

OPTIONS AVAILABLE FOR FOREIGN ENTITIES TO SET UP BUSINESS IN INDIA

A. BRANCH OFFICE

A Branch office (BO) is a representative office setup by a foreign company in India to carry out business activities, as permitted by the Reserve Bank of India (RBI) and is a suitable business model for foreign companies looking to establish a **temporary presence** in India. The branch office serves as an extension of the foreign parent companies' business and carries on the same business activity as that of its parent company and is suitable for a foreign company to test and understand the Indian markets.

Branch Office (BO) of foreign companies can conduct full-fledged business in India but the Foreign entity must meet the prescribed eligibility criteria and conditions in order to set up a Branch Office in India. A Branch Office can carry same or substantially the same business activities as carried out by their parent or group companies. Branch Offices are controlled by the Reserve Bank of India and it allows the companies to do the business activity only which are permitted by the RBI.

B. LIAISON OFFICE

Liaison Offices (LOs) are a popular option for foreign investors exploring the Indian market for the first time without committing major resources. In contrast to other business structures, LOs allow foreign companies to establish a light footprint in India while keeping their financial, legal, and administrative commitments low.

Liaison Office is a place of business to act as a channel of communication between the Principal place of business or Head Office and entities in India but which does not undertake any commercial / trading / industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel. Liaison Office can undertake only liaison activities and is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of a Liaison Office should be met entirely through foreign exchange from your Head Office outside India. Therefore, the role of a Liaison Office is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers.

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C. PROJECT OFFICE

'Project Office' means a place of business to represent the interests of the foreign company executing a project in India. The project office is the ideal method for companies to establish a business presence in India, if the object is to have a presence for a limited period of time. It is essentially a branch office set up with the limited purpose for executing a specific project.

Project office of a foreign company can be set up in India only after obtaining the permission from Reserve Bank of India. Before setting up a project office in India, foreign companies need to secure a contract with an Indian company to start a project. A Foreign company establishing a project office in India is required to be registered with the Registrar of Companies (ROC) and to comply with certain procedural formalities, as prescribed under the Indian Company law and RBI guidelines. Setting up of PO by foreign NGO / NPO / Foreign Government Bodies / Departments are under the Government Route. Such entities are required to apply to RBI for prior permission to establish an office in India.

D. INDIAN SUBSIDIARY COMPANY

The Indian Subsidiary Company is a suitable and most preferred business structure for a foreign company to expand or diversify its business activities in the Indian markets. The Indian subsidiary Company is the Company formed and incorporated under the Indian Companies laws, having a separate legal entity and whose interests are held and controlled by another company (i.e holding/parent company) partially or fully. It is obligated to function under the rules and compliances of the Indian corporate laws, where it is situated or registered and is formed and incorporate in two forms-

- a. PRIVATE LIMITED COMPANY
- b. PUBLIC LIMITED COMPANY

Incorporating a private limited company is the simplest and quickest mode to set up a business in India for a foreign company. Moreover, further exemptions are available to private companies with lesser restrictions as compared to public limited companies. Thus, most of the foreign companies prefer to form a fully owned private limited company as a subsidiary.

E. LIMITED LIABILITY PARTNERSHIP

A limited liability partnership firm (LLP) is a cross between partnership firms and a limited company. An LLP is a separate legal entity than its members, which means that the liability of members is limited to their agreed contributions. Only in sectors where the RBI permits 100 percent foreign direct investment (FDI) can a foreign company establish an LLP. LLPs can buy and own property, produce revenue, and remit earnings outside of India.

In comparison to a Limited Company, an LLP requires less paperwork and minimal record keeping. An LLP also has a reputational advantage because of the additional registration involved. An LLP must register with the Ministry of Corporate Affairs, lending credible proof of the company's existence.

F. JOINT VENTURES

A Joint Venture is a way of putting together or combining the resources and expertise of two companies that are otherwise unrelated. Joint ventures in India have been another most popular and suitable business structure for a foreign company to expand or diversify its business activities in the Indian markets for sectors that allows 100 percent FDI. For a foreign company to venture partnership with an Indian company, a Joint Venture Agreement is to be entered into by both the parties. Such an agreement also contains terms relating to confidentiality and non-disclosure of information before the commencement of negotiation of the Joint Venture.

Joint ventures offer relatively low risk to foreign companies, provided that these companies conduct due diligence on their Indian partners. A joint venture allows foreign companies to utilize the existing networks of their Indian partners, and once taxed, such companies can remit their Indian profits outside the country.
