

FEMA and RBI

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The Foreign Exchange Management Act, 1999 (FEMA)

Circular in respect to non-resident guarantees availed by persons

[RBI/2024-25/79 dated 4th October 2024](#)

RBI vide the above circular notified the Authorised Dealer (AD) banks, the instances of guarantees (including Standby Letters of Credit (SBLCs) and / or performance guarantees) been issued by persons resident outside India, favouring persons resident in India, which are not permitted under the extant FEMA regulations. As a result, it has instructed AD Category-I banks to make sure that guarantee contracts are processed strictly in accordance with the FEMA regulations.

Operational framework for reclassification of Foreign Portfolio Investment (FPI) to Foreign Direct Investment (FDI)

[RBI/2024-25/90 dated 11th November 2024](#)

The Reserve Bank of India (RBI) has vide the aforementioned Circular issued directions on Operational framework for reclassification of FPI to FDI made by foreign portfolio investor along with its investor group which shall be less than 10% of the total paid-up equity capital on a fully diluted basis. In case of violation of this limit, FPI will have either sell their holdings or reclassify them as FDI subject to the conditions specified by the RBI and SEBI within 5 trading days (hereinafter referred to as the "prescribed time") of the trade settlement date that resulted in the violation.

Following are the key pointers:

1. The FPI concerned should obtain the following approvals/occurrence before intending to acquire equity instruments beyond the prescribed limit of 10%:
 - Necessary approvals from the Government, wherever applicable, including approvals required in case of investment from land bordering countries and ensure that the

acquisition beyond prescribed limit of 10% is made in accordance with the provisions applicable for FDI, adhering to entry route, sectoral caps, investment limits, pricing guidelines, and other attendant conditions for FDI under Schedule I to the Rules.

- Concurrence of the Indian investee company concerned for reclassification of the investment to FDI to comply with conditions pertaining to sectors prohibited for FDI, sectoral caps and government approvals, wherever applicable, under the Rules.
2. The reclassification option is not available for investments in sectors prohibited for FDI.
 3. The FPI must clearly state its intention to reclassify existing FPIs held in a company into FDI and obtain necessary approvals and concurrence from its Custodian. The Custodian will freeze FPI's purchase transactions in Indian company equity instruments until the reclassification is completed. Provided that where the necessary prior approvals/concurrence have not been obtained by the FPI, the investment beyond the prescribed limit should be compulsorily divested within the prescribed time
 4. For reclassification, the FPI must report the total investment it holds within the timelines specified under the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019. The procedures to be followed for reclassification are:
 - The Indian company will report fresh issuance of equity instruments where the investment is beyond the prescribed limit in Form FC-GPR.
 - FPI will report secondary market acquisitions where the investment is beyond the prescribed limit in Form FC-TRS.
 - The concerned AD Bank shall report the amount of reclassified FPI as divestment by reporting to RBI in Form LEC (FII).
 5. The date of reclassification is the date of investment causing breach of the prescribed limit.

6. After reporting is complete, the FPI should approach its custodian to transfer equity instruments of the Indian company from its foreign portfolio investment demat account to its FDI holding demat account.
7. Following reclassification, the investment will be subject to Schedule I of the NDI Rules, which regulate foreign direct investment. Even if the investment falls below 10% threshold, it will still be regarded as FDI.
8. These directions will become operative with immediate effect.

Maintenance of Cash Reserve Ratio

[Notification No. RBI/2024-25/95 dated 6th December 2024](#)

As announced in the [Statement on Developmental and Regulatory Policies dated 6th December 2024](#), the RBI has decided to reduce the Cash Reserve Ratio (CRR) of all banks by 50 basis points in two equal tranches of 25 basis points each to 4% of net demand and time liabilities (**NDTL**).

Accordingly, banks are required to maintain the CRR at 4.25% of their NDTL effective from the reporting fortnight beginning 14th December 2024 and 4% of their NDTL effective from fortnight beginning 28th December 2024.



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