

**May , 2008**

To

All Authorised Dealers Category - I banks

Madam / Sir,

**Establishment of Branch/Liaison Offices 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, 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 / Liaison Office in India.

2. Under the current regulations, the applications from corporates registered outside India (foreign entities), for establishing Branch / Liaison Offices in India are considered by the Reserve Bank under two routes :

(i) **RBI Route** - Applications from foreign entities which are engaged in sectors where sectoral cap for foreign direct investment (FDI) under the Automatic Route is 100 per cent.

(ii) **Government Route** - Applications from foreign entities which are engaged in sectors where sectoral cap for FDI under the Automatic Route is less than 100 per cent which are considered by the Reserve Bank in consultation with the Government of India, Ministry of Finance, Department of Economic Affairs (DEA).

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

4. The application for establishing Branch / Liaison Office in India may be forwarded by the foreign entity in Form FNC (Annex-C) through the 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 required documents. The 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 KYC norms.

5. Applications from 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. As such, the guidelines contained in this Circular are not applicable to such entities and they shall continue to be governed by the terms and conditions stipulated by the respective approving authority.

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 Branch / Liaison Office. This UIN will have to be quoted in all references to the Reserve Bank by the BO/LO and AD Category – I bank.

7. The Reserve Bank or the Government of India, as the case may be, has the right to reject an application for non-fulfillment of any other condition/s not specifically referred to in the Annex hereto; fulfillment of which in the opinion of the Reserve Bank / Government of India is necessary for grant of such permission or in public interest. The Reserve Bank or the Government of India, as the case may be, shall also be competent to verify / examine the activities of the Branch / Liaison Office 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 policy.

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

9. 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.

10. 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,

**(Salim Gangadharan)**  
Chief General Manager-in- Charge

**Eligibility Criteria and Procedural Guidelines 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 — basic and additional:
  - **Basic criteria**
    - **RBI Route** — Principal business of the foreign entity falls under the sectors where sectoral cap for foreign direct investment (FDI) under the Automatic Route is 100 per cent.
    - **Government Route** — Principal business of the foreign entity falls under the sectors where sectoral cap for foreign direct investment (FDI) under the Automatic Route is less than 100 per cent. Applications from entities falling under this category are considered by the Reserve Bank in consultation with the Government of India, Ministry of Finance, (DEA).
  - **Additional criteria**
    - **Track Record:**
      - For Branch Office — a successful, profit making track record during the immediately preceding five years in the home country.
      - For Liaison Office — a successful, profit making track record during the immediately preceding three years in the home country.
    - **Net Worth** [*total of paid-up capital and free reserves, less intangible assets as per latest Audited Balance Sheet or Account Statement certified by a CPA*]
      - For Branch Office — not less than USD 100,000 or its equivalent.
      - For Liaison Office — not less than USD 50,000 or its equivalent.

**(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 Letter of Comfort, wherever applicable (Annex D), to the designated AD Category - I bank for onward transmission to the Reserve Bank, to be forwarded along with their comments and recommendations and the required documents (Item (vii) of Form FNC).

**Functioning of a Branch / 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 in the area of the parent entity's activity.
- ? 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.

**Liaison Offices**

- ? Representing in India, the parent company / group companies.
- ? 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 & activities**

- Requests for establishing additional Branch / Liaison Offices may be submitted to the Reserve Bank in the same manner as indicated in Annex A.
- Fresh form FNC, 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 Branch / Liaison Office in each zone viz; East, West, North and South), the applicant has to justify the need for additional offices.
- 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 to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai, justifying the need.

**(iii) Extension of Liaison Offices**

- Requests for extension of Liaison Offices (other than those from entities in the Insurance sector, NBFCs and Construction and Development sectors) may be submitted to the concerned AD Category - I bank under whose jurisdiction the Liaison Office / Nodal Office is located before the expiry of the validity of the approval.
- Applications from insurance companies will continue to be directly received and examined by the Insurance Regulatory and Development Authority (IRDA), as hitherto.
- No extension would be considered for LOs of entities who are NBFCs and those engaged in Construction and Development sectors. Upon expiry of the validity period, these entities have to either close down or be converted into a full-fledged Joint Venture (JV) /Wholly Owned Subsidiary (WOS), in conformity of the extant FDI policy.

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

- Requests for winding up of Branch / Liaison Office(s) may be submitted to the AD Category - I bank designated by their Nodal Office.
- The application for winding up may be submitted along with the following documents:
  - A Chartered Accountant'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 proceeds accruing from sources outside India has remained un-repatriated to India.
  - No-objection / Tax Clearance Certificate from Income-Tax authority for the remittance or an undertaking from the applicant and a certificate from the Chartered Accountant as mentioned in AP (DIR Series) Circular No. 56 dated November 26, 2002.
  - Confirmation from the parent entity that no legal proceedings in any Court in India are pending against the Branch / Liaison Office and there is no legal impediment to the remittance.

## FNC

## A. General Instructions

The 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 of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Fort, Mumbai – 400001 along with the documents mentioned in item (vii) 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 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 the existing arrangements, if any, for representing the company in India  iii) Particulars of the proposed Liaison/ Branch Office  a) Details of the activities / services proposed to be undertaken / rendered by the office.  b) Place where the office will be located.  c) Phone number  d) E-mail ID  e) Expected number of employees (with number of foreigners)	

5.	i) Name & address of the Banker of the applicant in the home country  ii) Telephone & Fax Number  ii) e-mail ID	
6.	Any other information which the applicant company wishes to furnish in support of this application	
7.	For Non-profit / Non-Government Organisations: (i) Details of activities carried out in the host country and other countries by the applicant organisation  (ii) Expected level of funding for operations in India  (iii) Copies of the bye-laws, Articles of Association of the organisation.	

## 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, we shall intimate the designated AD Category - I bank and the Reserve Bank.
- 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 do not have any objection to a report / opinion sought from our bankers abroad by the Government of India / Reserve Bank of India.
- 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 of India 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 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)

**Place:**  
**Date:**

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



**Format of the Comfort Letter**

To

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.