



**RESERVE BANK OF INDIA**  
**Foreign Exchange Department**  
**Central Office**  
**Mumbai - 400 001**

---

**RBI/2009-2010/278**

**A. P. (DIR Series) Circular No. 23**

**December 30, 2009**

To

All Authorised Dealers Category - I Banks

Madam / Sir,

**Establishment of Branch Office (BO)/Liaison Office (LO) in India by Foreign Entities - Eligibility Criteria and Procedural Guidelines**

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to [Notification No. FEMA 22/2000-RB dated May 3, 2000](#) viz. Foreign Exchange Management (Establishment in India of Branch or Office or other place of business) Regulations, 2000, as amended from time to time, in terms of which a person resident outside India requires prior approval of the Reserve Bank for establishing Branch Office (BO) / Liaison Office (LO) in India.

2. Under the current regulations, the applications from foreign companies (a body corporate incorporated outside India, and includes a firm or other association of individuals) (foreign entities) for establishing BO / LOs in India are considered by the Reserve Bank under two routes:

- **Reserve Bank Route** — Principal business of the foreign entity falls under sectors where 100 per cent foreign direct investment (FDI) is permissible under the automatic route.
- **Government Route** — Principal business of the foreign entity falls under the sectors where 100 per cent FDI is not permissible under the automatic route. Applications from entities falling under this category and Non - Government Organisations / Non - Profit Organisations / Government Bodies / Departments are considered by the Reserve Bank in consultation with the Government of India, Ministry of Finance.

3. With the objective of achieving greater transparency, it has been decided to place the eligibility criteria and the procedural guidelines for establishment of BO and LO in India, in the public domain. Accordingly, the broad criteria regarding eligibility for opening of BO / LOs, documentation, etc., are given in **Annex A** and the scope of activities permitted and other procedural guidelines regarding functioning of the BO / LO in India are given in **Annex B**.

4. The application for establishing BO / LO in India may be forwarded by the foreign entity in **Form FNC (Annex C)** through a designated AD Category - I bank (i.e. an AD Category – I bank identified by the applicant with whom they intend to pursue banking relations) to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Fort, Mumbai-400 001, along with the prescribed documents. The designated AD Category - I bank should exercise due diligence in respect of the applicant's background, antecedents of the promoter, nature and location of activity, sources of funds, etc. and also ensure compliance with the KYC norms before forwarding the application together with their comments/ recommendations to the Reserve Bank.

5. Applications from foreign banks and insurance companies will continue to be directly received and examined by the Department of Banking Operations and Development (DBOD), Reserve Bank, Central Office and the Insurance Regulatory and Development Authority (IRDA), respectively, as hitherto. Approval of the Reserve Bank is not required to establish a branch/unit in Special Economic Zones for undertaking manufacturing and service activities, subject to compliance with the conditions specified in Notification No. [FEMA 102/2003-RB](#) dated October 3, 2003 read with A.P. (DIR Series) [Circular No.58](#) dated January 16, 2004.

6. In order to provide a uniform framework, a Unique Identification Number (UIN) would be allotted to both, the existing as well as the new BOs / LOs. The UIN will have to be quoted in all references to the Reserve Bank by the BO/LO and the designated AD Category – I bank.

7. The Reserve Bank or the Government of India, as the case may be, reserves the right to reject an application for non-fulfillment of any other condition/s not specifically referred to in the Annexes, fulfillment of which, in the opinion of the Reserve Bank / the Government of India, is necessary for grant of such permission or in the public interest. The Reserve Bank or the Government of India, as the case may be, also reserves the right to verify / examine the activities of the BO / LO of the foreign entities established in India and to withdraw the permission already granted, after due notice, if the circumstances so warrant or due to changes in the policy.

8. The BOs / LOs shall obtain Permanent Account Number (PAN) from the Income Tax Authorities on setting up of their office in India and report the same in the Annual Activity Certificate.

9. AD Category - I banks may bring the contents of this circular to the notice of their constituents/customers concerned.

10. Necessary amendments to the Foreign Exchange Management (Remittance of Assets) Regulations, 2000 notified vide [Notification No.FEMA.13/2000-RB dated May 3, 2000](#) and the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 notified vide [Notification No.FEMA.22/2000-RB dated May 3, 2000](#) are being issued separately.

11. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

**(D. Mishra)**

Chief General Manager

[Annex to A. P. (DIR Series) Circular No.23 dated December 30, 2009]

## **Eligibility Criteria for Establishment of Branch / Liaison Office in India**

### **(i) Eligibility Criteria**

An application from a foreign entity to establish Branch / Liaison Office in India is considered on the basis of two criteria viz: basic and additional:

#### **Basic criteria**

- **Reserve Bank Route** — Principal business of the foreign entity falls under sectors where 100 per cent foreign direct investment (FDI) is permissible under the automatic route.
- **Government Route** — Principal business of the foreign entity falls under the sectors where 100 per cent FDI is not permissible under the automatic route. Applications from entities falling under this category are considered by the Reserve Bank, in consultation with the Government of India, Ministry of Finance.

