

## **FAQs on Reporting in Entity Master of Foreign Investment Reporting & Management System (FIRMS) by RBI**

### **1. Under what circumstances does reporting in Entity Master of FIRMS apply?**

As per A.P. (DIR Series) Circular No. 30, reporting in Entity Master applies to all entities who have *existing foreign investment (including indirect foreign investment)*. However, RBI has given an informal clarification that companies which have received FDI since incorporation irrespective of their current position of foreign holding i.e. *the companies which had foreign investment earlier and with no foreign investment at present*, are also required to get registered in Entity Master.

### **2. Is LLP also covered under the meaning of Entity?**

Yes. Apart from Company, LLP is also covered within the meaning of 'Entity'.

### **3. What if foreign investments have been already reported earlier? Do they still need to be reported again in Entity Master?**

All foreign investments have to be reported **as on date** of submission of the Entity Master. This will be inclusive of all foreign investment, irrespective of the fact that the regulatory reporting to RBI for the same has been made or not or whether the same has been acknowledged or not.

### **4. What if foreign investments have not been reported earlier? Can they still be reported in Entity Master?**

As indicated above, all foreign investments need to be reported in Entity Master even though regulatory filing for them may not have been made previously.

### **5. Whether all foreign investments received by the entity since incorporation is to be mentioned or only the investments received in the current year?**

All foreign investments received by the entity *since the date of incorporation* must be provided in the Entity Master.

### **6. Is reporting required under Entity Master when all previous foreign investments have been liquidated? For e.g. B Inc. had made foreign investment in X Ltd. in the financial year 2012-13 but the company (X Ltd.) does not have any foreign investment as on date. Does reporting under Entity Master apply to X Ltd.?**

As per RBI clarification explained in Q1, such entity is also required to report details of previous foreign investment (such as date of issue and transfer) under Entity Master.

**7. Whether portfolio investment in a listed company is required to be reported in Entity Master?**

Yes. All Foreign Investments (either as FDI or as FPI) falling under the definition of 'Foreign Investment' under Reg. 2(xviii) of FEMA Notf. 20(R)/2017 dated 07/11/2017 need to be reported. However, a practical difficulty would arise as to details to be provided as on a particular date and time of filing the Entity Master.

**8. Does foreign investment also include investments made in a company on a non-repatriable basis?**

Foreign Investment as defined under Reg. 2(xviii) of FEMA Notf. 20(R)/2017 dated 07/11/2017 includes only investments made on a repatriable basis and hence investments made on a non-repatriable basis (viz. Schedule 4 investments) are not required to be reported in Entity Master.

**9. Is reporting in Entity Master required for/by LO/BO/PO established by Foreign Companies in India under FEMA 22(R)?**

No. Only investments covered under FEMA 20(R) are required to be reported in Entity Master. Since there is no investment into an Indian entity while establishment of LO/BO/PO, foreign entity is not required to report in Entity Master.

**10. Who can be Entity User?**

Any person can be appointed as Entity User by way of an authority letter. Nominated person and Authorizing person should be different. One entity can have only one entity user.

**11. What are the types of investment in Indian Company /Capital instrument covered?**

Equity Shares	To be reported
CCDS/CCPS	To be reported on a fully diluted basis
Share Warrants	To be reported considering 100% exercised
ESOPs	To be reported considering 100% exercised
Share Application Money	Not to be reported
Convertible Notes by Start-ups	Not to be included in paid-up capital on fully diluted basis
Capital contribution in LLP	To be reported
Indirect foreign investment	To be reported
Investment by Debt – ECB / NCD, etc	Not to be reported

**12. Which NIC code should be mentioned in case the company is engaged in more than one activity?**

In case the company is engaged in more than one activity and different NIC codes correspond to different business activities of the company, then the NIC Code of the main business activity of the company for which the Foreign Investment is received needs to be mentioned.

**13. What is the RBI Registration Number to be provided in 'Entity Details Tab' ?**

RBI registration number in the form of Acknowledgement number provided by RBI on successful processing of Form FCGPR at the time of reporting. If the same has been acknowledged but the number cannot be traced at the moment, such fact should be mentioned in Entity Master.

**14. What is Greenfield or Brownfield in 'Entity Details Tab – Business Activity Details' ?**

Greenfield investment refers to investment for setting up a new entity while brownfield investment refers to investment in an existing entity. Such details would depend of each investment tranche and should not be applied on an overall entity. However, since the details are required to be reported in Entity Master by **existing companies** having foreign investment, brownfield would need to be selected.

**15. Under 'Foreign Investment in Company / LLP' tab, paid-up capital needs to be mentioned on a fully diluted basis which means that equivalent equity shares arising on account of conversion needs to be factored in. However, pricing guidelines for convertible capital instruments allow issuance of such instruments with the requirement that either price or conversion formula of the instrument should be determined upfront. If the conversion price is not determined but instead conversion formula is determined upfront, how does one calculate equivalent equity shares arising on account of conversion?**

In such cases, the maximum equivalent equity shares that may be issued on conversion need to be mentioned. One may note that this requirement is even mandated under Form PAS-4 that needs to be filed pursuant to Section 42 of Companies Act, 2013 r.w. Rule 14(1) of Companies (Prospectus and Allotment of Securities) Rules, 2014 while making private placement.

**16. In case of Indirect Investment, what are the reporting requirements? Who is required to report in Entity Master?**

Downstream investee Company is required to report indirect foreign investment received by it in Entity Master. Typically, there are no reporting obligations cast upon the downstream investee company for inviting and upon transfer of indirect foreign investment. This is based upon rational view that the downstream investee company may not be able to know whether the investment by another Indian company constitutes indirect foreign investment or not<sup>1</sup>. Therefore, the Indian companies who have made downstream investment in another Indian company for which it is considered as indirect foreign investment in terms of Regulation 14 of FEMA 20(R) should ensure that it informs the same to the Indian investee company. Such details are to be given under 'Foreign Investment in Company/LLP'.

**17. What if company has reported issue of shares in Form FC-GPR on E-Biz portal after 28<sup>th</sup> June but not reported the same in Entity Master? Does it now need to report such issue in Entity Master too?**

In such case, the company needs to report in Entity Master by updating it to reflect the issue of shares.

**18. Suppose shares are proposed to be issued by company on 5<sup>th</sup> July 2018. If the company intends to report it in Single Master Form (which would be made available for filing from 1<sup>st</sup> August 2018), does it need to report such issue in Entity Mater before 12<sup>th</sup> July 2018?**

In case the company is **intending to make the filing** in the Single Master Form, being made available from **August 01, 2018**, then it is not required to report the issue of shares again in Entity Master. **This clarification has been removed from the revised User Manual.**

**19. What is the consequence of not complying with Entity Master reporting?**

Indian entities not complying with these instructions will not be able to receive foreign investment (including indirect foreign investment) and will be treated as non-compliant with Foreign Exchange Management Act, 1999 (FEMA) and regulations made thereunder and liable for action as laid in FEMA or the regulations made thereunder.

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<sup>1</sup> However, Regulation 14(2) of FEMA Notf. 20(R)/2017 dated 07/11/2017 states to the contrary that the obligation to comply with entry route, sectoral cap and pricing guidelines would rest upon the downstream investee company.