

Regulatory Updates

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October 01, 2024: Directions—Compounding of contraventions under FEMA, 1999

Tags

FEMA, Foreign Exchange Management Act, Compounding of Contraventions, Regulatory Compliance, Authorized Dealer, Banking Regulations, Foreign Exchange Transactions, Compounding Rules 2024, Contraventions, Compliance Procedures, Application Process, Penalty and Adjudication, Payment Guidelines, Electronic Fund Transfer

Summary

The notification is regarding the compounding of contraventions under the Foreign Exchange Management Act (FEMA), 1999, outlines the procedures and guidelines for addressing violations related to foreign exchange transactions. It is issued under Section 15 of FEMA, allowing the Reserve Bank of India (RBI) to compound certain contraventions, except those specified under Section 3(a).

Key points include the requirement for applicants to submit compounding applications within 180 days, accompanied by a fee of ₹10,000. The notification specifies which types of contraventions can be compounded, particularly those related to liaison/branch/project offices and non-resident foreign accounts. However, some serious violations are excluded from compounding.

It emphasizes the importance of compliance and the need for banks to implement measures to prevent contraventions. It also supersedes earlier regulations, reflecting the RBI's efforts to modernize the regulatory framework for foreign exchange management.

Insights

Here's a detailed insight into the notification:

1. Purpose and authority

The notification is issued under Section 15 of FEMA, 1999, which allows for the compounding of contraventions. It empowers the Reserve Bank of India (RBI) to compound any contravention defined under Section 13 of FEMA, except for those under Section 3(a).

2. Compounding applications

Submission process: Applications for compounding can be submitted either suo moto (on one's own accord) or based on a Memorandum of Contraventions issued by the RBI. These applications can be submitted physically or through the PRAVAAH Portal of the RBI.

Fee structure: A prescribed fee of ₹10,000 (plus applicable GST) must accompany the application. Payment can be made via demand draft or electronic modes, and applicants must provide payment details along with their application.

3. Timeline for compounding

Applications for compounding must be made within 180 days from the date of receipt of the application. This is crucial for ensuring timely resolution of contraventions.

4. Types of contraventions

The notification specifies that contraventions related to Liaison/branch/project offices, non-resident foreign accounts, and immovable property will be compounded by the RBI's compounding authorities. It also lists specific FEMA notifications and rules that pertain to these contraventions.

5. Exclusions from compounding

Certain contraventions, particularly those falling under Rule 4(2) and Rule 9 of the Compounding Rules, 2024, are not eligible for compounding. This means that some serious violations may still require adjudication and penalties.

6. Compliance and reporting

The notification emphasizes the need for authorized dealers to implement checks and balances in their systems to prevent contraventions of FEMA provisions. This is part of the RBI's broader strategy to ensure compliance and reduce violations in foreign exchange transactions.

7. Updates and Supersession

The notification supersedes earlier circulars and incorporates updates from the Foreign Exchange (Compounding Proceedings) Rules, 2024, which replace the previous rules from 2000. This reflects the RBI's ongoing efforts to streamline and modernize the regulatory framework.

Conclusion

This notification is a critical document that outlines the procedures for addressing contraventions under FEMA. It is essential for compliance teams to familiarize themselves with these guidelines to ensure that the bank adheres to the regulatory requirements and effectively manages any

potential contraventions in foreign exchange transactions. Regular training and updates on these regulations will help mitigate risks and enhance compliance efforts within the organization.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12736&Mode=0>

October 04, 2024: Due diligence in relation to non-resident guarantees availed by persons resident in India

Tags

Guarantees, Due Diligence, AD Category I Banks, FEMA, Foreign Exchange Management Act, Non-resident Indians, Resident Indians, RBI, Non Resident Guarantees, FEMA, SBLC, Performance Guarantees, Risk Mitigation, Foreign Exchange

Summary

The RBI circular addresses compliance issues regarding guarantees from non-residents to Indian residents. AD Category-I banks are required to ensure adherence to FEMA regulations and inform their clients about these compliance requirements. The circular aims to mitigate risks in foreign exchange transactions and uphold the integrity of the Indian financial system.

