

**CHAPTER**

**2**

# **FORGEIN EXCHANGE MANAGEMENT ACT, 1999 - INTRODUCTION**

## **Covering-**

- Bare Act
- Object of the Act
- Reason for Replacement of FERA, 1973
- Comparison of FERA and FEMA
- Structure of FEMA
- Authorities Under FEMA
- Definitions
- Advance Your Knowledge
- Self Test Questions

**EXPECTED  
MARKS COVERAGE  
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**भारत का राजपत्र**  
**The Gazette of India**

THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

ACT NO. 42 OF 1999

[29th December, 1999.]

An Act to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

**1. Short title, extent, application and commencement.**—(1) This Act may be called the Foreign Exchange Management Act, 1999.

(2) It extends to the whole of India.

(3) It shall also apply to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention thereunder committed outside India by any person to whom this Act applies.

(4) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Adjudicating Authority” means an officer authorised under sub-section (1) of section 16;

(b) “Appellate Tribunal” means the Appellate Tribunal for Foreign Exchange established under section 18;

(c) “authorised person” means an authorised dealer, money changer, off-shore banking unit or any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities;

CHAPTER II

REGULATION AND MANAGEMENT OF FOREIGN EXCHANGE

**3. Dealing in foreign exchange, etc.**—Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall—

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;

(b) make any payment to or for the credit of any person resident outside India in any manner;

(c) receive otherwise through an authorised person, any payment by order or on behalf of any person resident outside India in any manner.

*Explanation.*—For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorised person;

(d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

*Explanation.*—For the purpose of this clause, “financial transaction” means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

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# FOREIGN EXCHANGE MANAGEMENT ACT, 1999 - INTRODUCTION



The Foreign Exchange Management Act, 1999 (**FEMA**) has been introduced as a **replacement** for earlier **Foreign Exchange Regulation Act, 1973 (FERA)**. FEMA became an ACT on the **1<sup>st</sup> day of June, 2000**.

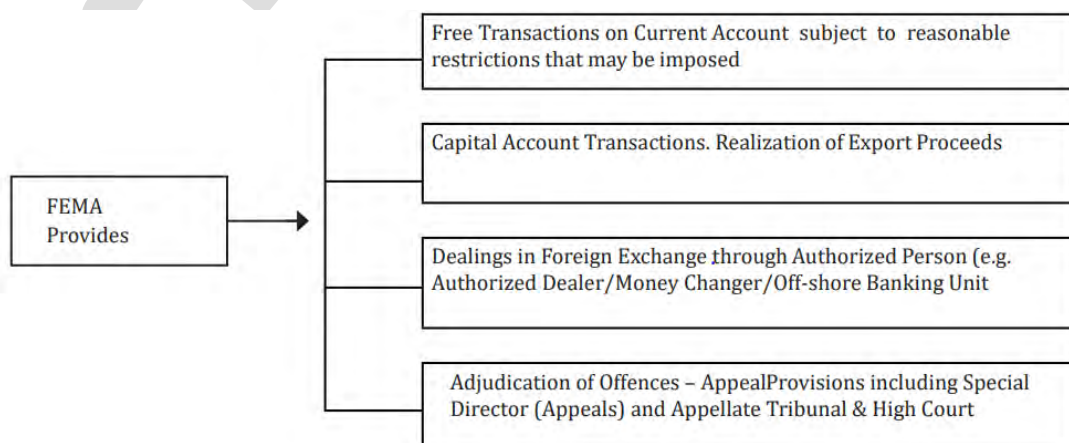
## APPLICABILITY

FEMA is applicable to **all parts of India**.

The act is also applicable to all branches, offices and agencies **outside India** *owned or controlled by a person who is a resident of India*.

## OBJECT OF THE ACT

<b>The main objective behind the Foreign Exchange Management Act (1999) is:-</b>	(a) <u>to</u> consolidate and amend the law relating to <b>foreign exchange</b> .
	(b) <u>to</u> facilitate external trade and payments.
	(c) <u>to</u> promote the orderly development and maintenance of <b>foreign exchange market in India</b> .





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## REASON FOR REPLACEMENT OF FERA, 1973

FEMA was introduced because the <b>FERA didn't fit in with post-liberalisation policies</b> .
A significant change that the FEMA brought with it, was that <b>it made all offenses regarding foreign exchange civil offenses</b> , as opposed to criminal offenses as dictated by FERA.
Unlike other laws where <i>everything is permitted unless specifically prohibited</i> , <b>under FERA nothing was permitted unless specifically permitted</b> .
Hence the tenor and tone of the Act was very drastic. It provided for <b>imprisonment of even a very minor offence</b> .
<b>Under FERA, a person was presumed guilty unless he proved himself innocent</b> whereas under other laws, <i>a person is presumed innocent unless he is proven guilty</i> .
FEMA has brought a new management regime of Foreign Exchange consistent with the emerging frame work of the <b>World Trade Organisation (WTO)</b> .

## COMPARISON OF FERA AND FEMA

S. No.	FERA	FEMA
1.	FERA was Criminal Law	FEMA is Civil Law
2.	There has 81 Sections	There is 49 Sections
3.	Under FERA there was <b>3 Authorities</b> (a) Ministry of Finance (b) Reserve Bank of India (c) Enforcement Directorate	Under FEMA there is <b>3 Authorities</b> (a) Ministry of Finance (b) Reserve Bank of India (c) Enforcement Directorate
4.	Presumption of MENS REA on Defendant	No presumption of MENS REA on Defendant
5.	Imprisonment and fine	Only fine not imprisonment

## STRUCTURE OF FEMA

FEMA, 1999 contains <b>only basic legal framework</b> .
Sec. 46 of FEMA authorizer Central Govt. to make Rules and
Sec. 47 authorizes RBI to make Regulations to carry out the provisions of the Act.

The **legislations, rules and regulations**, governing Foreign Exchange Management are as under:

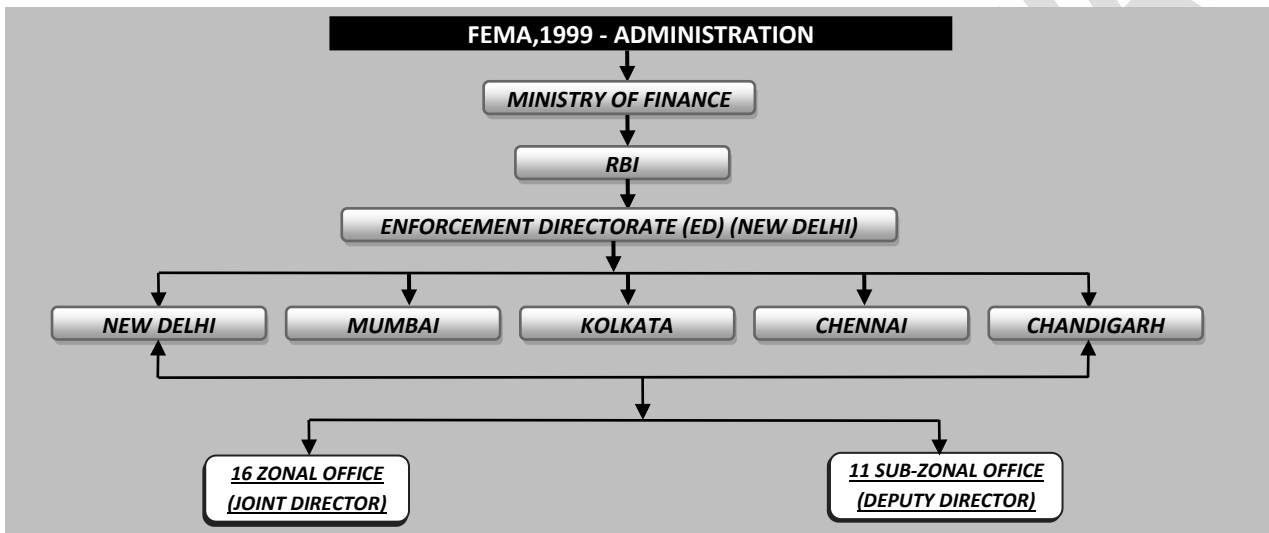
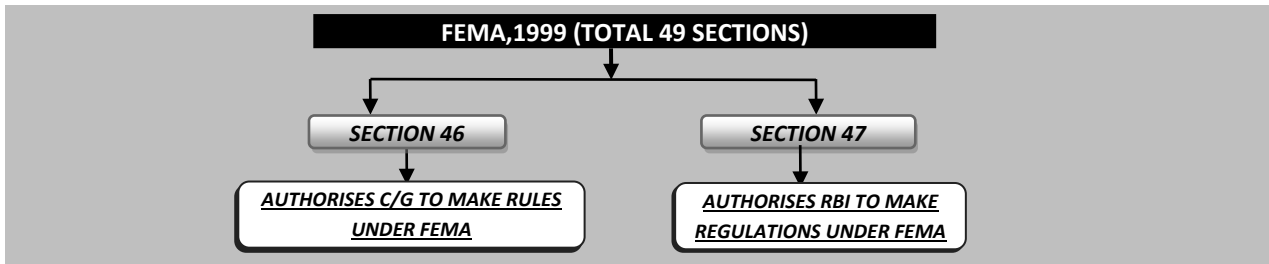
- (a) FEMA contains **7 Chapters divided into 49 sections** of which 12 sections cover operational part and the rest deals with contravention, penalties, adjudication, appeals, enforcement directorate, etc.

