ESTABLISHMENT OF BRANCH/LIAISON/PROJECT OFFICES IN INDIA

Investment Routes

Entry Strategies for Foreign Investors

A foreign company planning to set up business operations in India has the following options:

1) AS AN INDIAN COMPANY

A foreign company can commence operations in India by incorporating a company under the Companies Act, 1956 through

- Joint Ventures; or
- Wholly Owned Subsidiaries

Foreign equity in such Indian companies can be up to 100% depending on the requirements of the investor, subject to equity caps in respect of the area of activities under the Foreign Direct Investment (FDI) policy. Details of the FDI policy, sectoral equity caps & procedures can be obtained from Department of Industrial Policy & Promotion, Government of India (http://www.dipp.nic.in).

JOINT VENTURE WITH AN INDIAN PARTNER

Foreign Companies can set up their operations in India by forging strategic alliances with Indian partners.

Joint Venture may entail the following advantages for a foreign investor:

- Established distribution/marketing set up of the Indian partner
- Available financial resources of the Indian partners
- Established contacts of the Indian partners which help smoothen the process of setting up of operations
WHOLLY OWNED SUBSIDIARY COMPANY

Foreign companies can also set up wholly owned subsidiary in sectors where 100% foreign direct investment is permitted under the FDI policy.

INCORPORATION OF COMPANY

For registration and incorporation, an application has to be filed with Registrar of Companies (ROC). Once a company has been duly registered and incorporated as an Indian company, it is subject to Indian laws and regulations as applicable to other domestic Indian companies.

2) AS A FOREIGN COMPANY

Foreign Companies can set up their operations in India through

- Liaison Office/Representative Office
- Project Office
- Branch Office

Such offices can undertake any permitted activities. Companies have to register themselves with Registrar of Companies (ROC) within 30 days of setting up a place of business in India.

BRANCH OFFICE / LIAISON OFFICE OF A FOREIGN COMPANY IN INDIA

Q.1. How can foreign companies open Liaison/Project/Branch office in India?

A.1. Companies registered outside India (Foreign Company) can establish their operations in India without registering a subsidiary company. The scope of operation of such offices is limited and is preferred for representative office, sourcing, technical support, market support in India.

Steps - Establishing a Foreign Company Office in India
Reserve Bank of India Approval

The application for establishing Branch Office or Liaison Office in India may be forwarded by the foreign entity in Form FNC-1 through a designated AD Category - I bank to Reserve Bank of India along with the prescribed documents. The application will be considered on case-to-case basis and the permission from Reserve Bank of India generally takes about one month time.

Registration with Registrar of Companies, New Delhi

Upon receipt of approval from Reserve bank of India, requisite documents have to be filed with Registrar of Companies, New Delhi for registration under Companies Act. After scrutiny of documents, Registrar of Companies, New Delhi will register the Foreign office and issue the certificate of registration. Thereafter, Foreign Company can open bank account and start operation in India.

LIAISON OFFICE/ REPRESENTATIVE OFFICE

Liaison office acts as a channel of communication between the principal place of business or head office and entities in India. A Liaison Office (also known as Representative Office) can undertake only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. Liaison office cannot undertake any commercial activity directly or indirectly and cannot, therefore, earn any income in India. Its role is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. It can promote export/import from/to India and also facilitate technical/financial collaboration between parent company and companies in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange by the Head Office of the Company. Permission to set up such offices is initially granted for a period of 3 years and this may be extended from time to time by the Reserve Bank of India.

The approval for establishing a liaison office in India is granted by the Reserve Bank of India (RBI).

The permitted activities of a liaison office in India are;

- 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.

Foreign company can set up Liaison/ Branch Offices in India after obtaining approval from Reserve Bank of India. Reserve Bank of India has given general permission to foreign companies to establish Project Offices in India subject to certain conditions.

Q.2. What is the procedure to be followed for obtaining Reserve Bank’s approval for opening Liaison Office / Representative Office?

A.2 A Liaison office can carry on only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. It is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office abroad. The role of such office is therefore, limited to collecting information about possible market opportunities and providing information about the Company and its products to the prospective Indian customers.

