

Overview of the Reserve Bank of India's draft regulations for establishment of a branch/office by foreign entities in India

The Reserve Bank of India ("RBI") has published the draft of the Foreign Exchange Management (Establishment in India of a branch or office) Regulations, 2025 ("**Draft Regulations**") on October 3, 2025, inviting comments and feedback. The Draft Regulations, once notified, will supersede the existing Foreign Exchange Management (Establishment in India of a Branch Office or a Liaison Office or a Project Office or Any Other Place of Business) Regulations, 2016 ("**2016 Regulations**").

Salient features of the Draft Regulations

The foremost change pursuant to the Draft Regulations will be the consolidation of the classifications of establishments under the 2016 Regulations, namely, branch office, liaison office, project office and site office into 2 (two) broad definitions:

1. 'Branch' means a place of a business of an Entity Resident Outside India ("**EROI**") in India; and
2. 'Office' means any place of business in India, of an EROI, other than a branch and an office includes a 'Project Office' that is established only for executing projects in India.

The other key changes to the 2016 Regulations are:

1. **EROI definition:** The Draft Regulations introduce a new term, 'Entity Resident Outside India', which refers to a person who is not resident in India but does not include a natural person.
2. **No financial eligibility criteria:** The Draft Regulations omit the financial eligibility criteria under the 2016 Regulations, which mandated that a person resident outside India maintain: (a) a 5 (five) year profit-making track record and a net worth of USD 100,000 (US Dollars one hundred thousand) for establishing a branch office; and (b) a 3 (three) year profit-making track record and a net worth of USD 50,000 (US Dollars fifty thousand) for establishing a liaison office.
3. **Remittance of profit or surplus:** Under the 2016 Regulations, a branch office was required to submit certain documents to the Authorised Dealer bank ("**AD Bank**"), such as a certified copy of the audited balance sheet and profit and loss account for the relevant year, as well as a chartered accountant's certificate for remittance of profits outside India. There is no such requirement specified under the Draft Regulations.
4. **Permissible activities:** While the list of permissible activities specified under the 2016 Regulations has been omitted, the Draft Regulations expressly provide that: (a) no EROI engaged in activities related to legal consultancy would be allowed to establish a branch or office in India; (b) no branch or office established in India should undertake any activity, that is prohibited or is under approval route as per foreign direct investment policy (except

with prior approval of the Government); and (c) no office other than a project office should undertake any commercial activity.

5. **No cap on tenure:** Under the 2016 Regulations, a person resident outside India was permitted to establish a liaison office for a period of 3 (three) years, while entities engaged in construction and development sectors and which are non-banking finance companies were permitted to do so for 2 (two) years only. There is no such cap on the tenure under the Draft Regulations.
6. **Intimation for additional place of business:** The Draft Regulations permit a branch or office to establish an additional place of business in India by intimating its designated AD Bank. Previously, under the 2016 Regulations, a fresh Form FNC and a justification for the additional office were required to be submitted to the AD Bank.
7. **Closure of branch or office:** Under the 2016 Regulations, a request for closure of a branch office or liaison office was required to be submitted to the AD Bank. Whereas the Draft Regulations permit an EROI to close any branch or office (including a project office) by providing an intimation to its AD Bank, subject to compliance with other applicable laws.

Further, a branch or office (including a project office) that fails to submit the 'Annual Activity Certificate' for 3 (three) consecutive years would become liable for closure. In such cases, the designated AD Bank is required to issue a notice for closure, and if no response is received within 30 (thirty) calendar days from the date of the notice, the branch or office would be closed in accordance with the Draft Regulations.

The Draft Regulations also empower RBI to direct closure of a branch or office for violations of the Foreign Exchange Management Act, 1999, or where the operations are considered detrimental to public interest or to the sovereignty, integrity, or security of India.

Additionally, the following mechanism for appeal has been introduced, allowing the EROI to contest a closure order issued by the AD Bank or the RBI:

- a) **Branch or office closed by the AD Bank:** Appeal against the closure will be made to the Chief General Manager, Foreign Exchange Department, Reserve Bank of India, Mumbai; and
- b) **Branch or Office closed by RBI:** Appeal against the closure will be made to the Executive Director in charge of the Foreign Exchange Department, Central Office, Reserve Bank of India, Mumbai.

An appeal should be filed within 45 (forty-five) calendar days from the date of receipt of letter intimating closure of the branch or office.

Conclusion

The Draft Regulations are a significant change to the existing framework and once notified will be introducing a simplified and streamlined framework that emphasises structural and operational clarity over procedural approvals.

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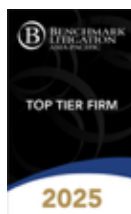
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