BCI RULES 2025: THE ENTRY OF FOREIGN LAW FIRMS IN INDIA

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ABSTRACT

The entry of foreign law firms into the Indian legal services sector has long been a contentious issue. Rooted in the framework of the Advocates Act, 1961 and enforced by the Bar Council of India (BCI), India has historically barred foreign law firms from practicing law within its jurisdiction. However, with the BCI Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2025 (BCI Rules 2025), the Indian legal arena is witnessing transformation.

This paper examines the evolution of India's framework regarding BCI Rules 2025, from the initial restriction on foreign law practice to the landmark Supreme Court judgment in "A.K. Balaji v. Union of India", and finally to the announcement of the BCI Rules 2025. It analyses the historical context behind BCI's resistance, the current legal position, implications of the Rules, concluding with an outlook of cross-border legal services in India.

Introduction: Role and Powers of the Bar Council of India

The Bar Council of India, established under the Advocates Act, 1961, [1]is the statutory body responsible for regulating legal education and the legal profession in India. As per Section 7 of the Act, the BCI is vested with several powers, including setting standards for legal education, granting recognition to law degrees for enrolment, prescribing professional and ethical standards, protecting the rights and interests of advocates, and exercising disciplinary jurisdiction over legal practitioners.

Historical Stance of BCI and Initial Rules

Historically, the BCI has opposed the entry of foreign law firms into India, interpreting the Advocates Act as providing an exclusive right to practice law to those enrolled as advocates under the Act. Two key provisions underpin this interpretation:

- Section 29, which states that only advocates enrolled under the Act are entitled to practice law in India,

- Section 33, which prohibits any person from practicing in any court or before any authority unless enrolled as an advocate. These provisions were construed to include not only litigation but also non-litigation legal services, such as advisory work, contract drafting, and arbitration, thereby excluding foreign firms from even supplementary legal functions within India.

- Section 24 stipulates that only Indian citizens holding a recognized law degree may enroll with the State Bar Council, thereby excluding foreign lawyers from the eligibility criteria.

- Furthermore, Section 47 provides for reciprocal arrangements, enabling the BCI to restrict practice rights of foreign lawyers if their home countries do not offer similar rights to Indian lawyers, which became a key issue in debates over liberalization.[2]

[1] The Advocates Act, 1961, India Code, Ministry of Law and Justice, Government of India,
[2] Id.

Rationale Behind BCI's Opposition

The BCI's resistance was not merely legal but also protectionist. There was widespread concern that foreign law firms would face significant regulatory challenges in operating under a different set of professional norms. Furthermore, many countries did not allow Indian law firms to operate in their jurisdictions. Therefore, until the 2020s, the BCI maintained a firm opposition, viewing the liberalization of legal services as a threat to the sovereignty and sustainability of the Indian legal profession.

Judicial Precedent: AK Balaji v. Union of India (2018)

A turning point came in the landmark case of AK Balaji v. Union of India (2018). The case originated in the Madras High Court and was eventually decided by the Supreme Court. The primary issues were whether foreign law firms could open liaison offices and provide non-litigation legal services in India, and whether such services amounted to "practice of law." The Supreme Court held that the practice of law includes both litigation and non-litigation services, thereby subjecting all legal activities to the Advocates Act.

However, the Court carved out a limited exception for "fly-in and fly-out services" in international commercial arbitration, provided they were casual and did not amount to regular practice. This judgment reaffirmed the prohibition but opened the door to limited cross-border legal interaction, encouraging the BCI to develop a more comprehensive regulatory framework in the future[3].

