



FedConTech

Presents

Compliance & Compounding
under
FEMA 1999

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- **Objective**

To consolidate and amend the law relating to foreign exchange with the objective of **facilitating external trade and payments** and for promoting the **orderly** development and maintenance of **foreign exchange market** in India.

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- Brief history of Exchange control
- FERA vs FEMA
- features in FEMA
- Important nomenclatures in FEMA
- Important definitions in FEMA

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Importance of compliance

- Risk Mitigation
- Good corporate Governance
- Avoidable litigation
- Reputation building
- Increases Loyalty
- Increases productivity

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- Compliance means, compliance with the provisions of FEMA 1999, any rule, regulation, notification, direction or order issued under this Act.
- Three stages of compliance :-
 - Before undertaking the transaction;
 - While undertaking the transaction; and
 - After undertaking the transaction

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Compliance under FEMA

- Provisions of Section 11(1,2,3) & Section 12 of Chapter III

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Section 13 – Contravention of

 Act

 Rules

 Regulations

 Notifications

 Directions or

 Orders

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What is Compounding?

Settle an offence committed by the contravener through imposition of a monetary penalty without going in for litigation , after the contravener acknowledges voluntarily having committed the contravention.

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Penal Provisions

Chapter IV-Contravention and penalties.

- Sec 13: Adjudication and penalties.
- Sec 14: Enforcement of the order of the Adjudication authority.
- Sec 15: Compounding by RBI/DoE

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FE (Com. Proceedings) Rules, 2000.

Total 13 rules.

Important Rules

No. 6 : No enquiry after compounding;

No. 8 : Opportunity of hearing by CA & disposal of application in 180 days

No. 9 : The sum compounded to be paid within 15 days from the date of order;

No.10: Non payment is treated as if not applied for compounding.

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Compounding process at RBI

- Receipt of application;
- Receipt of fees;
- Examination by RBI;
- Calling for additional documents, if required;
- Opportunity of personal hearing;
- Passing of Compounding Order;
- Payment of penalty; and
- Issuance of Certificate for payment of penalty

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Whether the contravention :

- Technical or minor and needs cautionary advice;
- serious and warrants compounding;
- Involves money-laundering, national and security concerns
- Cause for investigation by the DoE under FEMA or AML Authority under the AML Act 2002, or any other agency.
- Press Release : 2010-2011/234 dt: 13/08/2010

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BENEFITS

- Comforts to citizens and corporate community.
- Minimum transaction cost.
- Time-bound disposal (180 days).
- Simple and hassle-free procedure.
- No proceedings or further proceedings initiated or continued.
- Absolutely transparent.

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Important Circulars

1. AP(DIR) 31 of June 01, 2005
2. AP(DIR) 56 of June 26, 2010
3. [AP\(DIR\) 117 of April 04, 2014](#)
4. [PR-2010-2011 234 of August 13, 2010](#)
5. [AP\(DIR\) 73 of May 26, 2016](#)

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Thank you

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