CHAPTER I – Preliminary (Section 1&2)
CHAPTER II- Regulation and Management of Foreign Exchange (Section 3 –9)
CHAPTER III – Authorised Person (Section 10 –12)
CHAPTER IV – Contravention and Penalties (Section 13-15)
CHAPTER V – Adjudication and Appeal (Section 16- 35)
CHAPTER VI – Directorate of Enforcement (Section 36-38)
CHAPTER VII- Miscellaneous (Section 39 – 49)

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- (b) **Rules made by Ministry of Finance** under section 46 of FEMA (Subordinate or delegated Legislations)
- (c) **Regulations made by RBI** under section 47 of FEMA (Subordinate or delegated Legislations)
- (d) Master Direction issued by RBI on every year
- (e) Foreign Direct Investment policy issued by Department of Industrial Policy and Promotion.
- (f) Notifications and Circulars issued by Reserve Bank of India.

***The RULES made under FEMA are as follows:***

1. FEM (Encashment of Draft, Cheque, Instrument and Payment of Interest) Rules, 2000
2. FEM (Authentication of Documents) Rules, 2000
3. FEM (Current Account Transaction) Rules, 2000
4. FEM (Adjudication Proceedings and Appeal) Rules, 2000
5. FEM (Compounding Proceedings) Rules, 2000
6. FEM (Non-debt Instruments) Rules, 2019

***The REGULATIONS made under FEMA are as follows:***

1. FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015
2. FEM (Borrowing and Lending in Rupees) Regulations, 2000
3. FEM (Borrowing or Lending in Foreign Exchange) Regulations, 2000
4. FEM (Deposit) Regulations, 2016
5. FEM (Export and Import of Currency) Regulations, 2015
6. FEM (Guarantees) Regulations, 2000
7. FEM (Acquisition and Transfer of Immovable Property in India) Regulations, 2000
8. FEM (Establishment in India of Branch office or a Project office or any other Place of Business) Regulations, 2016
9. FEM (Export of Goods and Services) Regulations, 2015
10. FEM (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015
11. FEM (Insurance) Regulations, 2015
12. FEM (Investment in Firm or Proprietary Concern in India) Regulations, 2000
13. FEM (Manner of Receipt and Payment) Regulations, 2016
14. FEM (Permissible Capital Account Transactions) Regulations, 2000
15. FEM (Possession and Retention of Foreign Currency) Regulations, 2015
16. FEM (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2015
17. FEM (Remittance of Assets) Regulations, 2016
18. FEM (Transfer or Issue of Security by a person Resident outside India) Regulations, 2017
19. FEM (Foreign Exchange Derivative Contracts) Regulations, 2000
20. FEM (Transfer or Issue of any Foreign Security) Regulations, 2004
21. FEM (Crystallization of inoperative Foreign Currency Deposits) Regulations, 2014
22. FEM (International Financial Services Centre) Regulations, 2015
23. FEM (Regularization of Assets Held Abroad by a Person Resident in India) Regulations, 2015

## **AUTHORITIES UNDER FEMA**

**Reserve Bank of India** is the overall controlling authority in respect of FEMA.

In addition to RBI, **Directorate of Enforcement** has also been formed for the implementation of FEMA.

The FEMA head-office, also known as **Enforcement Directorate** is situated in New Delhi and is headed by a Director.

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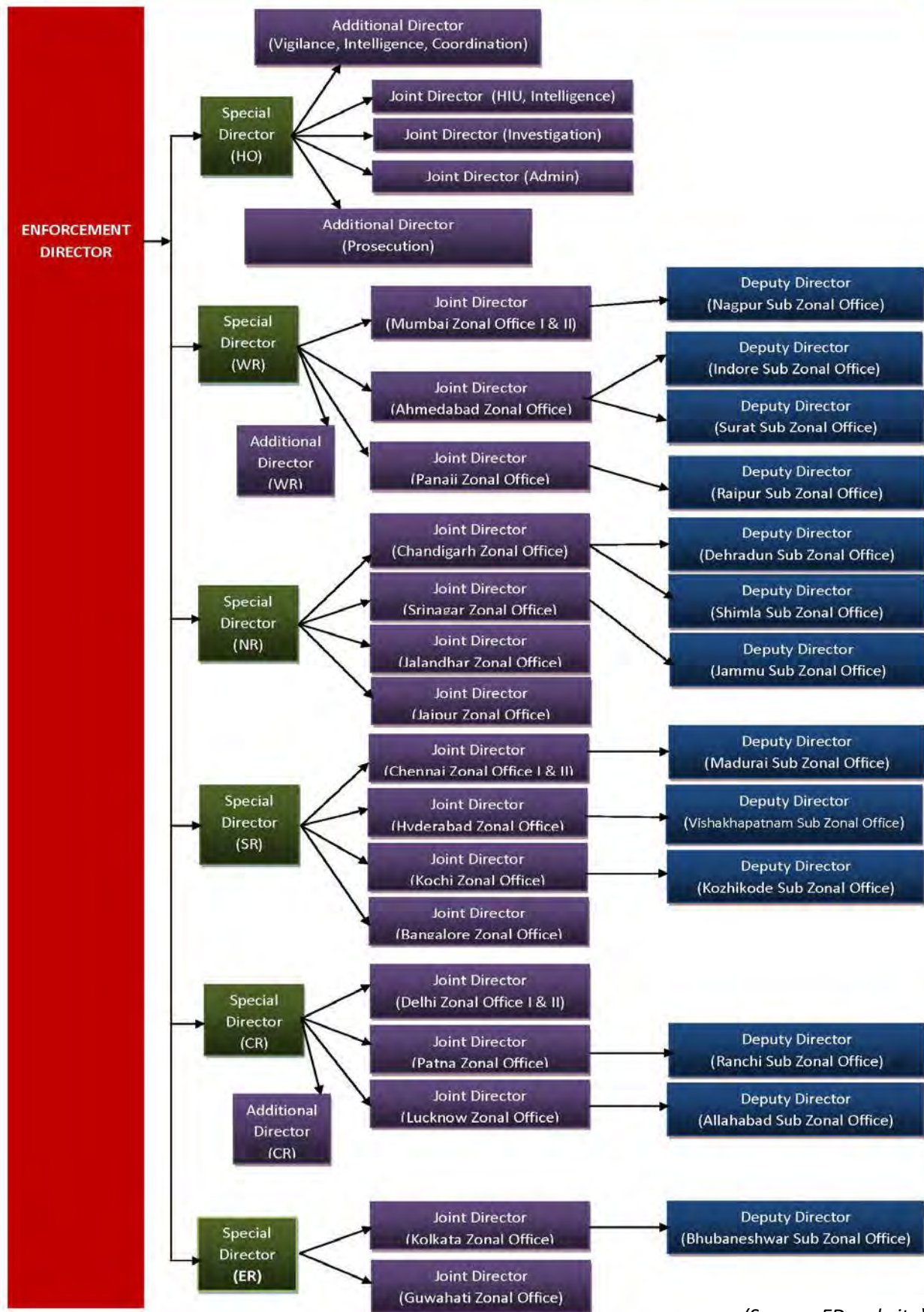
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# DEFINITIONS

## SECTION 2

### 1. FOREIGN EXCHANGE

Foreign exchange means 'foreign currency' and includes the following :-	(a) Deposits, credits and balance payable in any foreign currency
	(b) Drafts, travelers' cheques, letters of credit or bill of exchanges <b>expressed or drawn in Indian currency but payable in foreign currency</b>
	(c) Drafts, travelers' cheques, letters of credit or bill of exchange <b>drawn by banks, institutions or person outside India payable in Indian currency</b>

### 2. FOREIGN SECURITY

Foreign security means any security in the form of shares, stocks, bonds, debentures or any other instrument **denominated or expressed in foreign currency.**

Further, the term foreign security **also includes** security **expressed in foreign currency but where redemption or any form of return such as interest or dividend is payable in Indian currency.**

### 3. PERSON

Person **includes** an individual, a Hindu Undivided Family, a company, a firm, an association of persons or body of individuals, whether incorporated or not; any agency, office or branch owned or controlled by such persons. Further, it includes any other artificial person.

