

Issues in FEMA

With special focus on Recent Compounding Orders

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- A. FEMA Compliance
- B. Compounding of Offences
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FEMA COMPLIANCE

NEED OF THE HOUR IN A GLOBALISED ENVIRONMENT



PITFALLS

- NON MANDATORY IN NATURE
- NOT COVERED BY STATUTORY AUDIT
- CROSS BORDER TRANSACTIONS UNDERTAKEN THROUGH BANKERS, ARE IRREVERSIBLE LEAVING AN AUDIT-TRAIL

PITFALLS

- CORPORATES HAVING GLOBAL OPERATIONS CANNOT EXPAND OVERSEAS IF FEMA PROVISIONS ARE VIOLATED UNDER AUTOMATIC ROUTE
- ALL FOREX TRANSACTIONS ARE SCRUTINISED AT DIFFERENT LEVELS – BY BANKERS (COMPLIANCE TEAM), RESERVE BANK OF INDIA, INTERNATIONAL TAX CELL & FINALLY BY ENFORCEMENT DIRECTORATE.

BENEFITS

- UNINTENTIONAL VIOLATIONS CAN BE PLUGGED AND RECTIFIED
- AUTHORITIES CAN BE APPROCHED *SUO MOTTO* ON DETECTION OF ERRORS / MISTAKES
- FUTURE VIOLATIONS CAN BE CIRCUMVENTED
- LAST BUT NOT THE LEAST - CORPORATE GOVERNANCE RATING OF THE COMPANY INCREASES

Capital Account Transactions

- **OUTBOUND INVESTMENTS:**
 - FORM ODI
 - CA CERTIFICATE
 - COPIES OF UNIQUE IDENTIFICATION NUMBER RECEIVED
 - ANY PERMISSION RECEIVED FROM RBI.
 - LIST OF INVESTMENT DATE WISE, MADE BY THE COMPANY

Capital Account Transactions

- **INBOUND INVESTMENTS:**

- LIST OF INVESTMENT / SHARE APPLICATION RECEIVED FROM THE INVESTORS
- CORRESPONDING INTIMATION TO AUTHORISED DEALERS AS WELL AS FILING OF FORM FC GPR
- DETAILS OF SECTOR COMPANY DEALING IN AND WHETHER SUCH SECTOR FALLS UNDER AUTOMATIC ROUTE.
- ANY PERMISSION RECEIVED FROM RBI/ FIPB

Capital Account Transactions

- **LOAN TRANSACTION:**
 - ANY LOAN OR ECB RECEIVED AND FORM 83 FILED
 - FORM 2 ON MONTHLY BASIS.
 - END USE CERTIFICATE FROM THE STATUTORY AUDITOR.
 - DETAILS OF LOAN ADVANCES TO SUBSIDAIRIES ABROAD OR TO OVERSEAS COMPANY (**for outbound loan**)

Capital Account Transactions

- **FOREIGN CURRENCY ACCOUNTS**

- DETAILS OF FOREIGN CURRENCY ACCOUNT MAINTAINED BY COMPANY IN FOREIGN COUNTRY ALONGWITH EEFC ACCOUNT.

- **FOREIGN EXCHANGE DERIVATIVES CONTRACT**

- DETAILS OF FOREIGN EXCHANGE DERIVATE CONTRACT ENTERED BY COMPANY WITH AUTHORISED DEALERS

Capital Account Transactions

- **FOREIGN CURRENCY HEDGING AND SWAPING**
 - DETAILS OF FOREIGN CURRENCY HEDGED OR ENTERED IN SWAP OF FOREIGN CURRENCY.
- **IMMOVABLE PROPERTY**
 - DETAILS OF IMMOVABLE PROPERTIES PURCHASED ABROAD AND DETAILS OF PERMISSION IF ANY

Capital Account Transactions

- **FOREIGN CURRENCY**

- DETAILS OF FOREIGN CURRENCY HELD IN PHYSICAL FORM OR IN THE FORM OF TRAVELLERS CHEQUE AND NOT SURRENDERED TO AUTHORISED DEALER AFTER THE COMPLETION OF OVERSEAS VISIT

- **BRANCH OFFICE ABROAD**

- DETAILS OF BRANCH OFFICE OPENED AND CORRESPONDING PERMISSION AND PAPER WORK WITH AUTHORISED DEALERS.

