



## ***Obligation for filling of foreign Liability + Asset (FLA) return in India***

### **INDEX**

<b>S.No</b>	<b>Topic</b>	<b>Page No.</b>
<b><i>(A) Introduction on filing of FLA return</i></b>		<b>3</b>
<b>1</b>	<b><i>Filing of FLA return for collecting of Balance of Payment position for RBI</i></b>	<b>3</b>
<b>2</b>	<b><i>Filing of FLA return up to March 31<sup>st</sup>, 2018 through Email</i></b>	<b>3</b>
<b>3</b>	<b><i>Filing of FLA return from March 31<sup>st</sup> 2019 through web portal</i></b>	<b>3 &amp; 4</b>
<b><i>(B) Implications of applicability of POEM on foreign company in India</i></b>		<b>5</b>
<b>1</b>	<b><i>Clarification for Penalty against Non Filing of FLA return</i></b>	<b>5</b>
<b>2</b>	<b><i>Clarification for Filing of FLA return based on Unaudited financial statements</i></b>	<b>5</b>
<b>3</b>	<b><i>Clarification for Filing of FLA return for year ending on March 31<sup>st</sup></i></b>	<b>5</b>
<b>4</b>	<b><i>Clarification for Non Filing of FLA return for year ending on March 31<sup>st</sup></i></b>	<b>5</b>
<b>5</b>	<b><i>Clarification for Non Filing of FLA return for zero FDI + ODI (both) on March 31<sup>st</sup></i></b>	<b>6</b>
<b>6</b>	<b><i>Clarification for Filing of FLA return as No Additional + Fresh FDI + ODI received</i></b>	<b>6</b>
<b>7</b>	<b><i>Clarification for Filing of FLA return by LLP + AIF (both)</i></b>	<b>6</b>
<b>8</b>	<b><i>Clarification for Filing of Annual Performance Report (APR) + FLA (both)</i></b>	<b>6</b>
<b>9</b>	<b><i>Clarification for Non Filing of return as 100% shares already Transferred to ROI</i></b>	<b>6</b>
<b>10</b>	<b><i>Clarification for Non Filing of return as FDI received on Non-Repatriable basis</i></b>	<b>6</b>
<b>11</b>	<b><i>Clarification for Form against Filing the FLA return</i></b>	<b>7</b>
<b>12</b>	<b><i>Clarification for Information's against Filing of FLA return</i></b>	<b>7</b>
<b>13</b>	<b><i>Clarification for filing of Hard Copy of FLA return</i></b>	<b>7</b>

14	<i>Clarification for Re-filing of FLA return</i>	7
15	<i>Clarification for Valuation of FDI for Filing of FLA return</i>	7 & 8
16	<i>Clarification for Filing of FLA return against Trade Credits + Trade Payables</i>	8
17	<i>Clarification for Inclusion of share Premium in FDI + ODI (both) in FLA return</i>	8
18	<i>Clarification for Bifurcation of FDI as exceeding 10% + not exceeding 10%</i>	8
19	<i>Clarification for Special Instructions for Filing of FLA return</i>	8
<b><i>(C) FLA Return Form + Structure (both)</i></b>		<b>10</b>
1	<i>FLA return form + structure (both) in 5 Sections</i>	10
2	<i>Section I- Identification of Particular of Indian corporate entity</i>	10
3	<i>Section II – Financial detail of Indian corporate entity at face value in lakh</i>	10
4	<i>Section III – Foreign liability of Indian corporate entity at computed price</i>	10 & 11
5	<i>Section IV – Foreign Asset of Indian corporate entity at computed price</i>	11
6	<i>Section V – Variation Report between previous and preceding to previous year</i>	11
<b><i>(D) Conclusion on Filing of FLA Return</i></b>		<b>12</b>
1	<i>Indian corporate entity is required to file FLA return for FDI + ODI (both)</i>	12
<b><i>Profile of Publisher on Applicability of POEM on Foreign Company in India</i></b>		<b>13</b>



## **Obligation for filling of foreign Liability + Asset (FLA) return in India**

### **(A) Introduction on filing of FLA return**

#### **1. Filing of FLA return for collecting of Balance of Payment (BOP) position for RBI**

- **RBI is compiling the information's to be collected through filing of FLA return for purpose of knowing India's BOP position + International Investment Position (IIP both) in India + Outside India (both) on March 31<sup>st</sup> every year.**

