

FEMA

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Discontinuance of Returns/Report under Foreign Exchange Management Act, 1999

A.P. (DIR Series) Circular No. 05 dated November 13, 2020

With a view to improve the ease of doing business and reduce cost of compliance, the existing forms and reports prescribed under FEMA, 1999 have been reviewed and it has been decided to discontinue 17 returns/reports as listed below with immediate effect:

Sr. No.	Name of Report	Reporting Entity	Frequency
1.	Category-wise transaction where the	AD Category-II	Monthly

	amount exceeds USD 5000 per transaction		
2.	Category-wise, transaction-wise statement where the amount exceeds USD 25,000 per transaction	AD Category-II	Monthly
3.	Statement of Purchase transactions of USD 10,000 and above (including transactions of their franchisees)	FFMCs and AD Category-II	Monthly
4.	Extension of Liaison Offices (LOs)	AD Category-I banks	As and when extension is granted
5.	Extension of Project Offices (POs)	AD Category-I banks	As and when extension is granted
6.	FII/FPI daily: Daily inflow/outflow of foreign fund on account of investment by FPIs	AD banks	Daily
7.	FII/FPI Return (Monthly): Data relating to actual inflow /outflow of remittances on account of investments by Foreign	AD Category-I banks	Monthly

	Institutional Investors (FIIs) in the Indian Capital market		
8.	FVCI reporting: Inflows/outflows of remittances on account of investments by Foreign Venture Capital Investor (FVCIs) and Market value of Investments made by FVCIs	AD Category-I banks/Custodian bank	Monthly
9.	Reporting of Inflow/Outflow details in respect of Mutual Fund by Asset Management Companies	Asset Management Companies	Quarterly
10.	Market value of FII Investment in India on fortnightly basis	AD Category-I banks	Fortnightly
11.	Market value of FII Investment in India on Monthly basis	AD Category-I banks	Monthly
12.	FII holdings as percentage of floating stock	AD Category-I banks	Monthly
13.	Form DRR for Issue/transfer of sponsored/unsponsored Depository	Custodian	At the time of issue/transfer of depository receipts

	Receipts (DRs)- Hardcopy@		
14.	ADR/GDR Movement Report- two way fungibility	AD Category- I banks	Monthly
15.	Repatriation of Sales proceeds of underlying shares represented by FCCBs/GDRs/ ADRs	Custodian	Monthly
16.	GDR/ADR underlying shares issued, re deposited and released monthly reporting	Custodian	Monthly
17.	Monitoring of disinvestments by Overseas Corporate Bodies	AD banks	Monthly

@ Please note that it is only the hardcopy filing of form DRR that has been discontinued. The domestic custodian may continue to report the form DRR on FIRMS application in terms of Regulation 4 (5) of FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019.

The Master Direction - Reporting under Foreign Exchange Management Act, 1999 dated January 01, 2016, shall accordingly be updated to reflect the above changes.

Establishment of Branch office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign Law firms

A.P. (DIR Series) Circular No. 07 dated November 23, 2020

RBI vide AP Dir Circular No. 23 dated October 29, 2015 had advised that no fresh permissions/renewal of permission shall be granted by the Reserve Bank of India to any foreign law firm for opening Liaison Office in India, till the policy is reviewed based on, among others, final disposal of matter by Hon'ble Supreme Court.

The Supreme Court while disposing the matter held that advocates enrolled under the Advocates Act, 1961 alone are entitled to practice in India and that foreign law firms/companies or foreign lawyers or any other person resident outside India, are not permitted to establish any branch office, project office, liaison office or any other place of business in India for the purpose of practicing legal profession.

Accordingly, RBI has directed AD Category I Banks not to grant any approval to any branch office, project office, liaison office or any place of business in India under FEMA for the purpose of practicing legal profession.

External Trade – Facilitation – Export of Goods and Services

A.P. (DIR Series) Circular No. 08 dated December 04, 2020

With a view to further enhance the ease of doing business and quicken the approval process, it has been decided to delegate more powers to AD Category I Banks in following cases:

Direct Dispatch of Shipping Documents

The limit of USD 1 million per export shipment upto which AD Bank allowed to regularize cases of dispatch of shipping documents by exporter directly to consignee or his agent resident in country of final destination of goods has been removed. Now AD Banks will regularize direct dispatch of shipping documents irrespective of any limits subject to conditions. For detailed conditions refer A.P. Dir Circular at –

<https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/APDIR08DCB570D45FF14E369652F751858C99F8.PDF>

Write off of Export Bills

The procedure of write off of export bills is revised. As per revised procedure the limits of self write off remain unchanged. However the conditions required to be fulfilled for self write off and write off by AD Banks have been changed. As per revised conditions, apart from amount remaining outstanding for more than one year and submission of satisfactory documentary evidence, the exporter must be regular customer of bank for period of at least 6 months and fully compliant with KYC/AML guidelines.

