

20 July 2011

EY Regulatory Alert

Regularization of Liaison/ Branch Offices of foreign entities established during the pre-FEMA period



Background

The application for opening of Branch Offices (BOs)/ Liaison Offices (LOs) by foreign entities (viz Non- Profit Organisations (NPOs)/ Non- Government Organisations (NGOs), Government bodies, and other foreign entities) (routed through a designated AD Category- I bank), are considered by the RBI under two basic routes (i.e. RBI route and Government route).

Applications made by foreign entities (i.e. falling under sectors where 100 per cent FDI is not permissible and the applicant being NPOs/ NGOs, Government bodies) for opening of BO/ LO are considered under the Government route.

through BOs/ LOs, who are continuing to function in India without obtaining any approval from RBI, should approach RBI within 90 days from the date of issue of this circular for regularization of establishment of such offices in India, in terms of extant FEMA provisions.

Foreign entities who may have established a LO or BO with the permission from the Government of India are also required to approach the RBI along with a copy of the said approval, for allotment of a Unique Identification Number by the RBI.

Present Scenario

It has come to the notice of the RBI that certain BOs/ LOs established by the foreign NGOs, NPOs, news agencies and other foreign entities continue to function in India, without the prior approval of the RBI, after the Foreign Exchange Management Act (FEMA), 1999 came into force from 1 June 2000.

Amended Provisions

The RBI vide A.P (DIR) circular no. 2 dated 15 July 2011, has now decided that all foreign entities, including NGOs/ NPOs/ Government bodies and news agencies, operating in India

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