

THE EVOLVING STATE OF PLAY FOR ENTRY OF FOREIGN LAW FIRMS IN INDIA: BCI NOTIFIES REVISED RULES

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The Bar Council of India (the “BCI”) has, recently, revised and re-notified the Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 (the “**Revised BCI Rules**”). The Revised BCI Rules aim to regulate the entry and practice of foreign lawyers and foreign law firms in India on a reciprocal basis. With this, the BCI aims to achieve three (3) key objectives: (i) establish India as a premier hub for international commercial arbitration; (ii) provide structured and regulated opportunities for foreign lawyers and foreign law firms to practice foreign law and international legal matters in India; and (iii) facilitate the access of foreign legal markets to Indian lawyers based on principles of reciprocity.

Background

In March 2023, the BCI notified the Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 (the “**Erstwhile BCI Rules**”). Thereafter, in early 2025, the Indian government released the Draft Advocates (Amendment) Bill, 2025 (the “**Draft Amendment Bill**”) for public consultation. The Draft Amendment Bill proposed a significant shift by empowering the Indian government, instead of the BCI, to regulate the entry of foreign lawyers and their practice in India, which could have, effectively, overridden the Erstwhile BCI Rules (see our update on the [liberalization of the Indian legal market](#)). However, the Draft Amendment Bill had to be withdrawn due to protests by Indian advocates.

In 2024, Narendra Sharma and a group of advocates filed a writ petition before the Delhi High Court challenging the Erstwhile BCI Rules. The petitioners argued that the BCI lacked authority under the Advocates Act, 1961, to allow foreign lawyers to practice in non-litigious matters in India. They further contended that this move could adversely impact Indian lawyers, especially young practitioners, by subjecting them to competition from well-established foreign law firms. During the initial hearing, the Delhi High Court enquired whether the BCI had the authority to notify the Erstwhile BCI Rules and issued notices to the BCI and the Ministry of Law and Justice seeking their responses in the matter. The case has been adjourned for further hearings to August 14, 2025. This pending litigation brings uncertainty to the Revised BCI Rules, especially if it is eventually held that the BCI does not have the authority to regulate the practice of law by foreign lawyers in India.

Tabular comparison between the Erstwhile BCI Rules and the Revised BCI Rules

	Erstwhile BCI Rules	Revised BCI Rules
Definitions	Defined “foreign lawyer”, “foreign client”, etc.	Defines “Indian advocate/ lawyer”, “Indian advocate/ lawyer who seeks registration as a foreign

		<p>lawyer”, “foreign lawyer”, “foreign law firm”, “Indian law firm”, “foreign client”, etc.</p> <p>Introduces the concept of “Indian-foreign law firms” (firms who can practice both, Indian and non-litigious foreign law, if registered).</p> <p>Clarifies that foreign citizens with Indian law degrees do not automatically have the right to practice in India. Such right is subject to the BCI’s approval.</p>
Scope of practice of foreign lawyers/ foreign law firms	<p>Foreign lawyers/ foreign law firms could open offices and engage Indian advocates to practice non-litigious matters on a reciprocal basis (transactional/ corporate work, arbitration, or advice on foreign law). They were prohibited from appearing before Indian courts/ tribunals.</p>	<p>Reiterates and expands non-litigious scope involving foreign or international law, with detailed lists of permissible/ prohibited activities (e.g., joint ventures, mergers and acquisitions, intellectual property matters, contract drafting, etc.).</p> <p>Clarifies that Indian lawyers in foreign law firms cannot represent clients in Indian courts on behalf of foreign lawyers/ foreign law firms, unless acting independently.</p> <p>Clarifies that Indian lawyers may work as employees/ consultants in foreign law firms abroad without registration.</p>
Registration	<p>Foreign lawyers/ firms from jurisdictions offering comparable rights to Indian lawyers could register with the BCI, except for fly-in and fly-out visits.</p>	<p>Retains core requirements. Permits Indian lawyers/ Indian law firms to register as “foreign lawyers/ foreign law firms” for non-litigious foreign law practice and permits registration of Indian-foreign law firms to practice both Indian and non-litigious foreign law.</p>
Fly-in and fly-out	<p>Permitted for up to sixty (60) days in aggregate in any twelve (12) month period for advice on foreign law/ international legal issues, without reporting requirements or</p>	<p>Stricter fly-in and fly out provision: cannot exceed sixty (60) days in aggregate within any twelve (12) month period. Explicitly states such visits must not constitute regular</p>