Insights

8. **Regulatory compliance:** The RBI emphasizes the need for AD Category-I banks to ensure that guarantees from non-residents comply with FEMA regulations, highlighting the importance of adherence to legal frameworks.
9. **Types of guarantees:** The circular specifically mentions Standby Letters of Credit (SBLCs) and performance guarantees, indicating these are areas of concern for compliance and oversight.
10. **Risk mitigation:** By identifying non-compliant guarantees, the RBI aims to mitigate risks associated with foreign exchange transactions and protect the integrity of the Indian financial system.
11. **Bank responsibilities:** AD Category-I banks are tasked with conducting due diligence and ensuring that their clients are aware of the regulations surrounding non-resident guarantees.

12. **Communication:** The RBI instructs banks to proactively inform their constituents about the compliance requirements, fostering transparency and awareness in financial dealings.
13. **Legal authority:** The circular is issued under the authority of the Foreign Exchange Management Act, 1999, reinforcing the legal basis for the regulations and the RBI's role in enforcement.
14. **Impact on transactions:** Non-compliance could lead to penalties or restrictions on transactions, making it crucial for businesses to understand and adhere to these guidelines.
15. **Monitoring and reporting:** The RBI may increase scrutiny and monitoring of transactions involving non-resident guarantees to ensure compliance and address any irregularities promptly.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12737&Mode=0>

October 09, 2024: Interest Equalization Scheme (IES) on Pre and Post-shipment Rupee Export Credit

Tags

Interest Equalization Scheme, MSME, Export Credit, Financial Support, Fiscal Benefits, Credit Policy, Economic Growth, Export Promotion, Financial Year 2024-25, Compliance, Pre Shipment Rupee Export Credit, Post Shipment Rupee Export Credit

Summary

The Reserve Bank of India has extended the Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit until December 31, 2024, with modifications. The fiscal benefits for each MSME are capped at ₹50 lakhs for the financial year 2024-25, and those who have already availed benefits of ₹50 lakhs or more are ineligible for further benefits during the extension. Other existing terms and conditions of the scheme remain unchanged.

Insights

1. The extension of the Interest Equalization Scheme provides an opportunity for banks to support MSME exporters by facilitating access to credit at favourable interest rates.

2. The cap of ₹50 lakhs on fiscal benefits may limit the support for larger MSME exporters, necessitating banks to strategize on how to assist clients who have already reached this limit.
3. Banks must ensure compliance with the updated guidelines and communicate effectively with MSME clients regarding their eligibility and the implications of the scheme's modifications.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12738&Mode=0>

October 10, 2024: Implementation of Credit Information Reporting Mechanism subsequent to cancellation of license or Certificate of Registration

Tags

Credit Information Companies (CIC), Credit Institutions (CI), Certificate of Registration (CoR), Credit Information Report, License Cancelled Entities, Credit Information Reporting Mechanism, Credit Information Companies Regulation Act (CICRA)

Summary

This circular is applicable to all commercial banks, Co-operative banks, non-banking financial companies, asset reconstruction companies and credit information companies. This circular highlights the credit information reporting mechanism of credit institutions post the cancellation of license or Certificate of Registration.

Insights

1. As per Credit Information Companies Regulation Act (CICRA), only credit institutions can provide credit information to CICs. However, after cancellation of license or Certificate of Registration, entities won't be considered as credit institutions under CICRA and they can't submit credit information of borrowers to CICs.
2. To avoid the missing repayment history of such borrowers, entities need to put a credit information reporting mechanism post cancellation of license or Certificate of Registration.

3. After the cancellation of license or Certificate of Registration; credit institutions need to report credit information of borrowers, who are onboarded before cancellation, to all four CICs until loan life cycle is completed or CIC is closed.
4. CICs will tag such credit institutions as 'Licensed Cancelled Entities' and shall not charge annual or membership fees.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12739&Mode=0>

October 10, 2024: Submission of information to Credit Information Companies (CICs) by ARCs

Tags

Asset Reconstruction Companies (ARCs), Credit Information Companies (CICs), Credit Reporting

Summary

This circular is applicable to all the Asset Reconstruction Companies. This circular provides guidelines for Asset Reconstruction Companies regarding the submission of information to Credit Information Companies.