The BCI Rules 2025

In March 2023, the Bar Council of India announced its intent to modify legal services through the Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2025, which came into effect in 2025. These Rules represent a policy change. Foreign law firms must - register with the BCI, pay an annual registration fee, and file compliance reports. They are permitted to provide advisory services on foreign law, international law, and work related to international arbitration. However, they are explicitly barred from appearing in Indian courts or tribunals or providing legal advice on Indian law. The Rules emphasize reciprocity, requiring that foreign lawyers operate in India only if their home jurisdiction permits similar rights for

[3] AK Balaji vs. Union of India & Ors. (2018) 9 SCC 379 (Supreme Court of India)

Indian lawyers. A detailed Code of Conduct is also laid out to ensure ethical and professional compliance by foreign entities operating in India.[4]

1. **Registration of foreign lawyers/ foreign law firms and eligibility criteria:**

- To practice law in India, foreign lawyer/ foreign law firm will have to register with Bar Council of India ('BCI') under these Rules. This also applies to Indian Advocates and Indian Law Firms. Primary qualification for practicing law in India-

- Right to practice law in the concerned 'foreign country of the primary qualification. Exception: Not applicable to practice of law by a foreign lawyer or foreign law firm conducted on a "fly-in, fly-out" basis subject to the following conditions:

- The practice is strictly limited to providing legal advice to clients in India concerning foreign law/ the foreign lawyer's own legal system/ diverse international legal issues. It must not amount to "practice" as defined under Indian law;

- Engagement or expertise of the foreign lawyer/ foreign law firm must be procured by the client either in a foreign country or in India;

- Foreign lawyer/ foreign law firm should not establish/ operate/ maintain any office/ infrastructure/ regular presence in India for the purpose of legal practice;

- Total duration of practice in India should not exceed 60 days in aggregate within any 12-month period, with the calculation starting from the first day of arrival in India;

- In case of any dispute regarding whether the foreign lawyer's activities qualify as permissible "fly-in, fly-out" practice or constitute prohibited "practice" under Indian law, the matter will be determined by the Bar Council of India;

- All rules and regulations that apply to registered foreign lawyers and registered foreign law firms to govern their activities including extending the applicability of

[4] Bar Council of India, Gazette Notification, "Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2025," May 2025.

the Code of Ethics to foreign lawyers and foreign law firms will also apply to foreign lawyers/ foreign law firms engaging in "fly-in, fly-out" practice except where explicitly exempted under these rules. [5]

2. **Application for Registration:**

Any foreign lawyer/ foreign law firm, including Indian- foreign law firms will have to apply in 'FORM A' along with the registration fee, guarantee amount and a non-refundable process charge.

3. **Validity of Registration and Renewal of Registration:**

- Registration will be valid for 5 years only;
- Application for renewal of registration for Indian lawyers/ Indian law firms is given in Form B.[6]

4. **Law practice by a foreign lawyer/ foreign law firm:**

- Entitled to practice law in India in non- litigious matters only subject to some exceptions, conditions and limitations;
- BCI can cancel the registration in case of misconduct;
- Areas of practice will be determined and laid down by BCI;
- Prohibited from appearing before Indian Courts/ Tribunals/ other statutory or regulatory authorities unless explicitly permitted by BCI;
- Prohibited from performing the following activities: Conveyancing of property, title investigation, or similar work; Drafting, preparing, or filing documents for proceedings before Indian courts, tribunals, or other authorities empowered to record evidence on oath.

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[5] https://www.scconline.com/blog/post/2025/05/15/bci-rules-registration-regulation-of-foreign-lawyers-foreign-law-firms-in-india/
[6] Id.

- Prohibited activities listed under these Rules will be enforceable through penalties, including suspension or cancellation of registration. Indian advocates: enrolled with any State Bar Council and working as partners or associates in foreign law firms registered in India under these rules can engage in non-litigious matters, including advisory work related to foreign law or international law; They may also represent clients in international arbitration forums or international law courts as referred by their respective foreign law firms; Such advocates cannot claim any additional rights or privileges solely based on their enrollment as advocates in India when practicing through foreign law firms. However, Indian advocates and partners in such law firms, in accordance with their enrollment rights and privileges to practice law in Indian courts, can take up matters referred by their respective foreign law firms, provided such matters fall within the scope of Indian law and the advocate's permissible area of practice.

5. **Regulatory Authority:**

- BCI will have the right of issuing such directions and regulations;

- BCI can hold deliberations and consultations with its counterparts;

- BCI will be responsible for ensuring the reciprocity in the treatment of Indian lawyers and law firms abroad; BCI will have the right to cancel the registration of any foreign lawyer/ law firm, any time, if it comes to the notice that the Indian lawyers/ Indian law firms are being discriminated by the counterpart;

- The objective is to provide a vibrant and effective framework for legal profession that can cater to the ever-changing needs of the people, belonging to different religions, faiths and personal laws, as well as those migrating from one country to another and to promote international progress, coherence and unity.[7]

Implications of the Rules

The BCI Rules 2025 marks a significant shift in India's legal policy. On the positive side, the Rules enable Indian firms to offer global services by partnering with foreign firms and position

[7] Id.

