Addendum to Chapter 6 of the Paper 6D: Economic Laws

Chapter 6 – The Foreign Exchange Management Act, 1999 contains reference and extracts of certain Circulars, Rules and Regulations. For easy and in depth knowledge of students the complete text of said Circular, Rules and Regulations which forms part of the study material as an annexure is provided here under:
FOREIGN EXCHANGE MANAGEMENT (CURRENT ACCOUNT TRANSACTIONS) RULES, 2000

GSR 381(E), dated 3-5-2000 - In exercise of the powers conferred by section 5 and sub-section (1) and clause (a) of sub-section (2) of section 46 of the Foreign Exchange Management Act, 1999, and in consultation with the Reserve Bank, the Central Government having considered it necessary in the public interest, makes the following rules, namely:—

Rule – 1: Short title and commencement.
1. (1) These rules may be called the Foreign Exchange Management (Current Account Transactions) Rules, 2000.

2. They shall come into effect on the 1st day of June, 2000.

Rule – 2: Definitions
2. In these rules, unless the context otherwise requires,—

(a) "Act" means the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) "Drawal" means drawal of foreign exchange from an authorised person and includes opening of Letter of Credit or use of International Credit Card or International Debit Card or ATM Card or any other thing by whatever name called which has the effect of creating foreign exchange liability;

(c) "Schedule" means a schedule appended to these rules;

(d) the words and expressions not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Drawal of foreign exchange by any person for the following purpose is prohibited, namely:

(a) a transaction specified in the Schedule I; or

(b) a travel to Nepal and/or Bhutan; or

(c) a transaction with a person resident in Nepal or Bhutan:

Provided that the prohibition in clause (c) may be exempted by RBI subject to such terms and conditions as it may consider necessary to stipulate by special or general order.

Prior approval of Government of India.
4. No person shall draw foreign exchange for a transaction included in the Schedule II without prior approval of the Government of India:
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.

Rule – 4: Prior approval of Government of India.

4. No person shall draw foreign exchange for a transaction included in the Schedule II without prior approval of the Government of India:

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.

Rule – 5: Prior approval of Reserve Bank.

5. 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.

Rule - 6

6. (1) Nothing contained in rule 4 or rule 5 shall apply to drawal made out of funds held in Exchange Earners' Foreign Currency (EEFC) account of the remitter.

(2) Notwithstanding anything contained in sub-rule (1), restrictions imposed under rule 4 or rule 5 shall continue to apply where the drawal of foreign exchange from the Exchange Earners' Foreign Currency (EEFC) account is for the purpose specified in items 10 and 11 of Schedule II, or items 3, 4, 11, 16 and 17 of Schedule III as the case may be.

Rule – 7: Use of International Credit Card while outside India.

7. Nothing contained in rule 5 shall apply to the use of International Credit Card for making payment by a person towards meeting expenses while such person is on a visit outside India.

SCHEDULE I

Transactions which are prohibited

(See Rule 3)

1. Remittance out of lottery winnings.
2. Remittance of income from racing/riding, etc., or any other hobby.
3. Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.
4. Payment of commission on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies.
5. Remittance of dividend by any company to which the requirement of dividend balancing is applicable.

6. Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco.

7. Payment related to "Call Back Services" of telephones.

8. Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c.

**SCHEDULE II**

Transactions which require prior approval of the Central Government

(See Rule 4)

<table>
<thead>
<tr>
<th>Purpose of Remittance</th>
<th>Ministry/Department of Govt. of India whose approval is required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cultural Tours</td>
<td>Ministry of Human Resources Development (Department of Education and Culture)</td>
</tr>
<tr>
<td>2. Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding US$ 10,000) by a State Government and its Public Sector Undertakings.</td>
<td>Ministry of Finance, Department of Economic Affairs</td>
</tr>
<tr>
<td>3. Remittance of freight of vessel charted by a PSU</td>
<td>Ministry of Finance, Department of Economic Affairs</td>
</tr>
<tr>
<td>4. Payment of import [through ocean transport] by a Govt. Department or a PSU on c.i.f. basis</td>
<td>Ministry of Surface Transport (Chartering Wing) <em>(i.e., other than f.o.b. and f.a.s. basis)</em></td>
</tr>
<tr>
<td>5. Multi-modal transport operators making remittance to their agents abroad</td>
<td>Registration Certificate from the Director General of Shipping</td>
</tr>
<tr>
<td>6. Remittance of hiring charges of transponders by</td>
<td>Ministry of Information and Broadcasting</td>
</tr>
<tr>
<td>(a) TV Channels</td>
<td>Ministry of Communication and Information Technology</td>
</tr>
<tr>
<td>(b) Internet service providers</td>
<td></td>
</tr>
<tr>
<td>7. Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping</td>
<td>Ministry of Surface Transport (Director General of Shipping)</td>
</tr>
</tbody>
</table>

© The Institute of Chartered Accountants of India
<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Ministry</th>
</tr>
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<tbody>
<tr>
<td>9</td>
<td>Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/State Level sports bodies, if the amount involved exceeds US $100,000</td>
<td>Ministry of Human Resource Development (Department of Youth Affairs and Sports)</td>
</tr>
<tr>
<td>10</td>
<td>***</td>
<td>Ministry of Finance (Insurance Division)</td>
</tr>
<tr>
<td>11</td>
<td>Remittance for membership of P &amp; I Club</td>
<td></td>
</tr>
</tbody>
</table>

**SCHEDULE III**

(See rule 5)

**Facilities for individuals**

1. 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 as provided in regulation 4 to FEMA Notification 1/2000-RB, dated the 3rd May, 2000 (hereinafter referred to as the said 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 250,000 (US Dollars Two Hundred and Fifty Thousand Only) 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 hereinabove.

Facilities for persons other than individual

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

(i) Donations exceeding one per cent of their foreign exchange earnings during the previous three financial years or USD 5,000,000, 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 USD 25,000 or five per cent of the inward remittance whichever is more.

(iii) Remittances exceeding USD 10,000,000 per project for any consultancy services in respect of infrastructure projects and USD 1,000,000 per project, for other consultancy services procured from outside India.
Explanation: For the purposes of this sub-paragraph, the expression "infrastructure" shall mean as defined in Explanation to para 1(iv)(A)(a) of Schedule I of FEMA Notification 3/2000-RB, dated the May 3, 2000.

(iv) Remittances exceeding five per cent of investment brought into India or USD 100,000 whichever is higher, by an entity in India by way of reimbursement of pre-incorporation expenses.

Procedure

3. The procedure for drawal or remit of any foreign exchange under this Schedule shall be the same as applicable for remitting any amount under the said Liberalised Remittance Scheme.
FED Master Direction No. 7/2015-16- Liberalised Remittance Scheme (LRS) dated January 1, 2016

1. The captioned Scheme was introduced on February 4, 2004, vide A.P. (DIR Series) Circular No. 64 dated February 4, 2004 read with GoI Notification G.S.R. No.207(E) dated March 23, 2004, as a liberalization measure to facilitate resident individuals to remit funds abroad for permitted current or capital account transactions or combination of both. These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/constituents with a view to implementing the regulations framed.

3. This Master Direction consolidates the existing instructions on the "Liberalised Remittance Scheme" at one place. Reporting instructions can be found in Master Direction on reporting (Master Direction No. 18 dated January 1, 2016)

4. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/constituents. The Master Direction issued herewith shall be amended suitably simultaneously.
Master Direction - Liberalised Remittance Scheme (LRS)

A. Liberalised Remittance Scheme (LRS) of USD 2,50,000 for resident individuals

1. Under the Liberalised Remittance Scheme, Authorised Dealers may 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 not available to corporates, partnership firms, HUF, Trusts, etc.

2. The LRS limit has been revised in stages consistent with prevailing macro and micro economic conditions. During the period from February 4, 2004 till date, the LRS limit has been revised as under:

   \[(\text{Amount in USD}^1)\]

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<td>LRS limit</td>
<td>25,000</td>
<td>50,000</td>
<td>1,00,000</td>
<td>2,00,000</td>
<td>75,000</td>
<td>1,25,000</td>
<td>2,50,000</td>
</tr>
</tbody>
</table>

3. The Scheme is available to all resident individuals including minors. In case of remitter being a minor, \(^2\) the Form A2 must be countersigned by the minor’s natural guardian.

4. Remittances under the Scheme can be consolidated in respect of family members subject to individual family members complying with its terms and conditions. However, clubbing is not permitted by other family members for capital account transactions such as opening a bank account/investment/purchase of property, if they are not the co-owners/co-partners of the overseas bank account/investment/property. Further, a resident cannot gift to another resident, in foreign currency, for the credit of the latter’s foreign currency account held abroad under LRS.

5. All other transactions which are otherwise not permissible under FEMA and those in the nature of remittance for margins or margin calls to overseas exchanges/overseas counterparty are not allowed under the Scheme.