	having to maintain an office in India.	practice. Introduces the requirement of filing a mandatory declaration with the BCI in Form C for each visit.
Partnerships and collaborations	<p>Did not provide for partnerships between foreign lawyers/ foreign law firms and Indian advocates/ Indian law firms.</p> <p>Indian advocates acting as partners/ associates in foreign law firms could only undertake non-litigious and advisory work on non-Indian laws and could not claim additional rights of being an advocate enrolled in India.</p>	<p>Indian lawyers/ Indian law firms have to registered as foreign lawyers/ foreign law firms with the BCI in order to be able to enter into formal partnerships with foreign lawyers/ foreign law firms. Non-registered Indian lawyers/ Indian law firms may collaborate only through referral arrangements or engagement contracts and cannot enter into formal partnerships.</p> <p>Indian advocates working with foreign law firms can work as associates/ partners but can only take up non-litigious work and advisory work related to foreign or international law, and represent clients in international commercial arbitrations. They cannot claim additional rights of being an advocate enrolled in India when practicing through foreign law firms.</p>
Registration and renewal	Registration valid for five (5) years by filing an application in Form A and renewable by filing an application in Form B. Renewal could be refused if foreign lawyers/ firms outnumbered Indian counterparts abroad.	Retains the five (5) year validity and renewal requirement. The BCI may limit renewals to maintain balance, ensure reciprocity, and protect the interests of Indian lawyers and law firms.

Analysis

Set out below is a brief analysis of the key points emanating from the Revised BCI Rules:

- (i) **Indian advocates seeking registration as foreign lawyers:** The Revised BCI Rules now specifically allow Indian advocates to register as foreign lawyers, thereby permitting them to expand their practice to non-litigious foreign and international law, and arbitration practice too. Indian advocates can register in a foreign jurisdiction to

expand their international practice while retaining their status as advocates under Indian law without giving up their right to practice in Indian courts.

- (ii) **Indian-foreign law firm:** The Revised BCI Rules introduce a new category for Indian legal professionals known as “Indian-foreign law firms”. An “Indian-foreign law firm” refers to an Indian legal entity authorized to practice law in India, which, by registration under this category, can practice Indian and foreign law and get rights similar to those granted to Indian advocates registered as foreign lawyers (see Analysis section, point (i)). Registration as an Indian-foreign law firm does not affect the law firm’s ability to practice Indian law, and it will have an unrestricted right to represent clients in litigations before courts. This dual recognition expands the firm’s scope, enabling it to participate in both, domestic and cross-border legal matters, including advising on foreign law and representing clients in international commercial arbitrations involving foreign or international law.
- (iii) **Foreign lawyers/ foreign law firms can engage Indian lawyers:** Foreign lawyers/ foreign law firms will be required to register with the BCI to practice law in India and can engage Indian lawyers. The Revised BCI Rules protect Indian advocates by providing that only Indian advocates registered under the Advocates Act, 1961 can practice Indian law in such foreign law firms.

The scope of permitted activities of foreign lawyers/ foreign law firms is limited to non-litigious work involving foreign or international law, especially in the context of cross-border transactions and international disputes. This list includes corporate legal matters such as joint ventures, mergers and acquisitions, intellectual property matters, contract drafting, and other transactional work. But such work should be on a reciprocal basis, meaning that foreign lawyers/ foreign law firms from a particular foreign jurisdiction may only provide these services in India if Indian lawyers/ law firms are allowed to perform similar legal services in that foreign jurisdiction. Further, foreign lawyers/ foreign law firms can represent clients in international commercial arbitrations conducted in India. However, the matter in such international commercial arbitrations should involve foreign or international law. This is done with the objective of promoting India as a hub for international commercial arbitration. Furthermore, foreign lawyers/ foreign law firms can provide legal advice and opinions on laws of their country of primary qualification, international law, and the foreign laws of jurisdictions other than the country of primary qualification.