#### **Additional criteria**

- **Track Record**
  - For Branch Office — a profit making track record during the immediately preceding five financial years in the home country.
  - For Liaison Office — a profit making track record during the immediately preceding three financial years in the home country.
- **Net Worth** [total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name].
  - For Branch Office — not less than USD 100,000 or its equivalent.
  - For Liaison Office — not less than USD 50,000 or its equivalent.

Applicants that do not satisfy the eligibility criteria and are subsidiaries of other companies may submit a Letter of Comfort from their parent company as per **Annex D**, subject to the condition that the parent company satisfies the eligibility criteria as prescribed.

**(ii) Application Form and Documentation**

Applications in Form FNC (Annex C), duly completed in all respects and signed by the authorized signatory of the foreign entity in the home country may be submitted along with the Letter of Comfort, wherever applicable (Annex D), to the designated AD Category - I bank for onward transmission to the Reserve Bank, along with their comments and recommendations and the prescribed documents vide item (viii) of Form FNC.

[Annex to A. P. (DIR Series) Circular No.23 dated December 30, 2009]

**Scope of activities permitted and other procedural guidelines regarding functioning of a Branch Office / Liaison Office in India**

**(i) Permitted activities**

Permitted activities for a Branch / Liaison Office in India would be as under:

**Branch Office**

- Export/import of goods.
- Rendering professional or consultancy services.
- Carrying out research work, in which the parent company is engaged.
- Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
- Representing the parent company in India and acting as buying/ selling agent in India.
- Rendering services in Information Technology and development of software in India.
- Rendering technical support to the products supplied by parent/group companies.
- Foreign airline/shipping company.

Normally, the Branch Office should be engaged in the activity in which the parent company is engaged.

**Liaison Office**

- Representing the parent company / group companies in India.
- Promoting export / import from / to India.
- Promoting technical/ financial collaborations between parent / group companies and companies in India.
- Acting as a communication channel between the parent company and Indian companies.

**(ii) Applications for additional offices or undertaking additional activities.**

- Requests for establishing additional BO / LOs may be submitted to the Reserve Bank in the same manner, as indicated in Annex A.
- Fresh FNC form, duly signed by the authorized signatory of the foreign entity in the home country should be submitted. However, the documents mentioned in form FNC need not be resubmitted, if there are no changes to the documents already submitted earlier.
- If the number of Offices exceeds 4 (i.e. one BO / LO in each zone viz; East, West, North and South), the applicant has to justify the need for additional office/s.
- The applicant may identify one of its Offices in India as the Nodal Office, which will coordinate the activities of all of its Offices in India.
- Requests for undertaking activities in addition to what has been permitted initially by the Reserve Bank may be submitted through the designated AD Category -I bank to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai, justifying the need with comments of the designated AD Category - I bank.

**(iii) Extension of validity of the approval of Liaison Offices**

- Requests on letter head of LO for extension of time for continuance of LOs [other than those from entities in the Insurance sector, banks, NBFCs and Construction and Development sectors (excluding infrastructure development companies)] may be submitted to the AD Category - I bank concerned under whose jurisdiction the LO / Nodal Office is located before the expiry of the validity of the approval.
- Applications from foreign banks and insurance companies will continue to be directly received and examined by the Department of Banking Operations and Development, Reserve Bank and Insurance Regulatory and Development Authority (IRDA) respectively, as hitherto.
- No extension would be considered for LOs of entities which are NBFCs and those engaged in Construction and Development sectors (excluding infrastructure development companies). Upon expiry of the validity period,

these entities have to either close down or be converted into a Joint Venture (JV) /Wholly Owned Subsidiary (WOS), in conformity with the extant FDI policy.

#### **(iv) Winding up of Branch/Liaison Offices**

Requests for closure of the BO / LO and allowing the remittance of winding up proceeds of BO / LO may be submitted to the designated AD Category - I bank by the BO/LO or their Nodal Office, as the case may be. The application for winding up may be submitted along with the following documents:

- a. Copy of the Reserve Bank's permission/ approval from the sectoral regulator(s) for establishing the BO/ LO.
- b. Auditor's certificate :
  - (i) indicating the manner in which the remittable amount has been arrived at and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets;
  - (ii) confirming that all liabilities in India including arrears of gratuity and other benefits to employees, etc. of the Office have been either fully met or adequately provided for;
  - (iii) confirming that no income accruing from sources outside India (including proceeds of exports) has remained unrepatriated to India.
- c. No-objection or Tax Clearance Certificate from the Income-Tax authority for the remittance.
- d. Confirmation from the applicant/parent company that no legal proceedings in any Court in India are pending against the BO / LO and there is no legal impediment to the remittance.
- e. A report from the Registrar of Companies regarding compliance with the provisions of the Companies Act, 1956, in case of winding up of the BO /LO in India.



Designated AD Category-I bank should ensure submission of all the above mentioned documents by the BO / LO before considering the request for closure of the BO / LO and subsequent remittance, if any, to the Head Office.

