

## Tax Alert | Delivering clarity

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### RBI aligns Compounding Master Direction with FEM (Non-Debt) Instruments, Rules, 2019

RBI updates compounding norms to align with FDI Rules 2019

#### Background:

Compounding of offence refers to a process where one pays an agreed monetary amount to the regulator in lieu of prosecution. The Reserve Bank of India (RBI) has been empowered to compound contraventions under the Foreign Exchange Management Act 1999 ("FEMA"). These compounding provisions under FEMA are compiled under RBI's Master Direction on Compounding of Contraventions under FEMA, dated 1 January 2016, as amended from time to time ("the Master Direction on Compounding"). The extant Master Direction on Compounding makes a reference to provisions of the erstwhile Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 ("TISPRO Regulations"), which have since been superseded by the Foreign Exchange Management (Non-Debt Instruments) Rules 2019 ("FEMA NDI Rules") and the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 ("FEMA Reporting Regulations")

Accordingly, the RBI has, on 17 November 2020, issued a circular<sup>1</sup> ("the Circular") updating the references in the Master Direction on Compounding with the corresponding provisions of the FEMA NDI Rules and FEMA Reporting regulations.

#### Highlights of the Circular:

- In respect of compounding orders passed on or after 1 March 2020, RBI will publish only summary information of the compounding orders on its website in the format given below, instead of uploading the Compounding Orders:

Sr. No.	Name of the applicant	Details of contraventions (provisions of the Act / Regulation / Rules compounded)	Date of Compounding order	Amount imposed for compounding of contraventions

- RBI has discontinued the classification of a contravention as 'technical' that was hitherto dealt with by way of an administrative / cautionary advice. Such contraventions will now be regularized by imposing minimal compounding amount as per the compounding matrix as contained in the updated the

<sup>1</sup> A.P. (DIR Series) Circular No. 06 dated 17 November 2020

'Master Direction - Compounding of Contraventions under FEMA 1999' dated 1 January 2016 as amended from time to time.

- The Circular amends the Master Direction on Compounding to replace the references to provisions of the erstwhile TISPRO with corresponding provisions of the FEMA NDI Rules and the FEMA Reporting Regulations.

**Comment:**

Uploading of summary information of compounding orders on the RBI website, instead of full compounding order, should meet the twin objectives of ensuring transparency and respecting confidentiality.

Source: A.P. (DIR Series) Circular No. 06 dated 17 November 2020 issued by RBI  
([https://www.rbi.org.in/scripts/BS\\_CircularIndexDisplay.aspx?Id=11995](https://www.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=11995))



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