Insights

1. **CIC membership:** ARCs need to be a member of all CICs and submit credit information to CICs in Uniform Credit Reporting Format.
2. **Information submission:** ARCs need to update the information on fortnightly basis or at agreed interval with CICs.
3. **Rejected data rectification:** ARCs need to rectify the rejected data and update to CICs within seven days receipt of rejected data.
4. **Best practices:** ARCs should have Standard Operating Procedure (SOP) that includes various best practices such as providing correct customer information to CIC, reporting all the repayment instances, appointment of nodal officer, customer grievance redressal addressing customer complaints.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12740&Mode=0>

October 11, 2024: Facilitating accessibility to digital payment systems for persons with disabilities—guidelines

Tags

Digital Payment Systems, Payment System Participants (PSPs), Person with Disability

Summary

This circular is applicable to all payment system participants. This circular intends to have digital payment system accessibility for all sections of people including persons with disabilities. In order to achieve this, banks are advised to enhance the payment system and devices.

Insights

1. Payment system participants (PSPs) need to review, enhance their payment systems and devices to ensure they are accessible to persons with disabilities.
2. Security aspects of payment systems shouldn't be compromised when PSPs enhance them.
3. The Ministry of Finance's Accessibility Standards should be adhered to by PSPs to ensure effective access.
4. PSPs shall submit to RBI detailed action plan mentioning the system details that need to be modified along with the timelines of achieving the enhancement.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12741&Mode=0>

October 18, 2024: Reserve Bank of India (Access Criteria for NDS-OM) Directions, 2024

Tags

Negotiated Dealing System-Order Matching (NDS-OM), Electronic Trading Platform (ETP), Government Securities, Designated Settlement Bank (DSB), Subsidiary General Ledger (SGL), Clearing Corporation of India Limited (CCIL)

Summary

This circular is applicable to all participants in Government Securities market. The circular provides guidelines to access Negotiated Dealing System-Order Matching (NDS-OM) electronic trading platform. Direct access to NDS-OM is extended to wider range of regulated entities and the process for getting direct access is streamlined.

Insights

1. RBI intends to increase participation in Government Securities by expanding the access to NDS-OM.
2. **Requirement to seek direct access:** Eligible entities need to fulfil the following criteria to get direct access to NDS-OM
 - a. Need to maintain a Subsidiary General Ledger (SGL) account with the Reserve Bank
 - b. Need to maintain a current account with the Reserve Bank or a Designated Settlement Bank
 - c. Need to be a member of securities settlement segment of Clearing Corporation of India Limited (CCIL)
3. **Granting direct access:** If the applicant fulfils the eligibility criteria, RBI can grant direct access to NDS-OM and might put additional terms and conditions if needed. RBI can terminate the direct access to NDS-OM of an entity.
4. **Indirect access to NDS-OM:** If any person or entity is eligible to invest in Government securities and not eligible to get direct access to NDS-OM, then indirect access to NDS-OM can be obtained through an entity having direct access.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12742&Mode=0>

October 19, 2024: Designation of one organization under Section 35(1) (a) and 2(1) (m) of the Unlawful Activities (Prevention) Act, 1967 and its listing in the First Schedule of the Act—Reg

Tags

Unlawful Activities (Prevention) Act (UAPA), Regulated Entities (REs), Financial Intelligence Unit-India (FIU-IND), Know Your Customer (KYC)

Summary

This circular is applicable to all Regulated Entities (REs). This circular states that Regulated Entities need to be compliant with Unlawful Activities (Prevention) Act (UAPA).

Insights

1. If details of any account resemble to an individual or entities in the terrorist list, then Regulated Entities need to report the account details to Financial Intelligence Unit-India (FIU-IND) and inform Ministry of Home Affairs.
2. If an organization is declared as terrorist organization and is listed in Schedule I of the UAPA, then the regulated entities need to be compliant with the Ministry of Home Affairs notifications.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12743&Mode=0>

October 28, 2024: Directions for Central Counterparties (CCPs)

Tags

Central Counterparties, RBI, Compliance, Governance, Financial Disclosure, Conflict of Interest, Net Worth Requirements, Shareholding Pattern, Risk Management, Regulatory Framework, Market Infrastructure, Capital Requirements, Authorisation, Financial Stability

Summary

The circular outlines the updated directions for Central Counterparties (CCPs) authorized by the Reserve Bank of India (RBI). It emphasizes the importance of compliance, governance, and conflict of interest management within CCPs. Key responsibilities include administering compliance policies, ensuring effective remediation of non-compliance, and maintaining independence in compliance functions. The document mandates timely and accurate disclosures to the RBI regarding financial positions, user rights, and governance structures. It also highlights the necessity for CCPs to have sufficient net worth to cover potential business losses and continue operations. Additionally, CCPs are required to disclose their shareholding patterns annually to the RBI. The document serves as a comprehensive framework for the functioning and oversight of CCPs in India, ensuring they operate in a transparent and accountable manner.

