

## **A P (DIR Series) CIRCULAR NO 57/RBI**

**Dated: December 13, 2011**

**Foreign Exchange Management Act, 1999 (FEMA) Foreign Exchange (Compounding Proceedings) Rules, 2000 (the Rules) - Compounding of Contraventions under FEMA, 1999**

Attention of all the Authorised Dealer Category - I (AD Category - I) banks and their constituents is invited to A.P. (DIR Series) Circular no. 56 dated June 28, 2010 and the Foreign Exchange (Compounding Proceedings) Rules, 2000 notified by the Government of India vide G.S.R.No.383(E) dated 3rd May 2000, as amended from time to time.

2. As a measure of customer service and in order to facilitate the operational convenience, it has been decided to delegate the powers to the Regional Offices of the Reserve Bank of India mentioned below to compound the contraventions of FEMA involving (i) delay in reporting of inward remittance, (ii) delay in filing of form FC-GPR after allotment of shares and (iii) delay in issue of shares beyond 180 days (viz. paragraphs 9(1)(A), 9(1)(B) and 8, respectively, of the Schedule I to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated 3rd May 2000 and as amended from time to time:

**a) Paragraphs 9 (1) (A) and 9 (1) (B) of Schedule I to FEMA 20/2000-RB dated May 3, 2000 -**

Bhopal, Bhubaneshwar, Chandigarh, Guwahati, Jaipur, Jammu, Kanpur, Kochi, Patna and Panaji for amount of contravention below Rupees One hundred lakh only (Rs. 1,00,00,000 /-).

**b) Paragraphs 9 (1) (A), 9 (1) (B) and 8 of Schedule I to FEMA 20/2000-RB dated May 3, 2000 -**

Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata, Mumbai and New Delhi for amount of contravention without any limit.

The Compounding Authorities attached to these Regional Offices of the Foreign Exchange Department have been authorised to compound such cases at their level(s) within the financial powers as per the Foreign Exchange (Compounding Proceedings) Rules, 2000. Accordingly, all applications for compounding whether received on the advice of the Regional Office concerned or suo-moto, relating to the contraventions mentioned at (a) and (b) above and up to the amount of contravention stated therein, may be submitted by the companies falling under the jurisdiction of the aforesaid Regional Offices directly to the Regional Office concerned, together with the prescribed fee and other relevant documents. All other applications may be submitted to the Compounding Authority, Cell for Effective implementation of FEMA (CEFA), Foreign Exchange Department, 5th floor, Amar Building, Sir P.M.Road, Fort, Mumbai-400001, as hitherto. The prescribed fee of Rs. 5000/- (Rupees Five thousand only) may be paid by way of a demand draft drawn in favour of "Reserve Bank

of India" and payable at the Regional Office where the application is being submitted and at Mumbai if the application is submitted at CEFA, Mumbai.

3. In terms of sub-rule (1) to Rule 8 of Foreign Exchange (Compounding Proceedings) Rules, 2000, the Compounding Authority may call for any information, record or any other documents relevant to the compounding proceedings. It has been observed that there is no uniformity in submitting the required details with supporting documents along with the compounding application. This results in avoidable correspondence between Reserve Bank and the applicant. It has, therefore been decided that along with the application in the prescribed format, the applicant may also furnish the details as per the enclosed Annexes relating to Foreign Direct Investment , External Commercial Borrowings , Overseas Direct Investment and Branch Office / Liaison Office , as applicable, along with an undertaking that they are not under investigation of any agency such as DOE, CBI, etc., a copy of the Memorandum of Association and latest audited balance sheet while applying for compounding of contraventions under FEMA, 1999.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents and customers concerned.

5. The directions contained in this circular have been issued under sections 10 (4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

**RBI/2011-12/298**

**(Dr. Sujatha Elizabeth Prasad)**  
**Chief General Manager**

**Annex- FDI**

**Details to be furnished along with application for compounding of contravention relating to Foreign Direct Investment in India**

- Name of the applicant
- Date of incorporation
- Nature of activities under taken
- Brief particulars about the foreign investor
- Details of foreign inward remittances received by Applicant Company from date of incorporation till date

Table A

Sl. No.	Name of Remitter	Total Amount (INR)	Date of Receipt	Reported to RBI on*	Delay if any

	Total				
* date of reporting to RBI and not AD					

Table B

Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted	Date of reporting to RBI*	Delay if any
	Total				

Table C

In case there is excess share application money

Sl. No.	Name of Remitter	Total Amount (INR)	Date of Receipt	Excess share application money	Date of refund of share application money	Amount in forex	RBI approval letter and date
		Total					

Table D

Authorised Capital

Sl. No.	Date	Authorised Capital	With effect from	Date of Board meeting	Date of filing with ROC

A= B+C

Please give supporting documents

Table A- Copies of FIRC with date stamp of receipt at RBI

Table B- Copies of FCGPR with date stamp of receipt at RBI

Table C - letter seeking refund/ allotment of shares- approval letter from RBI A2 form

- Copies of Balance Sheet during the period of receipt of share application money and allotment of shares
- Nature of contravention and reasons for the contravention

Annex- ECB

**Details to be furnished along with application for compounding of contravention relating to External Commercial Borrowing**

• Name of the applicant			
• Date of incorporation			
• Nature of activities under taken			
• Brief particulars about the foreign lender			
• Is the applicant an eligible borrower?			
• Is the lender eligible lender?			
• Is the lender an equity holder?			
• What is the level of his holding at the time of loan agreement?			
Details of ECB			
• Date of Loan agreement			
• Amount in Foreign Currency and Indian Rupee			
• Rate of interest			
• Period of loan			
• Repayment particulars			
• Details of draw down	Date of draw down	Amount in Foreign Currency	Amount in INR
• Details of LRN Number- application and receipt			
• Details of ECB 2 returns submitted; Period of return: Date of submission			
• Details of Utilization of ECB in Foreign Currency and Indian Rupee			
• Nature of contravention and reasons for the contravention			
• All supporting documents may be submitted			

Annex- ODI

**Details to be furnished along with application for compounding of contravention relating to Overseas Investment**

- Name of the applicant
- Date of incorporation
- Nature of activities under taken
- Name of Overseas entity
- Date of incorporation of overseas entity
- Nature of activities under taken by overseas entity
- Nature of entity- WOS/JV
- Details of remittance sent- Date of remittance; Amount in FCY and in INR
- Details of other financial Commitment
- Details of UIN applied and received
- Date of receipt of share certificate
- Approval of other regulators if required
- Details of APRs submitted: For the period ended; date of submission
- Nature of contravention and reasons for the contravention
- All supporting documents may be submitted

Annex- Branch Office / Liaison Office

**Details to be furnished along with application for compounding of contravention relating to Branch/Liaison Office in India**

- Name of the applicant
- Date of incorporation
- Date of approval for opening of Liaison Office/ Branch Office
- Validity period of the approval
- Nature of activities under taken
- income and expenditure of the LO/BO
- Dates of submission of Annual activity Certificates
- Nature of contravention and reasons for the contravention
- All supporting documents may be submitted