#### **2. Filing of FLA return up to March 31<sup>st</sup>, 2018 through Email**

- **100% Indian company + LLP + Alternative Investment Fund (AIF all) hereafter to be called Indian corporate entity were required to submit the FLA return in excel format up to July 15<sup>th</sup> of succeeding year for Foreign Direct Investment (FDI) + Overseas Direct Investment (ODI both) through mail ID on [fla@rbi.org.in](mailto:fla@rbi.org.in) based on audited + unaudited (both) information's**

#### **3. Filing of FLA return from March 31<sup>st</sup> 2019 through web portal**

- Now RBI is providing a web-portal [www.flair.rbi.org.in](http://www.flair.rbi.org.in) for filing of FLA return by Indian corporate entities.**
- Now Indian corporate entity is required to have the registration through filing of User Registration Form (URF). This form is containing the Indian corporate entity information's:-**
  - Particulars of Identification**
  - Particulars of Business user**
  - Authority letter etc.**
- Now LLP + AIF (both) are not required to use the dummy Corporate Identification Number (CIN) for filing of FLA return. Hence dummy CIN is not required after registration at web-portal of RBI.**



- (iv) *Now web-portal is allowing to generate login-name + password for filing of FLA return after filing of URF + completion of registration process on web-portal.*
- (v) *Now Indian corporate entity is required to furnish the details of each investor for ODI + FDI + Foreign Portfolio Investment (FPI all) in India + outside India (both).*
- (vi) *Now Indian corporate entity is permitted to receive system generated acknowledgement after successful submission of FLA return.*
- (vii) *Now Revision of data in filing of FLA return is permitted after submission of original FLA return.*
- (viii) *Now view + download (both) of information's are permitted after submission of FLA return*
- (ix) *Now Indian corporate entity is permitted to submit + revise the information's of Previous Year (PY) after receiving of confirmation from RBI through sending of request email.*
- (x) (a) *RBI has not clarified till now that filing of FLA return for year ending on March 31<sup>st</sup>,2019 as already submitted through email mode whether to be resubmitted or not to be resubmitted through web-portal mode*
- (b) *It's our suggestion that filing of FLA return for year ending on March 31<sup>st</sup>, 2019 be resubmitted through web-portal mode beside already submitted through email mode to avoid any confrontation with RBI in future.*



## **(B) Clarifications for Filing of FLA return**

### **1. Clarification for Penalty against Non Filing of FLA return**

- (i) Non filing or late filing of FLA return is treated as violation of FEMA and accordingly maximum penalty @300% may be levied against amount of FDI + ODI (both)*
- (ii) Generally maximum penalty @300% is not levied by RBI.*
- (iii) RBI has prescribed certain criteria's for levy of penalty under compounding of penalty much lower than 300%.*

### **2. Clarification for Filing of FLA return based on Unaudited financial statements**

- (i) Indian Corporate entity is permitted to submit the FLA return up to July 15<sup>th</sup> based on unaudited financial statements on March 31<sup>st</sup>*
- (ii) Indian Corporate entity is permitted to re-submit the FLA return up to Sep 30<sup>th</sup> based on audited financial statement on March 31<sup>st</sup> where substantial changes are existed between unaudited financial statement and audited financial statements.*

### **3. Clarification for Filing of FLA return for year ending on March 31<sup>st</sup>**

- *Indian Corporate entity is required to submit the FLA return as based on financial year like from April to March each year beside actual accounting period is other than from April to March.*

### **4. Clarification for Non Filing of FLA return for year ending on March 31<sup>st</sup>**

- (i) Indian Corporate entity is not required to submit the FLA return where share application money is received but allotment of shares is not made up to March 31<sup>st</sup>.*
- (ii) Indian Corporate entity is required to submit the FLA return where share application money is received but allotment of shares is not made up to March 31<sup>st</sup> where share application money is received from existing non-resident investor.*



- 5. Clarification for Non Filing of FLA return for zero FDI + ODI (both) on March 31<sup>st</sup>**
- **Indian Corporate entity is not required to submit the FLA return where FDI + ODI (both) are not outstanding on March 31<sup>st</sup> beside that foreign trade receivable + foreign trade payables (both) are outstanding from foreign corporate entity on March 31<sup>st</sup>.**
- 6. Clarification for Filing of FLA return as No Additional + Fresh FDI + ODI received.**
- (i) **Indian Corporate entity are required to submit the FLA return beside no additional + no fresh FDI + ODI (both) is received during year under consideration.**
- (ii) **Hence Indian Corporate entity is required to submit the FLA return where no additional + no fresh FDI + ODI (both) are received during year under consideration**
- 7. Clarification for Filing of FLA return by LLP + AIF (both)**
- (i) **LLP and AIF (both) are permitted for FDI + ODI (both) in certain selected areas only**
- (ii) **Hence LLP + AIF (both) are required to submit the FLA return for FDI + ODI (both).**
- 8. Clarification for Filing of Annual Performance Report (APR) + FLA (both)**
- **Indian corporate entity is required to submit the FLA return for ODI beside APR has already been filed for ODI.**
- 9. Clarification for Non Filing of return as 100% shares already Transferred to ROI**
- (i) **Indian corporate entity is not required to submit the FLA return where 100% non-resident shareholding already transferred to Resident of India (ROI) before March 31<sup>st</sup>.**
- (ii) **However Indian corporate entity is required to inform to RBI where 100% shareholding already transferred to Resident of India through AD Bank in India**
- 10. Clarification for Non Filing of return as FDI received on Non-Repatriable basis**
- **Indian corporate entity is not required to submit the FLA return where FDI is received from non-resident investor on non-repatriable basis.**



