

Compounding of Contraventions under FEMA, 1999

(Updated as on February 16, 2021)

FAQs attempt to put in place the common queries that users have on the subject in easy to understand language. However, for the purposes of compounding, the Foreign Exchange Management Act, 1999 (FEMA), the Foreign Exchange (Compounding Proceedings) Rules and the [‘Master Direction- Compounding of Contraventions under FEMA, 1999’](#) (FED Master Direction No.4/2015-16 dated January 01, 2016 and updated as on January 04, 2021) may be referred to.

Q.1. What is meant by contravention and compounding of contravention?

Ans. Contravention is a breach of the provisions of the Foreign Exchange Management Act (FEMA), 1999 and rules/ regulations/ notification/ orders/ directions/ circulars issued there under. Compounding refers to the process of voluntarily admitting the contravention, pleading guilty and seeking redressal. The Reserve Bank is empowered to compound any contravention as defined under section 13 of FEMA, 1999 except the contravention under section 3(a)¹ *ibid*, for a specified sum after offering an opportunity of personal hearing to the contravener. It is a voluntary process in which an individual or a corporate seeks compounding of an admitted contravention. It provides comfort to any person who contravenes any provisions of FEMA, 1999 by minimizing transaction costs. Willful, mala fide and fraudulent transactions are, however, viewed seriously, which will not be compounded by the Reserve Bank. Further, in terms of the proviso to rule 8 (2) of Foreign Exchange (Compounding Proceedings) Rules, 2000, inserted vide GOI notification dated February 20, 2017, if the Directorate of Enforcement (DoE) is of the view that the compounding proceeding relates to a serious contravention suspected of money laundering, terror financing or affecting sovereignty and integrity of the nation, such cases will not be compounded by the Reserve Bank. Also, the cases attracting the special provisions under section 37(A) of the FEMA, 1999 - relating to assets held outside India in contravention of section 4, shall not be eligible for compounding by the Reserve Bank.

Q.2. Who can apply for compounding?

Ans. Any person who contravenes any provision of the FEMA, 1999 [except section 3(a)] or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act or contravenes any condition subject to which an authorization is issued by the Reserve Bank, can apply for compounding to the Reserve Bank. Applications seeking compounding of contraventions under section 3(a) of FEMA, 1999 may be submitted to the Directorate of Enforcement.

Q.3 When should one apply for compounding?

Ans. When a person is made aware of the contravention of the provisions of FEMA, 1999 by the Reserve Bank or any other statutory authority or the auditors or by any other means, she/he may apply for compounding. One can also make an application for compounding, suo mo-to, on becoming aware of the contravention.

Q.4. What is the procedure for applying for compounding?

Ans. The documents/formats listed in the FED Master Direction No. 18/2015-16 titled [‘Master Direction – Reporting under Foreign Exchange Management Act, 1999’](#) dated January 01, 2016 (Updated as on September 18, 2019) can be used for applying for compounding. The above Master Direction can be downloaded from the Reserve Bank’s website by clicking on the link <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10202&fr=5&Mode=0> and the documents as applicable therein should be submitted along with the application.

Q.5. Are any fees required to be paid for seeking compounding?

Ans. Yes. The application in the prescribed format along with necessary documents and a demand draft for Rs. 5000/- (Rupees five thousand only) drawn in favour of the “Reserve Bank of India” should be sent to the Reserve Bank of India while sending the request for compounding.

Q.6. What are the details required to be filled in the application form?

Ans. Along with the application in the prescribed format, the applicant may also furnish the details as per the [Annexes](#)- relating to [Foreign Direct Investment](#), [External Commercial Borrowings](#), [Overseas Direct Investment](#) and [Branch Office / Liaison Office](#), as applicable, (annexes available in the FED Master Direction No. 18/2015-16 as mentioned in answer to Q. 4 above) along with an undertaking that they are not under investigation of any agency such as DoE, CBI, etc., duly filled ECS mandate form, a cancelled cheque copy, a copy of the Memorandum of Association and latest audited balance sheet while applying for compounding of contraventions under FEMA, 1999. Application submitted to the Reserve Bank must contain contact details i.e, name of the applicant / authorised official or representative of the applicant, telephone/ mobile number and email ID.

Q.7. Where should one apply for compounding?