Designated Authorised Dealers may allow remittance of winding up proceeds in respect of Offices of banks and insurance companies, after obtaining copies of closure permission from the sectoral regulators along with the documents mentioned above.

**FNC****Application for Establishment of Branch/Liaison Office in India****A. General Instructions to Applicants:**

The application form shall be completed and submitted to the **AD Category - I bank designated** by the applicant for onward transmission to the Chief General Manager-in -Charge, Reserve Bank, Foreign Exchange Department, Foreign Investment Division, Central Office, Fort, Mumbai – 400001 along with the documents mentioned in item (viii) of the Declaration.

No.	Details	Particulars
1.	Full name and address of the applicant.  Date and Place of incorporation / registration  Telephone Number(s) Fax Number(s) E-mail ID	
2.	Details of capital i) Paid-up capital ii) Free Reserves/Retained earnings as per last audited Balance Sheet/Financial Statement iii) Intangible assets, if any	
3.	Brief description of the activities of the applicant.	
4.	i) Value of goods imported from and / or exported to India by the applicant during each of the last three years:  a) Imports from India  b) Exports to India  ii)Particulars of existing arrangements if any, for representing the company in India.	

	<p>iii) Particulars of the proposed Liaison/ Branch Office:</p> <p>a) Details of the activities/ services proposed to be undertaken/ rendered by the office.</p> <p>b) Place where the office will be located.</p> <p>c) Phone number</p> <p>d) E-mail ID</p> <p>e) Expected number of employees (with number of foreigners)</p>	
5.	<p>i) Name and address of the banker of the applicant in the home country</p> <p>ii) Telephone &amp; Fax Number</p> <p>iii) E-mail ID</p>	
6.	Any other information which the applicant company wishes to furnish in support of this application.	
7.	<p>For Non-profit / Non-Government Organisations:</p> <p>(i) Details of activities carried out in the host country and other countries by the applicant organization.</p> <p>(ii) Expected level of funding for operations in India.</p> <p>(iii) Copies of the bye-laws, Articles of Association of the organisation.</p>	

## DECLARATION

We hereby declare that:

- i) The particulars given above are true and correct to the best of our knowledge and belief.
- ii) Our activities in India would be confined to the activities indicated in column 4(iii) (a) above.
- iii) If we shift the office to another place within the city, we shall intimate the designated AD Category - I bank and the Reserve Bank. In the event of shifting the Office to any other city in India, prior approval of the Reserve Bank will be obtained.
- iv) We will abide by the terms and conditions that may be stipulated by the Government of India / Reserve Bank / designated AD Category - I bank from time to time.
- v) We, hereby commit that we are agreeable to a report / opinion sought from our bankers abroad by the Government of India /Reserve Bank.
- vi) We understand that the approval, if granted, is from FEMA angle only. Any other approvals / clearances, statutory or otherwise, required from any other Government Authority/ Department/ Ministry will be obtained before commencement of operations in India.
- vii) We have no objection to the Reserve Bank placing the details of approval in public domain.
- viii) We enclose the following documents:
  1. Copy of the Certificate of Incorporation / Registration attested by the Notary Public in the country of registration  
*[If the original Certificate is in a language other than in English, the same may be translated into English and notarized as above and cross verified/attested by the Indian Embassy/ Consulate in the home country].*
  2. Latest Audited Balance sheet of the applicant company.  
*[If the applicants' home country laws/regulations do not insist on auditing of accounts, an Account Statement certified by a Certified Public Accountant (CPA) or any Registered Accounts Practitioner by any name, clearly showing the net worth may be submitted]*
  3. Bankers' Report from the applicant's banker in the host country / country of registration showing the number of years the applicant has had banking relations with that bank.

(Signature of Authorised Official  
of the Applicant Company)

**Name:**  
**Designation:**

**Place:**

**Date:**

**Annex D**

[Annex to A. P. (DIR Series) Circular No. 23 dated December 30, 2009]

**Format of the Comfort Letter**

The Chief General Manager-in-Charge,  
Reserve Bank of India,  
Foreign Exchange Department,  
Foreign Investment Division,  
Central Office, Fort,  
Mumbai- 400001.

Dear Sir,

**Sub: Application for establishment of Branch / Liaison Office in India by our subsidiary / group company, M/s \_\_\_\_\_**

You may kindly refer to the application made by our subsidiary / group company, M/s \_\_\_\_\_ to your office for establishing Branch / Liaison Office in India.

2. In this connection, we, \_\_\_\_\_(the parent company) undertake to provide the necessary financial support for our subsidiary / group company's operations as a Branch / Liaison Office in India. Any liability that may arise due to the functioning of the Branch/Liaison Office in India will be met by us (the parent company), in case of inability on part of the Branch/Liaison Office to do so.

3. We are also enclosing the financial background of our company in the form of our latest Audited Balance Sheet / Account Statement certified by a Certified Public Accountant.

Yours faithfully,

( )

Authorised Representative of the parent company