



news flash

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RBI SIMPLIFIES COMPOUNDING PROCESS UNDER FEMA

Presently, the Reserve Bank of India (**RBI**) has the power to compound any contravention under the Foreign Exchange Management Act, 1999 (**FEMA**) except for a contravention under section 3(a) of the FEMA. Section 3(a) of the FEMA prohibits a person from dealing in or transferring foreign exchange or foreign security to an unauthorized person. A contravention under this section can be compounded only by the Enforcement Directorate.

The RBI has issued a circular dated 13 December 2011 (**the Circular**) simplifying the procedure for making applications to RBI for compounding of FEMA offences as follows:

- (i) The power to compound specific offences has been delegated to the regional offices of the RBI;
- (ii) The details to be furnished to the RBI along with the application for compounding can now be submitted in the formats prescribed in the Circular.

Delegation of Power

The RBI has decided to delegate the power to compound specific offences as a measure of customer service and in order to facilitate the operational convenience. Accordingly, the powers delegated to the Regional Offices of RBI are as follows:

Contraventions		Regional RBI Offices	Amount of Contravention
(a)	(i) Delay in reporting of inward remittance after receipt of the amount of consideration; and (ii) Delay in filing of form FC-GPR after allotment of shares.	Bhopal, Bhubaneswar, Chandigarh, Guwahati, Jaipur, Jammu, Kanpur, Kochi, Patna and Panaji	Less than INR 10 Million
(b)	(i) Delay in reporting of inward remittance after receipt of the amount of consideration;	Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata, Mumbai and New Delhi	Any amount

contd...

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(ii)	Delay in filing of form FC-GPR after allotment of shares; and		
(iii)	Delay in issue of shares beyond 180 days.		

The application for compounding the offences mentioned at (a) and (b) above, whether received on the advice of the RBI or suo-moto, may be directly submitted by the companies to the aforesaid RBI Regional offices falling within its jurisdiction, together with the prescribed fee and relevant documents.

All other compounding applications to the RBI may continue to be submitted to the Compounding Authority, Cell for Effective implementation of FEMA (CEFA), Foreign Exchange Department

Format for furnishing details

The RBI wishes to bring uniformity in submission of information and avoid multiple correspondences between the applicant and RBI. For this purpose, the RBI has prescribed a format for furnishing details along with the application for compounding. The Circular has appended four separate formats for furnishing details depending on the type of contravention for which an application for compounding is being made, i.e. contravention relating to foreign direct investment, external commercial borrowings, overseas direct investment or branch office / liaison office.

The applicant is also required to submit, (i) an undertaking that it is not under investigation of any agency such as DOE, CBI, etc., (ii) a copy of the Memorandum of Association of the company; and (iii) its latest audited balance sheet.

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For further clarification and details on the above, you may write to the Exchange Control team, comprising of (amongst others), Aliff Fazalbhoy (Senior Partner) at afazalbhoy@almtlegal.com, Kruti Desai (Partner) at kdesai@almtlegal.com and Alpesh Parekh (Associate) at aparekh@almtlegal.com

ALMT Offices

Mumbai:

4th Floor, Express Towers,
Nariman Point,
Mumbai 400-021
India

Tel: +91 22 4001 0000

Email: Mumbai@almtlegal.com

Bangalore:

2 Lavelle Road,
Bangalore 560 001
India

Tel: +91 80 4016 0000

Email: Bangalore@almtlegal.com

New Delhi:

506 DLF Courtyard,
Saket,
New Delhi 110 017
India

Tel: +91 11 4944 5566

Email: delhi@almtlegal.com

London

DowGate Hill House,
14-16 DowGate Hill,
London EC4R 2SU
United Kingdom

Tel: +44 020 7332 2367

Email: London@almtlegal.com