### **11. Clarification for Form against Filing the FLA return**

- **Indian corporate entity is required to submit the FLA return as based on updated the FLA return form available on RBI web-portal on date of submission of FLA return.**

### **12. Clarification for Information's against Filing of FLA return**

- **Indian corporate entity is permitted to get any clarification for submission of FLA return on landline no. of RBI :- (022) 26578662/ 26578217 / 26578348 / 26578214 / 26578340 / 26578241 and through mail ID [surveyfla@rbi.org.in](mailto:surveyfla@rbi.org.in)**

### **13. Clarification for filing of Hard Copy of FLA return**

- **Indian corporate entity is not required to submit the hard copy of FLA return**

### **14. Clarification for Re-filing of FLA return**

- **Indian corporate entity is required to re-submit the return where errors are noticed by RBI.**

### **15. Clarification for Valuation of FDI for Filing of FLA return**

- **Indian corporate entity is required to compute a valuation of FDI:-**

**(i) For Listed Company**

- **Closing share price at BSE or NSE on March 31<sup>st</sup> to be adopted for valuation of FDI.**

**(ii) For Unlisted Company**

- (a) Foreign liability to be valued as based on Own Fund of Book Value (OFBV) method as similar to Net Owned Fund (NOF) method in India.**

- (b) Closing net worth of Indian corporate entity as multiply with percent of FDI for valuation of FDI as based on OFBV method.**

**(iii) For Traded Debt Security (TDS)**

- (a) TDS to be valued at Market Realizable Price (MRP) + other type debts like loan + trade credit + deposit + other account payable - receivable to be valued at book value.**



- (b) *Indian Corporate entity is required to use to report in FLA return in foreign currency rate as available for March 31<sup>st</sup> for current + previous (both) years.*
- (c) *Net worth to be computed as equivalent to Paid up Equity capital + paid up Participating Preference share of company + free reserve + share premium + any other Surplus – any accumulated losses*

#### **16. Clarification for Filing of FLA return against Trade Credits + Trade Payables**

- (i) *Indian corporate entity is required to include the debts under head other capital like trade credit + ECB + other structure loan (if any) + debenture as convertible + non-convertible + non-participating preference share capital + other payable – other receivable where FDI + ODI (both) are outstanding on March 31<sup>st</sup>.*
- (ii) *Paid up equity capital + paid up participating preference share capital not twice to be included under other capital + under equity share capital.*
- (iii) *Indian corporate entity is not required to submit the FLA return where FDI + ODI (both) are not outstanding on March 31<sup>st</sup> beside trade credit + trade payable (both) are outstanding on March 31<sup>st</sup>*

#### **17. Clarification for Inclusion of share Premium in FDI + ODI (both) in FLA return**

- *Indian corporate entity is required to include the amount of Share premium under free reserve + surplus for computation of OFBV*

#### **18. Clarification for Bifurcation of FDI as exceeding 10% + not exceeding 10 %**

- *Indian corporate entity is required to bifurcate in FLA return for FDI as exceeding the 10% + not exceeding the 10%.*

#### **19. Clarification for Special Instructions for Filing of FLA return**

- (i) (a) *Indian corporate entity is required to study the definitions before filing of FLA return*
- (b) *Definitions are available in Excel format of FLA return form + available in Annex-1 as attached with FLA return Form*





(ii) *Indian corporate entity is required to report in lakhs in Block 1 + 2 + 4 + 5 + to report in actual Foreign Currency in Block 3A of section IV under Foreign Asset.*



## **(C) FLA Return Form + Structure (both)**

### **1. FLA return form + structure (both) in 5 Sections**

- (i) Section I under **Identification of Particular of Indian corporate entity**
- (ii) Section II under **Financial detail of Indian corporate entity**
- (iii) Section III under **Foreign Liability of Indian corporate entity**
- (iv) Section IV under **Foreign Asset of Indian corporate entity**
- (v) Section V under **Variation report**