Capital Account Transactions

- **GUARANTEE GIVEN**

- DETAILS OF GUARANTEE GIVEN FOR OVERSEAS COMPANY OR IN FOREIGN CURRENCY TO ANY INDIAN BANK OR FOREIGN BANK

- **DEPOSITS RECEIVED**

- DETAILS OF DEPOSITS RECEIVED FROM NON RESIDENT OR OVERSEAS COMPANY

Current Account Transactions

- **PURCHASES:** ALL DOCUMENTS PERTAINING TO PURCHASE AND PAYMENTS THEREON. IF PAYMENT NOT MADE ANY EXTENSION SOUGHT
- **SALES:** ALL DOCUMENTS PERTAINING TO SALES BILLS RAISED AND PAYMENTS RECEIVED THEREOF,, IF ANY DELAY THE MEASURES ADOPTED
- **NETTING OF PAYMENTS:** DETAILS OF ANY NETTING DONE WITH OVERSEAS PARTY FOR INBOUND AND OUTBOUND TRANSACTION.

Current Account Transactions

- **EXPENSES & FOREIGN TRAVELLING**

- EXPENSES:**

- CORRESPONDING BILLS AND CA CERTIFICATE OBTAINED U/S 195
 - FORM A2 FILED ALONGWITH THE REMITTANCE TO BANK
 - DETAILS OF CURRENCY AVAILED AND DETAILS OF EXPENSES AND SURRENDER OF BALANCE FOREIGN CURRENCY
 - **ANY OTHER FOREIGN CURRENCY TRANSACTION**

Compounding of Offences

What is Compounding of Offences :

- Admitting before the authority about the contravention. It is like compromise or settling the matter.
- Admitting before the authority about the intention and interpretation of the rules and regulation which lead to contravention



Why Compounding

- Compounding helps in regularizing the mistakes and contravention
- The procedure is simple and faster
- No legal proceedings
- Saving of amount as penalty is far higher than the compounding fees

FEMA Provisions

- **Section 15** of FEMA 1999 covers powers to compound contraventions and empowers the Compounding Authority to compound the contraventions.
- **Section 13** of FEMA covers penalties in respect contraventions which are compounded
- RBI can compound contraventions of all the sections of FEMA except those at Clause (a) of Section 3 of FEMA 1999

Compounding Issues

- Types of Contraventions
 - Contravention of Act
 - Contravention of Rules and Regulations
 - Contravention of Conditions / Directions
- Contravention further classified as
 - Procedural Contravention
 - Technical Contravention
- **Suo moto application - not be considered as 'technical' or 'minor' in nature.**

Non Compounding Contravention

- Money Laundering (PMLA) / Hawala Transaction
- Matter already subject matter of show cause before ED
- Identical matter compounded within three years
- Pending at any level in appeal
- Prior Permission required from other Govt. Dept. or Ministry

DELEGATION TO REGIONAL OFF

FEMA Regulation	Brief Description of Contravention
Paragraph 9(1)(A) of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in reporting inward remittance received for issue of shares.
Paragraph 9(1)(B) of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in filing form FC(GPR) after issue of shares.
Paragraph 8 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in issue of shares/refund of share application money beyond 180 days, mode of receipt of funds, etc.
Paragraph 5 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Violation of pricing guidelines for issue of shares.
Regulation 2(ii) read with Regulation 5(1) of FEMA 20/2000-RB dated May 3, 2000	Issue of ineligible instruments such as non-convertible debentures, partly paid shares, shares with optionality clause, etc.

DELEGATION TO REGIONAL OFF

FEMA Regulation	Brief Description of Contravention
Paragraph 2 or 3 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Issue of shares without approval of RBI or FIPB respectively, wherever required.
Regulation 10A (b)(i) read with paragraph 10 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in submission of form FC-TRS on transfer of shares from Resident to Non-Resident.
Regulation 10B (2) read with paragraph 10 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in submission of form FC-TRS on transfer of shares from Non-Resident to Resident.
Regulation 4 of FEMA 20/2000-RB dated May 3, 2000	Taking on record transfer of shares by investee company, in the absence of certified form FC-TRS.

