



My Dear Friend

*I am presenting **Thursday Article on 31 FAQ's for filling of Foreign Liability + Asset (FLA) return in India***

- 1. Any kind of offence is attracting **Penalty + imprisonment (both)**.*
- 2. It's humbly suggested to stop committing offence.*
- 3. I trust that you will be enriched by reading this article*

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● *With best wishes from CA. Satish Agarwal, New Delhi* ●



31 FAQ's for filling of Foreign Liability + Asset (FLA) return in India

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31 FAQ's for filling of Foreign Liability + Asset (FLA) return in India

(A) Introduction on filing of FLA return in India

1. Filing of FLA return for collection of Balance of Payment position by RBI

- RBI compiling information's collected FLA returns for knowing **India's BOP position + International Investment Position (IIP) in India + Outside India (both) on March 31st every year.**

2. Filing of FLA return up to March 31st, 2018 through Email

- **100% Indian company + LLP + Alternative Investment Fund (AIF) all known as Indian corporate entity** were required to submit in excel format up to **July 15th of succeeding year** for Foreign Direct Investments (FDI's) + Overseas Direct Investments (ODI's) through mail ID on **fla@rbi.org.in based on audited + unaudited (both) information's**

3. Filing of FLA return from March 31st 2019 through web portal

- Now RBI providing web-portal www.flair.rbi.org.in for filing of FLA return by Indian corporate entities.**
- Now Indian corporate entity required to have registration through filing of User Registration Form (URF) containing following information's:-**
 - Particulars of Identification**
 - Particulars of Business user**
 - Authority letter + etc.**
- Now LLP + AIF (both) not required to use dummy Corporate Identification Number (CIN) for filing of FLA return.**
 - Hence dummy CIN not required after registration at web-portal of RBI.**



- (iv) *Now web-portal allowing to generate login-name + password for filing of FLA return after filing of URF + completion of registration process on web-portal.*
- (v) *Now Indian corporate entity required to furnish details of 100% investors for ODIs + FDIs + Foreign Portfolio Investments (FPIs) in India + outside India (all).*
- (vi) *Now Indian corporate entity permitted to receive system generated acknowledgement after successful submission of FLA return.*
- (vii) *Now Revision of data in filing of FLA return permitted after submission of original FLA return.*
- (viii) *Now view + download (both) of information's permitted after submission of FLA return*
- (ix) *Now Indian corporate entity permitted to submit + revise information's of Previous Year (PY) after receiving of confirmation from RBI through sending of request email.*
- (x) (a) *RBI not clarified till now that filing of FLA return for year ending on March 31st,2019 already submitted through email mode to be resubmitted or not to be resubmitted through web-portal mode*
- (b) *It's our suggestion that filing of FLA return for year ending on March 31st, 2019 be resubmitted through web-portal mode beside already submitted through email mode to avoid any confrontation with RBI in future.*



(B) Clarifications for Filing of FLA return

4. Clarifications for Penalty against Non Filing + late filing (both) FLA returns

- (i) Non filing + late filing (both) FLA returns treated as violation under FEMA, 1999 + also maximum penalty @300% may be levied against amount of FDI + ODI*
- (ii) Generally maximum penalty @300% not levied under FEMA, 1999 by RBI.*
- (iii) Now RBI already prescribed criteria's for levy of penalty under compounding of penalties lower than 300%.*

5. Clarifications for Filing of FLA return based on Unaudited financial statements

- (i) Indian Corporate entities permitted to submit FLA return up to July 15th based on unaudited financial statements on March 31st*
- (ii) Indian Corporate entities permitted to re-submit FLA return up to Sep 30th based on audited financial statement on March 31st where substantial changes are existed between unaudited financial statement and audited financial statements.*

6. Clarifications for Filing of FLA return for year ending on March 31st

- *Indian Corporate entities required to submit FLA return based on financial year like from April to March each year beside actual accounting period other than from April to March.*

7. Clarifications for Non Filing of FLA return for year ending on March 31st

- (i) Indian Corporate entities not required to submit FLA return where share application money received but allotment of shares not made up to March 31st.*
- (ii) However Indian Corporate entities required to submit FLA return where share application money received but allotment of shares not made up to March 31st where share application money received from existing non-resident investors.*