6. The permissible capital account transactions by an individual under LRS are:
   (i) opening of foreign currency account abroad with a bank;
   (ii) purchase of property abroad;

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\(^1\) Omitted
\(^2\) Inserted vide AP (Dir Series) circular 50 dated February 11, 2016. Prior to insertion this read as “the LRS declaration form.”
(iii) making investments abroad – acquisition and holding shares of both listed and unlisted overseas company or debt instruments; acquisition of qualification shares of an overseas company for holding the post of Director; acquisition of shares of a foreign company towards professional services rendered or in lieu of Director’s remuneration; investment in units of Mutual Funds, Venture Capital Funds, unrated debt securities, promissory notes;

(iv) setting up Wholly Owned Subsidiaries and Joint Ventures (with effect from August 05, 2013) outside India for bonafide business subject to the terms & conditions stipulated in Notification No FEMA.263/ RB-2013 dated March 5, 2013;

(v) extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 1956.

7. The limit of USD 2,50,000 per Financial Year (FY) under the Scheme also includes/subsumes remittances for current account transactions (viz. private visit; gift/donation; going abroad on employment; emigration; maintenance of close relatives abroad; business trip; medical treatment abroad; studies abroad) available to resident individuals under Para 1 of Schedule III to Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015 dated May 26, 2015. Release of foreign exchange exceeding USD 2,50,000, requires prior permission from the Reserve Bank of India.

a. Private visits

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

Further, all tour related expenses including cost of rail/road/water transportation; cost of Euro Rail; passes/tickets, etc. outside India; and overseas hotel/lodging expenses shall be subsumed under the LRS limit. The tour operator can collect this amount either in Indian rupees or in foreign currency from the resident traveller.

b. Gift/donation

Any resident individual may remit up-to USD 2,50,000 in one FY 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 FY from any Authorised Dealer in India.

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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 amount of foreign exchange outside India in excess of this limit may be allowed only towards meeting incidental expenses in the country of immigration and not for earning points or credits to become eligible for immigration by way of overseas investments in government bonds; land; commercial enterprise; etc.

e. Maintenance of close relatives abroad

A resident individual can remit up-to USD 2,50,000 per FY towards maintenance of close relatives ['relative’ as defined in Section 6 of the Indian Companies Act, 1956] abroad.

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 FY irrespective of the number of visits undertaken during the year.

However, if an employee is being deputed by an entity for any of the above and the expenses are borne by the latter, such expenses shall be treated as residual current account transactions outside LRS and may be permitted by the AD without any limit, subject to verifying the bonafides of the transaction.

g. Medical treatment abroad

Authorised Dealers may release foreign exchange up to an amount of USD 2,50,000 or its equivalent per FY 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. A person who has fallen sick after proceeding abroad may also be released foreign exchange by an Authorised Dealer (without seeking prior approval of the Reserve Bank of India) for medical treatment outside India.

In addition to the above, an amount up to USD 250,000 per financial year is allowed to a person for accompanying as attendant to a patient going abroad for medical treatment/check-up.

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.

8. Remittances under the Scheme can be used for purchasing objects of art subject to the provisions of other applicable laws such as the extant Foreign Trade Policy of the Government of India.

9. The Scheme can be used for outward remittance in the form of a DD either in the resident individual’s own name or in the name of beneficiary with whom he intends putting through the permissible transactions at the time of private visit abroad, against self-declaration of the remitter in the format prescribed.

10. Individuals can also open, maintain and hold foreign currency accounts with a bank outside India for making remittances under the Scheme without prior approval of the Reserve Bank. The foreign currency accounts may be used for putting through all transactions connected with or arising from remittances eligible under this Scheme.

11. Banks should not extend any kind of credit facilities to resident individuals to facilitate capital account remittances under the Scheme.

12. The Scheme is not available for remittances for any purpose specifically prohibited under Schedule I or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transaction) Rules, 2000, dated May 3, 2000, as amended from time to time.

13. The Scheme is not available for capital account remittances to countries identified by Financial Action Task Force (FATF) as non-co-operative countries and territories as available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank. Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks is also not permitted.

14. Documentation by the remitter

The individual will have to 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 4 Form A2 as at Annex for purchase of foreign exchange under LRS.

15. It is mandatory to have PAN card to make remittances under the Scheme for capital account transactions. However, PAN card need not be insisted upon for remittances made towards permissible current account transactions up to USD 25,000.

16. Investor, who has remitted funds under LRS can retain, reinvest the income earned on the investments. At present, the resident individual is not required to repatriate the funds or income

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4 Inserted vide AP (Dir Series) Circular 50 dated February 11, 2016. Prior to insertion it read as “Form A-2 as at Annex-1 and Application-cum-Declaration for purchase of foreign exchange under LRS as per Annex-2”
generated out of investments made under the Scheme. However, a resident individual who has made overseas direct investment in the equity shares; compulsorily convertible preference shares of a JV/WoS outside India\(^5\), within the LRS limit, shall have to comply with the terms and conditions prescribed by the overseas investment guidelines under Notification No. FEMA 263/RB-2013 dated March 5, 2013.

17. Facility to grant loan in rupees to NRI/ PIO close relative under the Scheme

Resident individual is permitted to lend to a Non-resident Indian (NRI)/ Person of Indian Origin (PIO) close relative ['relative’ as defined in Section 6 of the Indian Companies Act, 1956] by way of crossed cheque/ electronic transfer subject to the following conditions:

(i) the loan is free of interest and the minimum maturity of the loan is one year;

(ii) the loan amount should be within the overall limit under the Liberalised Remittance Scheme of USD 2,50,000 per financial year available for a resident individual. It would be the responsibility of the resident individual to ensure that the amount of loan granted by him is within the LRS limit and all the remittances made by the resident individual during a given financial year including the loan together have not exceeded the limit prescribed under LRS;

(iii) the loan shall be utilized for meeting the borrower’s personal requirements or for his own business purposes in India.

(iv) the loan shall not be utilized, either singly or in association with other person for any of the activities in which investment by persons resident outside India is prohibited, namely:

(a) The business of chit fund, or

(b) Nidhi Company, or

(c) Agricultural or plantation activities or in real estate business, or construction of farm houses, or

(d) Trading in Transferable Development Rights (TDRs).

Explanation: For the purpose of item (c) above, real estate business shall not include development of townships, construction of residential/ commercial premises, roads or bridges.

(v) the loan amount should be credited to the NRO a/c of the NRI / PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c;

(vi) the loan amount shall not be remitted outside India; and

\(^5\) Deleted the word ‘or ESOPs’ in terms of AP (DIR Series) Circular No. 97 dated March 28, 2012 and Notification No. 277/2013-RB dated May 08, 2013.
(vii) repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO) / Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

18. A resident individual can make a rupee gift to a NRI/PIO who is a relative of the resident individual ['relative' as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) a/c of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 250,000 per FY as permitted under the LRS for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount is within the LRS limit and all the remittances made by the donor during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

B. Operational instructions to Authorised Persons

1. Authorized Persons may carefully study the provisions of the Act / Regulations / Notifications issued under Foreign Exchange Management Act, 1999.

2. The Reserve Bank will not, generally, prescribe the documents which should be verified by the Authorised Persons while releasing foreign exchange for current account transactions. In this connection, attention of authorized persons is drawn to sub-section (5) of Section 10 of the FEMA, 1999 which provides that an authorised person shall require any person desiring to transact in foreign exchange to make such a declaration and to give such information as will reasonably satisfy him that the transaction will not involve and is not designed for the purpose of any contravention or evasion of the provisions of the FEMA or any rule, regulation, notification, direction or order issued there under.

3. With a view to maintaining uniform practices, Authorized Dealers may consider requirements or documents to be obtained by their branches to ensure compliance with provisions of sub-section (5) of section 10 of the Act.

4. Authorised Dealers are also required to keep on record any information / documentation, on the basis of which the transaction was undertaken for verification by the Reserve Bank. In case the applicant refuses to comply with any such requirement or makes unsatisfactory compliance therewith, the Authorised Dealer shall refuse, in writing, to undertake the transaction and shall, if he has reasons to believe that any contravention / evasion is contemplated by the person, report the matter to the Reserve Bank.
5. Reserve Bank of India will not issue any instructions under the FEMA, regarding the procedure to be followed in respect of deduction of tax at source while allowing remittances to the non-residents. It shall be mandatory on the part of Authorised Dealers to comply with the requirement of the tax laws, as applicable.

6. While allowing the facility to resident individuals, Authorised Dealers are required to ensure that “Know Your Customer” guidelines have been implemented in respect of bank accounts. They should also comply with the Anti-Money Laundering Rules in force while allowing the facility.

7. The applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittances for capital account transactions. If the applicant seeking to make the remittances is a new customer of the bank, Authorised Dealers should carry out due diligence on the opening, operation and maintenance of the account. Further, the Authorised Dealers should obtain bank statement for the previous year from the applicant to satisfy themselves regarding the source of funds. If such a bank statement is not available, copies of the latest Income Tax Assessment Order or Return filed by the applicant may be obtained.

9. The Authorised Dealer should ensure that the payment is received out of funds belonging to the person seeking to make the remittances, by a cheque drawn on the applicant’s bank account or by debit to his account or by Demand Draft / Pay Order. Authorised Dealer may also accept the payment through credit/debit/prepaid card of the card holder.