### 4. PERSON RESIDENT IN INDIA

Person resident in India means the following:-

(1) A **person residing in India** for **more than 182 days** during the course of preceding financial year but **does not include the following:**

(A) Person who has gone out of India or who stays outside India for any of the following purposes:-

(a) For taking up employment outside India;
(b) For carrying on a business or vocation outside India;
(c) For any other purpose in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) Person who has come to India or who stays in India for any purpose **other than the following purposes:**

(a) For taking up employment in India;
(b) For carrying on a business or vocation in India;
(c) For any purpose in such circumstances as would indicate his intention to stay in India for an uncertain period;

(2) Any person or body corporate **registered or incorporated in India;**

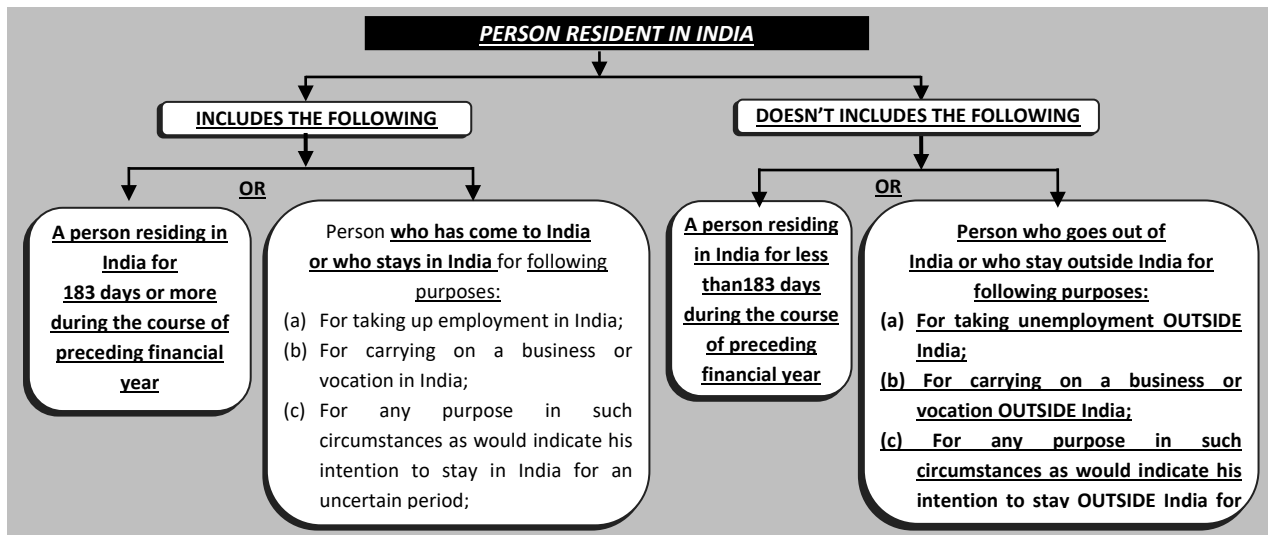
(3) An office, branch or agency **established in India** which is owned or controlled **by a person resident outside India;**

(4) An office, branch, or agency **established outside India,** which is *owned or controlled by a person resident in India.*

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## 5. PERSON RESIDENT OUTSIDE INDIA

It means a person **who is not resident in India**

## 6. PERSON OF INDIAN ORIGIN (PIO)

It means a citizen of any country **other than Pakistan or Bangladesh :-**

**Who was a citizen of India** by virtue of the Constitution of India or the Citizenship Act, 1955;

or

(i)	Who belonged to a territory that became part of India after the 15th day of August, 1947; or
(ii)	Who is a child or a grandchild or a great grandchild of a citizen of India or of a person referred to in clause (a) or (b); or
(iii)	Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred to in clause (a) or (b) or (c).

**Explanation:** PIO will include an 'Overseas Citizen of India' cardholder within the meaning of Section 7(A) of the Citizenship Act, 1955.

## 7. NON-RESIDENT INDIAN (NRI)

Non-resident India means a **person resident outside India who is a citizen of India.**

## 8. AUTHORIZED PERSON

Authorized person means an **authorized dealer, moneychanger, off shore banking unit** or any other person for the time being authorized for the following purposes:-

(a)	To deal in or transfer any foreign exchange or foreign security to any person;
(b)	To receive any payment by order or on behalf of any person resident outside India in any name;
(c)	To open the various accounts like Non-Resident (Ordinary) Rupee A/c, Non- Resident(External) Rupee A/c, Foreign Currency (Non-resident) A/c, Resident Foreign Currency A/c, Exchange Earners Foreign Currency A/c.
(d)	To sale or purchase foreign exchange for current account transactions;
(e)	To sale or purchase foreign exchange for permissible capital account transactions.

Normally, nationalised banks, leading non nationalized banks and foreign banks are appointed as authorized persons

### Power of the Reserve Bank to issue directions to authorised person

Section 11 of the Act empowers the RBI to **issue directions to the authorised person** in regard to making of payment or doing or desist from doing any act relating to foreign exchange or foreign security. Reserve Bank has also been empowered to **issue directions to the authorised persons to furnish such information** in such manner as it deems fit.

### Power of Reserve Bank to Inspect authorised person

Section 12 of the Act empowers **RBI to inspect the business of any authorised person** for the *purpose of verifying the correctness of any statement/information or particulars furnished.*

In case authorised person *fails to furnish the information* sought, the **RBI can initiate inspection** of the authorised person for obtaining such information.

RBI may **also inspect the business of an authorised person for securing compliance with the provisions** of the Foreign Exchange Management Act or any of the Rules, Regulations or directions.

The Reserve Bank may make an order in writing **authorising any of its officer for this purpose.**

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### **Power of Reserve Bank to revoke the authorisation**

Reserve Bank of India has been empowered to revoke the authorisation granted to any person at any time in the **public interest**.

It may also revoke the authorisation after giving an opportunity, if the authorised person failed **to comply with the conditions subject to which the authorisation was granted** or

**contravened any of the provisions of the Act, rules, notifications or directions.**

### **9. ADJUDICATING AUTHORITY**

‘Adjudicating Authority’ means an officer authorised under Sub-section (1) of **Section 16** *for the purposes of adjudication in respect of penalties* under Section 13.

Section 16 **empowers the Central Government**, to appoint, by an order published in the Official Gazette, **as many officers as it may think fit as the adjudicating authorities for holding an enquiry** in the manner prescribed after giving the person alleged to have committed any contravention, an opportunity of being heard.

### **10. APPELLATE TRIBUNAL**

‘Appellate Tribunal’ means **Appellate Tribunal for Foreign Exchange** to hear appeals against the orders of the adjudicating authorities and Special Directors (Appeals) under the Act.

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**CHAPTER**

**3**

# **FOREIGN EXCHANGE TRANSACTIONS & COMPLIANCES**

## **Covering-**

- Dealing and holdings in foreign exchange, foreign security, etc.
- Realisation, repatriation and holding of foreign currency
- Transactions under FEMA
- Provisions relating to current account transactions
- Provisions relating to capital account transactions
- Foreign exchange management regulations 2000
- Adjudication and appeal
- Contravention and penalties
- Compounding of contraventions

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# FOREIGN EXCHANGE TRANSACTIONS & COMPLIANCES

## DEALINGS AND HOLDINGS IN FOREIGN EXCHANGE, FOREIGN SECURITY, ETC.

### DEALING IN FOREIGN EXCHANGE, ETC SECTION-3

*Save as otherwise* provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, **no person shall:—**

- |   |
|---|
| (a) <b>deal</b> in or transfer any foreign exchange or foreign security to any person not being an authorised person;                                 |
| (b) <b>make</b> any payment to or for the credit of any person resident outside India in any manner;  |
| (c) <b>receive</b> otherwise than through an authorised person, any payment by order or on behalf of any person resident outside India in any manner; |

*Explanation.—For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorised person;*

- (d) **enter into any financial transaction** in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

### HOLDING OF FOREIGN EXCHANGE, FOREIGN SECURITY & IMMOVABLE PROPERTY

#### SECTION-4

*Save as otherwise* provided in the Act, rules or regulations, no person resident in India shall **acquire, hold, own, possess** or transfer any foreign exchange, foreign security or any immovable property situated outside India.

### FOREIGN EXCHANGE MANAGEMENT (POSSESSION AND RETENTION OF FOREIGN CURRENCY) REGULATIONS, 2015

Foreign exchange can be possessed and retained subject to the following conditions:-

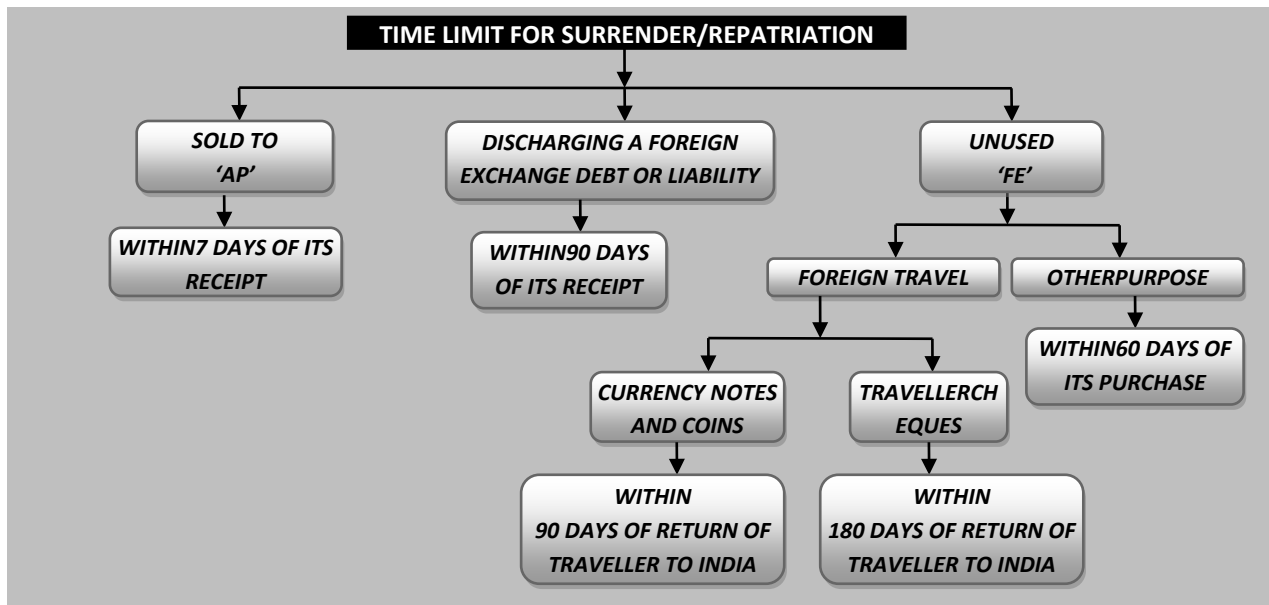
- (a) A person resident in India can retain foreign exchange up to **US \$ 2000 or its equivalent** in aggregate ***provided:-***

