

FEMA ke FUNDAE

**Form FCTRS
(Foreign Currency Transfer)**

#FamiliarwithFEMA

Date : November 23 ,2022

Issue No. : 24

Jain Shrimal & Co.

Hi Mr. FEMA Gyani, one of our shareholders have transferred shares to another person. Recently, we received a mail from RBI asking us to file Form FCTRS.



Maneet
(Director of Indian Company)

Jain Shrimal & Co.

Hello Maneet. Don't worry. Let me brief you with the Form FCTRS.



The FEMA Gyani

1. FCTRS is declaration regarding transfer of shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures /others by way of sale from resident to non. resident / non-resident to resident.

2. It shall be filed within 60 days from the date of transfer.

3. Late Submission Fees (LSF) shall be applicable if FCTRS is not filed within 60 days.

4. The FCGPR can be filed on the RBI's FIRMS portal i.e., <https://firms.rbi.org.in>



The FEMA Gyani

Jain Shrimal & Co.



Maneet

Who will file Form FCTRS?

The onus of reporting the transaction in Form FCTRS shall be on the resident transferor/transferee. However, it will be filed from Company's SMF Portal.



The FEMA Gyani

Okay, so what are the details and documents to be attached with Form FCTRS?



Maneet

Major details and documents to be required while filing the form include:



MAJOR DETAILS

Details of Foreign Investor to whom shares are transferred

Details of Capital Instrument transferred

Details of AD Bank

Mode of Payment

MAJOR DOCUMENTS

Share purchase agreement

Security transfer deed/SH-4

Consent letter of both the parties

Jain Shrimal & Co.



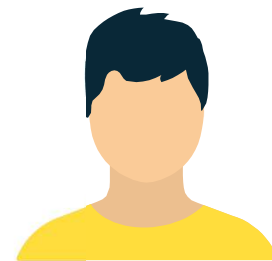
Maneet

Okay, I have heard somewhere that FCTRS need not to be filed in case the transferee is acquiring shares on non-repatriable basis.

FCTRS shall be filed for transfer of equity instruments, between:

1. a PROI holding equity instruments in an Indian company on a repatriable basis and PROI holding equity instruments on a non-repatriable basis
2. a PROI holding equity instruments in an Indian company on a repatriable basis and a PRII

PROI – Person Resident Outside India
PRII – Person Resident In India



The FEMA Gyani



Maneet

Okay Mr. FEMA Gyani. But I have one more doubt. Since the shares were transferred approximately 55 days ago, that means I can still file FCTRS without any Late Submission Fees?

The 60 days deadline is not for form submission , but for it to be accepted by RBI within 60 days period. Practically, we have seen is that the AD Bank takes 10-15 days to approve. So, it seems difficult that AD Bank will approve form FCTRS in 5 days. In case of delay a late submission fees (LSF) can be paid.



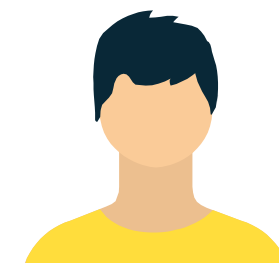
The FEMA Gyani



Maneet

Okay. And what would be the tentative amount of LSF and how can it be paid?

The amount of Late Submission Fees can be calculated as provided in Part IV of the Master Direction on Reporting (refer Table). It shall be paid by way of demand draft in favor of "Reserve Bank of India" and payable at the regional office concerned.



The FEMA Gyani

Okay. Thanks Mr. FEMA Gyani.



Maneet

For calculating the LSF amount, the period of contravention shall be considered proportionately {(approx. rounded off to next higher month ÷ 12) X amount for 1 year}.

Important

LSF as % of amount involved will be doubled every twelve months.

Amt Involved in reporting	LSF As percentage of amt involved	Maximum amt of LSF applicable
Upto 10 million	0.05 percent	Rs. 1 million or 300% of amt involved whichever is lower
More than 10 million	0.15 percent	Rs. 10 million or 300% of amt involved whichever is lower

Thank You!

Let's meet every
Wednesday.

To make you more familiar with FEMA,
we are happy to listen to your

Comments

Feedbacks

Suggestions



The FEMA Gyani

Jain Shrimal & Co.



<https://www.linkedin.com/company/jsco>
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