DELEGATION TO REGIONAL OFF

FEMA Regulation	Brief Description of Contravention
<p>Delay in filing the Annual Return on Foreign Liabilities and Assets (FLA return), by all Indian companies which have received Foreign Direct Investment in the previous year(s) including the current year</p> <p>[A.P. (DIR Series) Circular No. 29 dated 02.02.2017]</p>	<p>Delay in submission of form FC-TRS on transfer of shares from Resident to Non-Resident.</p> <p>Kochi & Panaji to compound delay cases including Delay in FLA < Rs. 1 Cr. Other regional office – No limit</p>

Authorisation to compound by RBI, FED Cell, New Delhi

- Three divisions of Foreign Investment Division (FID) has been transferred to FED, CO Cell, New Delhi with effect from July 15, 2014.
 - ❖ Liaison/ Branch/ Project office(LO/ BO/ PO) division,
 - ❖ Non Resident Foreign Account Division (NRFAD)
 - ❖ Immovable Property (IP) Division

FED, CO, Cell at New Delhi office are now authorized to compound

FEMA Notification	Brief Description of Contravention
FEMA 7/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property outside India
FEMA 21/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property in India
FEMA 22/2000-RB, dated 3-5-2000	Contraventions relating to establishment in India of Branch office ,Liaison Office or Project office
FEMA 5/2000-RB, dated 3-5-2000	Contraventions falling under Foreign Exchange Management (Deposit) Regulations , 2000

Compounding Authority

- Power to compound by Reserve Bank of India through Designated Officers – Monetary ceiling
- Amount Involved in contravention is
 - Upto Rs. 10 Lacs AGM
 - Above Rs. 10 and Upto Rs. 40 Lacs DGM
 - Above Rs. 40 and upto Rs. 100 Lacs GM
 - Above Rs. 100 CGM

Application process

- Voluntarily on Identifying the contravention
- On information received from AD
- On being advised by RBI
- Application Form containing facts and matter to be compounded
- Filing Fees Rs. 5000
- Application to Reserve Bank of India
- Application address to CGM , CEFA, RBI

Hearing

- After application, the hearing within 4 to 5 months
- RBI to scrutinise the total application and identify other contravention
- Request to redraft the application
- Hearing in one sitting... No Adjournment granted



Format of Application

- **See Rule 4 / 5**
- **To be filled in duplicate – Format in Annex I**
- **Contents as follows:**
 - 1. Name of the applicant
 - 2. Full address of the applicant (including Phone and Fax Number and email id)
 - 3. Whether the applicant is resident in India or resident outside India [Please refer to Section 2(v) of the Act]
 - 4. Name of the Adjudicating Authority before whom the case is pending

Format of Application

- 5. Nature of the contravention [according to sub-section (1) of Section 13]
- 6. Brief facts of the case
- 7. Details of fee for application of compounding
- 8. Any other information relevant to the case
- Declaration for true statement.
- Dated, Signature and name of signatory
- Application to be accompanied by **ELECTRONIC CLEARING SERVICE (ECS) MANDATE FORM** (For refund of application fees where procedural compliance is pending to be made)
- **In refund case, after completing pending compliances one has to reapply under compounding.**

Format of Application

- The details of irregularities whether relating to Foreign Direct Investment, External Commercial Borrowings, Overseas Direct Investment and Branch Office/ Liaison Office, as applicable **(Annex-II)**.
- Undertaking that the applicant is not under investigation of any agency such as DOE, CBI, etc. in order to complete the compounding process within the time frame **(Annex-III)**
- Mandate and details of their bank account **(Annex IV)**:

Format of Application

- **Various annexures have been prescribed based on broad classification of contravention:**

1. Annex II- ECB

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

2. Annex II- ODI

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

Format of Application

3. Annex-II- FDI

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

5. Annex II - Branch Office / Liaison Office

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


Compounding order

- Order is passed within 180 days
- The compounding fees to be paid within 15 days of order and not within 15 days of receipt of order
- If amount paid.. Pay order to be submitted to RBI and ask for final Order
- If payment not made... the whole compounding process would lapse

Method of Computing

- A.P. (DIR Series) Circular No.73 of 26th May 2016
- To ensure more transparency and greater disclosure - Public disclosure of guidelines on the amount imposed during compounding
- Broad contravention and formula / compounding fees are provided herein:

Reporting Contraventions	Existing Formula
<p>FEMA 20 Para 9(1)(A), 9(1)(B), part B of FC(GPR), FCTRS (Reg. 10) and taking on record FCTRS (Reg. 4)</p> <p>B)FEMA 3 Non submission of ECB statements</p> <p>C)FEMA 120 Non reporting/delay in reporting of acquisition/setup of subsidiaries/step down subsidiaries /changes in the shareholding pattern</p> <p>D)Any other reporting contraventions (except those in Row 2 below)</p>	<p>Fixed amount : Rs10000/- (applied once for each contravention in a compounding application) + Variable amount as under:</p> <p>Upto 10 lakhs: 1000 per year Rs.10-40 lakhs: 2500 per year Rs.40-100 lakhs: 7000 per year Rs.1-10 crore 50000 per year Rs.10 -100 Crore : 100000 per year Above Rs.100 Crore : 200000 per year</p>
<p>E)Reporting contraventions by LO/BO/PO</p>	<p>As above, subject to ceiling of Rs.2 lakhs. In case of Project Office, the amount imposed shall be calculated on 10% of total project cost.</p>

Contraventions	Existing Formula
AAC/ APR/ Share certificate delays In case of non-submission/ delayed submission of APR/ share certificates (FEMA 120) or AAC (FEMA 22) or FCGPR (B) Returns (FEMA 20)	Rs.10000/- per AAC/APR/FCGPR (B) Return delayed. Delayed receipt of share certificate – Rs.10000/- per year, the total amount being subject to ceiling of 300% of the amount invested.
A]Allotment/Refunds Para 8 of FEMA 20/2000-RB (non-allotment of shares or allotment/ refund after the stipulated 180 days) 	Rs.30000/- + given percentage: 1st year : 0.30% 1-2 years : 0.35% 2-3 years : 0.40% 3-4 years : 0.45% 4-5 years : 0.50% >5 years : 0.75% (For project offices the amount of contravention shall be deemed to be 10% of the cost of project).
B]LO/BO/PO (Other than reporting contraventions)	

Contraventions	Existing Formula
All other contraventions except Corporate Guarantees	Rs.50000/- + given percentage: 1st year : 0.50% 1-2 years : 0.55% 2-3 years : 0.60% 3-4 years : 0.65% 4-5 years : 0.70% > 5 years : 0.75%
Issue of Corporate Guarantees without UIN/ without permission wherever required /open ended guarantees or any other contravention related to issue of Corporate Guarantees.	Rs.500000/- + given percentage: 1st year : 0.050% 1-2 years : 0.055% 2-3 years : 0.060% 3-4 years : 0.065% 4-5 years : 0.070% >5 years : 0.075% In case the contravention includes issue of guarantees for raising loans which are invested back into India, the amount imposed may be trebled.

Method of Computing

- **CAPS on compounding fees:**
- Should **not exceed 300%** of the amount of contravention
- If Contravention is **less than Rs. One lakh**: Compounding be
 - < 5% simple interest p.a on amount of contravention & on period of contravention for reporting contravention
 - < 10% simple interest p.a on amount of contravention & on period of contravention for all other contraventions

The period to be considered proportionately. {(approx. rounded off to next higher month ÷ 12) X amount for 1 year}. The total no. of days does not exclude Sundays/holidays.

Method of Computing

In case of paragraph 8 of Schedule I to FEMA 20/2000 RB contraventions, the amount imposed will be further graded as under:

- If the shares are allotted after 180 days without the prior approval of Reserve Bank = 1.25 times the table value
- Not allotted and the amount is refunded after 180 days with the Bank's permission = 1.50 times the table value
- Not allotted and the amount is refunded after 180 days without the Bank's permission: 1.75 times the table value



Method of Computing

- Repeated offence for similar contravention –
Compounding fees may be upto 150%
- Where contravenor makes undue gains the amount thereof may be neutralized to a reasonable extent by adding the same to the compounding amount calculated as per chart

Method of computing

- **Cases which does not fall in chart provided:**
- Will be disposed of on merits.
- Following would be considered
 - (i) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the contravention;
 - (ii) the amount of loss caused to any authority / agency / exchequer as a result of the contravention;
 - (iii) economic benefits accruing to the contravener from delayed compliance or compliance avoided;

Method of computing

- **Cases which does not fall in chart provided:**
- (iv) the repetitive nature of the contravention, the track record and / or history of non-compliance of the contravener;
- (v) contravener's conduct in undertaking the transaction and disclosure of full facts in the application and submissions made during the personal hearing; and
- (vi) any other factor considered relevant and appropriate.