10. The Authorised Dealer should certify that the remittance is not being made directly or indirectly by/or to ineligible entities and that the remittances are made in accordance with the instructions contained herein.

11. AD bank should not extend any kind of credit facilities to resident individuals to facilitate remittances for capital account transactions under the Scheme.

12. Authorised Dealer may keep a record of the countries identified by FATF as nonco-operative countries and territories and accordingly update the list from time to time for necessary action by their branches handling the transactions under the Liberalised Remittance Scheme. For this purpose, they may access the website www.fatf-gafi.org to obtain the latest list of non-co-operative countries notified by FATF.

13. The remittances made under this Scheme will be reported in the R-Return in the normal course. The Authorised Dealers may also prepare and keep on record dummy Form A2, in respect of remittances less than USD 25,000. In addition, AD banks would also furnish information on the number of applicants and total amount remitted under the Scheme, on a monthly basis, to the Reserve Bank of India, through the Online Return Filing System (ORFS).

14. A number of foreign banks operating in India as well as Indian banks have been soliciting (through advertisements) foreign currency deposits (from residents under LRS) [on behalf of
overseas mutual funds) or for placing at their overseas branches. These advertisements may not always contain appropriate disclosures to guide potential depositors giving rise to concerns from the point of view of protecting the interest of the resident individuals. Further, marketing in India of schemes soliciting foreign currency deposits by foreign entities, not having operational presence in India, also raises supervisory concerns. Therefore, all banks, both Indian and foreign, including those not having an operational presence in India, should seek prior approval from RBI for the schemes being marketed by them in India to residents either for soliciting foreign currency deposits for their foreign/overseas branches or for acting as agents for overseas mutual funds or any other foreign financial services company. The applications in this regard may be addressed to the Chief General Manager-in-Charge, Department of Banking Regulations, Reserve Bank of India, Central Office, 12th Floor, Fort, Mumbai -400001.

(To be completed by the applicant)

(For payments other than imports and remittances covering intermediary trade)

AD Code No.__________________________
Form No._____________________________

(To be filled in by the Authorised Dealer)

Application for
Remittance Abroad

Currency_____ Amount ___Equivalent to Rs. ____

(To be completed by the Authorised Dealer)

6Annex FORM A2

I/We _____________________________________________________________

(Name of applicant remitter)

PAN No. ________________________________ (For remittances exceeding USD 25,000 and for all capital account transactions)

Address___________________________________________________________

6 Inserted vide AP (Dir) series Circular 50 dated February 11, 2016. Prior to insertion it read as Annex 1, which has since been replaced with effect from the same date.
authorize

(Name of AD branch)

To debit my Savings Bank/ Current/ RFC/ EEFC A/c. No. ____________________ together with their charges and

*  a) Issue a draft : Beneficiary’s Name _________________________________

       Address _________________________________

*  b) Effect the foreign exchange remittance directly –

  1) Beneficiary’s Name _________________________________

  2) Name and address of the bank _________________________________

  3) Account No. _________________________________

*  c) Issue travelers cheques for _________________________________

*  d) Issue foreign currency notes for _________________________________

       Amount (specify currency) _________________________________

(Strike out whichever is not applicable) for the purpose/s indicated below

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Whether under LRS (Yes/No)</th>
<th>Purpose Code</th>
<th>Description</th>
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<tbody>
<tr>
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<tr>
<td>As per the Annex</td>
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(Remitter should put a tick (√) against an appropriate purpose code. In case of doubt/ difficulty, the AD bank should be consulted).
Declaration
(Under FEMA 1999)

1. # I, ………………... ……………(Name), hereby declare that the total amount of foreign exchange purchased from or remitted through, all sources in India during the financial year including this application is within the overall limit of the Liberalised Remittance Scheme prescribed by the Reserve Bank of India and certify that the source of funds for making the said remittance belongs to me and the foreign exchange will not be used for prohibited purposes.

Details of the remittances made/transactions effected under the Liberalised Remittance Scheme in the current financial year (April- March) ..........

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Date</th>
<th>Amount</th>
<th>Name and address of AD branch/FFMC through which the transaction has been effected</th>
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</tbody>
</table>

# The total amount of foreign exchange purchased from or remitted through, all sources in India during this calendar year including this application is within USD _______________________ (USD ________________) the annual limit prescribed by Reserve Bank of India for the said purpose.

2. # Foreign exchange purchased from you is for the purpose indicated above.

# (Strike out whichever is not applicable)

Signature of the applicant

(Name) Date:

Certificate by the Authorised Dealer

This is to certify that the remittance is not being made by/ to ineligible entities and that the remittance is in conformity with the instructions issued by the Reserve Bank from time to time under the Scheme.

Name and designation of the authorised official:

Stamp and seal

Signature:

Date: Place:
Purpose Codes for Reporting under FETERS

A. Payment Purposes (for use in BOP file)

<table>
<thead>
<tr>
<th>Gr. No.</th>
<th>Purpose Group Name</th>
<th>Purpose Code</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>00</td>
<td>Capital Account</td>
<td>S0017</td>
<td>Acquisition of non-produced non-financial assets (Purchase of intangible assets like patents, copyrights, trademarks etc., land acquired by government, use of natural resources) – Government</td>
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<tr>
<td></td>
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<td>S0019</td>
<td>Acquisition of non-produced non-financial assets (Purchase of intangible assets like patents, copyrights, trademarks etc., use of natural resources) – Non-Government</td>
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<tr>
<td></td>
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<td>S0026</td>
<td>Capital transfers (Guarantees payments, Investment Grand given by the government/international organisation, exceptionally large Non-life insurance claims) – Government</td>
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<tr>
<td></td>
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<td>S0027</td>
<td>Capital transfers (Guarantees payments, Investment Grand given by the Non-government, exceptionally large Non-life insurance claims) – Non-Government</td>
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<td></td>
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<td>S0099</td>
<td>Other capital payments not included elsewhere</td>
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<td>Foreign Direct Investments</td>
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<td>Indian Direct investment abroad (in branches &amp; wholly owned subsidiaries) in equity Shares</td>
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<tr>
<td></td>
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<td>S0004</td>
<td>Indian Direct investment abroad (in subsidiaries and associates) in debt instruments</td>
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<td>S0005</td>
<td>Indian investment abroad – in real estate</td>
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<td></td>
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<td>S0006</td>
<td>Repatriation of Foreign Direct Investment made by overseas Investors in India – in equity shares</td>
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<td>S0007</td>
<td>Repatriation of Foreign Direct Investment in made by overseas Investors India – in debt instruments</td>
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<td>S0008</td>
<td>Repatriation of Foreign Direct Investment made by overseas Investors in India – in real estate</td>
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<td>Foreign Portfolio Investments</td>
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<td>Indian Portfolio investment abroad – in equity shares</td>
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<td>S0002</td>
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<td>S0009</td>
<td>Repatriation of Foreign Portfolio Investment made by overseas Investors in India – in equity shares</td>
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<td>S0010</td>
<td>Repatriation of Foreign Portfolio Investment made by overseas Investors in India – in debt instruments</td>
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<td>External Commercial Borrowings</td>
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<td>Loans extended to Non-Residents</td>
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<tr>
<td>S0012</td>
<td>Repayment of long &amp; medium term loans with original maturity above one year received from Non-Residents</td>
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<td>Short term Loans</td>
<td>S0013</td>
<td>Repayment of short term loans with original maturity up to one year received from Non-Residents</td>
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<td>Banking Capital</td>
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<td>Repatriation of Non-Resident Deposits (FCNR(B)/NR(E)RA etc)</td>
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<tr>
<td>S0015</td>
<td>Repayment of loans &amp; overdrafts taken by ADs on their own account.</td>
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<td>S0016</td>
<td>Sale of a foreign currency against another foreign currency</td>
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<tr>
<td>Financial Derivatives and Others</td>
<td>S0020</td>
<td>Payments made on account of margin payments, premium payment and settlement amount etc. under Financial derivative transactions.</td>
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<td>S0021</td>
<td>Payments made on account of sale of share under Employee stock option</td>
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<td>S0022</td>
<td>Investment in Indian Depositories Receipts (IDRs)</td>
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<td>S0023</td>
<td>Opening of foreign currency account abroad with a bank</td>
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<tr>
<td>External Assistance</td>
<td>S0024</td>
<td>External Assistance extended by India. e.g. Loans and advances extended by India to Foreign governments under various agreements</td>
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<td>S0025</td>
<td>Repayments made on account of External Assistance received by India.</td>
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<td>Imports</td>
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<td>Advance payment against imports made to countries other than Nepal and Bhutan</td>
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<td>S0102</td>
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<td>S0103</td>
<td>Imports by diplomatic missions other than Nepal and Bhutan</td>
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<td>S0104</td>
<td>Intermediary trade/transit trade, i.e., third country export passing through India</td>
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<td>21</td>
<td>Goods acquired under merchanting / Payment against import leg of merchanting trade*</td>
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<td>21</td>
<td>Payments made for Imports from Nepal and Bhutan, if any</td>
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<td>Transport</td>
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<td>Payments for surplus freight/passenger fare by foreign shipping companies operating in India</td>
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<td>21</td>
<td>Payment for operating expenses of Indian shipping companies operating abroad</td>
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<td>21</td>
<td>Freight on imports – Shipping companies</td>
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<td>Freight on exports – Shipping companies</td>
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<td>Operational leasing/Rental of Vessels (with crew) – Shipping companies</td>
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<td>Booking of passages abroad – Shipping companies</td>
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<td>21</td>
<td>Payments for surplus freight/passenger fare by foreign Airlines companies operating in India</td>
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<td>21</td>
<td>Operating expenses of Indian Airlines companies operating abroad</td>
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<td>Freight on imports – Airlines companies</td>
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<td>21</td>
<td>Freight on exports – Airlines companies</td>
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<tr>
<td>21</td>
<td>Operational leasing / Rental of Vessels (with crew) – Airline companies</td>
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<td>21</td>
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<tr>
<td>21</td>
<td>Payments on account of stevedoring, demurrage, port handling charges etc. (Shipping companies)</td>
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<td>Payments on account of stevedoring, demurrage, port handling charges, etc. (Airlines companies)</td>
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<td>21</td>
<td>Payments for Passenger - Shipping companies</td>
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<td>21</td>
<td>Other payments by Shipping companies</td>
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<td>Payments for Passenger - Airlines companies</td>
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<td>Other Payments by Airlines companies</td>
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<tr>
<td>S0220</td>
<td>Payments on account of freight under other modes of transport (Internal Waterways, Roadways, Railways, Pipeline transports and others)</td>
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<tr>
<td>S0221</td>
<td>Payments on account of passenger fare under other modes of transport (Internal Waterways, Roadways, Railways, Pipeline transports and others)</td>
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<td>S0222</td>
<td>Postal &amp; Courier services by Air</td>
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<td>S0223</td>
<td>Postal &amp; Courier services by Sea</td>
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<td>S0224</td>
<td>Postal &amp; Courier services by others</td>
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<td>03</td>
<td>Travel</td>
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<tr>
<td>S0301</td>
<td>Business travel.</td>
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<td>S0303</td>
<td>Travel for pilgrimage</td>
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<td>S0304</td>
<td>Travel for medical treatment</td>
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<td>S0305</td>
<td>Travel for education (including fees, hostel expenses etc.)</td>
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<tr>
<td>S0306</td>
<td>Other travel (including holiday trips and payments for settling international credit cards transactions)</td>
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<td>05</td>
<td>Construction Services</td>
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<tr>
<td>S0501</td>
<td>Construction of projects abroad by Indian companies including import of goods at project site abroad</td>
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<tr>
<td>S0502</td>
<td>Cost of construction etc. of projects executed by foreign companies in India.</td>
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<td>06</td>
<td>Insurance and Pension Services</td>
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<td>S0601</td>
<td>Life Insurance premium except term insurance</td>
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<tr>
<td>S0602</td>
<td>Freight insurance – relating to import &amp; export of goods</td>
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<tr>
<td>S0603</td>
<td>Other general insurance premium including reinsurance premium; and term life insurance premium</td>
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<td>S0605</td>
<td>Auxiliary services including commission on insurance</td>
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<td>S0607</td>
<td>Insurance claim Settlement of non-life insurance; and life insurance (only term insurance)</td>
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<td>S0608</td>
<td>Life Insurance Claim Settlements</td>
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<td>07</td>
<td>Financial Services</td>
<td>S0701</td>
<td>Financial intermediation, except investment banking - Bank charges, collection charges, LC charges etc.</td>
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<td>S0702</td>
<td>Investment banking – brokerage, under writing commission etc.</td>
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<td>S0703</td>
<td>Auxiliary services – charges on operation &amp; regulatory fees, custodial services, depository services etc.</td>
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<tr>
<td>08</td>
<td>Telecommunication, Computer &amp; Information Services</td>
<td>S0801</td>
<td>Hardware consultancy/implementation</td>
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<td></td>
<td>S0802</td>
<td>Software consultancy / implementation</td>
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<td>S0803</td>
<td>Data base, data processing charges</td>
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<td>S0804</td>
<td>Repair and maintenance of computer and software</td>
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<td>S0805</td>
<td>News agency services</td>
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<td>S0806</td>
<td>Other information services- Subscription to newspapers, periodicals</td>
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<td>S0807</td>
<td>Off-site software imports</td>
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<td>S0808</td>
<td>Telecommunication services including electronic mail services and voice mail services</td>
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<td>S0809</td>
<td>Satellite services including space shuttle and rockets etc.</td>
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<tr>
<td>09</td>
<td>Charges for the use of intellectual property (not included elsewhere)</td>
<td>S0901</td>
<td>Franchises services</td>
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<tr>
<td></td>
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<td>S0902</td>
<td>Payment for use, through licensing arrangements, of produced originals or prototypes (such as manuscripts and films), patents, copyrights, trademarks and industrial processes etc.</td>
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<tr>
<td></td>
<td>Other Business Services</td>
<td>S1002</td>
<td>Trade related services – commission on exports / imports</td>
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<td>S1003</td>
<td>Operational leasing services (other than financial leasing) without operating crew, including charter hire- Airlines companies</td>
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<td></td>
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<td>S1004</td>
<td>Legal services</td>
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<td>S1005</td>
<td>Accounting, auditing, book-keeping services</td>
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<td>S1006</td>
<td>Business and management consultancy and public relations services</td>
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<td>S1007</td>
<td>Advertising, trade fair service</td>
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<td>S1008</td>
<td>Research &amp; Development services</td>
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<td>S1009</td>
<td>Architectural services</td>
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<td>S1010</td>
<td>Agricultural services like protection against insects &amp; disease, increasing of harvest yields, forestry services.</td>
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<td>S1011</td>
<td>Payments for maintenance of offices abroad</td>
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<td>S1013</td>
<td>Environmental Services</td>
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<td>S1014</td>
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<td>1015</td>
<td>Tax consulting services</td>
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<td>S1016</td>
<td>Market research and public opinion polling service</td>
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<td>S1017</td>
<td>Publishing and printing services</td>
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<td>S1018</td>
<td>Mining services like on–site processing services analysis of ores etc.</td>
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<td>S1020</td>
<td>Commission agent services</td>
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<td>S1021</td>
<td>Wholesale and retailing trade services.</td>
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<td>S1022</td>
<td>Operational leasing services (other than financial leasing) without operating crew, including charter hire- Shipping companies</td>
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<td>S1023</td>
<td>Other Technical Services including scientific/space services.</td>
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<td>11</td>
<td>Personal, Cultural &amp; Recreational services</td>
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<td>S1099</td>
<td>Other services not included elsewhere</td>
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<td></td>
<td>S1101</td>
<td>Audio-visual and related services like Motion picture and video tape production, distribution and projection services.</td>
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<td>S1103</td>
<td>Radio and television production, distribution and transmission services</td>
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<td>S1104</td>
<td>Entertainment services</td>
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<td>S1105</td>
<td>Museums, library and archival services</td>
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<td>S1106</td>
<td>Recreation and sporting activities services</td>
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<td>S1107</td>
<td>Education (e.g. fees for correspondence courses abroad)</td>
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<td>S1108</td>
<td>Health Service (payment towards services received from hospitals, doctors, nurses, paramedical and similar services etc. rendered remotely or on-site)</td>
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<td>S1109</td>
<td>Other Personal, Cultural &amp; Recreational services</td>
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<td></td>
<td>S1201</td>
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<td>S1202</td>
<td>Remittances by foreign embassies in India</td>
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<td>13</td>
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<td>S1302</td>
<td>Remittance towards personal gifts and donations</td>
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<td>S1303</td>
<td>Remittance towards donations to religious and charitable institutions abroad</td>
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<td>S1304</td>
<td>Remittance towards grants and donations to other governments and charitable institutions established by the governments.</td>
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<td>S1305</td>
<td>Contributions/donations by the Government to international institutions</td>
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<td>S1306</td>
<td>Remittance towards payment / refund of taxes.</td>
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<td>S1307</td>
<td>Outflows on account of migrant transfers including personal effects</td>
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<td>14</td>
<td>Primary Income</td>
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<td></td>
<td>S1401</td>
<td>Compensation of employees</td>
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<td>Description</td>
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<td>S1402</td>
<td>Remittance towards interest on Non-Resident deposits (FCNR(B)/NR(E)RA, etc.)</td>
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<tr>
<td>S1403</td>
<td>Remittance towards interest on loans from Non-Residents (ST/MT/LT loans) e.g. External Commercial Borrowings, Trade Credits, etc.</td>
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Provisions under section 6 (4) of Foreign Exchange Management Act, 1999 - Clarifications

Attention of Authorized Dealers is invited to Section 6 (4) of FEMA, 1999 in terms of which a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

1. We have been receiving representations with regards to nature of transactions covered under Section 6(4) of FEMA, 1999. In this regard it is clarified that Section 6(4) of FEMA, 1999 covers the following transactions:

   (i) Foreign currency accounts opened and maintained by such a person when he was resident outside India;

   (ii) Income earned through employment or business or vocation outside India taken up or commenced while such person was resident outside India, or from investments made while such person was resident outside India, or from gift or inheritance received while such a person was resident outside India;

   (iii) Foreign exchange including any income arising therefrom, and conversion or replacement or accrual to the same, held outside India by a person resident in India acquired by way of inheritance from a person resident outside India.

