

Draft Reserve Bank of India (Setting Up of Wholly Owned Subsidiaries by Foreign Banks) Guidelines, 2025

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A. Background

The global financial crisis of 2008 demonstrated that the growing complexity and interconnectedness of financial institutions, coupled with the lack of effective cross-border resolution regimes, severely constrained the ability of home and host authorities to cope with the failure of too big to fail (TBTF) and too connected to fail (TCTF) institutions. Globally, several policy options have been proposed to address these challenges, including measures to contain the negative externalities arising out of size and interconnectedness, strengthening the capital and liquidity buffers, and enhancing the resolvability of such institutions. The lessons from the global financial crisis support the case for domestic incorporation of foreign banks. The main advantages of local incorporation include:

- (1) Creation of separate legal entities with their own capital base and local board of directors;
- (2) Clear delineation between the assets and liabilities of the domestic bank and those of its foreign parent, with ring fenced capital and assets within the host country;
- (3) Clarity and certainty regarding the applicability of the laws of country of incorporation on the locally incorporated subsidiary;
- (4) A locally incorporated bank has its own board of directors which are required to act in the best interests of the bank and safeguard the interests of depositors and creditors;
- (5) Local incorporation provides effective control to the local regulators.

Accordingly, several jurisdictions require foreign banks to adopt local incorporation mainly for (i) protecting local retail depositors, (ii) easing the resolution process, and (iii) affording greater regulatory comfort.

In India, the Reserve Bank of India (RBI) allowed foreign banks, if eligible, to establish presence through a single mode i.e. either the branch mode or the wholly owned subsidiary (WOS) mode.

Explanation: As per the road map for presence of foreign banks in India, announced in 2005, new entrants could choose either the branch mode or a 100% wholly owned subsidiary (WOS), subject to the single -mode presence criterion. However, no foreign bank opted for 100 per cent owned subsidiary route.

Building on lessons learnt from the crisis, the RBI issued a Discussion Paper in January 2011 on the mode of presence of foreign banks in India. Based on the feedback received, the Scheme for setting up WOS by foreign banks in India has been finalised. It has been decided, as hitherto to, allow foreign banks to operate in India either through branch mode or through a wholly owned subsidiary (WOS) with near national treatment. The foreign banks have to choose one of the above two modes of presence and shall be governed by the principle of single mode of presence.

Accordingly, on November 06, 2013, the Reserve Bank, in exercise of its power under Section 35A read with Section 44A of the Banking Regulation Act, 1949, and in the public interest as well as in the interest of banking policy, issued a 'Scheme for Setting up of Wholly Owned Subsidiaries (WOS) by foreign banks in India.

B. The Scheme

1. Branch mode or wholly owned subsidiary

- (1) All foreign banks which are not carrying on banking business in India and which wish to do so in the future and to whom the matters referred to in paragraph 3 apply shall carry on banking business in India only through a wholly owned subsidiary.
- (2) Foreign banks which are not carrying on banking business in India and which wish to do so in the future and to whom the matters referred to in paragraph 3 do not apply have the option to carry on banking business in India either through a wholly owned subsidiary or through the branch mode. If they choose to carry on banking business through the branch mode, and in case at a later date they come within the purview of paragraph 3, they shall convert their branches into WOS.

- (3) Foreign banks which commenced banking business in India from August 2010 onwards were required to furnish an undertaking that they would convert their branches into wholly owned subsidiaries if so, required by RBI. Accordingly, such banks shall convert their branches into a wholly owned subsidiary if the matters specified in paragraph 3 apply to them.
- (4) Foreign banks which commenced banking business in India before August 2010 shall have the option either to continue their banking business through the branch mode or to convert those branches into a wholly owned subsidiary.
- (5) The branch expansion of both the existing foreign banks and the new entrants present in the branch mode would be subject to India's WTO commitments.
- (6) In respect of foreign banks which are presently carrying on banking business in India, and which are required to convert their branches into a wholly owned subsidiary or opt to do so, the conversion shall only be in accordance with a scheme mandated in the public interest to be approved by RBI under Section 44A of the Banking Regulation Act 1949 and which is in accordance with the conditions specified in paragraph 19.