- |   |
|---|
| (1) Such foreign exchange have been acquired by him <b>while on a visit to any place out of India</b> by way of payment for services or by way of honorarium or gift. or,   |
| (2) Such foreign exchange have been <b>acquired by him from any person resident outside India and who is on a visit to India</b> for services rendered or by way of honorarium or gift or in settlement of any lawful obligation. or, |
| (3) Such foreign exchange represents unspent amount of foreign exchange acquired by him <b>from an authorized person for travel abroad;</b>   |

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| (b) Any person can possess <b>foreign coins without limit</b> ;   |
| (c) <b>Authorized person</b> can retain or possess foreign currency and coins <b>within the scope of his authority</b> without any limit  |
| (d) A person resident in India but not permanently resident in India <b>may possess foreign exchange without any limit</b> if such foreign exchange was acquired, held or owned by him <b>when he was resident outside India</b> and <b>has been brought into India in accordance with the prescribed regulations</b> . |

*The expression 'not permanently resident' means a person resident in India for employment of a specified duration or for a specific job or assignment, the duration of which does not exceed 3 years.*

## **REALISATION, REPATRIATION AND HOLDING OF FOREIGN CURRENCY**

### **FOREIGN EXCHANGE MANAGEMENT (REALISATION, REPATRIATION AND SURRENDER OF FOREIGN EXCHANGE) REGULATIONS, 2015**

A person resident in India to whom any foreign exchange is due or has accrued, should take all reasonable steps to realise and repatriate to India such foreign exchange.

A person resident in India, to **refrain from doing anything/taking any action, *resulting in***

<b>delay</b> in receipt of foreign exchange in whole or part, or
<b>ceasing in whole or part</b> the foreign exchange receivable by him.

### **MANNER OF REPATRIATION**

After realisation of foreign exchange due, the person concerned shall repatriate the same to India and

<b>sell it to an authorised</b> person or
<b>retain it to the specified extent in an account</b> with an authorised dealer or
<b>use it for discharging a foreign exchange debt or liability</b> to the specified extent.

### **TIME LIMIT FOR SURRENDER OF REALISED FOREIGN EXCHANGE**

Any foreign exchange should be sold by the person concerned to an authorised person within a period of seven days of its receipt, and in all other cases <b>within 90 days from the date of its receipt</b> .
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any person who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to an authorised person and <b>does not use it for such purpose or for any other purpose for which purchase or acquisition of foreign exchange is permissible</b> , shall surrender such foreign exchange or the unused portion thereof to an authorised person within a period of <b>sixty days</b> from the date of its acquisition or purchase by him.
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<u>However, in case the foreign exchange acquired or purchased by any person from an authorised person is for the purpose of <b>foreign travel</b>, then, the unspent balance of such foreign exchange shall be surrendered to an authorised person:-</u>
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- |  |
|--|
| (a) within <b>ninety days</b> from the date of return of the traveller to India, when the unspent foreign exchange is in the form of <b>currency notes and coins</b> ; and   |
| (b) within <b>one hundred eighty days</b> from the date of return of the traveller to India, when the unspent foreign exchange is in the form of <b>travellers cheques</b> . |

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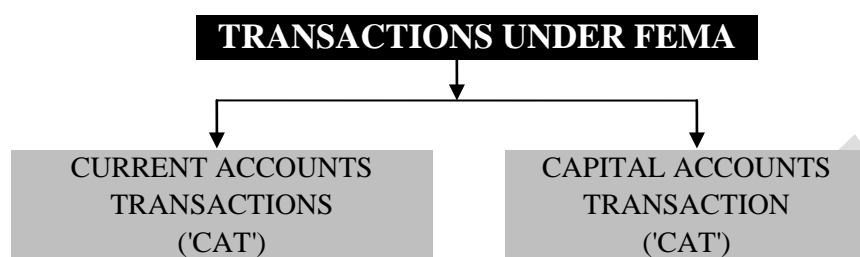
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The provisions of Foreign Exchange Management (Realisation, Repatriation and Surrender of Foreign Exchange) **Regulation** are **not applicable** to foreign exchange in the form of currency of Nepal or Bhutan.

## TRANSACTIONS UNDER FEMA



## PROVISIONS RELATING TO CURRENT ACCOUNT TRANSACTIONS

### CURRENT ACCOUNT TRANSACTIONS - MEANING

Current account transaction means a transaction **other than a capital account transaction**.

Without prejudice to the generality of the foregoing provisions include the following:-

- |  |
|--|
| (a) Payments due in connection with <b>foreign trade</b> , other current business, services and short-term banking and credit facilities in the ordinary course of business; |
| (b) Payments <b>due as interest on loans</b> and <b>as net income from investments</b> ;   |
| (c) Remittances for <b>living expenses of parents, spouse and children residing abroad</b> ;   |
| (d) Expenses in connection with <b>foreign travel, education and medical care</b> of parents, spouse and children.   |

### DEALINGS IN CURRENT ACCOUNT TRANSACTIONS

#### SECTION 5

Any person may sell or draw foreign exchange to or from an authorised person if such sale or drawal is a current account transaction

**Provided** that the Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed

Thus, **generally all current account transactions are free subject to reasonable restrictions**, which may be imposed by Central govt. in consultation with RBI.

### FOREIGN EXCHANGE MANAGEMENT (CURRENT ACCOUNT TRANSACTIONS) RULES, 2000

#### ➤ PROHIBITION ON DRAWAL OF FOREIGN EXCHANGE FOR CERTAIN TRANSACTIONS

Rule 3 prohibits the drawal of foreign exchange for the purposes of transactions:-

- |  |
|--|
| (a) specified in the <b>Schedule I</b> or  |
| (b) a travel to <b>Nepal and/or Bhutan</b> or a <b>transaction with a person resident in Nepal or Bhutan</b> . |

However, in the case of transaction with a person resident in Nepal and Bhutan, **the prohibition may be exempted by RBI** subject to such terms and conditions as it may consider necessary.

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**Schedule I** enumerate the following situations in which the drawal of foreign exchange is prohibited:-

(a) Remittance out of lottery winnings;
(b) Remittance of income from racing/riding etc. or any other hobby;
(c) Remittance for purchase of lottery tickets, banned/prescribed magazine, football pools, etc.
(d) Payment of commission on exports made towards equity investment in joint ventures/wholly owned subsidiaries abroad of Indian Companies.
(e) Payment of Commission on exports under Rupee State Credit Route, except commission upto 10% of invoice value of exports of tea and tobacco.
(f) Payment related to 'call back service' of telephone.
(g) Remittance of interest income on funds held in Non-resident Special Rupee Scheme Account.

➤ **PRIOR APPROVAL OF GOVERNMENT OF INDIA FOR CERTAIN TRANSACTIONS**

Rule 4 requires prior approval of the Government of India for the transactions as specified in **Schedule II**. However, this does not apply to the cases where the payment is made out of funds held in Resident Foreign Currency Account (RFC) of the remitter.

➤ **PRIOR APPROVAL OF RESERVE BANK FOR CERTAIN TRANSACTION**

As per Rule 5 of the **Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015**, every drawal of foreign exchange for transactions included in **Schedule III** shall be governed as provided therein:

Provided that this rule shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter.

**Transactions included in Schedule III**

**1. Facilities for individuals—**

Individuals can avail of foreign exchange facility for the following purposes within the limit of **USD 2,50,000 only**. Any additional remittance in excess of the said limit for the following Purposes shall require prior approval of the Reserve Bank of India.

(i) Private visits to any country (except Nepal and Bhutan)
(ii) Gift or donation.
(iii) Going abroad for employment
(iv) Emigration
(v) Maintenance of close relatives abroad
(vi) Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up.
(vii) Expenses in connection with medical treatment abroad
(viii) Studies abroad
(ix) Any other current account transaction

**Provided that** for the purposes mentioned at item numbers (iv), (vii) and (viii), the individual may avail of exchange facility for an amount in excess of the limit prescribed under the **Liberalised Remittance Scheme** if it is so required by a country of emigration, medical institute offering treatment or the University, respectively.



