

Liaison / Branch / Project Offices of foreign entities in India

(As on December 26, 2016)

These FAQs attempt to put in place the common queries that users have on the subject in easy to understand language. However, for conducting a transaction, the Foreign Exchange Management Act, 1999 (FEMA) and the Regulations made or directions issued thereunder may be referred to. The relevant Principal Regulations are the 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 issued vide [Notification No. FEMA 22\(R\)/2016-RB dated March 31, 2016](#). The directions issued are consolidated in [Master Direction on Establishment of Branch Office\(BO\)/ Liaison Office \(LO\)/ Project Office \(PO\) or any other place of business in India by foreign entities](#).

- [Q.1. What action the AD is required to take in case of any adverse reporting in Annual Activity Certificate \(AAC\) of LO/BO or non-submission of AACs?](#)
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- [Q.17. Can AD bank approve for extension of the project account after the tenure of the project for genuine reasons like completion of warranty period, statutory works like Income tax assessments, VAT assessments, Service tax assessments, to make arrangements for the sale of assets etc.](#)
- [Q.18. Can BO open FCY account for doing normal business transactions?](#)
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Q.1. What action the AD is required to take in case of any adverse reporting in Annual Activity Certificate (AAC) of LO/BO or non-submission of AACs?

Ans. In case the designated AD Category I bank notices any adverse findings by the auditor in respect of LO/BO or the LO/BO is defaulting in submission of AACs, then the same should be immediately reported to the Reserve Bank.

Q.2. Can LO/BO maintain more than one account in India?

Ans. No, if an LO/BO wants to open more than one account it has to obtain prior permission of the Reserve Bank through its AD Category I bank justifying the reason for additional account.

Q.3. Are LO/BO/PO required to register/report with Police authorities?

Ans. Only applicants from Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, Macau and Pakistan shall have to register with the State Police authorities. Copy of approval letter for persons from these countries shall be marked by the AD Category I bank to the Ministry of

Home Affairs, Internal Security Division – I, Government of India, New Delhi for necessary action and record. All other countries are exempted from registering with the State Police authorities.

Q.4. Can an LO/BO/PO acquire property for its operation?

Ans. The BO /PO of a foreign entity, excluding an LO, are permitted to acquire property for their own use and to carry out permitted/incidental activities but not for leasing or renting out the property. However, entities from Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, Nepal, Bhutan, China, Hong Kong and Macau require prior approval of the Reserve Bank to acquire immovable property in India for a BO/PO. BOs/LOs/POs have general permission to carry out permitted/ incidental activities from leased property subject to lease period not exceeding five years.

Q.5. Can an LO upgraded into BO, continue to have same PAN and bank account?

Ans. Yes provided the bank account is re-designated as a BO account.

Q.6. Whether credit facility can be provided in foreign currency for PO?

Ans. Yes, the AD bank should ensure compliance to the extant instructions issued by the Department of Banking Regulation.

Q.7. Once the PO has been set up in India for executing a specific project in India under general permission, at times, the overseas entity is awarded another project by the same or a different project awarding entity. In view of the same, can maintaining of bank account at entity level, filing of AACs, complying with submission of closure documentations on completion of the project and maintaining of books of accounts at entity level be complied with at PO entity level instead of at specific project level?

Ans. No

Q.8. Can agents of overseas shipping or airline companies continue to maintain foreign currency account with the designated AD Bank in India after such airline or shipping companies have set up BO in India?

Ans. Yes, however, BO's transactions should be restricted to its designated INR account and it should not put any transactions through the agent's foreign currency account.

Q.9. Whether there is any specific format in which application with State Police has to be filed for registration?

Ans. Yes, please refer to the Master Directions on Reporting (https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10202). The registration is required to be done once the AD bank's approval for the establishment of office is issued.

Q.10. Whether an LO can be upgraded under automatic route to BO under AD approval if overseas entity is eligible to open the BO under general permission?

Ans. Yes, under advice to Reserve Bank, FED, CO Cell, Sansad Marg, New Delhi 110 001.

Q.11. Whether for closure of additional office, the same procedures as mentioned in 'Closure of BO/LO/PO' need to be adhered to?

Ans. Yes

Q.12. Do AD banks need to obtain UIN from RBI for PO?

Ans. No

Q.13. If 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 other cities/states excluding Jammu and Kashmir, North East region and Andaman and Nicobar Islands, can the AD bank permit the same without referring the matter to the Reserve Bank?

Ans. Yes

Q.14. Whether AD bank can approve the transfer of assets of LO/BO/PO to third resident party?

Ans. Yes

Q.15. Can a subsidiary of Indian company abroad open a BO in India and whether this will come under automatic route?

Ans. No

Q.16. If the subsidiary of Indian company is not financially sound can they submit a Letter of Comfort from their parent company which is an Indian company?

Ans. No

Q.17. Can AD bank approve for extension of the project account after the tenure of the project for genuine reasons like completion of warranty

period, statutory works like Income tax assessments, VAT assessments, Service tax assessments, to make arrangements for the sale of assets etc.

Ans. Yes, under intimation to Reserve Bank, FED, CO Cell, Sansad Marg, New Delhi 110 001.

Q.18. Can BO open FCY account for doing normal business transactions?

Ans. No

Q.19. Can BO/PO/LO have one more account with another AD bank (Agency bank for tax payment) for statutory payments when the AD with whom the account is maintained is not the agency bank?

Ans. Yes

Q.20. What are the permissible credits and debits to INR account of Project Office?

Ans. The credits to the account should represent the funds received from head office through normal banking channels for meeting the expenses of the office and/or the rupee amounts receivable if any, under the contract and no other amount should be credited without prior permission of the Reserve Bank. Similarly debits to this account could be raised only for meeting the local expenses of the office and intermittent remittances pending winding up / completion of the project.

For the intermittent remittances, the AD bank should be satisfied with the bonafides of the transaction and ensure submission of the following documents:

a. An Auditors' / Chartered Accountants' Certificate to the effect that sufficient provisions have been made to meet the liabilities in India including Income Tax, etc.

b. An undertaking from the PO that the remittance will not, in any way, affect the completion of the project in India and that any shortfall of funds for meeting any liability in India will be met by inward remittance from abroad.

Q.21. Whether LC can be opened for BO in India for export/import of goods & in case of PO, local LC can be open for purchase of goods locally in India (local purchase of goods to execute a project)?

Ans. Yes

Q.22. Whether a branch office (BO) or project office (PO) can send outward remittances, permissible under FEMA, through any AD Category I bank or it has to be through the designated AD Category I bank only?

Ans. Wherever the BO or PO is required to remit funds outside India, within the applicable guidelines under FEMA, they may do so not necessarily through the designated AD Category I bank but through any AD Category I bank of its choice subject to obtaining no objection certificate (NOC) from the designated AD Category I bank. The remittances have to be for transactions settling on Cash / Tom/ Spot basis only. The remittance has to be through banking channel in either of the two methods:

(1) The designated AD category I bank will transfer equivalent INR amount to the transaction handling bank. The transaction handling bank can remit the amount to the overseas parent office of BO / PO through SWIFT. However, the transaction handling bank will have to ensure KYC compliance and the necessary documentation. It will also be required to share the SWIFT message along with the details like UIN No, beneficiary and remittance details with the designated AD category I bank.

(2) The designated AD category I bank will transfer equivalent INR amount to the transaction handling bank. The transaction handling bank will then credit the NOSTRO account of the designated AD Category I bank which in turn will remit the amount to the final beneficiary.