



Audit requirements for
filing **Annual Performance**
reports (APR) in India



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The Reserve Bank of India (RBI) has notified the new overseas investment framework on August 22, 2022. New framework has resulted into issuance of the fresh rules, regulations and directions which will supersede the earlier requirements.

Legal requirements

Various changes have been brought into by this framework. Certain compliance requirements have been liberalized, where approval requirements have been done away with; at the same time consequence of delayed reporting has been made more stringent. With these changes, the new framework also made following important amendments in respect of (Annual performance report) APR filing which are still unperceived.

Explanation (a) to para 10 sub-para (4) of the Foreign Exchange Management (Overseas Investment) Regulations, 2022 provides that

The APR shall be based on the audited financial statements of the foreign entity:

Provided that where the person resident in India does not have control in the foreign entity and the laws of the host country or host jurisdiction, as the case may be, do not provide for mandatory auditing of the books of accounts, the APR may be submitted based on unaudited financial statements certified as such by the statutory auditor of the Indian entity or by a chartered accountant where the statutory audit is not applicable;

Provided that no such reporting shall be required where –

- i. a person resident in India is holding less than 10 per cent. of the equity capital without control in the foreign entity and there is no other financial commitment other than by way of equity capital; or
- ii. a foreign entity is under liquidation.

Summary of requirements

- In respect of a foreign entity (other than India entity) i.e. having control and equity holding 10% or more, the financial statements of such entity are mandatorily required to be audited for APR filing (unlike earlier where management authorised financials were accepted by bankers).
- There is no exemption available if the foreign entity is owned 10% or more by Indian parent company even if there is no statutory requirement in the foreign country to get audited the financial statements of foreign entity.



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