2. Eligibility for setting up a wholly owned subsidiary

- (1) Setting up of WOS by a foreign bank in India should have the approval of the home country regulator/supervisor.
- (2) A foreign bank applying for setting up a WOS in India must satisfy RBI that it is subject to adequate prudential supervision as per internationally accepted standards, which includes consolidated supervision in its home country.
- (3) The factors taken into account, while considering applications for setting up WOS in India would include the following:
 - (i) Economic and political relations with the country of incorporation of the parent bank,
 - (ii) Reciprocity with home country of the parent bank,
 - (iii) Financial soundness,
 - (iv) Ownership pattern,
 - (v) International and home country ranking of the parent bank by a reputed agency,

- (vi) Home country/parent bank rating by a rating agency of international repute such as Moody Investors Service, Standard & Poor's and Fitch Ratings,
- (vii) International presence of the bank,
- (viii) Adequate risk management and internal control systems.

These criteria represent the minimum that an applicant will need to meet for applying to RBI for granting a licence under Section 22 of the Banking Regulation Act, 1949 (to set up a bank as a WOS of the parent bank) and is not an exhaustive list. The final decision to grant licence will be that of RBI.

3. Conditions requiring presence as WOS only

- (1) Foreign banks which have commenced banking business in India after August 2010 or foreign banks which are not at present carrying on banking business in India but wish to do so in the future shall carry on banking business in India only through a wholly owned subsidiary, if any of the matters as described hereunder are applicable:
 - (i) Banks incorporated in a jurisdiction having legislation giving a preferential claim to deposits of home country in a winding up proceedings;
 - (ii) Banks that do not have adequate disclosure requirements in their home jurisdiction;
 - (iii) Banks with complex structures;
 - (iv) Banks which are not widely held;
 - (v) Reserve Bank of India is not satisfied with the adequacy of supervisory arrangements (including disclosure arrangements) and market discipline in the country of their incorporation; and
 - (vi) For any other reason that the Reserve Bank of India considers necessary for subsidiary form of presence of the bank; or
- (2) If a foreign bank, which has set up its presence in India through branch mode after August 2010, is considered by RBI as being systemically important by virtue of the size of its business.

Explanation: A foreign bank operating under branch mode of presence in India would be considered to be systematically important once its assets in Indian books (on

balance sheet and credit equivalent of off-balance sheet items) become 0.25 per cent of the total assets (inclusive of credit equivalent of off-balance sheet items) of all scheduled commercial banks in India as on March 31 of the preceding year. RBI would furnish consolidated data on credit equivalent of off-balance sheet items for the banking industry for this purpose.

4. National treatment

- (1) WOSs of the foreign banks, will be treated as “foreign banks” in line with Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules) read with [Master Direction – Foreign Investment in India](#).
- (2) Providing the extent of national treatment to WOS of foreign banks needs to be considered from the financial stability perspective. From financial stability perspective downside risk may arise if the foreign banks, i.e., WOSs of the foreign banks and foreign bank branches together come to dominate the domestic financial system. To address this risk, restrictions would be placed on further entry of new WOSs of foreign banks, when the capital and reserves of the foreign banks (i.e., WOSs and foreign bank branches) in India exceed 20% of the capital and reserves of the banking system. In such eventuality prior approval of RBI will be required for capital infusion into the existing WOSs of foreign banks. As regards foreign banks in branch mode of presence, as per the WTO commitments licences for new foreign banks may be denied when the maximum share of assets in India both on and off-balance sheet of foreign banks’ branches to total assets both on and off- balance sheet of the banking system exceeds 15 per cent.

5. Minimum capital requirement

- (1) The initial minimum paid-up voting equity capital for a WOS shall be ₹500 crore.
- (2) The newly set up WOS of the foreign bank would be required to bring in the entire amount of initial capital upfront, which should be funded by free foreign exchange remittance from its parent.
- (3) In the case of an existing foreign bank having branch presence in India, which desires or is required to convert into a WOS:
 - (i) It should convert its branch capital into the capital of WOS. The components, elements and eligibility criteria of the regulatory capital

instruments for the WOS would be as applicable to the other domestic banks as stipulated in the Reserve Bank of India (Commercial Banks – Prudential Norms on Capital Adequacy) Directions, 2025.

Explanation: The elements and eligibility criteria of regulatory capital instruments for existing foreign bank branches are different from those applicable to domestic banks. Accordingly, conversion of branches of an existing foreign bank into WOS would require re-organisation of the capital structure. The WOS would be allowed to repatriate the ineligible regulatory capital to its parent with prior approval of RBI.

(ii) It shall have a minimum net worth of ₹500 crore.

Explanation: Net worth would comprise Paid-up capital plus Free Reserves including Share Premium but excluding Revaluation Reserves, plus Investment Fluctuation Reserve and credit balance in Profit & Loss account, less debit balance in Profit and Loss account, Accumulated Losses, and Intangible Assets. No general or specific provisions should be included in computation of net worth.

