

kcmSnips

FEMA

February 28, 2024

Applicable FEMA Provisions

Foreign Exchange Management (Overseas Investment) Rules, 2022 & Foreign Exchange Management (Overseas Investment) Regulations, 2022 read along with Master Direction on ODI.

Reporting Compliance

- Reporting to AD bank about disinvestment
- Filing of Form ODI Part IV with AD Bank
- Reporting of change in capital structure

Type of Contravention

- Divestment involving write off without prior approval of RBI.
- Non reporting of change in capital structure in the foreign entity.

Penal Action

- Late submission Fees (LSF) based on value of transaction.
- Compounding.
- Enquiry by Directorate of Enforcement.

Compounding Order

CL Educate ltd ("The Company") & Reserve Bank of India, Foreign Exchange Department, Mumbai vide compounding order no. C.A.4178/2016 dated Jan 13, 2017.

The Company disinvested its entire stake from its subsidiary in Singapore to one of its WOS in India. The Form ODI Part IV was filed with delay and also the AD Bank had not reported the said change in capital structure within the prescribed time period.

Contravention committed of Regulation 16(1)(iv), 16 and 13 of the Notification No. FEMA.120/RB-2004 dated July 7, 2004, and as amended from time to time.

RBI's stance was that the company should file Form ODI Part IV within stipulated time period at the time of disinvestment and to report changes in capital structure with AD Bank.

**Compounding Penalty levied for
₹ 1,28,355**

This document is prepared exclusively for the benefit and use of member firms of KCM Network and their clients. For further analysis and discussion, you may please reach out to our regulatory experts, Ms. Darshana Mankad at darshana.mankad@kcmehta.com and Mr. Nitin Dingankar at nitin.dingankar@kcmehta.com.