Reference to Enforcement

- Matter of serious nature
- PMLA
- Payment not made as mentioned in Compounding Order
- Appeal against the order lies only in the form of WRIT Petition and not in any other form

Do's and Dont's of Compounding

- Spell out the each contravention correctly
- Give the reasons of contravention
- Amount to be stated
- Delays in number of days to be stated
- If any default identified after making application, request for modification
- Enclose all the supporting documents relying upon
- Keep all the papers ready for hearing as no adjournments are granted

Do's and Dont's of Compounding

- Language of the application should be polite and the content should give the message of accepting the default
- No arguments at the time of hearing but informing about the situation and circumstances that lead to contravention
- No case laws to be cited
- No previous order on the identical issues to be cited
- Letter of authority on plain paper to be submitted
- Not to irritate the authority
- Plead ignorance

Do's and Dont's of Compounding



Legal Effect of Compounding

- No further penalty or proceedings on the issues compounded
- The procedure which were pending shall be taken on record
- All contraventions compounded stands regularised

PENALTIES

Penalties are leviable for following contraventions/violation :

- Contravention of the Act.
- Contravention of Rules, Regulations.
- Contraventions of any of the conditions

NATURE OF PENALTY PROCEEDINGS

- a) Penalty Proceedings not criminal in nature.
- b) Penalty cannot be based on guess work, conjecture or surmise.
- c) The powers of enforcement officers is quasi judicial.
- d) Doctrine of Double Jeopardy:

Punishment by imposition of penalty as well as imprisonment for non payment of penalty would not amount to double jeopardy.

Prosecution

Penalty has been paid – no prosecution can be initiated.

Penalty is not paid – prosecution can be initiated.

No specified time limit for imposition of penalty.

Practical Examples for calculation of compounding fees

Illustration Contravention of Para 9(1)(A) or Para 9(1)(B) of Schedule 1 to Notification No.FEMA20/2000-RB

Date of Receipt	Amount (Rs.)	Date of Reporting to RBI	Delay	Period of contravention (years)	Variable Amount applicable as per para I.1 of Guidance Note	Amount imposed (Rs.)
02-11-2005	547953	04-04-2006	4 months 2 days	0.42	Rs.1000/year	420
06-12-2005	232428	16-02-2012	6 years 1 months 11 days	6.17	Rs.1000/year	6170
					Variable Amount	6590
					Fixed Amount	10000
				Total		16590

Illustration Contravention of Para 8 of Schedule 1 to Notification No.FEMA20/2000-RB

Date of receipt	Amount (Rs.)	Date of Allotment	Delay	Period of contravention	Variable Amount applicable as per para I.3 of Guidance Note	Amount imposed (Rs.)
03-11-2005	547953	03-12-2005	0	0.00		0
22-09-2007	788870	25-09-2009	1 y 6m 5 d	1-2 years	0.35% of the amount of contravention	2761
					Variable Amount	2761
					Fixed Amount	30000
				Total		32761

Supposing shares are allotted without RBI permission hence the total multiplied by 1.25

Penalty in above case would be

$$32761 * 1.25 = 40951$$

(Similar calculation for other multiples)

Illustration Availing ECB without approval/ not permitted end use / ineligible borrower

Date of availing	Amount	Date of repayment	Interest rate	Average PLR rate of 3 leading banks@	% gain in interest	Period of gain
01.02.2009	32 Crores	02.01.2016	5.52% p.a.	8% p.a.	+2.48% p.a.	7 y

Fixed amount as per Para I.4 of guidance note (Rs.)	50,000
Variable amount as per para I.4 of guidance note (Rs.) (0.75%)	24,00,000
Notional gain (Rs.) (32 Cr x 7 yrs x 2.48%)	5,55,52,000
Total imposed (Rs.)	5,80,02,000