   (iv) A person resident in India may freely utilise all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments or to make any fresh investments abroad without approval of Reserve Bank, provided the cost of such investments and/ or any subsequent payments received therefor are met exclusively out of funds forming part of eligible assets held by them and the transaction is not in contravention to extant FEMA provisions.

2. Authorised Dealer Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

3. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the FEMA, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.
FOREIGN EXCHANGE MANAGEMENT (PERMISSIBLE CAPITAL ACCOUNT TRANSACTIONS) REGULATIONS, 2000

FEMA 1/2000-RB, dated 3-5-2000 [GSR 384(E), dated 3-5-2000] - In exercise of the powers conferred by sub-section (2) of section 6, sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes, in consultation with the Central Government, following regulations relating to capital account transactions namely:—

Regulation – 1: Short title and commencement.

1. (i) These Regulations may be called the "Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000".

(ii) They shall come into force on the 1st day of June, 2000.

Regulation - 2

2. In these Regulations, unless the context requires otherwise,—

   (a) 'Act' means, the Foreign Exchange Management Act, 1999 (42 of 1999);

   (b) 'Drawal' means drawal of foreign exchange from an authorised person and includes opening of Letter of Credit or use of International Credit Card or International Debit Card or ATM card or any other thing by whatever name called which has the effect of creating foreign exchange liability;

   (c) 'Schedule' means a schedule to these Regulations;

   (d) 'Transferable Development Rights' means certificates issued in respect of category of land acquired for public purpose either by Central or State Government in consideration of surrender of land by the owner without monetary compensation, which are transferable in part or whole;

   (e) The words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

Regulation - 3

3. (1) Capital account transactions of a person may be classified under the following heads, namely:—

   (A) transactions, specified in Schedule I, of a person resident in India;

   (B) transactions, specified in Schedule II, of a person resident outside India.
(2) Subject to the provisions of the Act or the rules or regulations or direction or orders made or issued thereunder, any person may sell or draw foreign exchange to or from an authorised person for a capital account transaction specified in the Schedules:

Provided that the transaction is within the limit, if any, specified in the regulations relevant to the transaction.

Regulation - 4

4. Save as otherwise provided in the Act, rules or regulations made thereunder,

(a) no person shall undertake or sell or draw foreign exchange to or from an authorised person for any capital account transaction:

Provided that—

(a) subject to the provisions of the Act or the rules or regulations or directions or orders made or issued thereunder, a resident individual may, draw from an authorized person foreign exchange not exceeding USD 250,000 per financial year or such amount as decided by Reserve Bank from time to time for a capital account transaction specified in Schedule I.

Explanation: Drawal of foreign exchange as per item number 1 of Schedule III to Foreign Exchange Management (Current Account Transactions) Rules, 2000 dated 3rd May, 2000 as amended from time to time, shall be subsumed within the limit under proviso (a) above.

(b) where the drawal of foreign exchange by a resident individual for any capital account transaction specified in Schedule I exceeds USD 250,000 per financial year, or as decided by Reserve Bank from time to time as the case may be, the limit specified in the regulations relevant to the transaction shall apply with respect to such drawal:

Provided further that no part of the foreign exchange of USD 250,000, drawn under proviso (a) shall be used for remittance directly or indirectly to countries notified as non-co-operative countries and territories by Financial Action Task Force (FATF) from time to time and communicated by the Reserve Bank of India to all concerned.

(b) no person resident outside India shall make investment in India, in any form, in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage—

(i) in the business of chit fund, or
(ii) as Nidhi Company, or
(iii) in agricultural or plantation activities, or
(iv) in real estate business, or construction of farm houses, or
(v) in trading in Transferable Development Rights (TDRs).

Explanation (i) — For the purpose of this regulation, "real estate business" shall not include development of townships, construction of residential/commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations, 2014.

(ii) The Registrar of Chits or an officer authorised by the State Government in this behalf, may, in consultation with the State Government concerned, permit any chit fund to accept subscription from Non-resident Indians. Non-resident Indians shall be eligible to subscribe, through banking channel and on non-repatriation basis, to such chit funds, without limit subject to the conditions stipulated by the Reserve Bank of India from time to time.

**Regulation - 5**

5. The payment for investment shall 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 regulations made by the Reserve Bank under the Act.

**Regulation - 6**

6. Every person selling or drawing foreign exchange to or from an authorised person for a capital account transaction shall furnish to the Reserve Bank, a declaration in the form and within the time specified in the regulations relevant to the transaction.

**SCHEDULE I**

[See Regulation 3(1)(A)]

**Classes of capital account transactions of persons resident in India**

(a) Investment by a person resident in India in foreign securities.

(b) Foreign currency loans raised in India and abroad by a person resident in India.

(c) Transfer of immovable property outside India by a person resident in India.

(d) Guarantees issued by a person resident in India in favour of a person resident outside India.

(e) Export, import and holding of currency/currency notes.

(f) Loans and overdrafts (borrowings) by a person resident in India from a person resident outside India.

(g) Maintenance of foreign currency accounts in India and outside India by a person resident in India.
(h) Taking out of insurance policy by a person resident in India from an insurance company outside India.

(i) Loans and overdrafts by a person resident in India to a person resident outside India.

(j) Remittance outside India of capital assets of a person resident in India.

(k) Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad by a person resident in India.

SCHEDULE II

[See Regulation 3(1)(B)]

**Classes of capital account transactions of persons resident outside India**

(a) Investment in India by a person resident outside India, that is to say,

   (i) issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and

   (ii) investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association of persons in India.

(b) Acquisition and transfer of immovable property in India by a person resident outside India.

(c) Guarantee by a person resident outside India in favour of, or on behalf of, a person resident in India.

(d) Import and export of currency/currency notes into/from India by a person resident outside India.

(e) Deposits between a person resident in India and a person resident outside India.

(f) Foreign currency accounts in India of a person resident outside India.

(g) Remittance outside India of capital assets in India of a person resident outside India.
FOREIGN EXCHANGE MANAGEMENT (ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY IN INDIA) REGULATIONS, 2000

FEMA 21/2000-RB, dated 3-5-2000 [GSR 407(E), dated 3-5-2000] - In exercise of the powers conferred by clause (i) of sub-section (3) of section 6, sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following regulations, namely:—

Regulation – 1: Short title and commencement.
1. (i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000.

(ii) They shall come into force on 1st day of June, 2000.

Regulation – 2: Definitions.
2. In these Regulations, unless the context otherwise requires—
   (a) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
   (b) 'An authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Act;
   (c) 'a person of Indian origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan), who
      (i) at any time, held Indian passport;
      or
      (ii) who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955);
   (d) 'repatriation outside India' means the buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through normal banking channels or crediting it to an account denominated in foreign currency or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency;
   (e) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

Regulation – 3: Acquisition and Transfer of Property in India by an Indian Citizen resident outside India.
3. A person resident outside India who is a citizen of India may—
(a) acquire immovable property in India other than an agricultural property, plantation, or a farm house:

Provided that in case of acquisition of immovable property, payment of purchase price, if any, shall be made out of (i) funds received in India through normal banking channels by way of inward remittance from any place outside India or (ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank:

Provided further that no payment of purchase price for acquisition of immovable property shall be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically permitted by this clause.

(b) transfer any immovable property in India to a person resident in India, and

(c) transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

Regulation – 4: Acquisition and Transfer of Property in India by a person of Indian origin.

4. A person of Indian origin resident outside India may—

(a) acquire immovable property in India other than an agricultural property, plantation, or a farm house:

Provided that in case of acquisition of immovable property, payment of purchase price, if any, shall be made out of (i) funds received in India through normal banking channels by way of inward remittance from any place outside India or (ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank:

Provided further that no payment of purchase price for acquisition of immovable property shall be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically permitted by this clause.

(b) acquire any immovable property in India other than agricultural land/farm house/plantation property by way of gift from a person resident in India or from a person resident outside India who is a citizen of India or from a person of Indian origin resident outside India;

(c) acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations or from a person resident in India;
(d) transfer any immovable property in India other than agricultural land/farm house/plantation property, by way of sale to a person resident in India;

(e) transfer agricultural land/farm house/plantation property in India, by way of gift or sale to a person resident in India who is a citizen of India;

(f) transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

Regulation – 5: Acquisition of Immovable Property for carrying on a permitted activity.

5. A person resident outside India who has established in India in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, a branch, office or other place of business for carrying on in India any activity, excluding a liaison office, may—

(a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity:

Provided that

(i) all applicable laws, rules, regulations or directions for the time being in force are duly complied with; and

(ii) the person files with the Reserve Bank a declaration in the Form IPI annexed to these regulations, not later than ninety days from the date of such acquisition;

(b) transfer by way of mortgage to an authorised dealer as a security for any borrowing, the immovable property acquired in pursuance of clause (a).