The Revised BCI Rules clearly specify the permitted and non-permitted areas of practice of foreign lawyers/ foreign law firms. Foreign lawyers/ foreign law firms are strictly prohibited from advising on Indian law, or appearing before any Indian court, tribunal, or statutory authority. They are also prohibited from doing work related to conveyancing of property, title investigation, or similar work. Additionally, they are prohibited from drafting, preparing, or filing documents for proceedings before Indian courts, tribunals, or other authorities empowered to record evidence on oath.

- (iv) **Registration requirement for Indian lawyers/ Indian law firms for partnerships:** Indian lawyers/ Indian law firms need to register as foreign lawyers/ foreign law firms with the BCI to be able to enter into formal partnerships with foreign lawyers/ foreign law firms in India under the Revised BCI Rules. Non-registered Indian lawyers/ Indian law firms can collaborate with foreign lawyers/ foreign law firms only through referral arrangements or engagement contracts but cannot enter into formal partnerships.
- (v) **Fly-in and fly-out provision:** Foreign lawyers/ foreign law firms may come to India temporarily to give legal advice concerning foreign law, the foreign lawyer's own legal system, or diverse international legal issues on a "fly-in and fly-out basis", without obtaining registration under the Revised BCI Rules, which shall not amount to "practice" under the Revised BCI Rules. Further, foreign lawyers/ foreign law firms should not establish, operate, or maintain any office, regular presence, or infrastructure in India for legal practice. Such lawyers/ law firms should adhere to the prescribed conditions, including a cap of sixty (60) days of presence, in aggregate, within any twelve (12) month period. In this regard, the BCI has introduced Form C for fly-in and fly-out declarations, which specifies the nature of work, legal areas involved, client details, and jurisdictions covered. This has to be submitted for each fly-in and fly-out visit, meaning that foreign lawyers/ foreign law firms will have to make a separate declaration each time they enter India to provide legal services.
- (vi) **Registration and renewal fees:** The registration and renewal fees for foreign lawyers/ foreign law firms have been revised.
 - (a) For initial registration, foreign law firms are required to pay a fee of US\$25,000 (United States Dollars Twenty-Five Thousand), while individual foreign lawyers must pay US\$15,000 (United States Dollars Fifteen Thousand), or equivalent fee in the foreign law firm's/ foreign lawyer's primary jurisdiction, whichever is higher.
 - (b) In cases where registration is sought for multiple foreign jurisdictions, an additional fee of US\$10,000 (United States Dollars Ten Thousand) must be paid for each jurisdiction separately for firms and US\$5,000 (United States Dollars Five Thousand) for each jurisdiction separately for individuals.
 - (c) Apart from the foregoing fees, refundable security deposits must be paid, i.e., US\$30,000 (United States Dollars Thirty Thousand) for firms and US\$10,000 (United States Dollars Ten Thousand) for individuals. An additional security deposit of US\$5,000 (United States Dollars Five Thousand) for firms and US\$2,500 (United States Dollars Two Thousand Five Hundred) for individuals has to be paid for each jurisdiction separately, in case of multiple jurisdictional coverage.

- (d) For registration renewal, which is required every five (5) years, the applicable fee is US\$15,000 (United States Dollars Fifteen Thousand) for firms and US\$8,000 (United States Dollars Eight Thousand) for individuals, or equivalent fee in the foreign law firm's/ foreign lawyer's primary jurisdiction, whichever is higher. Additional renewal fees of US\$5,000 (United States Dollars Five Thousand) for firms and US\$2,000 (United States Dollars Two Thousand) for individuals must be paid for each jurisdiction separately, in case of multiple jurisdictional coverage.
 - (e) For fly-in and fly-out declarations, the applicable fee is US\$6,000 (United States Dollars Six Thousand) per declaration for firms, and US\$3,000 (United States Dollars Three Thousand) per declaration for individuals. Additional declaration fees of US\$2,000 (United States Dollars Two Thousand) for firms and US\$1,000 (United States Dollars One Thousand) for individuals are payable for each jurisdiction separately, in case of multiple jurisdictional coverage.
- (vii) **Forms under the Revised BCI Rules:** The Revised BCI Rules prescribe the following forms to ensure compliance by foreign lawyers, foreign law firms, and Indian-foreign law firms:
- (a) Form A: Any foreign lawyer, foreign law firm, Indian lawyer, or Indian-foreign law firm seeking to practice in India as per the Revised BCI Rules should apply for registration in Form A. Further, the Revised BCI Rules require comprehensive documentation, such as no-objection certificates from concerned authorities, declarations, and such other details as prescribed in the Revised BCI Rules for registration and renewal of registration.
 - (b) Form B: The initial registration is valid for a period of five (5) years. An application for renewal should be submitted within six (6) months prior to the expiry of the registration period in Form B.
 - (c) Form C: A declaration in Form C should be filed with the BCI for each individual visit, under the fly-in and fly-out provision. The declaration should include details such as the nature of work, legal areas involved, client details, and jurisdictions covered.