@ The average PLR rate as on the date of drawal of first (and in this case only) tranche of loan

Illustration Acquisition of immoveable property in India

Date of acquisition	21-06-2006
Date on which permission for unwinding given by RBI	27-12-2014
Date of unwinding the transaction	09-06-2015
Purchase price	5264280
Amount spent on maintenance, property tax, etc. while holding the property	205750
Sale price	12568950
Period of contravention	8 years 6 months 6 days
Fixed amount as per Para I.4 of guidance note (Rs.)	50000
Variable amount as per para I.4 of guidance note (Rs.) (0.75% of 5264280)	39482
Gain (Refer note below) (Rs.)	3071746
Total imposed (Rs.)	3161228

Calculation of Gain: $5264280 \times 9\% \times 8.5 \text{ years} = 4027174$ –
Notional interest had the amount was invested in FD.

Total Gain = $12568950 - 5264280 - 4027174 - 205750 = 3071746$

Unique Issues relating to Compounding

- FLA filing... statistical report
- Transfer of Shares by company without acknowledgement by AD
- Loan to foreign company by Individual
- Incorporating 1\$ company while on a visit to abroad

Unique Issues relating to Compounding

- Head office remitting fund to vendors directly without routing through LO/BO/PO
- Delay in receipt of inward remittance out of export proceeds
- Netting of sale and purchase beyond time limit

Unique Issues relating to Compounding

- Purchasing of property abroad by taking loan by Individual
- Wrong transfer of fund from one Po to another Po
- Outbound investment under automatic route when Indian party under Investigation
- Breaching the sectoral cap while making investment
- Round tripping of Investment
- <https://m.rbi.org.in/Scripts/compoundingorders.aspx>

Practical cases:

TWI (India) Private Limited	Regulation 5(3) of FEMA (Borrowing or Lending in Foreign Exchange)	8,25,600	Delayed remittance of outstanding fees payable by the applicant to its parent company overseas (shown as trade payable in the books of account of the applicant)
GRT Jewellers (India) Private Limited	Regulation 6(3) of FEMA (Transfer or issue of any Foreign Security)	6,60,000	Applicant relates to offering Standby Letter of Credit (SBLC) to overseas lending bank on behalf of first level step down subsidiary (SDS)

RIR Enterprises	Regulation 6(2)(i)(ii) & (vi) of FEMA(Transfer or issue of any Foreign Security)	17,35,74,959	(i) Making total financial commitment in excess of the prescribed percentage of net-worth (ii) Overseas direct investment in a non-bonafide activity and (iii) Delay in filing Form ODI.
Punjab Chemicals and Crop Protection Limited	Regulation 6(2) (vi),5 read with 18A ,13 & 15(iii) of FEMA(Transfer or issue of any Foreign Security)	71,08,317	Non-reporting of issuance of Corporate guarantees in Form ODI within the stipulated time period, Creation of charge on its fixed assets in India in favour of overseas lender without prior approval of Reserve Bank of India, Utilization of overdue export proceeds for acquiring a stake in a step down subsidiary,

Mr Anirudh Shashi Coontoor	Regulation 6(2) of FEMA (Borrowing or Lending in Foreign Exchange)	8,000	Any person Resident in India, whether a company or otherwise, is not permitted to use proceeds of money raised in Rupee from a NRI for any investment, whether by way of capital or otherwise, in any company or partnership firm or proprietorship concern or any entity, whether incorporated or not, or for relending.
Jayshree Rohitash Gupta	Regulation 9(2)(ii) of FEMA Notification 20/2000	11,000	The contraventions sought to be compounded pertains to transfer of shares held on non-repatriable basis by non-resident Indian (NRI) to Non-resident (NR) company.