5A. A Foreign Embassy/Diplomat/Consulate General may purchase/sell immovable property in India other than agricultural land/plantation property/farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel.

Regulation – 6: Repatriation of sale proceeds

6. (a) A person referred to in sub-section (5) of section 6 of the Act, or his successor shall not, except with the prior permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section.

(b) In the event of sale of immovable property other than agricultural land/farm house/plantation property in India by a person resident outside India who is a citizen of
India or a person of Indian origin, the authorised dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

(i) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations;

(ii) the amount to be repatriated does not exceed (a) the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of funds held in Foreign Currency Non-Resident Account, or (b) the foreign currency equivalent, as on the date of payment, of the amount paid where such payment was made from the funds held is Non-Resident External account for acquisition of the property; and

(iii) in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

(c) In the event of failure in repayment of external commercial borrowing availed by a person resident in India under the provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 (Notification No. FEMA 3/2000-RB, dated 3-5-2000) a bank which is an authorised dealer may permit the overseas lender or the security trustee (in whose favour the charge on immovable property has been created to secure the ECB) to sell the immovable property on which the said loan has been secured only to a (by the) person resident in India and to repatriate the sale proceeds towards outstanding dues in respect of the said loan and not any other loan.

Regulation – 7: Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries.

7. No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau or Hong Kong without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Regulation – 8: Prohibition on transfer of immovable property in India.

8. Save as otherwise provided in the Act or Regulations, no person resident outside India shall transfer any immovable property in India:

Provided that the Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary:

Provided further that a bank which is an authorised dealer may, subject to the directions issued by the Reserve Bank in this behalf, permit a person resident in India or on behalf of such person to create a charge on his immovable property in India in favour of an overseas lender or security trustee, to secure an external commercial borrowing availed under the

**Regulation - 9**

9. Any transaction involving acquisition of immovable property under these regulations shall be subject to the applicable tax laws in India.

**IPI**

(See Regulation 5)

**Declaration of immovable property acquired in India by a person resident outside India**

**Instructions**

The declaration should be completed in duplicate and submitted directly to the Chief General Manager, Exchange Control Department (Foreign Investment Division - III), Reserve Bank of India, Central Office, Bombay - 400 001 within 90 days from the date of acquisition of the immovable property.

**Documentation**

Certified copies of letter of approval from Reserve Bank obtained under section 6(6) of FEMA, 1999 (42 of 1999).

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<td>2</td>
<td>(a) Description of immovable property</td>
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<td>(b) Details of its exact location stating the name of the state, town and municipal/survey number, etc.</td>
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<td>3</td>
<td>(a) Purpose for which the immovable property has been acquired</td>
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<td>(a) How the immovable property was acquired <em>i.e.</em>, whether by way of purchase of lease</td>
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<td>(b) Name, citizenship and address of the seller/lessor</td>
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<td>(c) Amount of purchase price and sources of funds.</td>
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I/We hereby declare that—

(a) the particulars given above are true and correct to the best of my/our knowledge and belief;
(b) no portion of the said property has been leased/rent to, or is otherwise being allowed to be used
by, any other party.

Encls : .................................................................................................

(Signature of Authorised official)

Stamp

Place :.......... Name : .................................................................

Date :.......... Designation.............................................................
FOREIGN EXCHANGE MANAGEMENT (ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY OUTSIDE INDIA) REGULATIONS, 2015

NOTIFICATION [NO. FEMA 7(R)/2015-RB]/GSR 95(E), DATED 21-1-2016]

In exercise of the powers conferred by clause (h) of sub-section (3) of section 6, sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of Notification No. FEMA 7/2000-RB dated May 3, 2000, as amended from time to time, the Reserve Bank hereby makes the following regulations relating to acquisition and transfer of immovable property outside India, namely:—

Regulation – 1: Short title and commencement
1. (i) These regulations may be called the Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2015.
   
   (ii) They shall come into force from the date of their publication in the Official Gazette.

Regulation – 2: Definitions
2. In these regulations, unless the context requires otherwise,—
   
   (i) ‘Act’ means the Foreign Exchange Management Act, 1999 (42 of 1999);
   
   (ii) The words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

Regulation – 3: Restriction on acquisition or transfer of immovable property outside India
3. Save as otherwise provided in the Act or in these regulations, no person resident in India shall acquire or transfer any immovable property situated outside India without general or special permission of the Reserve Bank.

Regulation – 4: Exemptions
4. Nothing contained in these regulations shall apply to the property—
   
   (a) held by a person resident in India who is a national of a foreign state;
   
   (b) acquired by a person resident in India on or before 8th July 1947 and continued to be held by him with the permission of the Reserve Bank.

Regulation – 5: Acquisition and Transfer of Immovable Property outside India
5. (1) A person resident in India may acquire immovable property outside India,—
   
   (a) by way of gift or inheritance from a person referred to in sub-section (4) of Section 6 of the Act, or referred to in clause (b) of regulation 4;
(b) by way of purchase out of foreign exchange held in Resident Foreign Currency (RFC) account maintained in accordance with the Foreign Exchange Management (Foreign Currency accounts by a person resident in India) Regulations, 2015;

(c) jointly with a relative who is a person resident outside India, provided there is no outflow of funds from India;

(2) A person resident in India may acquire immovable property outside India, by way of inheritance or gift from 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.

(3) A company incorporated in India having overseas offices, may acquire immovable property outside India for its business and for residential purposes of its staff, in accordance with the direction issued by the Reserve Bank of India from time to time.

Explanation:

For the purposes of these regulations, 'relative' in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual.
FOREIGN EXCHANGE MANAGEMENT (EXPORT OF GOODS & SERVICES) REGULATIONS, 2015

In exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of Section 7 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in supersession of its Notification No.FEMA.23/2000-RB dated May 3, 2000 as amended from time to time, Reserve Bank of India makes the following Regulations in respect of Export of Goods and Services from India, namely:

1. Short title and commencement:-
   (i) These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) Regulations, 2015.
   (ii) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions:-
   In these Regulations, unless the context requires otherwise, -
   (i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
   (ii) 'authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Act, and includes a person carrying on business as a factor and authorised as such under the said section 10;
   (iii) 'EXIM Bank' means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981);
   (iv) 'export' includes the taking or sending out of goods by land, sea or air, on consignment or by way of sale, lease, hire-purchase, or under any other arrangement by whatever name called, and in the case of software, also includes transmission through any electronic media;
   (v) 'export value' in relation to export by way of lease or hire-purchase or under any other similar arrangement, includes the charges, by whatever name called, payable in respect of such lease or hire-purchase or any other similar arrangement;
   (vi) 'form' means form annexed to these Regulations;
   (vii) 'schedule' means schedule appended to these Regulations;
   (viii) 'software' means any computer programme, database, drawing, design, audio/video signals, any information by whatever name called in or on any medium other than in or on any physical medium;
(ix) 'specified authority' means the person or the authority to whom the declaration as specified in Regulation 3 is to be furnished;

(x) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Declaration of exports:-

(1) In case of exports taking place through Customs manual ports, every exporter of goods or software in physical form or through any other form, either directly or indirectly, to any place outside India, other than Nepal and Bhutan, shall furnish to the specified authority, a declaration in one of the forms set out in the Schedule and supported by such evidence as may be specified, containing true and correct material particulars including the amount representing –

(i) the full export value of the goods or software; or

(ii) if the full export value is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions expects to receive on the sale of the goods or the software in overseas market, and affirms in the said declaration that the full export value of goods (whether ascertainable at the time of export or not) or the software has been or will within the specified period be, paid in the specified manner.

(2) Declarations shall be executed in sets of such number as specified.

(3) For the removal of doubt, it is clarified that, in respect of export of services to which none of the Forms specified in these Regulations apply, the exporter may export such services without furnishing any declaration, but shall be liable to realise the amount of foreign exchange which becomes due or accrues on account of such export, and to repatriate the same to India in accordance with the provisions of the Act, and these Regulations, as also other rules and regulations made under the Act.

(4) Realization of export proceeds in respect of export of goods / software from third party should be duly declared by the exporter in the appropriate declaration form.

4. Exemptions:--

Notwithstanding anything contained in Regulation 3, export of goods / software may be made without furnishing the declaration in the following cases, namely:

(a) trade samples of goods and publicity material supplied free of payment;

(b) personal effects of travellers, whether accompanied or unaccompanied;

(c) ship’s stores, trans-shipment cargo and goods supplied under the orders of Central Government or of such officers as may be appointed by the Central Government in this
behalf or of the military, naval or air force authorities in India for military, naval or air force requirements;

(d) by way of gift of goods accompanied by a declaration by the exporter that they are not more than five lakh rupees in value

(e) aircrafts or aircraft engines and spare parts for overhauling and/or repairs abroad subject to their reimport into India after overhauling /repairs, within a period of six months from the date of their export;

(f) goods imported free of cost on re-export basis;

(g) the following goods which are permitted by the Development Commissioner of the Special Economic Zones,

Electronic Hardware Technology Parks, Software Technology Parks or Free Trade Zones to be re-exported, namely: 1) imported goods found defective, for the purpose of their replacement by the foreign suppliers/collaborators; 2) goods imported from foreign suppliers/collaborators on loan basis; 3) goods imported from foreign suppliers/collaborators free of cost, found surplus after production operations.