**Provided further that** if an individual remits any amount under the said Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 2,50,000 by the Amount so remitted.

**Provided also that** for a 'person who is resident but not permanently resident in India' and

(a) is a citizen of a foreign State other than Pakistan; or
(b) is a citizen of India, who is on deputation to the office or branch of a foreign company or Subsidiary or joint venture in India of such foreign company, may make remittance up to his net salary (after deduction of taxes, contribution to provident Fund and other deductions).

**Explanation:** For the purpose of this item, a person resident in India on account of his Employment or deputation of a specified duration (irrespective of length thereof) or for a specific Job or assignments, the duration of which does not exceed three years, is a resident but not Permanently resident:

**Provided also that** a person other than an individual may also avail of foreign exchange Facility, **mutatis mutandis**, within the limit prescribed under the said Liberalised Remittance Scheme for the purposes mentioned herein above.

## 2. Facilities for persons other than individual -

The following remittances by persons other than individuals shall require prior approval of the Reserve Bank of India.

(i) Donations exceeding <b>one per cent. Of their foreign exchange earnings</b> during the previous three financial years or <b>USD 5,000,000</b> , whichever is less, for-
(a) creation of Chairs in reputed educational institutes,
(b) contribution to funds (not being an investment fund) promoted by educational institutes; and
(c) contribution to a technical institution or body or association in the field of activity of the Donor Company.
(ii) Commission, per transaction, to agents abroad for sale of residential flats or commercial Plots in India exceeding <b>USD 25,000</b> or <b>five percent</b> of the inward remittance whichever is more.
(iii) Remittances exceeding <b>USD 10,000,000 per project</b> for any <b>consultancy services</b> in respect of infrastructure projects and <b>USD 1,000,000 per project</b> , for other consultancy Services procured from outside India.
(iv) Remittances exceeding <b>five per cent of investment brought into India</b> or <b>USD 100,000</b> whichever is higher, by an entity in India by way of reimbursement of pre-incorporation expenses."

## **PROVISIONS RELATING TO CAPITAL ACCOUNT TRANSACTIONS**

### **CAPITAL ACCOUNT TRANSACTIONS - MEANING**

Capital account transaction means a transaction, **which alters**

**the assets and liabilities**, including contingent liabilities **outside India** of person resident in India or

**assets and liabilities in India** of a person resident outside India.

Capital account transaction relate to **movement of capital**. These include transactions in property and investments and lending and borrowing money.

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## **REGULATION OF CAPITAL ACCOUNT TRANSACTION**

### **SECTION 6**

**Section 6** empowers **RBI to specify, in consultation with the Central Government**, the permissible capital account transactions and the limits up to which foreign exchange will be allowed for such transactions by making the appropriate regulations.

*Thus, capital account transactions are permitted to the extent specifically permitted by RBI.*

## **FOREIGN EXCHANGE MANAGEMENT (PERMISSIBLE CAPITAL ACCOUNT TRANSACTIONS) REGULATIONS, 2000**

### **➤ PERMISSIBLE CAPITAL ACCOUNT TRANSACTIONS**

- |  |
|--|
| (a) of persons resident in India(PRI)- SCH-I     |
| (b) persons resident outside India(PROI)- SCH-II |

<b>Following are Permissible Capital Account Transactions of persons resident in India(PRI)</b>	<b>Following are Permissible Capital Account Transactions of persons resident outside in India(PROI)</b>
(a) investment in foreign securities.	(a) Investment in security of body corporate India
(b) foreign currency loans raised in India and abroad;	(b) Deposits between a person resident in India and a person resident outside India
(c) transfer of immovable property outside India	(c) Acquisition and transfer of immovable property in India.
(d) guarantees issued in favour of a person resident outside India;	(d) Guarantee in favour of, or on behalf of a person resident in India.
(e) export, import and holding of currency/currency notes;	(e) Import and export of currency/currency notes into/from India
(f) loans and overdrafts from a person resident outside India;	(f) Maintenance Foreign Currency accounts in India
(g) maintenance of foreign currency accounts in India and outside India	(g) Remittance outside India of capital assets in India.
(h) taking out of insurance policy from an insurance company outside India;	
(i) loans and overdrafts to a person resident outside India;	
(j) remittance outside India of capital assets;	
(k) sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad.	

### **MANNER FOR PAYMENT FOR INVESTMENT**

The payment for investment are required to be made by remittance from abroad through **normal banking channels** or by **debit to an account of the investor maintained with an authorised person in India** in accordance with the regulation made by the Reserve Bank of India.

## **MODES OF ACQUIRING PROPERTY OUTSIDE INDIA BY A RESIDENT**

According to section 6(4) of the of Foreign Exchange Management Act, 1999 read with **Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2015**,

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**A person resident in India** can hold, own, transfer or invest in any immovable property **situated outside India**

if such property was acquired, held or owned by him/ her when he/ she was resident outside India or inherited from a person resident outside India.

1. A resident can acquire immovable property outside India **by way of gift or inheritance from:**

(a) a person resident in India can hold, own, transfer or invest in any immovable property situated outside India if such property was acquired, held or owned by him/ her when he/ she was resident outside India or inherited from a person resident outside India.; or

(b) a person resident in India who had acquired such property **on or before July 8, 1947** and **continued to be held by him with the permission of the Reserve Bank.**

(c) a person resident in India who has acquired such property in accordance **with the foreign exchange provisions in force at the time of such acquisition.**

2. A resident can purchase immovable property outside India out of foreign exchange held in his/ her **Resident Foreign Currency (RFC) account.**

3. A resident can acquire immovable property outside India **jointly with a relative** who is a person resident outside India, *provided there is no outflow of funds from India.*

### **ACQUISITION UNDER THE LIBERALISED REMITTANCE SCHEME (LRS)**

A resident individual **can send** remittances under the Liberalised Remittance Scheme for purchasing immovable property outside India.

## **REMITTANCE OF ASSETS**

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, the Reserve Bank issued the **Foreign Exchange Management (Remittance of Assets) Regulations, 2016** in respect of

remittance outside India

by a person **whether resident in India or not,**

of assets in India.

### **REMITTANCES BY INDIVIDUALS NOT BEING NRIs/ PIOs.**

**‘Remittance of assets’ means** remittance **outside India of funds**

in a deposit with a bank/ firm/ company, provident fund balance or

superannuation benefits,

amount of claim or maturity proceeds of insurance policy,

sale proceeds of shares, securities, immovable property or any other asset held in India

in accordance with the provisions of the Foreign Exchange Management Act, 1999 (FEMA) or rules/ regulations made there under.

**Authorised Dealer (AD) may allow** remittance of assets **by a foreign national** where:

(i) the person has **retired from employment** in India;

(ii) the person has **inherited from a person** referred to in section 6(5) of the Act;

(iii) the person is a **non-resident widow/widower** and has inherited assets from her/his deceased spouse who was an Indian national resident in India

(iv) the remittance is in respect of balances held in a bank account by a **foreign student who has completed his/ her studies.**

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## REMITTANCES BY NRIs/ PIOs

ADs may allow NRIs/ PIOs, on submission of documentary evidence, to remit up to USD one million, per financial year:

(i) out of balances in their non-resident (ordinary) (NRO) accounts/ sale proceeds of assets/ assets acquired in India by way of inheritance/ legacy;

(ii) in respect of assets acquired under a deed of settlement made by either of his/ her parents or a relative as defined in Companies Act, 2013. The settlement should take effect on the death of the settler;

(iii) in case settlement is done without retaining any life interest in the property i.e. during the lifetime of the owner/ parent, it would amount to regular transfer by way of gift

## REMITTANCES BY COMPANIES/ ENTITIES

ADs may allow remittances by Indian companies under liquidation on directions issued by a Court in India/ orders issued by official liquidator in case of voluntary winding up on submission of:

(i) Auditor's certificate confirming that all liabilities in India have been either fully paid or adequately provided for.

(ii) Auditor's certificate to the effect that the winding up is in accordance with the provisions of the Companies Act.

(iii) In case of winding up otherwise than by a court, an auditor's certificate to the effect that there are no legal proceedings pending in any court in India against the applicant or the company under liquidation and there is no legal impediment in permitting the remittance.

ADs may also allow Indian entities to remit their contribution towards the provident fund/ superannuation/ pension fund in respect of their expatriate staff resident but "not permanently resident" in India

## REMITTANCE OF ASSETS REQUIRING RBI APPROVAL

Prior approval of the Reserve Bank is necessary for remittance of assets where:

(a) Remittance is in excess of USD 1,000,000 (US Dollar One million only) per financial year

(i) on account of legacy, bequest (will) or inheritance to a citizen of foreign state, resident outside India;

(ii) by NRIs/ PIOs out of the balances held in NRO accounts/ sale proceeds of assets/ the assets acquired by way of inheritance/ legacy.

(b) Hardship will be caused to a person if remittance from India is not made to such a person.

Remittance of funds from the sale of assets in India held by a person, whether resident in or outside India, not covered under the directions stipulated above will require approval of the Reserve Bank.

