

Update



Compounding of Contraventions under FEMA, 1999- RBI delegates further power to Regional Offices

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Update

Background

Compounding of Offence is a voluntary process available in case of contravention of offence under Foreign Exchange Management Act, 1999 (*hereinafter referred as 'FEMA'*). Foreign Exchange (Compounding Proceedings) Rules, 2000¹ empowers Reserve Bank of India (*hereafter referred as 'RBI'*) to compound contravention under FEMA. For compounding of offence under FEMA an application for compounding has to be filled to Compounding Authority, Cell for Effective implementation of FEMA (CEFA), Foreign Exchange Department, RBI. However RBI from time to time delegates such powers to its regional offices.

Delegation of Power for Compounding of Contraventions

RBI initially delegated power vide **RBI/2013-14/553A.P. (DIR Series) Circular No.117 dated 4th April, 2014**² to Regional Offices of RBI for compounding of contravention under the said circular. In furtherance to the said circular **RBI vide Circular RBI/2014-15/266 A.P. (DIR Series) Circular No. 36**³ (*hereinafter referred to as 'Present Circular'*) further delegated powers for compounding of contravention under FEMA to Regional Office of Reserve Bank of India. Following are the brief details of contravention, compounding of which has been delegated by RBI to its regional offices under the Present Circular:-

Sr. No.	FEMA Regulation	Brief Details of the Regulation	Description of Contravention
1.	Regulation 10 (A) (b) read with Para. 10 of Schedule I	Relevant regulation requires reporting to Authorized Dealer by transferor within 60 days of transfer of shares of Indian Company from a person resident in India to a person resident outside India in form FC-TRS.	Delay in submission of form FC-TRS on transfer of shares from Resident to Non-Resident
2.	Regulation 10 (B) (2) read with Para. 10 of Schedule I	Relevant regulation requires reporting to Authorized Dealer by transferee within 60 days of transfer of shares of Indian Company from a person resident outside	Delay in submission of form FC-TRS on transfer of shares from Non-Resident

¹ http://www.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=5773#fe

² <http://www.rbi.org.in/scripts/NotificationUser.aspx?Id=8825&Mode=0>

³ <http://www.rbi.org.in/scripts/NotificationUser.aspx?Id=9286&Mode=0>



*Compounding of Contraventions under FEMA, 1999 -
RBI delegates further power on the Regional Offices of RBI.*

Update

		India to a person resident in India in form FC-TRS	to Resident
3.	Regulation 4	Relevant regulation prohibits Indian Company to record transfer of shares in absence of certified form FC-TRS, provided RBI may permit such recording of such transfer for sufficient reason on such condition as may be considered necessary by the Bank.	Taking on record transfer of shares by investee company, in the absence of certified form FC-TRS.

Powers for compounding of contravention as aforesaid have been delegated to the Regional Offices of RBI (except Regional Offices of Kochi and Panaji) without any limit on the amount of contravention. Kochi and Panaji Regional offices can compound the above contraventions for amount of contravention below Rupees One Crore (Rs.1,00,00,000/-). Thus application for such contravention needs to be filled with the Regional office of RBI under whose jurisdiction the entity falls.

The contraventions of Rupees One Crore (Rs.1,00,00,000/-) or more under the jurisdiction of Panaji and Kochi Regional Offices and **all other contraventions** which have not been delegated under FEMA to Regional Offices will continue to be compounded at CEFA, Mumbai.

Further RBI has pursuant to Present Circular has also authorized Foreign Exchange Department, New Delhi for cases of compounding of contraventions under :-

- Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2000 for acquisition and transfer of immovable property outside India by person resident in India.
- Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000 for acquisition and transfer of immovable property in India by a person resident outside India.
- Foreign Exchange Management (Establishment in India of branch or office or other place of business) Regulations, 2000 for establishment in India of Branch office, Liaison Office or project office.
- Foreign Exchange Management (Deposit) Regulations, 2000.



*Compounding of Contraventions under FEMA, 1999 -
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The above delegation of power from RBI will come into force with immediate effect i.e. from the date of Present Circular which is 16th October, 2014.

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