(ga) goods listed at items (1), (2) and (3) of clause (i) to be re-exported by units in Special Economic Zones, under intimation to the Development Commissioner of Special Economic Zones / concerned Assistant Commissioner or Deputy Commissioner of Customs

(h) replacement goods exported free of charge in accordance with the provisions of Foreign Trade Policy in force, for the time being.

(i) goods sent outside India for testing subject to re-import into India;

(j) defective goods sent outside India for repair and re-import provided the goods are accompanied by a certificate from an authorised dealer in India that the export is for repair and re-import and that the export does not involve any transaction in foreign exchange.

(k) exports permitted by the Reserve Bank, on application made to it, subject to the terms and conditions, if any, as stipulated in the permission.

5. **Indication of importer-exporter code number:-**

The importer-exporter code number allotted by the Director General of Foreign Trade under Section 7 of the Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992) shall be indicated on all copies of the declaration forms submitted by the exporter to the specified authority and in all correspondence of the exporter with the authorised dealer or the Reserve Bank, as the case may be.
6. Authority to whom declaration is to be furnished and the manner of dealing with the declaration:

A. Declaration in Form EDF

(i) The declaration in form EDF shall be submitted in duplicate to the Commissioner of Customs.

(ii) After duly verifying and authenticating the declaration form, the Commissioner of Customs shall forward the original declaration form/data to the nearest office of the Reserve Bank and hand over the duplicate form to the exporter for being submitted to the authorised dealer.

B. Declaration in Form SOFTEX

(i) The declaration in Form SOFTEX in respect of export of computer software and audio/video/television software shall be submitted in triplicate to the designated official of Ministry of Information Technology, Government of India at the Software Technology Parks of India (STPIs) or at the Free Trade Zones (FTZs) or Special Economic Zones (SEZs) in India.

(ii) After certifying all three copies of the SOFTEX form, the said designated official shall forward the original directly to the nearest office of the Reserve Bank and return the duplicate to the exporter. The triplicate shall be retained by the designated official for record.

C. Duplicate Declaration Forms to be retained with Authorised Dealers

On the realisation of the export proceeds, the duplicate copies of export declaration forms viz. EDF and SOFTEX shall be retained by the Authorised Dealers.

7. Evidence in support of declaration:

The Commissioner of Customs or the postal authority or the official of Department of Electronics, to whom the declaration form is submitted, may, in order to satisfy themselves of due compliance with Section 7 of the Act and these regulations, require such evidence in support of the declaration as may establish that –

a) the exporter is a person resident in India and has a place of business in India;

b) the destination stated on the declaration is the final place of the destination of the goods exported;

c) the value stated in the declaration represents –

1) the full export value of the goods or software; or
2) where the full export value of the goods or software is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions expects to receive on the sale of the goods in the overseas market.

**Explanation:**
For the purpose of this regulation, 'final place of destination' means a place in a country in which the goods are ultimately imported and cleared through Customs of that country.

8. **Manner of payment of export value of goods:**

Unless otherwise authorised by the Reserve Bank, the amount representing the full export value of the goods exported shall be paid through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000 as amended from time to time.

**Explanation:**
For the purpose of this regulation, re-import into India, within the period specified for realisation of the export value, of the exported goods in respect of which a declaration was made under Regulation 3, shall be deemed to be realisation of full export value of such goods.

9. **Period within which export value of goods/software/services to be realised:**

(1) The amount representing the full export value of goods / software/ services exported shall be realised and repatriated to India within nine months from the date of export, provided

(a) that where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing the full export value of goods exported shall be paid to the authorised dealer as soon as it is realised and in any case within fifteen months from the date of shipment of goods;

(b) further that the Reserve Bank, or subject to the directions issued by that Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the period of nine months or fifteen months, as the case may be.

(2) (a) Where the export of goods / software / services has been made by Units in Special Economic Zones (SEZ) / Status Holder exporter / Export Oriented Units (EOUs) and units in Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs) as defined in the Foreign Trade Policy in force, then notwithstanding anything contained in sub-regulation (1), the amount representing the full export value of goods or software shall be realised and repatriated to India within nine months from the date of export.
Provided further that the Reserve Bank, or subject to the directions issued by the Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the period of nine months.

(b) The Reserve Bank may for reasonable and sufficient cause direct that the said exporter/s shall cease to be governed by sub-regulation (2);
Provided that no such direction shall be given unless the unit has been given a reasonable opportunity to make a representation in the matter.

(c) On such direction, the said exporter/s shall be governed by the provisions of sub-regulation (1), until directed otherwise by the Reserve Bank.'

Explanation:
For the purpose of this regulation, the “date of export” in relation to the export of software in other than physical form, shall be deemed to be the date of invoice covering such export.

10. Submission of export documents:-
The documents pertaining to export shall be submitted to the authorised dealer mentioned in the relevant export declaration form, within 21 days from the date of export, or from the date of certification of the SOFTEX form:
Provided that, subject to the directions issued by the Reserve Bank from time to time, the authorized dealer may accept the documents pertaining to export submitted after the expiry of the specified period of 21 days, for reasons beyond the control of the exporter.

11. Transfer of documents:-
Without prejudice to Regulation 3, an authorised dealer may accept, for negotiation or collection, shipping documents including invoice and bill of exchange covering exports, from his constituent (not being a person who has signed the declaration in terms of Regulation 3):
Provided that before accepting such documents for negotiation or collection, the authorised dealer shall—

(a) where the value declared in the declaration does not differ from the value shown in the documents being negotiated or sent for collection, or

(b) where the value declared in the declaration is less than the value shown in the documents being negotiated or sent for collection, require the constituent concerned also to sign such declaration and thereupon such constituent shall be bound to comply with such requisition and such constituent signing the declaration shall be considered to be the exporter for the purposes of these Regulations to the extent of the full value shown in the documents being negotiated or sent for collection and shall be governed by these Regulations accordingly.
12. **Payment for the Export:-**

In respect of export of any goods or software for which a declaration is required to be furnished under Regulation 3, no person shall except with the permission of the Reserve Bank or, subject to the directions of the Reserve Bank, permission of an authorised dealer, do or refrain from doing anything or take or refrain from taking any action which has the effect of securing –

(i) that the payment for the goods or software is made otherwise than in the specified manner; or

(ii) that the payment is delayed beyond the period specified under these Regulations; or

(iii) that the proceeds of sale of the goods or software exported do not represent the full export value of the goods or software subject to such deductions, if any, as may be allowed by the Reserve Bank or, subject to the directions of the Reserve Bank, by an authorised dealer;

Provided that no proceedings in respect of contravention of these provisions shall be instituted unless the specified period has expired and payment for the goods or software representing the full export value, or the value after deductions allowed under clause (iii), has not been made in the specified manner within the specified period.

(i) Export of services to which no Form specified in these Regulations apply, the exporter may export such services without furnishing any declaration, (i), (ii) & (iii) above shall apply.

13. **Certain Exports requiring prior approval :- Exports under trade agreement/rupee credit etc.**

(i) Export of goods under special arrangement between the Central Government and Government of a foreign state, or under rupee credits extended by the Central Government to Govt. of a foreign state shall be governed by the terms and conditions set out in the relative public notices issued by the Trade Control Authority in India and the instructions issued from time to time by the Reserve Bank.

(ii) An export under the line of credit extended to a bank or a financial institution operating in a foreign state by the Exim Bank for financing exports from India, shall be governed by the terms and conditions advised by the Reserve Bank to the authorised dealers from time to time.

14. **Delay in Receipt of Payment:-**

Where in relation to goods or software export of which is required to be declared on the specified form and export of services, in respect of which no declaration forms has been made applicable, the specified period has expired and the payment therefor has not been made as aforesaid, the Reserve Bank may give to any person who has sold the goods or software or who is entitled to sell the goods or software or procure the sale thereof, such directions as appear to it to be expedient, for the purpose of securing,

(a) the payment therefor if the goods or software has been sold and
(b) the sale of goods and payment thereof, if goods or software has not been sold or reimport thereof into India as the circumstances permit, within such period as the Reserve Bank may specify in this behalf;

Provided that omission of the Reserve Bank to give directions shall not have the effect of absolving the person committing the contravention from the consequences thereof.

15. **Advance payment against exports:**

(1) Where an exporter receives advance payment (with or without interest), from a buyer / third party named in the export declaration made by the exporter, outside India, the exporter shall be under an obligation to ensure that –

(i) the shipment of goods is made within one year from the date of receipt of advance payment;

(ii) the rate of interest, if any, payable on the advance payment does not exceed the rate of interest London Inter-Bank Offered Rate (LIBOR) + 100 basis points and

(iii) the documents covering the shipment are routed through the authorised dealer through whom the advance payment is received;

Provided that in the event of the exporter’s inability to make the shipment, partly or fully, within one year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest, shall be made after the expiry of the period of one year, without the prior approval of the Reserve Bank.