8. Clarifications for Non Filing of FLA return where zero FDI + ODI on March 31st

- Indian Corporate entities *not required to submit FLA return where FDI + ODI (both) not outstanding on March 31st beside that foreign trade receivable + foreign trade payables (both) outstanding from foreign corporate entities on March 31st.*

9. Clarifications for Filing of FLA return where No Additional + Fresh FDI + ODI

- Indian Corporate entities required to submit the FLA return beside no additional + no fresh FDI + ODI (both) received during year under consideration.*
- Hence Indian Corporate entities required to submit the FLA return where no additional + no fresh FDI + ODI (both) received during year under consideration*

10. Clarifications for Filing of FLA return by LLP + AIF (both)

- LLP + AIF permitted for FDI + ODI (both) selected areas (only)*
- Hence LLP + AIF required to submit FLA return for FDI + ODI (both).*

11. Clarifications for Filing of Annual Performance Report (APR) + FLA (both)

- *Indian corporate entities required to submit FLA return for ODI beside APR already filed for ODI.*

12. Clarifications for Non Filing where 100% shares already Transferred to ROI

- Indian corporate entities not required to submit FLA return where 100% non-resident shareholding already transferred to Resident of India (ROI) before March 31st.*
- However Indian corporate entities required to inform RBI where 100% shareholding already transferred to Resident of India through AD Bank in India*

13. Clarifications for Non Filing where FDI received on Non-Repatriable basis

- *Indian corporate entities not required to submit FLA return where FDI received from non-resident investor on non-repatriable basis.*



14. Clarifications for Form against Filing FLA return

- Indian corporate entities required to submit FLA return *based on updated FLA return form available* on RBI web-portal on date of submission of FLA return.

15. Clarifications for Information's against Filing of FLA return

- Indian corporate entities permitted to get any Clarifications for submission of FLA return on landline no. of RBI :- (022) 26578662 + 26578217 + 26578348 + 26578214 + 26578340 + 26578241 + also E-mail ID surveyfla@rbi.org.in (both)

16. Clarifications for filing of Hard Copy of FLA return

- Indian corporate entities *not required to submit hard copy* of FLA return

17. Clarifications for Re-filing of FLA return

- Indian corporate entities *required to re-submit* return where error noticed by RBI.

18. Clarifications for Valuation of FDI against listed company

- *Closing share price* at BSE or NSE on March 31st be adopted for valuation of FDI.

19. Clarifications for Valuation of FDI against unlisted company

- (i) Foreign liability be valued based on Own Fund of Book Value (OFBV) *similar to Net Owned Fund (NOF)* in India.
- (ii) *Closing net worth* of Indian corporate entity *be multiplied with % of FDI* for valuation based on OFBV.

20. Clarifications for Valuation of FDI against Traded Debt Security (TDS)

- (i) TDS be *valued at Market Realizable Price (MRP)* + also other debts like loan + trade credit + deposit + other account payable - receivable be *valued at book value*.
- (ii) Indian Corporate entities *required to use in foreign currency rate* available for *March 31st* for current + previous (both) years.



- (iii) *Net worth be computed* equivalent to Paid up Equity capital + paid up Participating Preference share + free reserve + share premium + other Surplus *–(minus) accumulated losses*

21. Clarifications for Filing of FLA return against Trade Credits + Trade Payables

- (i) Indian corporate entities *required to include debts under other capital like trade credits + ECBs + other structure loan (if any) + convertible + non-convertible debentures + non-participating preference share capital + other payable –(minus) other receivable where FDI + ODI (both) outstanding on March 31st.*
- (ii) Paid up equity capital + paid up participating preference share capital *not twice be included* under other capital + equity share capital *(both)*.
- (iii) Indian corporate entities *not required to submit FLA return where FDI + ODI not outstanding on March 31st beside trade credit + trade payable (both) outstanding on March 31st*

22. Clarifications for Inclusion of share Premium in FDI + ODI (both) in FLA return

- Indian corporate entities *required to include amount of Share premium under free reserve + also surplus* for computation of OFBV *(both)*

23. Clarifications for Bifurcation of FDI where exceeding 10% + not exceeding 10%

- Indian corporate entities *required to bifurcate for FDI exceeding 10% + not exceeding 10% (both)*.