## ESTABLISHMENT OF BRANCH OFFICE (BO)/ LIAISON OFFICE (LO)/ PROJECT OFFICE (PO) IN INDIA

Establishment of branch office/ liaison office / project office or any other place of business in India by foreign entities is regulated in terms of Section 6(6) of Foreign Exchange Management Act, 1999 read with Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016 and amended from time to time.

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## BRANCH OFFICE- BO

Branch office in relation to a company, means any establishment described as such by the company.

### Permitted activities for a branch office in India of a person resident outside India:-

Normally, the branch office should be engaged in the activity in which the parent company is engaged.

(i)	Export/import of goods.
(ii)	(ii) Rendering professional or consultancy services.
(iii)	Carrying out research work in which the parent company is engaged.
(iv)	Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
(v)	Representing the parent company in India and acting as buying/ selling agent in India.
(vi)	Rendering services in Information Technology and development of software in India.
(vii)	Rendering technical support to the products supplied by parent/group companies.
(viii)	Representing a foreign airline/shipping company

## LIAISON OFFICE- LO

Liaison Office means a place of business

to act as a channel of communication between the principal place of business or Head Office or by whatever name called and entities in India

*but which does not undertake any commercial /trading/ industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel.*

### Permitted activities for a liaison office in India of a person resident outside India:-

(i)	Representing the parent company / group companies in India.
(ii)	(ii) Promoting export / import from / to India.
(iii)	Promoting technical/ financial collaborations between parent / group companies and companies in India.
(iv)	Acting as a communication channel between the parent company and Indian companies.

## PROJECT OFFICE- PO

Project office means a place of business in India to represent the interests of the foreign company executing a project in India but excludes a Liaison Office.

### Parameters of project office

A foreign company may open project office/s in India provided it has secured from an Indian company, a contract to execute a project in India, and

(i)	the project is funded directly by inward remittance from abroad; or
(ii)	the project is funded by a bilateral or multilateral International Financing Agency; or
(iii)	the project has been cleared by an appropriate authority; or
(iv)	a company or entity in India awarding the contract has been granted term loan by a Public Financial Institution or a bank in India for the Project.

## GENERAL CRITERIA

- 1. Applications from foreign companies** (a body corporate incorporated outside India, including a firm or other association of individuals) for establishing BO/ LO/ PO in India shall be considered by the AD Category-I bank as per the guidelines given by Reserve Bank of India (RBI).

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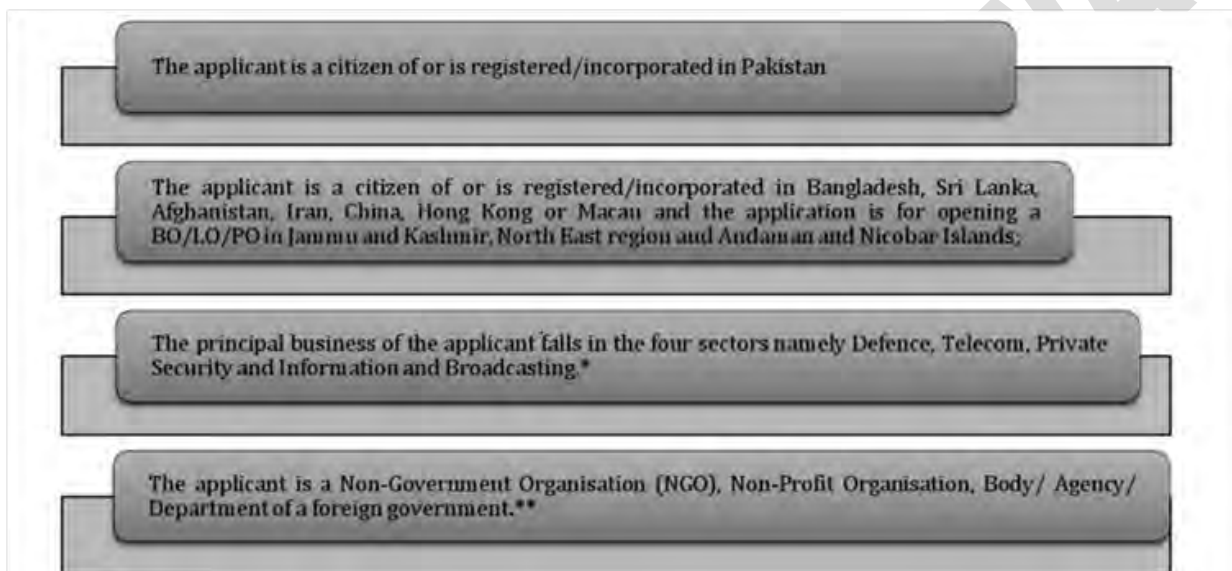
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If the principal business of the entity resident outside India falls **under sectors where 100 percent Foreign Direct Investment (FDI) is allowed** in terms Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, as amended from time to time, and the entity seeks to open a BO/LO/PO, **the AD Category-I bank may consider such applications under the delegated powers.**

## 2. RBI APPROVAL

i. An application from a **person resident outside India** for opening of a BO/LO/PO in India **shall require prior approval of Reserve Bank of India** in the following cases:



3. The non-resident entity applying for a BO/LO in India **should have a financially sound track record viz:**

Ranch Office	A profit making track record during the immediately preceding five financial years in the home country and net worth of not less than USD 100,000 or its equivalent. <b>Net worth</b> [total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name called].
Liaison Office	A profit making track record during the immediately preceding three financial years in the home country and net worth of not less than USD 50,000 or its equivalent.
A applicant that is not financially sound and is a subsidiary of another company.	May submit a Letter of Comfort (LOC) from its parent/ group company, subject to the condition that the parent/ group company satisfies the prescribed criteria for net worth and profit.

## **PROCEDURE FOR ESTABLISHMENT**

The application for establishing BO / LO/ PO in India may be submitted by the non-resident entity in **Form FNC** to a designated AD Category - I bank (i.e. an AD Category – I bank identified by the applicant with whom they intend to pursue banking relations) along with the prescribed documents and the LOC, wherever applicable.

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Following are the **prescribed documents**:

(a) <b>Copy of the Certificate of Incorporation</b> / Registration; Memorandum of Association and Articles of Association attested by the Notary Public in the country of registration. [If the original Certificate is in a language other than in English, the same may be <b>translated into English</b> and <b>notarized as above</b> and <b>cross verified/attested by the Indian Embassy/ Consulate in the home country</b> ].
(b) <b>Audited Balance sheet</b> of the applicant company for the <b>last three/ five years</b> in case of branch office/ liaison office respectively. [If the applicants' home country laws/regulations do not insist on auditing of accounts, an Account Statement certified by a <b>Certified Public Accountant (CPA)</b> or any <b>Registered Accounts Practitioner</b> by any name, clearly showing the net worth may be submitted]
(c) <b>Bankers' Report</b> from the applicant's banker in the host country / country of registration showing the <b>number of years the applicant has had banking relations with that bank</b> .
(d) <b>Power of Attorney</b> in favour of <b>signatory of Form FNC</b> in case the Head of the overseas entity is not signing the Form FNC.

The **AD Category-I bank shall after exercising due diligence** in respect of the applicant's background, and satisfying itself as regards adherence to the eligibility criteria for establishing BO/LO/PO, antecedents of the promoter, nature and location of activity of the applicant, sources of funds, etc., and compliance with the extant KYC norms **grant approval to the foreign entity for establishing BO/LO/PO in India**.

#### **GENERAL PERMISSION IN SEZ**

There is a general permission to non-resident companies for establishing **BO in the Special Economic Zones (SEZs)** to undertake manufacturing and service activities **subject to the conditions that**:

(a) such BOs are functioning in those <b>sectors where 100% FDI is permitted</b> ;
(b) such BOs comply with <b>Chapter XXII of the Companies Act, 2013</b> ( <i>companies incorporated outside india</i> ); and
(c) such BOs function on a <b>stand-alone basis</b>

### **REMITTANCE OF PROFIT/SURPLUS**

i. **BOs are permitted to remit outside India profit of the branch net of applicable Indian taxes, on production of the following documents** to the satisfaction of the AD Category-I bank through whom the remittance is effected:

(a) A certified copy of the <b>audited Balance Sheet and Profit and Loss account</b> for the relevant year.
(b) A <b>Chartered Accountant's certificate certifying</b>
(i) the manner of arriving at the remittable profit;
(ii) that the entire remittable profit has been earned by undertaking the permitted activities; and
(iii) that the profit does not include any profit on revaluation of the assets of the branch.

ii. AD Category – I bank can permit intermittent remittances by POs **pending winding up / completion of the project** provided they are satisfied with the bonafides of the transaction, **subject to the following**:

(a) The PO submits an Auditors' / Chartered Accountants' Certificate to the effect <b>that sufficient provisions have been made to meet the liabilities in India including Income Tax, etc.</b>
(b) An undertaking from the PO that the <b>remittance will not, in any way, affect the completion of the project in India</b> and that any <b>shortfall of funds for meeting any liability in India will be met by inward remittance from abroad</b> .