Mr Faizan Aziz	Reg 6(2) of Fema 4	8,000	Any person resident in India, whether a company or otherwise, is not permitted to use proceeds of money raised in Rupee from a NRI for any investment, whether by way of capital or otherwise, in any company or partnership firm or proprietorship concern or any entity, whether incorporated or not, or for relending
Solarwinds (India) Pvt. Ltd.	Reg 9(1) A (Transfer or Issue of Security by a person Resident Outside India	2,34,105	Set-off of import services payables against export services receivables from its group entities, without prior approval from reserve bank of India, which was not a permitted manner of receipt and payment, and (ii) Non-remittance of outstanding trade payables to the parent company

Mobile Comm Technologies India Private Limited	Reg 15(iii) and 16(i)(v) of FEMA (Transfer or issue of any Foreign Security)	69,232	(ii) Written off the entire share capital of WOS and loans to WOS without submission of APR.
Synfosys Business Solutions Limited	Regulation 5(1) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004,	7,70,347	Keeping of amounts in escrow account abroad without carrying out the acquisition of the overseas entity as intended and; utilizing a portion of the amount remitted abroad into an escrow account for purposes- other than for ODI

Jasper Infotech Private Limited	FEMA 120 & Regulation 6(2)(ii) of Foreign Exchange Management (Transfer or Issue of any Foreign Security)	12,71,72,860	Foreign direct investment (FDI) under overseas direct investment (ODI) route in contravention of the provisions of Regulation 6(2)(ii)
Exactus Corporation Private Limited	Fema 120 & 6(3) and 15(i) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004	73,968	i) The cash payment of USD 1 by the CFO of the applicant on behalf of the applicant and ii) The delay in receipt of share certificate for its investment in its Wholly Owned Subsidiary M/s. Exactus Corporation Inc, USA.

Sahyadri Hospitals Limited	Fema 120	2,09,870	(i) Non-realization of dues within the stipulated time period and (ii) Disinvesting from JV/WOS outside India with outstanding dues.
M/s.TVS Logistics Services Ltd.	Fema 20	65,376	Ineligible instruments in terms of Regulation 2(ii) read with Regulation 5(1) of Foreign Exchange Management

Swiss Reinsurance Company Limited	Fema 21	18,97,464	(i) For not obtaining prior approval from Reserve Bank of India for transfer by way of sale of immovable property in India
Marchmont International Finance Limited	Notification No. FEMA 5	1,89,78,115	Undertaking investments by debit to NRO account without furnishing the necessary undertaking to the AD bank in contravention of Paragraph 1(c) of Schedule 3 to Foreign Exchange Management (Deposit) Regulations, 2000

Cisco Systems (India) Private Limited	Regulation 3 read with Schedule I of Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000	2,87,90,980	Borrowing (expenditure occurred by group companies on behalf of the applicant, not paid within the stipulated time period) in foreign exchange from its group companies abroad without meeting the stipulated conditions
M/s Essar Oil Limited	Fema 20	241,16,30,941	(i) The equity instruments were issued to the foreign investor, beyond 180 days of the receipt of the inward remittance and (ii) Delay in reporting

Binani Industries Limited	Reg 6(2) (ii) of FEMA (Transfer or Issue of any Foreign Security)	1,01,85,000/-	Setting up of a step down subsidiary in India which is not permitted in terms of the provisions of Regulation 6(2)(ii) of Foreign Exchange Management
Lupin Limited	Regulation 6(2)(ii) of the Foreign Exchange Management (Transfer or issue of any Foreign Security)	50,610/-	Investment undertaken by the IIInd level Step down subsidiary (wholly owned subsidiary) of Indian Party in the subsidiary in India for acquiring the shares thereof.

CL Educate Limited	Regulation 13 & 16 of FEMA 120	1,28,355	Disinvestment of stake with outstanding dues without prior approval, delay in reporting the disinvestment and change in capital structure.
Sanmar Group International Limited	FEMA 120	1,76,00,000	Issuance of corporate guarantees by the applicant in favour of overseas lenders for facilities to be availed by third and subsequent level step down subsidiaries (SDS) of the applicant without prior approval of the Reserve Bank of India (RBI)

Zodiac Clothing Company Limited	Investment in Real Estate Business	18,07,868	(i) making overseas direct investment in an entity engaged in real estate business (ii) non-reporting of setting up of step-down subsidiary within the stipulated time period
Batliboi Limited	Investment overseas which had pre existed Inbound Investment Regulations 6(2)(ii), 13 and 15(iii) of FEMA 120	36,98,458	Making overseas direct investment in an entity which had pre-existing foreign direct investment (ii) non-reporting of setting up of stepdown subsidiary within the stipulated time period

Q&A

Practical Experience

*Thank
you*