Insights

- 1. Compliance framework:** CCPs must establish and administer compliance policies and procedures, reporting their status to the Regulatory Compliance Committee to ensure regulation adherence.
- 2. Remediation procedures:** Specific procedures are mandated for the effective remediation of non-compliance instances, highlighting the importance of accountability.
- 3. Independence in compliance:** Individuals involved in compliance functions must not engage in the services or activities they monitor, ensuring objectivity and the elimination of conflicts of interest.
- 4. Disclosure obligations:** CCPs must disclose material matters to the RBI, including their financial position, user rights, and governance structures, ensuring transparency.
- 5. Conflict of interest management:** CCPs must maintain written arrangements to identify and manage potential conflicts of interest, with an internal manual to guide the management of conflicts between commercial and regulatory functions.
- 6. Role of independent directors:** Independent directors are tasked with identifying significant conflicts of interest that could impact the CCP's functioning and reporting these to the RBI.
- 7. Net worth requirements:** CCPs must maintain sufficient net worth to cover potential general business losses, ensuring they can continue operations as a going concern.
- 8. Annual shareholding disclosure:** CCPs must disclose their shareholding patterns annually to the RBI, promoting transparency in ownership structures.
- 9. Regulatory review:** The document indicates that the conflict management framework should be periodically reviewed and strengthened based on observations from such reviews.
- 10. Repeal of previous directions:** The updated directions replace the previous guidelines issued on June 12, 2019, indicating a shift in regulatory focus and requirements for CCPs.

This summary and insights provide a comprehensive understanding of the updated directions for CCPs as outlined by the RBI, emphasizing compliance, governance, and transparency in the Indian banking sector.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12744&Mode=0>

October 30, 2024: Note Sorting Machines: Standards issued by the Bureau of Indian Standards

Tags

Note Sorting Machines, Bureau of Indian Standards, IS 18663: 2024, Banknote Authentication, Currency Management, Compliance, Indian Banking Sector

Summary

This circular addresses all banks regarding the implementation of new standards for Note Sorting Machines (NSM). It references a previous circular and highlights the publication of the standards for NSM, designated as 'IS 18663: 2024', by the Bureau of Indian Standards (BIS) on March 19, 2024. The purpose of these standards is to enhance the banknote sorting architecture in India, ensuring better authentication and fitness sorting of banknotes. The circular mandates that, effective May 01, 2025, banks must only deploy NSM models that conform to these standards and are certified by BIS. This initiative aims to strengthen the integrity and efficiency of currency management in the banking sector.

Insights

- 1. Regulatory compliance:** The RBI is enforcing compliance with new standards to ensure that all banks utilize certified NSM models, which will likely improve the overall quality of currency handling.
- 2. Standardization:** The introduction of IS 18663: 2024 signifies a move towards standardization in the banking sector, which can lead to more uniform practices across different banks.
- 3. Enhanced security:** By focusing on authentication and fitness sorting parameters, the new standards aim to reduce the circulation of counterfeit notes and ensure that only fit notes are in circulation.
- 4. Implementation timeline:** The deadline of May 01, 2025, provides banks with a clear timeline to adapt to the new standards, allowing for a phased approach to compliance.
- 5. Stakeholder involvement:** The development of these standards involved consultations with various stakeholders, indicating a collaborative approach to improving banking operations.
- 6. Impact on banking operations:** The requirement for certified NSM models may lead to increased investment in technology and infrastructure by banks, potentially enhancing operational efficiency.
- 7. Public confidence:** By improving the sorting and authentication of banknotes, the RBI aims to bolster public confidence in the currency system, which is crucial for economic stability.
- 8. Future developments:** Establishing these standards may pave the way for further advancements in financial technology and currency management practices in India.

Further details can be found on the RBI website:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12745&Mode=0>