(iii) If the net worth upon conversion is less than the minimum capital prescribed under these guidelines, the shortfall shall have to be brought in, towards infusion of equity, upfront from its parent as inward remittance.

(iv) The WOS shall meet the Basel III requirements on a continuous basis from the time of its entry / conversion. WOS shall, however, maintain a minimum capital adequacy ratio, on a continuous basis for an initial period of three years from the commencement of its operations, at 10 per cent i.e. one per cent higher than that required under Basel III standards.

In addition, WOS shall also maintain capital conservation buffer and other buffers as applicable under extant capital adequacy framework.

6. Use of group resources

(1) The WOS shall be responsible for the core management functions which cannot be outsourced including to Group entities whether in India or abroad as laid down in Reserve Bank of India (Commercial Banks – Managing Risks in

Outsourcing) Directions, 2025. The said Direction also govern IT services including its outsourcing which will also be applicable to WOSs of foreign banks.

7. **Corporate governance:** The composition of the board of directors of WOS should meet the following requirements:

- (1) not less than 51 percent of the total number of members of the board of directors shall consist of persons as defined under Section 10A of the Banking Regulation Act, 1949;
- (2) not less than two-third of the directors should be non-executive directors;
- (3) not less than one-third of the directors should be independent of the management of the subsidiary in India, its parent and any subsidiary or other associate of the foreign bank parent;
- (4) not less than 50 per cent directors should be Indian nationals/NRIs/PIOs subject to the condition that one-third of the directors are Indian nationals resident in India;
- (5) WOSs of foreign banks will have Part-time Chairman and full time Chief Executive Officer (CEO);
- (6) RBI's approval for appointment/re-appointment of the Part-time Chairman (non-executive director) should be obtained in terms of Section 10B(1A) of the Banking Regulation Act, 1949;
- (7) RBI's approval for appointment/re-appointment of the CEO/ Whole Time Directors including remuneration and other terms of appointment should be obtained in terms of Section 35B of the Banking Regulation Act, 1949;
- (8) The Guidelines on Compensation of Whole Time Directors /Chief Executive Officers, as applicable to private sector banks in India, under Reserve Bank of India (Commercial Banks – Governance) Directions, 2025, shall also be applicable to WOSs;
- (9) The CEO will be appointed on full time basis and should be resident in India;
- (10) The directors should conform to the 'Fit and Proper' criteria as laid down in Reserve Bank of India (Commercial Banks – Governance) Directions, 2025, as amended from time to time; and
- (11) All other provisions of the Banking Regulation Act, 1949 in respect of composition of board of directors, as applicable to private sector banks in India would also be applicable to WOSs.

8. Statutory, regulatory, prudential and other requirements

- (1) The WOS shall be governed by the provisions of the Companies Act, 1956, Banking Regulation Act, 1949, Reserve Bank of India Act, 1934, Foreign Exchange Management Act, 1999, Payment and Settlement Systems Act, 2007 and other relevant statutes, directives, prudential regulations and other guidelines/instructions issued by RBI and other regulators from time to time.
- (2) In all the cases where foreign bank parent/group of the WOS in India has NBFCs, the regulatory framework for consolidated prudential reporting and supervision, currently applicable to branches of foreign banks as laid down in Reserve Bank of India (Commercial Banks – Undertaking of Financial Services) Directions, 2025 will also be applicable to WOS.
- (3) In case Know Your Customer (KYC)/Anti Money Laundering (AML)/Combating the Financing of Terrorism (CFT) deficiencies are found in respect of any jurisdiction / bank, banks from such jurisdictions would be subjected to enhanced prudential requirements.

9. Raising of Non-equity capital in India

- (1) WOS of foreign banks may raise rupee resources through issue of non-equity capital instruments, as allowed to domestic banks.

10. Branch Expansion/Authorisation

- (1) The guidelines contained in Reserve Bank of India (Commercial Banks – Branch Authorisation) Directions, 2025, as applicable to domestic scheduled commercial banks and as amended from time to time would generally be applicable to WOS of foreign banks.
- (2) WOS would require prior approval of RBI for opening branches at certain locations that are sensitive from the perspective of national. A list of such centres would be made available to WOSs by RBI.

11. Priority sector lending requirements for WOS

- (1) The WOSs shall comply with the priority sector lending requirements, as applicable to Domestic Commercial Banks/ WoS of Foreign banks under

Master Directions - Reserve Bank of India (Priority Sector Lending – Targets and Classification) Directions, 2025.