India as a venue for international arbitration. Competitive pressure may also push Indian firms to modernize and improve legal standards. However, concerns remain. Differentiating between foreign and Indian law can be difficult in practice, potentially leading to violations. Larger domestic firms may benefit more than small or regional ones, exacerbating inequality. The Rules also place a significant regulatory burden on the BCI, which must now oversee foreign lawyers' compliance with Indian ethical standards. Nonetheless, the Rules represent a balanced and cautious step toward globalization, aligning India with international legal practices while retaining sovereign oversight.

The IndusLaw–CMS Collaboration: A Case Study

Full-service domestic law firm Induslaw entered into a strategic partnership with global legal powerhouse CMS, enhancing its international footprint while enabling the latter to gain traction in the once fully-restricted Indian legal market.

This arrangement indicates how Indian and foreign firms are utilizing the framework. The collaboration features separate legal entities with aligned service offerings and is limited to non-Indian law and international matters. There is no revenue sharing or formal merger. This partnership allows clients to access cross-border expertise while complying with BCI regulations. It also serves as a model for future collaborations, signaling the beginning of a hybrid regulatory regime where foreign firms may work alongside Indian counterparts without breaching the sovereignty of Indian legal norms. [8]

IndusLaw lawyers will support multinational CMS clients looking to enter and operate in the Indian market, while the more than 6,800 CMS lawyers in over 45 countries around the world will support clients wanting to expand internationally from India. IndusLaw has a presence across India's principal commercial hubs, including Bengaluru, Delhi & NCR, Hyderabad, Mumbai and Chennai. With 60 partners and more than 400 lawyers, IndusLaw advises many of India's leading corporates including over 50% of the country's unicorns established in the last decade. CMS is an international organisation of independent law firms, with each of the firms respecting the legal and regulatory requirements of its jurisdiction, combining deep local market understanding with a global mindset. In line with the CMS model, IndusLaw remains an independent law firm under the CMS brand. India has become the world's fourth-largest

[8] The Economic Times. "IndusLaw joins hands with CMS as foreign law firms eye India post-sector liberalisation." May 28, 2025.

economy and is projected to become the third-largest by 2027. Its increasingly globalised economy creates a growing need for international legal advisers with deep local insight. CMS's global reach combined with IndusLaw's domestic expertise will enable clients to benefit from integrated support across corporate transactions, regulatory matters, disputes, capital markets, technology, intellectual property and more. This announcement also comes at a pivotal moment, as recent regulatory developments are expected to significantly open up the Indian legal market to foreign firms. This puts CMS in an advantageous position to establish a robust, locally rooted yet internationally connected offering.[9]

Future Possibilities

Looking ahead, future rules may allow limited practice of Indian law by foreign firms under joint ventures or in collaboration with Indian firms. The BCI must enhance its infrastructure to regulate a more complex, internationalized legal market. Indian law schools must align with global standards to equip graduates for transnational practice. Legal tech services, particularly in arbitration, could become the next step towards modernization. The government should work closely with the BCI to create a blueprint that balances national interests with global competitiveness. Liberalization must proceed in a phased manner, ensuring that small and medium Indian firms are not disadvantaged and that access to justice remains paramount.

Conclusion

The BCI Rules 2025 represent a moment of liberalization of legal services in India. By permitting regulated entry of foreign law firms, the BCI has acknowledged the growing interconnectedness of global legal markets. Simultaneously, the national interest and the Indian legal professionals, definitely have paramount importance. The evolution from judicial resistance in AK Balaji to regulation reflects a maturing legal policy landscape. The road ahead will depend on how effectively firms and stakeholders adapt to the evolving global legal order.

[9] IndusLaw. "CMS and INDUSLAW Announce Strategic Partnership." Press Release, May 28, 2025.