The companies desirous of opening a liaison office in India may make an application in form FNC-1 along with the documents mentioned therein to Foreign Investment Division, Foreign Exchange Department, Reserve Bank of India, Central office Mumbai. This form is available at www.rbi.org.in

Permission to set up such offices is initially granted for a period of 3 years and this may be extended from time to time by the Regional Office in whose jurisdiction the office is set up. Liaison/Representative offices have to file an Activity Certificate on an annual basis from a Chartered Accountant to the concerned Regional Office of the Reserve Bank of India, stating that the Liaison office has undertaken only those activities permitted by Reserve Bank of India.

PROJECT OFFICE

Q.3. What is the procedure for setting up Project Office?

A.3 Foreign Companies planning to execute specific projects in India can set up temporary project/site offices in India. RBI has now granted general permission to foreign entities to establish Project Offices subject to specified conditions. Such offices cannot undertake or carry on any activity other than the activity relating and incidental to execution of the project. Project Offices may remit outside India the surplus of the project on its completion, general permission for which has been granted by the RBI.
Reserve Bank of India has granted general permission to foreign companies to establish Project Offices in India, if they have secured a contract from an Indian company to execute a project in India, and

- The project is funded directly by inward remittance from abroad; or the project is funded by a bilateral or multilateral International Financing Agency; or
- The project has been cleared by an appropriate authority;

A company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project.

Foreign companies are granted projects in India by Indian entities. General Permission has been granted by Reserve Bank of India Vide Notification No. FEMA 95/ 2003-RB dated July 2, 2003 to foreign companies to open Project Office/s in India provided they have secured from an Indian company, a contract to execute a project in India, and

- The project is funded directly by inward remittance from abroad; or
- The project is funded by a bilateral or multilateral International Financing Agency; or
- The project has been cleared by an appropriate authority; or
- A company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or bank in India for the project.

However, if the above criteria are not met, or if the parent entity is established in Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran or China, such applications have to be forwarded to Central Office of the Foreign Exchange Department of the Reserve Bank at Mumbai for approval.

**BRANCH OFFICE**

**Q.4. what is the procedure for setting up Branch office?**

**A.4** A Foreign Company engaged in manufacturing or trading activities are allowed to set up Branch Offices in India with specific approval of the Reserve Bank. Such Branch Offices are permitted to represent the parent/group companies and undertake the following activities. Normally, the Branch Office should be engaged in the activity in which the parent company is engaged.
Export/Import of goods  
Rendering professional or consultancy services  
Carrying out research work, in areas 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

Reserve Bank permits companies engaged in manufacturing and trading activities abroad to set up Branch Office in India for the following purposes:

- To represent the parent company/other foreign companies in various matters in India e.g. acting as buying/selling agents in India.
- To conduct research work in the area in which the parent company is engaged.
- To undertake export and import activities and trading on wholesale basis.
- To promote possible technical and financial collaborations between the Indian companies and overseas companies.
- Rendering professional or consultancy services.
- Rendering services in Information Technology and development of software in India.
- Rendering technical support to the products supplied by the parent/Group companies.

A branch office is not allowed to carry out manufacturing, processing activities directly/indirectly. A Branch office is also not allowed to undertake Retail Trading activities of any nature in India. Branch Offices have to submit Activity Certificate from a Chartered Accountant on an annual basis to the Central Office of FED. For annual remittance of profit Branch office may submit required documents to an authorised dealer.

Permission for setting up branch offices is granted by the Reserve Bank of India. Reserve Bank of India considers the track record of the Applicant Company, existing trade relations with India, the activity of the company proposing to set up office in India as well as financial position of the company while scrutinising the application.

**BRANCH OFFICE ON "STAND ALONE BASIS" - SEZ**
Such Branch Offices would be isolated and restricted to the Special Economic zone (SEZ) alone and no business activity/transaction will be allowed outside the SEZs in India, which include branches/subsidiaries of its parent office in India. No approval shall be necessary from RBI for a company to establish a branch/unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

Approval of the Reserve Bank is not required to establish a branch/unit in Special Economic Zones(SEZ) for undertaking manufacturing and service activities. The general permission is subject to the following conditions:

- Such units are functioning in those sectors where 100 percent Foreign Direct Investment is permitted;
- Such units comply with part XI of the Companies Act (Section 592 to 602);
- Such units function on a stand-alone basis.

Notes: - Application for setting up Liaison Office/ Project Office/ Branch Office may be submitted in form FNC 1 (available at RBI website at www.rbi.org.in)