Ans. Kindly refer to paragraphs 3 and 4 of [‘Master Direction- Compounding of Contraventions under FEMA, 1999’](#) dated January 01, 2016 (updated as on January 4, 2021). The above Master Direction can be downloaded from the Reserve Bank’s website by clicking on the link <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10190&fr=5&Mode=0>

Q.8. Can an application for compounding be sent to the Reserve Bank pending fulfillment of certain obligations?

Ans. No. All requisite approvals should be obtained and compliances should be completed before seeking compounding of contravention. Compounding can be done only after all the necessary administrative action is complete, by way of obtaining post-facto approvals or unwinding the transactions in cases where such transactions are not permissible under FEMA, 1999. Copies of approvals and other compliances should be enclosed along with the application.

Q. 9. What are sensitive contraventions?

Ans. Cases involving serious contravention suspected of money laundering, terror financing or affecting sovereignty and integrity of the nation are categorized as sensitive contraventions.

Q. 10. Is it mandatory to appear for the personal hearing?

Ans. It is not mandatory to attend/opt for the personal hearing. In case a person opts not to attend the personal hearing he/she may indicate his/her preference in writing. The application would be disposed of on the basis of documents submitted to the Compounding Authority. It may be noted that appearing for, or opting out of the personal hearing does not have any bearing, whatsoever, on the amount imposed in the compounding order, as the amount imposed is calculated based on the Guidance note on computation matrix as contained in the Master Direction on compounding of contraventions under FEMA.

Q.11. Can the applicant authorise another person to attend the personal hearing?

Ans. Yes, another person may be authorised by the applicant to attend the personal hearing on his behalf but only with proper written authority. It has to be ensured that the person appearing on behalf of the applicant is conversant with the nature of contravention applied for. However, the Reserve Bank encourages the applicant to appear directly for the personal hearing rather than being represented/ accompanied by legal experts/consultants, etc. as the compounding is only for admitted contraventions.

Q.12. How is the compounding process brought to conclusion?

Ans. The Compounding Authority passes an order indicating details of the contravention and the provisions of FEMA, 1999 that have been contravened. The sum payable for compounding the contravention is indicated in the compounding order. The process of compounding is brought to a conclusion by payment of the amount imposed.

Q.13. What is the criteria for calculation of compounding amount?

Ans. The guidance structure for calculating the amount to be imposed on compounding is available at paragraph 7.4 of '[Master Direction- Compounding of Contraventions under FEMA, 1999](#)' dated January 01, 2016 (updated as on January 04, 2021). The above Master Direction can be downloaded from the Reserve Bank's website by clicking on the link <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10190&fn=5&Mode=0>. It may, however, be noted that the guidance structure is only for the purpose of broadly standardizing the amount imposed by the compounding authorities across offices and the actual amount imposed may vary, depending on the circumstances of the case taking into account the factors given in paragraph 7.3 of [Master Direction on Compounding of Contraventions under FEMA, 1999](#) (FED Master Direction No.4/2015-16 dated January 01, 2016 updated up to January 04, 2021).

Q.14. When should the amount indicated in the order be paid?

Ans. The amount should be paid within 15 days from the date of the order by way of a demand draft drawn on "Reserve Bank of India" and payable at the Regional office/ Sub-office / Central Office Cell, New Delhi which has issued the compounding order and at Mumbai if the order is issued by CEFA, Central Office, Mumbai.

Q.15. How does the application for compounding finally get disposed of?

Ans. On realization of the sum for which contravention is compounded, a certificate shall be issued by the Reserve Bank, indicating that, the applicant has complied with the order passed by the Compounding Authority.

Q.16. What happens if the amount is not paid within 15 days of the order?

Ans. In case of non-payment of the amount indicated in the compounding order within 15 days of the order, it will be treated as if the applicant has not made any compounding application to the Reserve Bank and the other provisions of FEMA, 1999 regarding contraventions will apply. Such cases will be referred to the DoE for necessary action.

Q.17. Can there be an appeal against the order of the Compounding Authority?

Ans. As compounding is based on voluntary admissions and disclosures, there is no provision under the of Foreign Exchange (Compounding Proceedings) Rules, 2000, for an appeal against the order of the Compounding Authority or for a request for reduction of amount imposed or extension of period for payment of the amount imposed.

Q.18. What is the timeframe for completing the compounding process?

Ans. The compounding process is completed within 180 days from the date of receipt of the application complete in all aspects, by the Reserve

Bank.

Q.19. Where can one get more details about compounding?

Ans. One can visit the [Master Direction on Compounding of Contraventions under FEMA, 1999](#) available on Reserve Bank's website.

¹ Section 3 - Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall- (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorized person.