### **2. Section I- Identification of Particular of Indian corporate entity**

- (i) Under **Name + address**
- (ii) Under **PAN**
- (iii) Under **CIN**
- (iv) Under **Contact details**
- (v) Under **Account closing date**
- (vi) Under **Nature of business etc.**

### **3. Section II – Financial detail of Indian corporate entity at face value in lakh**

- (i) Under **Total paid up capital**
- (ii) Under **Non-resident holding**
- (iii) Under **Profit and loss account**
- (iv) Under **Reserve + Surplus (both)**
- (v) Under **Sale + Purchase (both)**
- (vi) Under **Number of employees on payroll**

### **4. Section III – Foreign liability of Indian corporate entity at computed price**

- (i) Under **investment in India under head FDI where equity participation as exceeding the 10%**
- (ii) Under **other capital like liability to direct investor + claim on direct investor (both)**
- (iii) Under **Disinvestment in India during year**



- (iv) *Under Investment in India under head FDI where equity participation as not exceeding 10%*
- (v) *Under Investment in India under head FPI in corporate entity other than FDI at computed price*
- (vi) *Under other Investment like outstanding liability with unrelated foreign party*

**5. Section IV – Foreign Asset of Indian corporate entity at computed price**

- (i) *Under ODI where equity participation as exceeding the 10%*
- (ii) *Under Equity capital + reserve + surplus (all) of foreign entity as known the Direct Investment Enterprise (DIE)*
- (iii) *Under Overseas Direct Investment (ODI) outside India where equity participation as not exceeding the 10%*
- (iv) *Under Portfolio Investment (PI) Outside India at computed price*
- (v) *Under Other Investment like outstanding claim on foreign unrelated party*

**6. Section V – Variation Report between previous and preceding to previous year**

- (i) *Under Paid up capital*
- (ii) *Under Net worth*
- (iii) *Under Total Sales*
- (iv) *Under Total Purchase*
- (v) *Under Other Investment as liability*
- (vi) *Under Other Investment as asset*



## **(D) Conclusion on Filing of FLA Return**

### **1. Indian corporate entity is required to file FLA return for FDI + ODI (both)**

- (i) **Where FDI + ODI (both) are outstanding on March 31<sup>st</sup> through web portal of RBI up to July 15<sup>th</sup> with unaudited financial statements + up to Sep 30<sup>th</sup> with audited financial statements.**
- (ii) **Hence filing of FLA return is not required where FDI + ODI (both) are not outstanding on March 31<sup>st</sup>**
- (iii) (a) **Indian corporate entity is required to submit the FLA return for ODI where APR has already been filed.**  
(b) **Hence FLA + APR (both) to be submitted against ODI outside India**
- (iv) **Indian corporate entity is not required to submit the FLA return for FDI + ODI:**
  - (a) **Where FDI is already transferred to resident of India before March 31<sup>st</sup>**
  - (b) **Where FDI is received on non-repatriable basis in India**
  - (c) **Where Foreign trade receivable + trade payable (both) are outstanding without having any FDI or ODI (both) on March 31<sup>st</sup>.**
- (v) (a) **Indian corporate entity is liable for penalty as not exceeding @ 300% of FDI + ODI (both) under contravention of FEMA, 1999 where FLA return is filed late or not filed till date**  
(b) **Generally RBI is not imposing a penalty as not exceeding @ 300% but compounding the contravention with maximum penalty as pre-fixed + variable (both)**



## *Published By*



**CA. Satish Agarwal**

*B.com (Hons.) FCA*

*Practicing Chartered Accountant Since **1985***

*+919811081957*

*9/14 (First Floor) East Patel Nagar, New Delhi- 110008*

*Email: [satishagarwal307@yahoo.com](mailto:satishagarwal307@yahoo.com)*

*Website: [www.femainindia.com](http://www.femainindia.com)*

### ◆ **Disclaimer**

1. Contents of this **article are solely for informational purpose**. Neither this article nor information's as contained herein constitute a contract or will form basis of contract.
2. Material contained in this article does **not constitute or substitute professional advice** that may be required before acting on any matter.
3. While every care has been taken in preparation of this article to **ensure its accuracy at time of publication**.
4. **Satish Agarwal assumes no responsibility for any error** which despite **all precautions** may be found herein.
5. **We shall not be liable for direct, indirect or consequential damage** if any arising out of or in any way connected with use of this article or information's as contained herein.

**October-2022**

