

FEMA Ke Fundae

#FamiliarwithFEMA

**APR with
Audited/Unaudited
Financial Statements**

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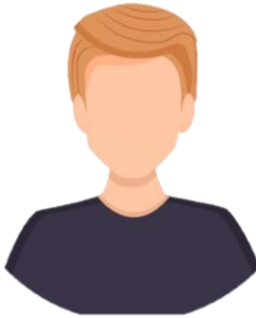




Mr. Ram
Indian resident

Hey Mr. Fema Gyani, my finance consultant says that there are some new issues in filling Form APR. Can you tell me about that.

Sure, Mr. Ram! I'm happy to help. Basically, The new challenge in filling the APR form is that previously, it was acceptable to submit the form with unaudited financials. Now the new OI rules say that you need to file Form APR based on audited financial statements.



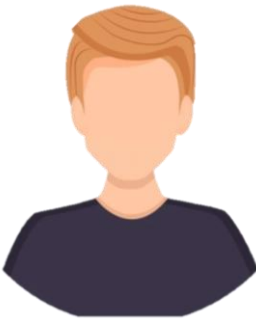
The FEMA Gyani



Mr. Ram
Indian resident

What if the host country of the Foreign entity does not mandate to get their financials audited?

Before that first tell me, how much stake do you hold in the foreign entity?



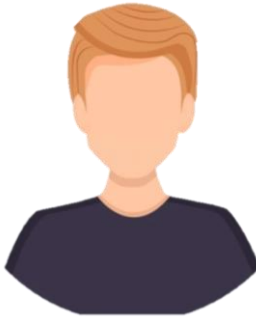
The FEMA Gyani



Mr. Ram
Indian resident

Yes, I own 25% stake in the foreign entity.

Then you have to file the form APR on the basis of audited financials. There are certain exceptions which allow you to file the form on the basis of unaudited financials.



The FEMA Gyani

Exceptions

1. You don't have "**control**" over the foreign entity. That means you don't have the power to appoint most of the directors or make major decisions for it.

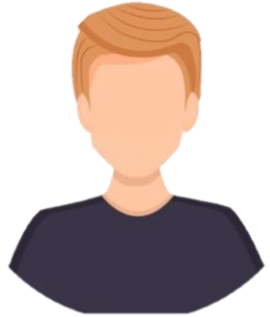
And

2. The country where the foreign entity is located doesn't require mandatory auditing of its books.



Mr. Ram
Indian resident

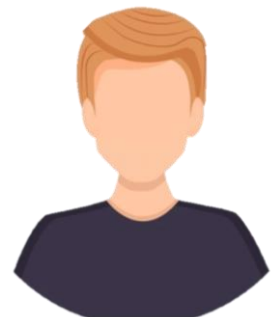
As you own a substantial amount of stake in the foreign entity, it implies that you have control over the foreign entity. While as satisfies one of the exceptions and not both the exceptions together, which exempts the foreign entity from the requirement of having its books audited, you are still obligated to file the form based on audited financials.



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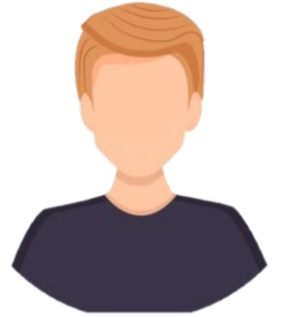
But Mr. Fema Gyani, what if a company does not fall under any of the above-mentioned exceptions? Can I file Form APR on the basis of unaudited financials?

Mr. Ram, This matter is contains a significant ambiguity However, according to the law, you must file based on audited financials.



The FEMA Gyani

Ram, here are the summarized provisions of the Audited Financial Statements of a Foreign Entity according to the new Overseas Investment Rules, 2022, for your better understanding.



The FEMA Gyani

The below table shows the summarized provisions of Audited Financial Statements of Foreign Entity - New Overseas Investment rules,2022:

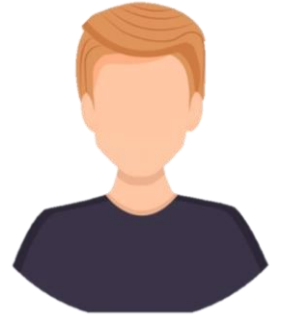
S.NO.	Control	Whether Audit is mandatory	APR can be filled on the basis of which Financial Statements	Who can audit the financial statements
1	Yes	Yes	Audited	Foreign CA/CPA
2	Yes	No	Audited	Indian CA



Mr. Ram
Indian resident

Got it. And what's the deadline for filing Form APR?

It's December 31st every year. And if you miss the deadline, you'll have to pay a late fee of Rs. 7,500. Plus, not filing it at all is considered a violation of FEMA rules.



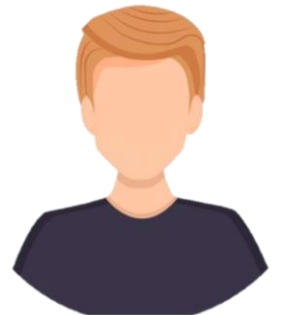
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Ok, I'll definitely make sure to file it on time then. Thanks for all your help, Mr. Fema Gyani.



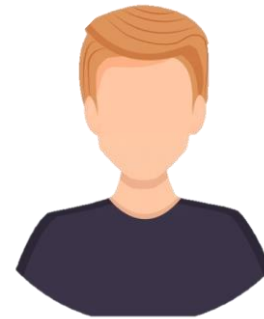
Mr. Ram
Indian resident

You're welcome, Ram!



The FEMA Gyani

Thank You



The FEMA Gyani

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Feedbacks

Suggestions



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