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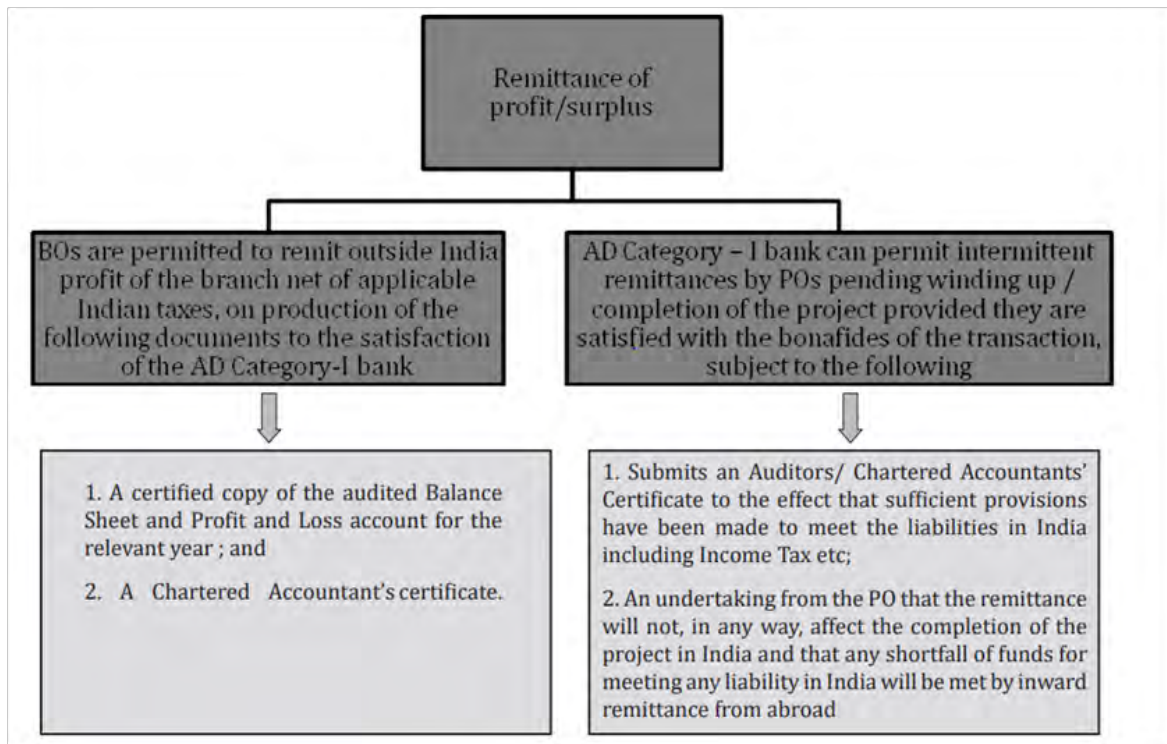
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## ADJUDICATION AND APPEAL

### ➤ DIRECTORATE OF ENFORCEMENT

**Section 36 of the act empowers** the central government to establish a directorate of enforcement with a director and other officers or class of officers, for the purposes of the enforcement of the Act.

The Central Government has also been empowered **to authorise Director, Additional Director, Special Director or Deputy Director to appoint officers of enforcement** below the rank of Assistant Director of Enforcement to exercise the powers and discharge the duties conferred or imposed on him under the Act

### ➤ APPOINTMENT OF ADJUDICATING AUTHORITY

**Section 16 empowers the central government** to appoint by notification in the official gazette as many adjudicating authorities as it may think fit for holding enquiries under section 13. The central government is, however under obligation to specify the jurisdiction of the adjudicating authority.

There are **3 levels of Adjudicating Authorities** i.e. Deputy Director, Additional Director and Director of Directorate of Enforcement in the ascending order of hierarchy.

The adjudicating authority has been empowered **to hold any enquiry on a complaint** made in writing by an officer authorised by a general or special order by the central government. The officers so appointed shall exercise the like powers which are conferred on **income tax authorities** under the income tax Act, 1961, subject to such conditions and limitations as laid down under that act.

In case, a complaint has been made in respect of a person alleged to have committed the contravention, such person shall be **given a reasonable opportunity of being heard** before imposing any penalty under section 13.

### ➤ APPEAL TO SPECIAL DIRECTOR (APPEALS)

Section 17 of the act provides for appointment of one or more special directors (appeals) to hear appeals against the orders of the adjudicating authorities.

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The appeal shall be filed in prescribed **Form with prescribed fee** within **45 days** from the date of the receipt of the order by aggrieved person.

The special director (appeals) has however, been empowered to entertain appeal after the expiry of the said period of forty five days.

### ➤ **ESTABLISHMENT OF APPELLATE TRIBUNAL**

Under section 18, the central government is empowered to establish an appellate tribunal, by a notification in the official gazette, to hear appeals against the orders of adjudication authorities and special director (appeals).

The **central government or any person aggrieved by the orders** of adjudicating authority **or special director (appeals)** may prefer an appeal to the appellate tribunal.

every appeal shall be filed within a period of **forty-five days** from the date on which a copy of the order made by the Adjudicating Authority or the Special Director (Appeals) is received by the aggrieved person or by the Central Government and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed

### ➤ **APPEAL TO HIGH COURT**

A right to appeal to high court lies with the appellant who **is aggrieved by the decision of the tribunal**. Such appeal must be filed within **60 days** from the date of communication of the decision or order of the tribunal.

The appeal to the high court can be made on any **question of law** arising out of such order. A relaxation for a maximum period of sixty days for making an appeal may be granted by the high court, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the specified period.

### ➤ **INVESTIGATION**

**Section 37** of the Act empowers the **Director of Enforcement** and *other officers not below the rank of an Assistant Director* to take up for investigation the contravention referred to in Section 13 of the Act.

In addition, the **Central Government may also authorise any officer or class of officers in the Central Government, State Government, Reserve Bank of India, not below the rank of Under Secretary to Government of India**, to investigate any contravention under Section 13 of the Act. The officers so appointed shall exercise the like powers which are conferred on **income tax authorities** under the Income Tax Act, 1961, subject to such conditions and limitations as laid down under that Act.

## **CONTRAVENTION AND PENALTIES**

Section 13 provides that any person contravening any provision of the act, **shall be liable for penalty** upon adjudication, which may extend

upto **thrice the sum involved in such contravention** *where such amount is quantifiable* or

**upto two lakh rupees** *where the amount is not quantifiable.*

If the **contravention continues**, the **penalty of 5,000 per day** during the period in which the contravention continues, shall be imposed.



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## ➤ CONTRAVENTION BY COMPANIES

where the person committing the contravention of the act or rules happened to be a company, every person who at the time the contravention was committed, was **in charge** of and was responsible to the company for the conduct of the business of the company shall be deemed to be guilty of the contravention and liable to be proceeded against and punished accordingly.

However, no such persons shall be deemed to be guilty of committing any offence if he proves that such contravention took place **without his knowledge** or that **he exercised adequate steps to prevent** such contravention.

In case the contravention is committed by a company and it is proved that such contravention is committed with the knowledge, consent and connivance or is attributed to the neglect on the part of any **director, manager or secretary or other officer** of the company, they will also be deemed to be guilty of contravention and liable to be proceeded against and punished accordingly.

## ➤ ENFORCEMENT OF THE ORDERS OF ADJUDICATING AUTHORITY

In terms of section 14 of the act, if any person fails to make full payment of the penalty imposed within a period of ninety days from the date on which the notice of payment of such penalty is served on him, he shall be liable for **civil imprisonment**.

## **COMPOUNDING OF CONTRAVENTIONS**

Contravention is a breach of the provisions of the Foreign Exchange Management Act (FEMA), 1999 and rules/regulations/notification/orders/directions/circulars issued there under.

*Compounding refers to the process of voluntarily admitting the contravention, pleading guilty and seeking redressal.*

**The Reserve Bank is empowered to compound** any contraventions as defined under section 13 of FEMA, 1999. Any person who contravenes any provision of the FEMA, 1999 [*except section 3(a)*] or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act or contravenes any condition subject to which an authorization is issued by the Reserve Bank, can apply for compounding to the Reserve Bank.

### APPLICATION FOR COMPOUNDING

All **applications** for compounding may be submitted together with the **prescribed fee** by way of a demand **draft drawn in favour of “Reserve Bank of India”** and payable at the concerned Regional Office and by way of a demand draft drawn in favour of “Reserve Bank of India” and payable at Mumbai for cases submitted to the Compounding Authority, [Cell for Effective implementation of FEMA (CEFA)], Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai.

### CONDITION OF COMPOUNDING

The benefit of compounding shall not be available in case a contravention committed by any person within a period of **three years from the date on which a similar contravention** committed by him was compounded under these rules.

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## **SCOPE AND PROCEDURE FOR COMPOUNDING**

On receipt of the application for compounding, the **Reserve Bank shall examine the application** based on the documents and submissions made in the application and assess whether contravention is quantifiable and, if so, the amount of contravention.

