

FEMA ke FUNDAE

**Establishment of
Branch/Liaison/Project Office in India
(Part 2 of 5)**

#FamiliarwithFEMA

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Rose

Hi Mr. FEMA Gyani! Nice to meet you! I understood about LO/BO/PO and their permitted activities. Now I want to know how can I open Liaison Office, Branch Office or Project Office in India?

Hello Rose!! There are **two Routes** through which you can open a Liaison Office, Branch Office or Project Office in India, one is the **Automatic Route** and the other one is the **Approval Route** . Let me explain the criteria for each of them .



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Criteria under Automatic Route - LO & BO



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Automatic Route covers those Principle Business of the Foreign Entity which falls under sectors where **100% FDI** is allowed is permissible.



Both the Foreign company and the Branch office is required to maintain the **Track Record of Profit and Net worth**.

| Criteria | Liaison Office | Branch Office |
|-----------------------------------|---|---|
| Track Record of Net Profit | Profit making track record of immediately preceding 3F.Y. in home country | Profit making track record of immediately preceding 5F.Y. in home country |
| Net Worth | >= USD 50,000 or its equivalent | >= USD 1,00,000 or its equivalent |

Criteria under Automatic Route - PO



1

PO has secured a contract from an Indian Company

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2

Project funded by inward remittances from abroad

or

3

Project funded by multilateral or bilateral International Finance Agency

or

4

Project cleared by appropriate authority

or

5

Company in India has been granted Term loan by PFI or bank for the project.

Criteria under Approval Route – LO/BO/PO

If your business fails to fulfil the criteria under Automatic Route then you should go for **Approval Route** and in this case you need to take **prior approval of RBI** .



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Rose

Okay Mr. FEMA Gyani! Is there any specified procedure for opening of LO/BO/PO?

Yes Rose! There is a specified procedure for opening of LO/BO/PO.
Let me Explain.



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Application Procedure



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1

Application to establish LO/BO/PO is to be submitted by the Person resident outside India in **Form FNC** to the **AD bank** along with the **required documents**.

2

Prior information to General Manager, RBI company cell, New Delhi for obtaining UIN for each LO/BO and then only issue of approval letter

3

LO/BO/PO to be **opened within 6 months** of the approval. One time extension of 6 months can be granted by the AD bank , else approval of RBI.

4

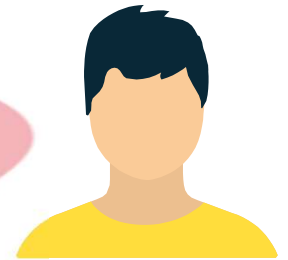
Applicant must inform AD bank as to the date of setting of LO/BO/PO.



Rose

Okay Mr. FEMA Gyani! I have one more query that how can these offices carry their banking transactions. Do these offices open a bank Account ?

Yes Rose!! There are separate provisions for opening of bank Account of LO/BO/PO. Let me explain each of them



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LO

1

LO can open an account with the designated AD category I bank in India **for receiving remittances** from its Head Office outside India and **for meeting the expenses of office**.
LO shall not maintain more than one bank account at any given time without the prior permission of RBI

2

LO cannot open foreign currency account for normal business transaction .



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1

BO can open an account with the designated AD category I bank in India for its business operation in India. Credits to the accounts should represent the funds received from Head Office through normal banking channel for meeting the expenses of the office and any legitimate receivables arising in the process of its business operation. Debits to this account shall be for the expenses incurred by the BO and towards remittance of profit / winding up proceeds

2

BO cannot open foreign currency account for normal business transaction .

3

In case BO wants to open more than one bank account then it has to take prior approval of RBI



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AD bank can open **non- interest bearing foreign currency account for PO** in India subject to the following :

1

PO has been established in India with General / Specific permission of RBI having the requisite approval from the concerned project sanctioning authority .

2

The contract governing the project specifically provides for payment in foreign currency.

3

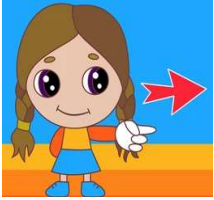
Each PO can open 2 foreign currency accounts – usually one denominated in USD and the other one in home country provided both are maintained with the same AD bank .

4

The accounts shall be closed at the completion of the project and the account is subject to 100% scrutiny by the concurrent auditor of the respective bank .

5

Each PO is required to transact through one designated AD bank only who shall be responsible for the due diligence and KYC norms . PO present in multiple locations, is required to transact through their designated AD



In the next part, we will cover the **Reporting Requirements, Registration with Police Authorities , LO/BO/PO to register with ROC, Income tax PAN for LO/BO/PO**

**To be continued next
WEDNESDAY...**



Thank You!

Let's meet every
Wednesday.

To make you more familiar with FEMA,
we are happy to listen to your

Comments

Feedbacks

Suggestions



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