Our comments

Foreign law firms showed little interest in establishing a presence in India when the Erstwhile BCI Rules were notified in large part because a clarification to the Erstwhile BCI Rules prevented foreign law firms from advising Indian clients on foreign laws in India. The Revised BCI Rules seem to permit foreign law firms to practice foreign law in India for both, Indian and non-Indian clients, with the BCI clearly demarcating areas of practice that foreign law firms can undertake, namely, non-litigious work related to foreign law, international

law, and arbitration, with a strict prohibition on advising on Indian law or appearing before Indian courts, tribunals, or regulatory authorities.

If a foreign law firm has a jurisdiction-based business model, i.e., it positions itself as a global law firm having offices in all major jurisdictions of the world and its client base includes global corporations who will use it for legal services in India, then it makes sense for such a firm to register with the BCI (after proving reciprocity) under the Revised BCI Rules and employing a mix of Indian advocates and foreign lawyers to service such clients.

Another angle for foreign law firms is the ability to tap into the legal requirements of Indian clients going overseas. As Indian conglomerates go global and stakes rise, they are seeking quality legal services abroad and are willing to pay top dollar where required. Having boots on the ground in India can help foreign law firms network with Indian clients on a regular basis and even provide some of the foreign law advice in India itself. That said, in comparison to the legal markets in the US and the UK, the Indian legal market is quite small. Therefore, foreign law firms will have to juxtapose the high cost of entry, ongoing compliance and operations costs, uncertainty on revenue generated from India, and tax burdens in India, in deciding whether to establish a presence in India.

Nevertheless, before doing so, foreign law firms must understand what steps the BCI is taking to ensure that the litigation pending before the Delhi High Court challenging the BCI's ability to regulate foreign lawyers in India is resolved in the BCI's favour. The last thing a foreign law firm needs is a situation where the registration granted by the BCI to such firm is, eventually, regarded as *ultra vires* the Advocates Act, 1961.

In the intervening period, foreign law firms may want to continue to work with Indian law firms to handle the Indian legal aspects of a deal or dispute. This collaborative model has worked for years and does not require setting up an office, registering with the BCI, or navigating India's regulatory and tax complexities.

Separately, the introduction of the "Indian-foreign law firm" category is an interesting proposal. It creates a formal regime for Indian firms to expand their global footprint through cross-border advisory and arbitration work without giving up their right to practice Indian law. We are unsure if this addition was necessary because dual qualified Indian lawyers are not in any way restricted by foreign jurisdictions from practising there once registered with the local bar.

Although the Revised BCI Rules aim to make India more attractive to foreign investors and strengthen its reputation as a centre for resolving international disputes through arbitration, it is uncertain whether this goal will be met. The additional fetters (having to report and pay a fee of US\$6000 (United States Dollars Six Thousand) for each visit by a law firm) imposed on the fly-in and fly-out rule will make it onerous for foreign law firms to visit India to participate in international arbitrations or undertake any other permitted work.

Needless to say, the Revised BCI Rules are a momentous step forward. For clients, they will result in greater access to international expertise and seamless service for complex, multi-

jurisdictional matters. For Indian law firms, they will increase competitive pressures but will also throw up opportunities to collaborate, upskill, and partner with global firms.

The initial reactions to the Revised BCI Rules seem positive, and as per news reports, certain international law firms have shown an interest in opening offices in India. However, the more medium-sized global firms are adopting a wait and watch approach. Time and the Indian courts will eventually determine the fate of the Revised BCI Rules and whether foreign law firms are allowed to establish a presence in India in the true spirit of liberalization.