

## Banks block Indian promoters' foreign NBFC plans

By Sugata Ghosh, ET Bureau • Last Updated: Mar 24, 2025, 01:01:00 AM IST

### Synopsis

Large private sector banks in India are blocking Indian promoters' plans to establish investment companies abroad due to concerns of sidestepping foreign currency regulations. Offshore entities can move significantly higher amounts compared to the liberalised remittance scheme, raising concerns of misuse for personal use.



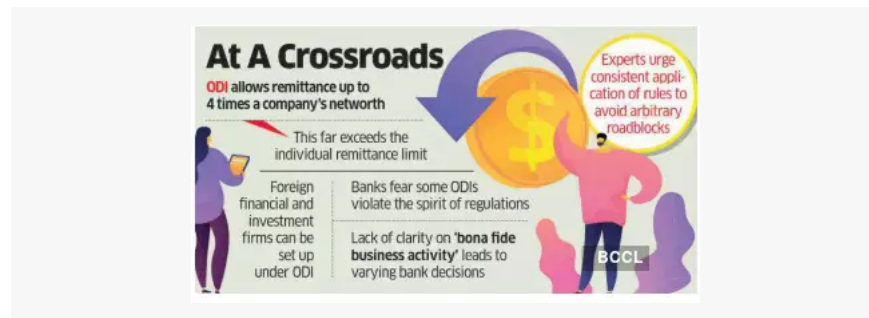
Representative image

Mumbai: Some of the large banks are blocking plans of [Indian promoters](#) to form [investment companies abroad](#).

The banks fear such offshore entities are intended to sidestep the curbs on [foreign currency remittance](#) and undertake activities which are against the spirit of overseas investment

regulations.

At least two leading private sector banks have stalled [overseas direct investment](#) (ODI) proposals by Indian entities to set up overseas [non-banking finance companies](#) (NBFCs), two persons familiar with the discussions with the banks told ET.



According to the overseas investment rules, that were framed by the government and are administered by the [Reserve Bank of India](#) (RBI), Indian companies can carry out ODI for some [bona fide business activity](#), provided they do not deploy the funds transferred from India for personal use, real estate trading, and financial products linked to rupee.

While trading, manufacturing, and other non-financial services companies having a track record can directly initiate the ODI, such overseas investment by local NBFCs need clearance from RBI. Often a domestic NBFC gives the ODI application to its authorised dealer (AD) bank refers the matter to central bank.

Closely-held investment entities and holding companies, controlled by promoter families, are often categorised as NBFCs. In quite a few cases, banks are reluctant to move ODI applications from NBFCs to RBI. Some of the non-finance promoter-driven investment entities have been told to obtain the regulator's approval for the ODI --- a formality they are otherwise not required to fulfil.

"Overseas NBFCs can be used to channel pooled family wealth for deployment in foreign investments. This is permitted under ODI, provided the NBFC is sponsored by an Indian entity. But such foreign NBFCs cannot be used for activities like buying residential property or covering the promoter family's personal foreign travel expenses. Rules are clear, but some banks are refusing while some are receptive to the idea," said Harshal Bhuta, partner at P. R. Bhuta & Co, a CA firm specialising in international tax and matters related to the [Foreign Exchange Management Act](#) (FEMA).

The differing interpretations among bankers partly stems from the fact that significantly larger amounts can be moved abroad through ODI compared to the RBI's liberalised remittance scheme (LRS) which allows a resident individual to transfer upto \$250,000 a year to operate foreign bank accounts and buy stocks and properties overseas. However, a local company can remit as much as four times its net worth under ODI. Thus, ODI can be a convenient route for promoters and wealthy families to overcome the LRS remittance cap.

Also, few banks think that organising a family's own investments should not be considered as 'bona fide business activity', even though this is permissible under ODI regulations. The regulations define bona fide business activity as one which is "permissible under any law in force in India and the host country". But, bankers, sensing the prevailing regulatory mood, sometimes stick to conservative interpretations ---- particularly, if they feel a transaction is against the original intent of the regulation.

On many occasions, banks hold back an application on the grounds that it is not under automatic route, said Rajesh P. Shah, partner at the CA firm Jayantilal Thakkar and Company. "Companies have requested the AD banks to seek specific clarifications from RBI for their interpretation which they seldom do. It's important that banks interpret a regulation uniformly. As it happens quite often that one bank may consider an application on approval route while another may consider the same under automatic route," said Shah.

Bankers and practitioners do not rule out the possibility of some banks putting in certain dos and don'ts following interactions with regulatory officials. It's no secret that amid a growing urge in recent years among the Indian rich to diversify assets across currencies and jurisdictions, there have been reservations about large outflows among policy makers.

"Currently non-financial services entities are allowed to invest in financial services entities abroad without any prior approvals subject to a three-year track record. At the same time there are no checks and balances to ensure that the investing entity has not been set up with its primary intention of investment into financial services entities outside India. The move by banks

could also be to ensure only entities with actual business operations invest abroad," said Parul Jain, co-head of international tax at the law firm Nishith Desai Associates.

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