(2) An existing foreign bank with less than 20 branches, opting to convert into a WOS, will be allowed a maximum period of five years, based on the action plan submitted to RBI, to achieve priority sector sub-targets. This relaxation will be available from the date of conversion into a WOS.

12. Use of credit rating and parent / head office support

(1) The parent of the WOS would be required to issue a letter of comfort (LOC) to the Reserve Bank for meeting the liabilities of the WOS. Reserve Bank would take into account this commitment of the parent to support the subsidiary before a foreign bank is allowed to set up a WOS in India.

(2) On arm's length basis, WOSs would be permitted to use parental guarantees/credit rating only for the purpose of providing custodial services and for international operations. However, WOS should not provide counter guarantee to its parent for such support.

13. Declaration of dividends

(1) The WOS of a foreign bank, being a company incorporated in India, may declare dividend like domestic banks subject to criteria laid down in Reserve Bank of India (Commercial Banks – Prudential Norms on Declaration of Dividends and Remittance of Profit) Directions, 2025 which may be repatriated as per the provisions of FEMA 1999.

14. Investment by the WOS in subsidiaries and other companies: The investment in subsidiaries and other companies by WOS would be guided by the extant instructions contained in Reserve Bank of India (Commercial Banks – Undertaking of Financial Services) Directions, 2025, which, *inter alia*, include the following:

(1) RBI does not encourage setting up of subsidiaries or significant investment in associates for activities that can be undertaken within the bank. Accordingly, in the case of WOS, approval for setting up subsidiaries or significant investment in associates will also factor in whether there are NBFCs set up by the parent banking group under FDI rules for undertaking same or similar activity;

(2) The WOS shall maintain arm's length relationship with parent's group entities;

Explanation: Group entities for this purpose would be as under: -

(a) enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise (this includes holding companies, subsidiaries and fellow subsidiaries); (b) associates and joint ventures of the reporting enterprise and the investing party or venturer in respect of which the reporting enterprise is an associate or a joint venture; (c) individuals owning, directly or indirectly, an interest in the voting power of the reporting enterprise that gives them control or significant influence over the enterprise, and relatives of any such individual; (d) associates / joint ventures of the holding company and/or its fellow subsidiaries; (e) entities sharing common brand name with entities in (a), (b), (c), (d) above; (f) key management personnel and relatives of such personnel; (g) enterprises over which any person described in (c) or (f) is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the reporting enterprise and enterprises that have a member of key management in common with the reporting enterprise; For this purpose, control, significant influence, associate, joint venture, key management personnel, subsidiary and holding company shall have the same meaning as defined in the Accounting Standard AS 18 (Related Party Disclosures) issued by the Institute of Chartered Accountants of India.

(3) In taking a view on whether an entity belongs to a particular parent group or whether the entities are linked / related to the parent group, the decision of RBI shall be final.

15. Dilution of WOS to 74 per cent

(1) WOS of foreign banks may, at their option dilute their stake to 74 per cent or less in accordance with the extant FDI policy on foreign investment in banking sector and list on stock exchanges in India

16. Mergers / Acquisitions

(1) After a review is made with regard to the extent of penetration of foreign investment in Indian banks and functioning of foreign banks (branch mode and WOSs), WOSs may be permitted, subject to regulatory approvals and such

conditions as may be prescribed, to enter into mergers and acquisition transactions with any private sector bank in India subject to the overall foreign investment limit of 74 per cent.

17. Business model

- (1) An applicant for a new WOS bank licence will be required to forward a business plan, including a branch expansion plan for one year, along with its application. The business model will have to address how the bank proposes to achieve financial inclusion and retail banking.
- (2) The business model submitted by the applicant should be realistic and viable. In case of deviation from the stated business plan after issue of licence, RBI may consider restricting the bank's expansion and imposing other penal measures as may be necessary.

18. Other conditions

- (1) As the Reserve Bank of India, at present, does not grant a differential licence to banks seeking entry in 'niche' markets, preference will be given to applicant banks for a WOS mode of presence in India which have experience in commercial and retail banking.
- (2) The WOS, from inception, would be required to operate on Core Banking Solution (CBS) platform.
- (3) The WOS shall make full use of modern infrastructural facilities in office equipment, computers, telecommunications etc. in order to provide cost-effective customer service. It should have a high powered Customer Grievances Cell to handle customer complaints.
- (4) The WOS would be covered by the provisions of the Banking Ombudsman Scheme, 2006.
- (5) A foreign bank, which obtains an in-principle approval from the Reserve Bank for opening a WOS in India has to apply to the Registrar of Companies for registering the subsidiary as a company under the Companies Act, 2013 (Act 1 of 2013) and shall be required to comply with the provisions of that Act, to the extent they are applicable to banking companies as defined in Banking Regulation Act, 1949.