24. Clarifications for Special Instructions for Filing of FLA return

- (i) (a) Indian corporate entities *required to study definitions before filing of FLA return*
- (b) *Definitions available in Excel format of FLA return form + also available in Annex-1 attached with FLA return Form*
- (ii) Indian corporate entities *required to report in lakhs in Block 1 + 2 + 4 + 5 + also to report in actual Foreign Currency in Block 3A of section IV under Foreign Asset.*



(C) FLA Return Form + Structure (both)

25. FLA return form + structure (both) in 5 Sections

- (i) *Section I under Identification Particulars of Indian corporate entity*
- (ii) *Section II under Financial details of Indian corporate entity*
- (iii) *Section III under Foreign Liability of Indian corporate entity*
- (iv) *Section IV under Foreign Asset of Indian corporate entity*
- (v) *Section V under Variation report*

26. Section I- Identification of Particulars of Indian corporate entity

- (i) *Under Name + address*
- (ii) *Under PAN*
- (iii) *Under CIN*
- (iv) *Under Contact details*
- (v) *Under Account closing date*
- (vi) *Under Nature of business + etc (both)*

27. Section II – Financial details of Indian corporate entity at face value in lakh

- (i) *Under Total paid up capital*
- (ii) *Under Non-resident shareholdings*
- (iii) *Under Profit and loss account*
- (iv) *Under Reserve + Surplus (both)*
- (v) *Under Sale + Purchase (both)*
- (vi) *Under Number of employees on payroll*



28. Section III – Foreign liabilities of Indian corporate entity at computed price

- (i) Investment in India under head FDI where equity participation exceeding 10%
- (ii) Other capital like liability to direct investor + claim on direct investor (both)
- (iii) Disinvestment in India during year under consideration
- (iv) Investment in India under FDI where equity participation not exceeding 10%
- (v) Investment in India under FPI in corporate entity other than FDI at computed price
- (vi) Other Investment like outstanding liability with unrelated foreign party

29. Section IV – Foreign Assets of Indian corporate entity at computed price

- (i) ODI where equity participation exceeding 10%
- (ii) Equity capital + reserve + surplus (all) of foreign entity known Direct Investment Enterprise (DIE)
- (iii) Overseas Direct Investment (ODI) outside India where equity participation not exceeding 10%
- (iv) Portfolio Investment (PI) Outside India at computed price
- (v) Other Investment like outstanding claim on foreign unrelated party

30. Section V–Variation Reports between previous and preceding to previous year

- (i) Under Paid up capital
- (ii) Under Net worth
- (iii) Under Total Sales
- (iv) Under Total Purchase
- (v) Under Other Investment - liability
- (vi) Under Other Investment - asset



31. Conclusion on filing of FLA returns for FDI + ODI (both) by Corporate entities

- (i) Where FDI + ODI (both) outstanding on March 31st through web portal of RBI with unaudited financial statements up to July 15th + with audited financial statements up to September 30th.
- (ii) Hence filing of FLA return not required where FDI + ODI (both) not outstanding on March 31st
 - (a) Indian corporate entities required to submit FLA return for ODI beside APR already filed.
 - (b) Hence FLA + APR (both) be submitted against ODI outside India
- (iv) Indian corporate entities not required to submit FLA return for FDI + ODI:
 - (a) Where FDI already transferred to resident of India before March 31st
 - (b) Where FDI received on non repatriation basis in India
 - (c) Where Foreign trade receivable + trade payable (both) outstanding without FDI or ODI (both) on March 31st.
- (v) (a) Indian corporate entities liable for penalty not exceeding @ 300% of FDI + ODI (both) under FEMA, 1999 where FLA return filed late + not filed till date
 - (b) Generally RBI not imposing penalty @ 300% but actually compounding contraventions with pre-fixed + variable (both) penalties.



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