

FAQs ON COMPOUNDING UNDER FEMA 1999



The Foreign Exchange Management Act, 1999 (“**FEMA**”) provides for compounding of contraventions by the Reserve Bank of India (“**RBI**”) and the Directorate of Enforcement (“**ED**”). The Foreign Exchange Management (Compounding Proceeding) Rules, 2024 (“**Compounding Rules**”) ([please click here](#)) and the Directions – Compounding of Contraventions under FEMA, 1999 (“**Compounding Directions**”) ([please click here](#)) provide for the rules for compounding of offences under FEMA. In this FAQ, we cover the concept and the procedure of compounding offences under the regulations mentioned above.

1. What is a contravention and compounding of contravention under FEMA?

A contravention under FEMA is a breach of any of its provisions and / or rules, orders, notifications, directions, or master directions issued under it. The compounding of contravention is a voluntary process in which any person which includes an individual, company, firm, association of persons, etc., committing the violation admits it and thereby seeks a reduction in the penalty that ought to be imposed.

2. When can a person apply for compounding?

Any person on becoming aware of the contraventions under FEMA can submit an application on their own i.e. *suo moto* or based on the memorandum of contravention issued by the RBI, if any, within the time frame mentioned in the memorandum, failing which the provisions of FEMA shall

apply. The application for compounding of any contravention under FEMA can be submitted to the RBI except where it relates to dealing in foreign securities or foreign exchange by a non-authorized person, in which case the application has to be made to the ED.

3. What is the mode for submission of the compounding application?

The application may be submitted physically by the applicant in the prescribed format or through the online portal of the RBI i.e. 'PRAVAAH' along with the relevant details such as PAN number of the applicant, brief facts of the case, specific details of contravention, etc.

4. What is the fees for the submission of the application?

The application has to be submitted along with a fee of INR 10,000/- plus taxes by way of a demand draft or through any prescribed online mode of payment. In case of an online payment, an intimation in the form of an e-mail in the prescribed format has to be sent to the relevant office of the RBI not later than 2 (two) hours of the payment.

5. Who is the compounding authority to compound contraventions?

The Compounding Rules provide for the appropriate compounding authority based on the sum involved in the contravention, as follows:

a) In case the offence is compoundable by the RBI:

Compounding Authority	Sum involved in contravention
Assistant General Manager, RBI	Up to INR 6 million
Deputy General Manager, RBI	Between INR 6 million to INR 25 million
General Manager, RBI	Between INR 25 million to INR 50 million
Chief General Manager, RBI	Above INR 50 million

b) In case the offence is compoundable by the ED:

Compounding Authority	Sum involved in contravention
Deputy Director, ED	Up to INR 0.5 million
Additional Director, ED	Between INR 0.5 million to INR 1 million
Special Director, ED	INR 1 million to INR 5 million
Special Director along with the Deputy Legal Advisor, ED	INR 5 million to INR 10 million
Director of Enforcement along with the Special Director, ED	Above INR 10 million



6. What cases are not eligible for compounding?

An applicant is not eligible for compounding of contravention in the following cases:

- a) In case, the application is for compounding of an offence committed within three years from the date on which the same offence was compounded earlier;
- b) In case, any administrative / corrective actions such as reversing the transaction, compliance with the reporting requirements, etc. that are necessary for bringing the contravention in compliance with FEMA, are not undertaken by the applicant;
- c) In case, the contravention is of a serious nature i.e., it involves terror financing, money laundering, etc;
- d) Where the amount involved in the transaction is not quantifiable;
- e) If any foreign security / foreign exchange / immovable property is held in contravention of FEMA and a value equivalent to such security has been seized in India;
- f) Where an order imposing a penalty under FEMA has already been passed;
- g) Where the contravention requires further investigation by the ED to ascertain the amount of contravention; or
- h) If the application is incomplete or the application fee is not paid.

7. How is the compounding amount calculated by the compounding authority?

When reviewing an application, the compounding authority considers factors such as any undue gains from the contravention, loss to the authority, the nature of the contravention, and the applicant's track record and conduct. Based on this assessment, the authority may set the compounding amount up to three times the amount involved in the contravention if it is quantifiable, or up to INR 200,000 if it is not. For ongoing contraventions, an additional penalty of up to INR 5000 per day may apply for each day the contravention continues beyond the first.

8. When is the timeline for issuing the compounding order by the compounding authority?

The compounding authority shall after giving an opportunity of being heard to the applicant, pass a detailed order within 180 (one hundred and eighty) days from the date of receipt of application, mentioning the details of the offence being contravened and the final amount to be payable by the applicant.

9. What is the timeline for payment of compounding amount by the applicant?

The applicant is supposed to pay the amount within 15 (fifteen) days of the order, either by way of a demand draft or through the prescribed online mode of payment. A certificate is thereafter issued by the compounding authority indicating that the applicant has complied with the order.

10. What are the consequences if the compounding amount is not paid within the time period mentioned?

In case of failure to remit the amount within the specified timeline, it shall be presumed that the application had never been submitted and accordingly, the provisions of FEMA shall apply.

11. Can the applicant file an appeal against the compounding order?

Since compounding relies on voluntary admissions and disclosures, the Compounding Rules do not provide for any appeal against the compounding authority's order, nor for any request to reduce the imposed amount or extend the payment period.



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