



LATEST STATUTORY SNAPSHOT

MONDAY, 08 APRIL 2019



RESERVE BANK OF INDIA(RBI) RELAXES CONDITIONS FOR ESTABLISHMENT OF BRANCH OFFICE, LIAISON OFFICE AND PROJECT OFFICE IN INDIA BY FOREIGN ENTITIES

The RBI has issued an updated FED Master Direction No.10/2015-16 (originally dated 01st January, 2016) on 29th March, 2019 relaxing the conditions for establishment of Branch Office, Project Office and Liaison Office of foreign entities in India.

If the principal business of the applicant falls in the four sectors namely defence, telecom, private security and information and broadcasting, prior approval of Reserve Bank of India will not be required in cases where Government approval or license/permission by the concerned Ministry/Regulator has already been granted. In case of proposal for opening a Project Office relating to defence sector, no separate reference or approval of Government will be required, if the said non-resident applicant has been awarded a contract by/ entered into an agreement with Ministry of Defence or Service Headquarters or Defence Public Sector Undertakings.

General Procedure

Eligibility

The non-resident entity applying for a Branch Office/Liaison Office in India should have a financially sound track record viz:

a. For Branch Office — a profit making track record during the immediately preceding five financial years in the home country and net worth of not less than USD 100,000 or its equivalent. Net Worth means 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 called.

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b. For Liaison Office — a profit making track record during the immediately preceding three financial years in the home country and net worth of not less than USD 50,000 or its equivalent.

If the applicant is not financially sound and is a subsidiary of another company, it may submit a Letter of Comfort from its parent/ group company, subject to the condition that the parent/ group company satisfies the prescribed criteria for net worth and profit as aforesaid.

Prior Approval – RBI / Government of India

Prior approval of RBI for establishing a place of business in India is now required only for the following foreign entities:

- a. The applicant is a citizen of or is registered/incorporated in Pakistan;
- b. The applicant is a citizen of or is registered/incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, North East region and Andaman and Nicobar Islands

Application (Form FNC) in respect of applicant falling under prior approval category need to be filed with AD Category-I Bank through whom the applicant chooses to open its bank account and route its funds to the proposed place of business and the AD Category-I bank thereafter will forward the application to the General Manager, Reserve Bank of India, Central Office Cell, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110 001 who shall process the application in consultation with the Government of India.

Limited Approval Route

Applicants who do not fall under the prior approval category have to file application (Form FNC) with AD Category-I Bank through whom the applicant chooses to open its bank account and route its funds to the proposed place of business and the AD Category-I bank. The AD Category-I Bank after exercising due diligence in respect of the applicant's background, and satisfying itself as regards adherence to the eligibility criteria for establishing Branch Office/Liaison Office/Project Office, antecedents of the promoter, nature and location of activity of the applicant, sources of funds, etc., and compliance with the extant KYC norms grant approval to the foreign entity for establishing Branch Office/Liaison Office/Project Office in India.

However, before issuing the approval letter to the applicant, the AD Category-I bank is required to forward a copy of the application along with the details of the approval proposed to be granted by it to the General Manager, Reserve Bank of India, CO Cell, New Delhi, for allotment of Unique Identification Number (UIN) to each Branch Office/Liaison Office. After receipt of the UIN from the Reserve Bank, the AD Category-I bank shall issue the approval letter to the non-resident entity for establishing Branch Office/Liaison Office in India.

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Validity of Approval

The validity period for approval given for Liaison Office is generally for three years, except in the case of Non-Banking Finance Companies and those entities engaged in construction and development sectors, for whom the validity period is two years only. The validity period of the Project Office is for the tenure of the project as stated in the application. No validity period is specified for Branch Office related approvals.

CENTRAL OFFICE	BRANCH OFFICE	BRANCH OFFICE
Indus Chamber No.101, Govt Arts College Road, Coimbatore – 641018. Tel No: - (0422)2302868, 4952868 Email: info@ksrandco.in Linked in: gene@ksrandco.in	Flat No.1, 26/27, Venkatesham Flat, Gopal Street, T-Nagar, Chennai – 600 017. Tel No: - (044)24337620, Email: chennai@ksrandco.in	S-311, 3 rd Floor, South Block, Manipal Centre, No.47, Dickenson Road. Bangalore – 560042, Tel No: - (080)25323232 Email: bangalore@ksrandco.in