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India – Data Sharing, New Certificate of Coverage Application for International Workers

by KPMG, India (a KPMG International member firm)

Recently, the Employees' Provident Fund Organisation (EPFO) of India issued two circulars intended to clarify compliance related to the Employees' Provident Funds Scheme, 1952 (EPFS) and Employees' Pension Scheme, 1995 (EPS) in respect of International Workers.

Why This Matters

Since the introduction of new rules governing International Workers and their participation in India's Provident Fund and pension systems, there have been some challenges for the Indian government and employers in terms of properly identifying and designating International Workers. Full compliance has also been difficult in many cases.

The modifications recently introduced will help clarify matters for employers and aid India's FRRO and Provident Fund authorities to better establish full compliance by employers and International Workers.

The two circulars issued by EPFO pertain to:

- Reconciliation of International Workers data with the office of Foreigners Regional Registration Office (FRRO).
- Introduction of a revised application form for obtaining a 'Certificate of Coverage' (COC) under Social Security Agreements (SSA) with various countries.

Background

In October 2008, the government of India had made fundamental changes in the Employees' Provident Funds Scheme, 1952 (EPFS) and Employees' Pension Scheme, 1995 (EPS) by bringing International Workers (IWs) under the purview of the Indian social security regime.

Later, some more changes were made regarding contributions, benefits and compliances for IWs.

(For prior coverage, see [Flash International Executive Alert 2012-193](#), 25 October 2012.)

Guidelines in Circulars

1) Reconciliation of IWs' Data with the FRRO

EPFO has directed its officials to coordinate with the respective FRROs to obtain the list of foreign nationals employed in establishments covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act).

EPFO has further asked its officials to reconcile the FRRO data with the IW-1 return filed by the employers and to help ensure full compliance – in particular where cases of evasion may be detected – in respect of IWs.

2) Introduction of a Revised Application Form for Obtaining a COC under SSAs with Various Countries

India has signed SSAs with other countries with a view to providing an exemption from Social Security contributions in the host countries for outbound employees (provided they are contributing to Social Security in India).

To obtain the exemption, an outbound employee requires a COC from EPFO which serves as proof that the individual is making social security contributions in India. In order to obtain a COC, outbound employees have to submit an application form to the Provident Fund office.

Now, EPFO has revised the COC application form. In the new application form, EPFO has changed the joint undertaking by employer and employee. The amended parts are as follows:

- a) "The employer shall continue to contribute in respect of this employee in India as Indian Worker/ International Worker*, as the case may be, during the period of posting in _____".***
- b) "That the applicant has worked/not worked* in a foreign country with which India has entered into a Social Security agreement and he/she is eligible/ not eligible* to avail benefits under a social security programme of that country, by virtue of the eligibility gained, under the said agreement.***

** Please strike off whichever is not applicable*

The Circular clarifies that an outbound employee will be entitled to a COC whether or not he or she has earlier worked in a country with which India has an effective SSA. However, PF contributions will be made as an IW if the applicant has worked in a foreign country with which India has entered into an SSA (must be in force) and the applicant has become eligible to avail of the benefits under the Social Security program of that country, under the said agreement.

KPMG Note

These circulars are a continuation of EPFO's effort to tighten its enforcement machinery and to identify those Indian employees who qualify as IWs and to monitor non-compliance in respect of expatriate employees under the EPF Act.

The changes in the COC application form will help the Provident Fund authorities in identifying the Indian employees who will be considered as IWs. Since employers have to identify whether an outbound employee will be considered an Indian worker or an IW, companies may wish to exercise greater vigilance with respect to their international assignments in order to help foster full compliance of IWs under the EPF Act.

Sources:

See: http://www.epfindia.com/Circulars/Y2014- 15/IWU_FRRO_IntlWorker_23.pdf .

See: http://www.epfindia.com/Circulars/Y2013- 14/IWU_COC_Revised_27300.pdf .

This article originally appeared in "[Employees' Provident Fund Organisation Issues New Circulars to Secure Proper Compliance in Respect of International Workers](#)" from *KPMG Flash News* (3 April 2014), a publication of the KPMG International member firm in India. It is adapted here in *Flash International Executive Alert*, with permission.

For additional information or assistance, please contact your local IES or People Services professional, or Parizad Sirwalla (tel. +91 (22) 3090 2010, e-mail psirwalla@kpmg.com), partner with the KPMG International member firm in Mumbai, India.

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Please 'Save the Date' in your calendar and join us in Chicago, Illinois, USA, at KPMG's International Executive Services: Global Mobility Forum 2014. We have a fantastic line-up and look forward to seeing you in Chicago on **6-8 October 2014**.

If you have any questions, please contact your usual KPMG professional or send an e-mail to: go-fmforum@kpmg.com.

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