- (6) On completion of the formalities relating to the registration as a company under the Companies Act, 2013 and compliance of the conditions stipulated in these guidelines, the new banking company (WOS) shall approach the Reserve Bank for issuance of a license in its name under Section 22 of the Banking Regulation Act, 1949.
- (7) RBI reserves the right to add or amend any of the clauses/conditions in the above guidelines, as may be deemed necessary, from time to time.

19. Procedure for conversion of existing branches of foreign banks into WOS

- (1) The undertaking of the foreign bank in India consisting of all its branches shall be amalgamated with its WOS pursuant to the directions hereby issued by RBI in the public interest under Section 35A read with Section 44A of the Banking Regulation Act, 1949;
- (2) A foreign bank intending to convert its branch/branches in India into WOS shall make an application in Form III prescribed vide Rule 11(a) of the Banking Regulation (Companies) Rules, 1949 to the Reserve Bank for setting up of a wholly owned subsidiary (WOS);
- (3) Reserve Bank, will scrutinize the application of the foreign bank and if found eligible, grant in-principle approval for setting up of a WOS in India subject to fulfilling the conditions as contained in this Scheme;
- (4) On completion of the formalities relating to registration as a company under the Companies Act, 2013 (Act 1 of 2013) as stipulated in paragraphs 18 (5) & (6) of this Scheme, the new banking company (WOS) shall approach Reserve Bank for issuance of a fresh license in its name under Section 22 of the B.R. Act, 1949;
- (5) Once Reserve Bank grants licence to new banking company (WOS), the foreign bank concerned shall prepare a draft amalgamation scheme and get it approved by the shareholders of the bank by passing a resolution as required under Section 44A of the B.R. Act, 1949;
- (6) The shareholders of the Indian subsidiary (WOS) shall also approve the draft amalgamation scheme by passing a resolution as required under Section 44A of the B.R. Act, 1949;
- (7) After fulfilling all the requirements under Section 44A of B.R. Act, the foreign bank and WOS would approach RBI with the amalgamation scheme as

approved by the shareholders of the foreign bank and the Indian subsidiary (WOS), for its consideration;

- (8) Reserve Bank will sanction the scheme of amalgamation of branch or branches, as the case may be, with WOS of the foreign bank subject to compliance with the provisions contained in Section 44A of B R Act, 1949. Conversion of branch or branches of foreign bank into WOS shall take effect from such date, and subject to such conditions, as may be specified by Reserve Bank in its order;
- (9) On such date as Reserve Bank may, by order, appoint, the undertakings of branch or branches of foreign bank shall be transferred to, and vest in, new banking company i.e. WOS;
- (10) Pursuant to the amalgamation of branches of foreign bank with the WOS, the WOS shall issue and allot shares either to the entity whose branches are being amalgamated or to the holding company of that entity;
- (11) From the appointed day, the new banking company will be entitled to carry on all or any of the businesses, which it was entitled or permitted to do before conversion;
- (12) Branch or branches as the case may be, of the foreign bank, which applies for conversion into WOS, can continue to do its usual business in India in the same name and in the same manner, and subject to such conditions as the Reserve Bank may prescribe, till the appointed day;
- (13) On passing of the order by the Reserve Bank under sub-section (4) of Section 44A of the B.R. Act, 1949 the licence/licences granted to branch or branches, as the case may be, of the foreign bank under Section 22 and 23 of B.R. Act 1949, shall stand cancelled;
- (14) While granting licence to new banking company (WOS), RBI shall specify as a licensing condition that licence is given only for the purpose of amalgamation of existing branches of the concerned bank and for functioning as a full-fledged subsidiary and in case there is failure on the part of the banking company to complete the process of amalgamation within a period of six months or such period as allowed by RBI, the licence shall be cancelled.

20. Application procedure

- (1) Application, in Form III prescribed vide Rule 11(a) of the Banking Regulation (Companies) Rules, 1949 together with the additional information as may be required for setting up of WOS by foreign banks shall be through PRAVAAH.
- (2) Applications along with other details, as mentioned above, should reach the following address:

Chief General Manager,
Reserve Bank of India,
Department of Regulation,
Central Office Building,
Shahid Bhagat Singh Marg,
Mumbai – 400 001.