

Road map for presence of foreign banks in India

The banking sector in India is robust and its standards are broadly in conformity with international standards. In further enhancing its efficiency and stability to the best global standards a two-track and gradualist approach will be adopted. One track is consolidation of the domestic banking system in both public and private sectors. The second track is gradual enhancement of the presence of foreign banks in a synchronised manner. The policy decisions announced on March 5, 2004* on FDI, FII and the presence of foreign banks will be implemented in a phased manner. This will also be synchronised with the two-track approach and will be consistent with India's commitments to the WTO.

In this background, the road map for the implementation of the policy decisions is as follows:

Phase I: (March 2005 to March 2009)

2.1 New banks – first time presence

Foreign banks wishing to establish presence in India for the first time could either choose to operate through branch presence or set up a 100% wholly owned subsidiary (WOS), following the one-mode presence criterion. (*The guidelines are in the Annex*).

2.2 Existing banks – Branch expansion policy

For new and existing foreign banks, it is proposed to go beyond the existing WTO commitment of 12 branches in a year. The number of branches permitted each year has already been higher than the WTO commitments. A more liberal policy for underbanked areas will be followed. Branch licensing procedure will continue to be as per current practice.

2.3 Conversion of existing branches to Wholly Owned Subsidiaries

In the first phase, foreign banks already operating in India will be allowed to convert their existing branches to WOS while following the one-mode presence criterion. (*The guidelines on conversion of existing branches into WOS are in the Annex*).

The WOS will be treated on par with the existing branches of foreign banks for branch expansion in India. The Reserve Bank may prescribe market access and national treatment limitation consistent with WTO, as also other appropriate limitations to the operations of WOS consistent with international practices and the country's requirements.

2.4 Acquisition of Shareholding in Select Indian Private Sector Banks

In order to allow Indian Banks sufficient time to prepare themselves for global competition, initially entry of foreign banks will be permitted only in private sector

* vide Press Note No. 2 (2004 Series), Ministry of Commerce and Industry, Department of Industrial Policy and Promotion.

banks that are identified by RBI for restructuring. In such banks, foreign banks would be allowed to acquire a controlling stake in a phased manner.

In considering an application made by a foreign bank, for acquisition of 5 % or more in the private bank, RBI will take into account the standing and reputation of the foreign bank, globally as well as in India, and the desired level and nature of presence of the foreign bank in India. RBI may, if it is satisfied that such investment by the foreign bank concerned will be in the long-term interest of all the stakeholders in the investee bank, permit acquisition of such percentage as it may deem fit. The RBI may also specify, if necessary, that the investor bank shall make a minimum acquisition of 15 per cent or more and may also specify the period of time for such acquisition. The over all limit of 74 per cent will be applicable.

Where such acquisition is by a foreign bank already having presence in India, a time bound plan covering a period not exceeding six months to conform to the 'one form of presence' concept will have to be submitted by the foreign bank along with the application for acquisition.

Appropriate amending legislation will be proposed to the Banking Regulation Act, 1949, in order to provide that the economic ownership of investors is reflected in the voting rights. Simultaneous amendments will be proposed to provide for regulatory approvals from the RBI.

Phase II: April 2009

3.1 According Full National Treatment to Wholly Owned Subsidiaries of Foreign Banks

In the second phase, the removal of limitations on the operations of the WOS and treating them on par with domestic banks to the extent appropriate will be designed and implemented after reviewing the experience with Phase I and after due consultations with all stakeholders in the banking sector.

3.2 Dilution of Stake in Wholly Owned Subsidiaries

In this phase, the WOS of foreign banks on completion of a minimum prescribed period of operation will be allowed to list and dilute their stake so that at least 26 per cent of the paid up capital of the subsidiary is held by resident Indians at all times consistent with para 1(b) of the Press Note 2 of March 5, 2004. The dilution may be either by way of Initial Public Offer or as an offer for Sale.

3.3 Mergers and Acquisition of any Private Sector Bank in India

In the second phase, after a review is made with regard to the extent of penetration of foreign investment in Indian banks and functioning of foreign banks, foreign banks may be permitted, subject to regulatory approvals and such conditions as may be prescribed, to enter into merger and acquisition transactions with any private sector bank in India subject to the overall investment limit of 74 percent.

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