(2) Notwithstanding anything contained in clause (i) of sub-regulation (1), an exporter may receive advance payment where the export agreement itself duly provides for shipment of goods extending beyond the period of one year from the date of receipt of advance payment.

16. **Issue of directions by Reserve Bank in certain cases:**

(1) Without prejudice to the provisions of Regulation 3 in relation to the export of goods or software which is required to be declared, the Reserve Bank may, for the purpose of ensuring that the full export value of the goods or, as the case may be, the value which the exporter having regard to the prevailing market conditions expects to receive on the sale of goods or software in the overseas market, is received in proper time and without delay, by general or special order, direct from time to time that in respect of export of goods or software to any destination or any class of export transactions or any class of goods or software or class of exporters, the exporter shall, prior to the export, comply with the conditions as may be specified in the order, namely:

(a) that the payment of the goods or software is covered by an irrevocable letter of credit or by such other arrangement or document as may be indicated in the order;
(b) that any declaration to be furnished to the specified authority shall be submitted to the authorised dealer for its prior approval, which may, having regard to the circumstances, be given or withheld or may be given subject to such conditions as may be specified by the Reserve Bank by directions issued from time to time.

(c) that a copy of the declaration to be furnished to the specified authority shall be submitted to such authority or organisation as may be indicated in the order for certifying that the value of goods or software specified in the declaration represents the proper value thereof.

(2) No direction under sub-regulation (1) shall be given by the Reserve Bank and no approval under clause (b) of that sub-regulation shall be withheld by the Authorised Dealer, unless the exporter has been given a reasonable opportunity to make a representation in the matter.

17. Project exports:-

(1) Where an export of goods or services is proposed to be made on deferred payment terms or in execution of a turnkey project or a civil construction contract, the exporter shall, before entering into any such export arrangement, submit the proposal for prior approval of the approving authority, which shall consider the proposal in accordance with the guidelines issued by the Reserve Bank of India from time to time.

(2) In case a guarantee is required to be given prior to post award approval, the same may be issued by an authorized dealer bank/ a person resident in India being an exporting company, for performance of a project outside India, or for availing of credit facilities, whether fund-based or non-fund based, from a bank or a financial institution outside India in connection with the execution of such project, provided that the contract / Letter of Award stipulates such requirements. Explanation:

For the purpose of this Regulation, 'approving authority' means the EXIM Bank of India or the authorised dealer.

Schedule (Refer to Regulation 3)

Form EDF: To be completed in duplicate for export from non EDI ports.

Form SOFTEX: To be completed in triplicate for declaration of export of software otherwise than in physical form, i.e. magnetic tapes/discs, and paper media.
FOREIGN EXCHANGE MANAGEMENT (REALISATION, REPATRIATION AND SURRENDER OF FOREIGN EXCHANGE) REGULATIONS, 2015

NOTIFICATION NO. FEMA 9(R)/2015-RB [F.NO.1/31/EM-2015]/GSR 1005(E), DATED 29-12-2015

In exercise of the powers conferred by section 8, sub-section (6) of section 10, clause (c) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of Notification No. FEMA 9/ 2000- RB dated May 3, 2000, as amended from time to time the Reserve Bank makes the following regulations relating to the manner of, and the period for, realisation of foreign exchange, repatriation of realised foreign exchange to India and its surrender, namely—

Short title and commencement

1. (i) These regulations may be called the Foreign Exchange Management (Realisation, Repatriation and Surrender of Foreign Exchange) Regulations, 2015.
   
   (ii) They shall come into force on from the date of their publication in the Official Gazette

Regulation – 2: Definitions

2. In these Regulations, unless the context requires otherwise,—

   (i) 'Act' means Foreign Exchange Management Act, 1999 (42 of 1999);

   (ii) 'Authorised Dealer’ means a person authorised as an authorised dealer under sub-section (1) of Section 10 of the Act;

   (iii) 'foreign exchange due' means the amount which a person has a right to receive or claim in foreign exchange;

   (iv) 'surrender' means the selling of foreign exchange to an authorised person in India in exchange of rupees;

   (v) the words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act.

Regulation – 3: Duty of persons to realise foreign exchange due

3. A person resident in India to whom any amount of foreign exchange is due or has accrued shall, save as otherwise provided under the provisions of the Act, or the rules and regulations made thereunder, or with the general or special permission of the Reserve Bank, take all reasonable steps to realise and repatriate to India such foreign exchange, and shall in no case do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing—

   (a) that the receipt by him of the whole or part of that foreign exchange is delayed; or
(b) that the foreign exchange ceases in whole or in part to be receivable by him.

Regulation – 4: Manner of Repatriation

4. (1) On realisation of foreign exchange due, a person shall repatriate the same to India, namely bring into, or receive in, India and —

   (a) sell it to an authorised person in India in exchange for rupees; or

   (b) retain or hold it in account with an authorised dealer in India to the extent specified by the Reserve Bank; or

   (c) use it for discharge of a debt or liability denominated in foreign exchange to the extent and in the manner specified by the Reserve Bank.

(2) A person shall be deemed to have repatriated the realised foreign exchange to India when he receives in India payment in rupees from the account of a bank or an exchange house situated in any country outside India, maintained with an authorised dealer.

Regulation – 5: Period for surrender of realised foreign exchange

5. A person not being an individual resident in India shall sell the realised foreign exchange to an authorised person under clause (a) of sub-regulation (1) of regulation 4, within the period specified below:—

   (1) foreign exchange due or accrued as remuneration for services rendered, whether in or outside India, or in settlement of any lawful obligation, or an income on assets held outside India, or as inheritance, settlement or gift, within seven days from the date of its receipt;

   (2) in all other cases within a period of ninety days from the date of its receipt.

Regulation – 6: Period for surrender in certain cases

6. (1) Any person not being an individual resident in India who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to an authorised person under sub-section (5) of Section 10 of the Act does not use it for such purpose or for any other purpose for which purchase or acquisition of foreign exchange is permissible under the provisions of the Act or the rules or regulations or direction or order made thereunder, shall surrender such foreign exchange or the unused portion thereof to an authorised person within a period of sixty days from the date of its acquisition or purchase by him.

(2) Notwithstanding anything contained in sub-regulation (1), where the foreign exchange acquired or purchased by any person not being an individual resident in India from an authorised person is for the purpose of foreign travel, then, the unspent balance of such foreign exchange shall, save as otherwise provided in the regulations made under the Act, be surrendered to an authorised person —
(a) within ninety days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of currency notes and coins; and

(b) within one hundred eighty days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of travellers cheques.

Regulation – 7: **Period for surrender of received/ realised/ unspent/ unused foreign exchange by Resident individuals**

7. A person being an individual resident in India shall surrender the received/realised/unspent/unused foreign exchange whether in the form of currency notes, coins and travellers cheques, etc. to an authorised person within a period of 180 days from the date of such receipt/realisation/purchase/acquisition or date of his return to India, as the case may be.

Regulation – 8: **Exemption**

8. Nothing in these regulations shall apply to foreign exchange in the form of currency of Nepal or Bhutan.
FOREIGN EXCHANGE MANAGEMENT (POSSESSION AND RETENTION OF FOREIGN CURRENCY) REGULATIONS, 2015


In exercise of the powers conferred by clause (a) and clause (e) of section 9, clause (d) and clause (g) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of Notification No. FEMA 11/2000-RB dated May 3, 2000, as amended from time to time, the Reserve Bank of India makes the following regulations, namely:—

Regulation – 1: Short title & commencement

1. (i) These regulations may be called as Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015.

   (ii) They shall come into force from the date of their publication in the Official Gazette.

Regulation – 2: Definitions

2. In these Regulations, unless the context requires otherwise—

   (i) 'Act' means Foreign Exchange Management Act, 1999 (42 of 1999).

   (ii) 'To possess' or 'to retain' means to possess or to retain in physical form and the words 'possession' or 'retention' shall be construed accordingly.

   (iii) The words and expressions used but not defined in these regulations shall have the same meaning respectively assigned to them in the Act.

Regulation – 3: Limits for possession and retention of foreign currency or foreign coins

3. For the purpose of clause (a) and clause (e) of Section 9 of the Act, the Reserve Bank specifies the following limits for possession or retention of foreign currency or foreign coins, namely:—

   (i) Possession without limit of foreign currency and coins by an authorised person within the scope of his authority;

   (ii) Possession without limit of foreign coins by any person;

   (iii) Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US$ 2000 or its equivalent in aggregate, provided that such foreign exchange in the form of currency notes, bank notes and travellers cheques;
(a) was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or

(b) was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or

(c) was acquired by him by way of honorarium or gift while on a visit to any place outside India; or

(d) represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

Regulation – 4: Possession of foreign exchange by a person resident in India but not permanently resident therein

4. Without prejudice to clause (iii) of Regulation 3, a person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act.

Explanation : for the purpose of this clause, 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.