



# *RBI discontinues various reporting under FEMA & introduces changes in relation to compounding of contraventions under FEMA | Ministry of I&B seeks compliance with FDI Policy in Digital Media*

INSIGHTS

November 20, 2020

Following changes have been introduced with respect to foreign exchange laws:

- **Discontinuation of 17 reports / returns under FEMA:** With a view to improve the ease of doing business and reduce the cost of compliance, the Reserve Bank of India (RBI) has decided to discontinue 17 returns/ reports prescribed under Foreign Exchange Management Act, 1999 (FEMA), vide circular dated November 13, 2020 ([available here](#));
- **Compounding of contraventions under FEMA:** Various changes have been introduced by RBI in relation to compounding of contraventions under FEMA, vide circular dated November 17, 2020 ([available here](#));
- **Media entities to intimate compliance with 26% cap within one month from November 16, 2020:** Ministry of Information and Broadcasting (Ministry) has issued a public notice dated November 16, 2020 (Public Notice) ([available here](#)), to require eligible entities involved in uploading/streaming of news and current affairs through digital media, to take certain actions regarding compliance with 26% FDI under Government approval route.

Aforementioned changes are summarized below:

## **A. Discontinuation of Returns / Reports under FEMA**

Seventeen (17) reports / returns required to be filed under FEMA have been discontinued, such as: (a) extension of Liaison Offices (LOs); (b) extension of Project Offices (POs); (c) FII/FPI daily; (d) form DRR for issue / transfer of sponsored / unsponsored Depository Receipts (DRs) in hardcopy; (e) ADR/GDR Movement Report- two way fungibility; (f) Monitoring of disinvestments by Overseas Corporate Bodies.

## **B. Changes in relation to Compounding of Contraventions under FEMA**

- In view of notification of Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules) and Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 (Reporting Regulations) on October 17, 2019, the compounding powers for certain contraventions under the NDI Rules as well as the Reporting Regulations have been delegated to the Regional Office/ Sub-Offices of the RBI, for such contraventions;
- With respect to classification of a contravention under FEMA as 'technical' or 'material' or 'sensitive/ serious in nature', in terms of the Circular No. 56 dated June 28, 2010 and the Circular No. 11 dated July 31, 2012, it has been decided to discontinue the classification of a contravention as 'technical' that was dealt with by way of an administrative / cautionary advice and regularize such contraventions by imposing minimal compounding amount as per the compounding matrix as contained in the '[Master Direction - Compounding of Contraventions under FEMA, 1999](#)' dated January 01, 2016, as amended from time to time;
- In relation to public disclosure of the compounding orders, it has been decided that with respect to the compounding orders passed on or after March 01, 2020, a summary information, instead of the compounding orders, shall be published on RBI's website in the format prescribed.

## **C. Compliance with FDI Policy in Digital Media within a month from November 16, 2020 & other changes**

Eligible entities involved in uploading / streaming of news and current affairs through digital media, will have to comply with the following, in terms of the Public Notice:

- Entities having foreign investment below 26% may furnish an intimation to the Ministry, within one month from November 16, 2020, giving details of the entity, its shareholding pattern, names and addresses of its directors / shareholders, names and address of promoters / significant beneficial owners and such other details, as more particularly mentioned in the Public Notice;
- Entities which, at present, have an equity structure with foreign investment exceeding 26% would give similar details as above to the Ministry within one month from November 16, 2020, and to take necessary steps for bringing down the foreign investment to 26% by October 15, 2021 and seek approval of the Ministry;

- Any entity which intends to bring fresh foreign investment in India has to seek prior approval of the Central Government, through the Foreign Investment Facilitation Portal, in the manner provided in the Public Notice;
- Every entity has to comply with the requirements of citizenship of board of directors and of the Chief Executive Officers (by whatever name called). The entities are required to obtain security clearance for all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract or consultancy or any other capacity for functioning of the entity, prior to their deployment, in the manner provided in the Public Notice.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at [insights@elp-in.com](mailto:insights@elp-in.com)

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