

RESERVE BANK OF INDIA
Foreign Exchange Department Central Office
Cell for Effective Implementation of FEMA (CEFA)

Annex

**Guidance Note on computation of the amount imposed under the Foreign
Exchange (Compounding Proceedings) Rules 200**

Ref: A.P. (DIR Series) Circular No. 73 dated May 26, 2016

I. Computation Matrix

Type of contravention	Existing Formula
1] Reporting Contraventions A) FEMA 20 Para 9(1)(A), 9(1)(B), part B of FC(GPR), FCTRS (Reg. 10) and taking on record FCTRS (Reg. 4) B) FEMA 3 Non submission of ECB statements C) FEMA 120 Non reporting/delay in reporting of acquisition/setup of subsidiaries/step down subsidiaries /changes in the shareholding pattern D) Any other reporting contraventions (except those in Row 2 below)	Fixed amount : Rs10000/- (applied once for each contravention in a compounding application) + Variable amount as under: Upto 10 lakhs: 1000 per year Rs.10-40 lakhs: 2500 per year Rs.40-100 lakhs: 7000 per year Rs.1-10 crore 50000 per year Rs.10 -100 Crore : 100000 per year Above Rs.100 Crore : 200000 per year
E) Reporting contraventions by LO/BO/PO	As above, subject to ceiling of Rs.2 lakhs. In case of Project Office, the amount imposed shall be calculated on 10% of total project cost.
2] AAC/ APR/ Share certificate delays In case of non-submission/ delayed submission of APR/ share certificates (FEMA 120) or AAC (FEMA 22) or FCGPR (B) Returns (FEMA 20)	Rs.10000/- per AAC/APR/FCGPR (B) Return delayed. Delayed receipt of share certificate – Rs.10000/- per year, the total amount being subject to ceiling of 300% of the amount invested.
3] A] Allotment/Refunds Para 8 of FEMA 20/2000-RB (non-allotment of shares or allotment/ refund after the stipulated 180 days) B] LO/BO/PO (Other than reporting contraventions)	Rs.30000/- + given percentage: 1 st year : 0.30% 1-2 years : 0.35% 2-3 years : 0.40% 3-4 years : 0.45% 4-5 years : 0.50% >5 years : 0.75% (For project offices the amount of contravention shall be deemed to be 10% of the cost of project).
4] All other contraventions except Corporate Guarantees	Rs.50000/- + given percentage: 1 st year : 0.50% 1-2 years : 0.55% 2-3 years : 0.60% 3-4 years : 0.65% 4-5 years : 0.70% > 5 years : 0.75%
5] Issue of Corporate Guarantees without UIN/	Rs.500000/- + given percentage:

Ref : A.P. (DIR Series) Circular No. 73 dated May 26,2016

without permission wherever required /open ended guarantees or any other contravention related to issue of Corporate Guarantees.	<p>1st year : 0.050%</p> <p>1-2 years : 0.055%</p> <p>2-3 years : 0.060%</p> <p>3-4 years : 0.065%</p> <p>4-5 years : 0.070%</p> <p>>5 years : 0.075%</p> <p>In case the contravention includes issue of guarantees for raising loans which are invested back into India, the amount imposed may be trebled.</p>
--	--

II. The above amounts are presently subject to the following provisos, viz.

- (i) the amount imposed should not exceed 300% of the amount of contravention
- (ii) In case the amount of contravention is less than Rs. One lakh, the total amount imposed should not be more than amount of simple interest @5% p.a. calculated on the amount of contravention and for the period of the contravention in case of reporting contraventions and @10% p.a. in respect of all other contraventions.
- (iii) In case of paragraph 8 of Schedule I to FEMA 20/2000 RB contraventions, the amount imposed will be further graded as under:
 - a. If the shares are allotted after 180 days without the prior approval of Reserve Bank, 1.25 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).
 - b. If the shares are not allotted and the amount is refunded after 180 days with the Bank's permission: 1.50 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).
 - c. If the shares are not allotted and the amount is refunded after 180 days without the Bank's permission: 1.75 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).
- (iv) In cases where it is established that the contravenor has made undue gains, the amount thereof may be neutralized to a reasonable extent by adding the same to the compounding amount calculated as per chart.
- (v) If a party who has been compounded earlier applies for compounding again for similar contravention, the amount calculated as above may be enhanced by 50%.

III. For calculating amount in respect of reporting contraventions under para I.1 above, the period of contravention may be considered proportionately {(approx. rounded off to next higher month ÷ 12) X amount for 1 year}. The total no. of days does not exclude Sundays/holidays.