption to employee incentives and also solve one of the most stubborn issues in reverse-flip transactions<sup>49</sup>. The increased clarity in this matter would not only help to retain talent but also improve the confidence of investors during the process of re-domiciliation. Innovative, single-window clearance framework for eligible start-ups and high-growth companies may make it possible to further improve regulatory efficiency. Drawing together corporate-law approvals, foreign-exchange compliance, and sectoral or competition-law clearances into a coordinated timeline would cut down on procedural delays while still providing the fundamental regulatory oversight. For instance, in an area of major regulators and overlapping approval requirements, this method would be of great use since fragmentation now raises transaction costs and uncertainty. In parallel with the above, better governance and disclosure protections, including both financial and non-financial aspects, should be applied to reverse-flip transactions so that internalisation is not exploited for tax base erosion, avoidance of guarantee obligations or deferral of liabilities. The increased openness would help regulators and investors in identifying authentic commercial reorganizations and aggressive regulatory arbitrage, hence preserving the integrity of the system. To conclude, the relationship between the tax treaties and the domestic anti-avoidance rules calls for more clarity. Granting that the commercially justified reverse flips will not be usually challenged under GAAR or indirect-transfer provisions—on the condition of adherence to the fair-valuation standards and the substance-based tests—will bring the long-desired predictability to the founders and investors. This would be such that the tax enforcement would be in line with the commercial reality while still allowing for the abusive structures to be dealt with. One can say that these reforms, when taken together, would be able to strike a balance between India's aspiration to be the most preferred place for global startups and the necessity to assure transparency, investor protection, and the robustness of the tax and regulatory framework<sup>50</sup>.

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<sup>49</sup> Bharath Reddy, Reverse Flips and ESOPs: Bridging Global Incentives and Indian Regulations, *India Corporate Law* (Dec. 8, 2025), <https://corporate.cyrilamarchandblogs.com/2025/12/reverse-flips-and-esops-bridging-global-incentives-and-indian-regulations/>.

<sup>50</sup> Harish Sekar, "Aa Ab Laut Chalein!: Key Considerations for 'Reverse Flips' | India Corporate Law" (*India Corporate Law*, September 25, 2025) <<https://corporate.cyrilamarchandblogs.com/2025/09/aa-ab-laut-chalein-key-considerations-for-reverse-flips/>>.

## Conclusion

The boom in reverse flipping is a significant change in India's startup ecosystem, indicating the maturity of its capital markets, regulatory powers and innovation ecosystem overall. This trend of re-domicile being taken up by more ventures is the reflection of the deepening trust in India as a place for long-term value creation, public listings and regulatory engagement, thus the trend being coal-fired by the country's positive image, in this case, as well as the tax, corporate and foreign-exchange frameworks still being a part of the problem or issue. The latter especially refers to the transaction neutrality, treatment of losses, ESOP migration, and multi-jurisdictional compliance among others. The issue involved is not merely the transactions that take place but rather their number. India's desire to be the primary global hub for highly innovative tech companies requires that it makes available to them nothing less than transparent, predictable and efficient internalisation pathways. Thus, reforms that promote along with supervision will determine whether reverse flipping turns into a smooth "homecoming" process or stays an exception that only very clever companies can navigate. A coherent policy approach can make it possible to have the momentum going while at the same time ensuring that India's regulatory and tax system remains complex.