Further in following cases write off of unrealized export bills shall be allowed without any limits:

- a. Overseas buyer is declared insolvent and certificate of official liquidator indicating that there is no possibility of any recovery has been produced.
- b. Unrealized amount represents balance due in case settled through intervention of Indian Embassy, Foreign Chamber of Commerce or similar organization.
- c. The goods exported have been auctioned or destroyed by Port/Customs/health Authorities in importing country.

For other changes relating to write off of export bills refer A.P. Dir Circular at -

<https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/APDIR08DCB570D45FF14E369652F751858C99F8.PDF>

Set off of Export Receivables against Import Payables

Presently AD Banks are only allowing set off of export receivables against import payables from/to same overseas buyer/supplier. Upon review, now it has been decided to delegate powers to AD Banks to consider requests of set off of export receivables against import payables with the overseas group / associate companies either on net basis or gross basis, through in house or outsourced centralized settlement arrangement subject to fulfillment of conditions as prescribed. For detailed conditions refer A.P. Dir Circular at –

<https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/APDIR08DCB570D45FF14E369652F751858C99F8.PDF>

Refund of Export Proceeds

AD banks upon review shall not insist on re-import of goods where exported goods have already been auctioned or destroyed in importing country and allow refund of export proceeds after due diligence on track record of exporter, verifying bonfides of transaction and obtain certificate from exporter issued by DGFT/Customs authorities that no export incentive has been availed or proportionate incentive if availed has been surrendered.

1. RBI Notification No. RBI/2020-21/69, A.P. (DIR Series) Circular No. 07 Dated November 23, 2020 on “ Establishment of Branch Office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign law firms “

The Hon'ble Supreme Court has while disposing of the case, held that advocates enrolled under the Advocates Act, 1961 alone are entitled to practice law in India and that foreign law firms/companies or foreign lawyers cannot practice profession of law in India. As such, foreign law firms/companies or foreign lawyers or any other person resident outside India, are not permitted to establish any branch office, project office, liaison office or other place of business in India for the purpose of practicing legal profession. Accordingly, AD Category – I banks are directed not to grant any approval to any branch office, project office, liaison office or other place of business in India under FEMA for the purpose of practicing legal profession in India. Further, they shall bring to the notice of the Reserve Bank in case any such violation of the provisions of the Advocates Act comes to their notice.

All other provisions of the BO/LO/PO policy shall remain unchanged. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers.

Further Details are available at; <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11997&Mode=0>

2. RBI Notification No. RBI/2020-21/76, DOR.RRB.No.28/31.01.001/2020-21 Dated December 4, 2020 on Introduction of Liquidity Adjustment Facility (LAF) and Marginal Standing Facility (MSF) for Regional Rural Banks (RRBs)

In order to provide an additional avenue for liquidity management to Regional Rural Banks (RRBs), it has been decided that Liquidity Adjustment Facility (LAF) and Marginal Standing Facility (MSF) will be extended to Scheduled RRBs meeting the following criteria:

- i. Implemented Core Banking Solution (CBS)
- ii. There is a minimum CRAR of nine per cent and
- iii. Fully compliant with the terms and conditions for availing LAF and MSF issued by Financial Markets Operations Department (FMOD), Reserve Bank of India.

The names of RRBs which meet the eligibility norms to participate in LAF and MSF (Positive List) and of those RRBs found ineligible (Negative List) will be intimated to the banks concerned. The eligibility status of the banks will be reviewed on an ongoing basis.

The effective date from which the RRBs will be eligible to avail of LAF and MSF will be intimated separately

3. RBI Notification No. RBI/2020-21/77, A.P. (DIR Series) Circular No. 08 dated December 04, 2020 on External Trade – Facilitation - Export of Goods and Services

With a view to further enhance the ease of doing business and quicken the approval process, it has been decided to delegate more powers to the Authorised Dealer Category – I banks (AD banks) in the following areas:

1. Direct Dispatch of Shipping Documents
2. "Write-off" of unrealized Export bills
3. Set-off of Export receivables against Import payables
4. Refund of Export Proceeds

This is a big circular and details can be availed at link;

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12005&Mode=0>

4. RBI Notification No. RBI/2020-21/80, DOR.AML.BC.No.31/14.01.001/2020-21 dated December 18, 2020 on Amendment to Master Direction (MD) on KYC – Centralized KYC Registry – Roll out of Legal Entity Template & other changes

Regulated Entities (REs) have been uploading the KYC data pertaining to all individual accounts opened on or after January 1, 2017 on to CKYCR in terms of the provisions of the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. Changes to the template, as and when required are released by CERSAI after consulting the Reserve Bank. Now, it has been decided to extend the CKYCR to Legal Entities (LEs). Accordingly, REs shall upload the KYC data pertaining to accounts of LEs opened on or after April 1, 2021, on to CKYCR in terms of Rule 9 (1A) of the PML Rules.

Further Details can be verified at ; <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12008&Mode=0>