The **following factors, which are only indicative, may be taken into consideration** for the purpose of passing compounding order and adjudging the quantum of sum on payment of which contravention shall be compounded:

(a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the contravention;
(b) the amount of loss caused to any authority/ agency/ exchequer as a result of the contravention;
(c) economic benefits accruing to the contravener from delayed compliance or compliance avoided;
(d) the repetitive nature of the contravention, the track record and/or history of non-compliance of the contravener;
(e) contravener's conduct in undertaking the transaction and in disclosure of full facts in the application and submissions made during the personal hearing;
(f) and any other factor as considered relevant and appropriate.

## **ISSUE OF THE COMPOUNDING ORDER**

The **Compounding Authority shall pass an order** of compounding after affording an opportunity of being heard to all the concerned as expeditiously as possible as **and not later than 180 days from the date of application** on the basis of the averments made in the application as well as other documents and submissions made in this context by the contravener during the personal hearings.

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**CHAPTER**

**4**

# **LIBERALIZED REMITTANCE SCHEME (LRS)**

## **Covering-**

- The Permissible Capital Account Transactions by an Individual Under LRS
- The Permissible Current Account Transactions by an Individual Under LRS
- Remittance facilities to persons other than individuals
- Prohibited Transactions
- Self Test Questions

**EXPECTED  
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# LIBERALIZED REMITTANCE SCHEME (LRS)

The Reserve Bank of India as part of its **liberalization measure to facilitate resident individuals to remit funds abroad** for permitted current or capital account transactions or combination of both issues Liberalised Remittance Scheme.

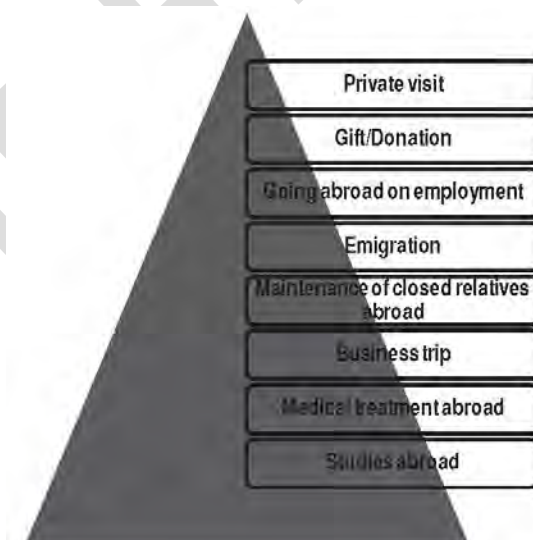
Liberalised Remittance Scheme **permits the Authorised Dealers to freely allow** remittances by resident individuals up to **USD 2,50,000 per Financial Year (April-March)** for any permitted current or capital account transaction or a combination of both. The Scheme is available to all resident individuals including minors.

## THE PERMISSIBLE CAPITAL ACCOUNT TRANSACTIONS BY AN INDIVIDUAL UNDER LRS

(i) opening of foreign currency account abroad with a bank;
(ii) purchase of property abroad;
(iii) making investments abroad;
(iv) acquisition of qualification shares of an overseas company for holding the post of director
(v) <b>investment in units of</b> mutual funds , venure capitl funds , promissory notes

## PERMISSIBLE CURRENT ACCOUNT TRANSACTIONS BY AN INDIVIDUAL UNDER LRS

The limit of USD 2,50,000 per Financial Year (FY) under the Scheme also includes/subsumes remittances for current account transactions such as:



### a. Private visits

For private visits abroad, other than visit to Nepal and Bhutan, resident individual can obtain foreign exchange up to an aggregate amount of USD 2,50,000, from an Authorised Dealer, in any one financial year, irrespective of the number of visits undertaken during the year.

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**(b) Gift/donation**

Any resident individual may remit up-to USD 2,50,000 in one Financial Year as gift to a person residing outside India or as donation to an organization outside India.

**(c) Going abroad on employment**

A person going abroad for employment can draw foreign exchange up to USD 2,50,000 per Financial Year from any Authorised Dealer in India.

**(d) Emigration**

A person wanting to emigrate can draw foreign exchange from AD Category I bank and AD Category II up to the amount prescribed by the country of emigration or USD 250,000.

Remittance of any exchange outside India in excess of this limit may be allowed only towards meeting incidental expenses in the country of immigration.

**(e) Maintenance of close relatives abroad**

A resident individual can remit up-to USD 2,50,000 per Financial Year towards maintenance of close relatives.

**(f) Business trip**

Visits by individuals in connection with attending of an international conference, seminar, specialised training, apprentice training, etc., are treated as business visits. For business trips to foreign countries, resident individuals can avail of foreign exchange up to USD 2,50,000 in a Financial Year irrespective of the number of visits undertaken during the year.

**(g) Medical treatment abroad**

Authorised Dealers may release foreign exchange up to an amount of USD 2,50,000 or its equivalent per Financial Year without insisting on any estimate from a hospital/doctor. For amount exceeding the above limit, Authorised Dealers may release foreign exchange under general permission based on the estimate from the doctor in India or hospital/ doctor abroad.

**(h) Facilities available to students for pursuing their studies abroad**

AD Category I banks and AD Category II, may release foreign exchange up to USD 2,50,000 or its equivalent to resident individuals for studies abroad without insisting on any estimate from the foreign University. However, AD Category I bank and AD Category II may allow remittances (without seeking prior approval of the Reserve Bank of India) exceeding USD 2,50,000 based on the estimate received from the institution abroad.

**DOCUMENTATION BY THE REMITTER**

- (a) The resident individual is required to compulsorily designate a branch of an AD through which all the remittances under the Scheme will be made. The resident individual seeking to make the remittance should furnish **Form A2** for purchase of foreign exchange under LRS.
- (b) It is mandatory to **have PAN card** to make remittances under the Scheme for capital account transactions.

**REMITTANCE FACILITIES TO PERSONS OTHER THAN INDIVIDUALS**

**Gift/donation**

General permission has been granted to persons other than individuals to remit towards donations up-to one per cent of their foreign exchange earnings during the previous three financial years or USD 5,000,000, whichever is less, for creation of Chairs in reputed educational institutes,

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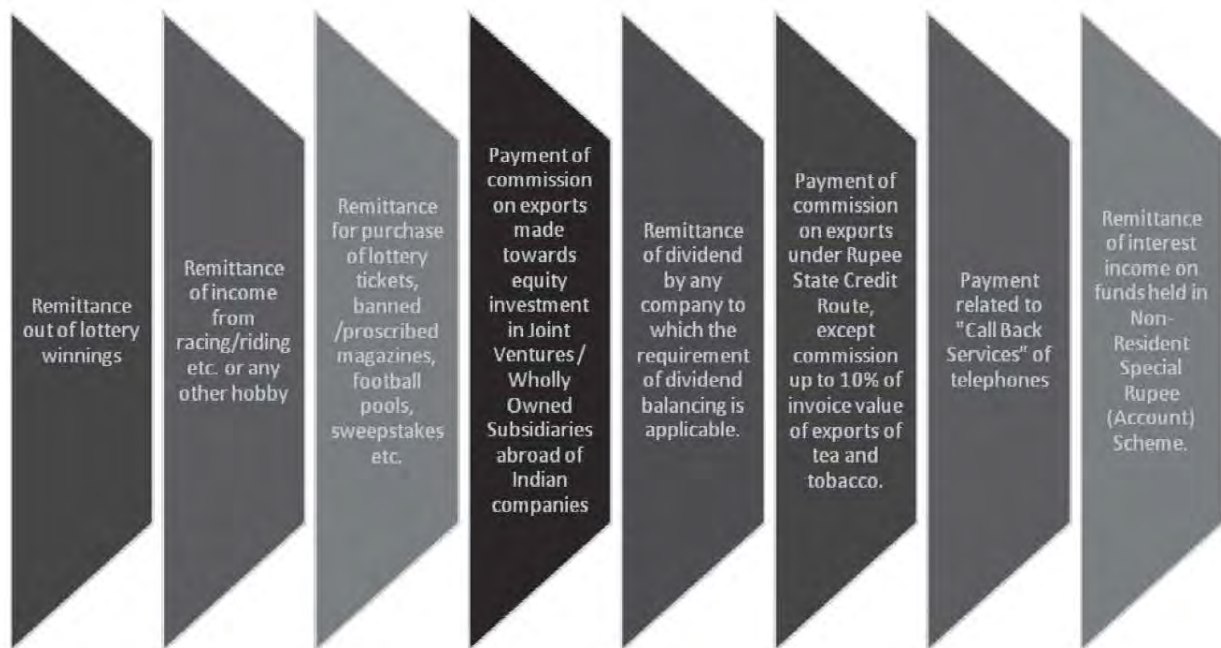
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| (a) contribution to funds (not being an investment fund) promoted by educational institutes; and                  |
| (b) contribution to a technical institution or body or association in the field of activity of the donor Company. |
| (c) Any additional remittance in excess of the same shall require prior approval of the Reserve Bank of India.    |

**PROCEDURE FOR REMITTANCE:**

Applications for remittances for purposes other than those specified above may be forwarded to the Reserve Bank of India together with :-

- (a) details of their **foreign exchange earnings during the last 3 years**,
- (b) brief background of the company’s activities,
- (c) purpose of the donation

**PROHIBITED TRANSACTIONS**



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