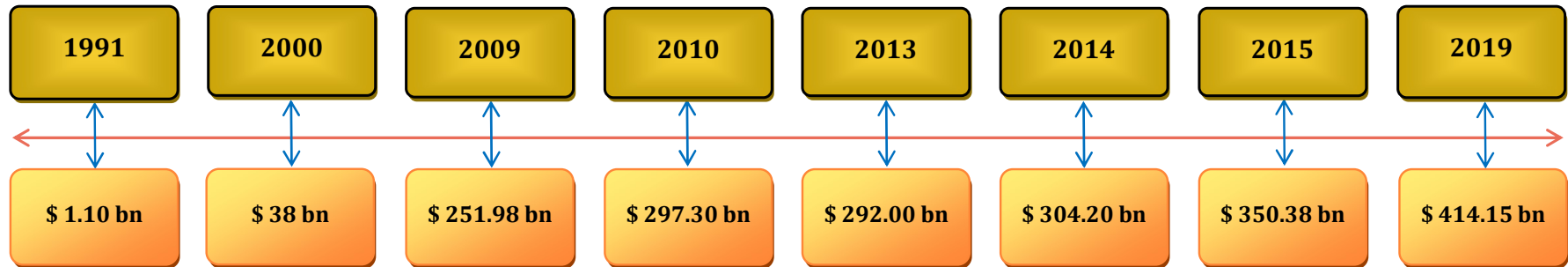


FOREIGN EXCHANGE MANAGEMENT ACT, 1999

ABBREVIATIONS

FEMA	Foreign Exchange Management Act, 1999	ECB	External Commercial Borrowings
PRI	Person Resident in India	AD	Authorized Dealer
PROI	Person Resident Outside India	AIC	All-in-Cost
TC	Travellers Cheques	AMP	Average Maturity Period
LOC	Letter of Credit	FATF	Financial Action Task Force
BOE	Bill of Exchange	FCCB	Foreign Currency Convertible Bond
FC	Foreign Currency	FCEB	Foreign Currency Exchangeable Bond
IC	Indian Currency	FCY	Foreign Currency
FE	Foreign Exchange	FDI	Foreign Direct Investment
O/B/A	Office, Branch or an Agency	INR	Indian Rupee
EDF	Export Declaration Form	LIBOR	London Interbank Offered Rate
PFY	Previous Financial Year	LIN	Loan Identity Number
CFY	Current Financial Year	LRN	Loan Registration Number
O/C	Owned or Controlled	SIDBI	Small Industries Development Bank of India
CAT	Capital Account Transactions	TC	Trade Credit
CRAT	Current Account Transactions	XBRL	eXtensible Business Reporting Language

TIME LINE OF FOREIGN EXCHANGE STATUS IN INDIA - IMPACT OF FEMA



REASONS FOR REPLACEMENT OF FERA WITH FEMA

FERA had a controversial 27 year stint during which people at the helm of affairs of Indian Corporate found themselves at the mercy of the Enforcement Directorate (E.D.). Also, during late ninety's, there was acute shortage of foreign exchange in the country

Any offense under FERA was a criminal offense liable to imprisonment, whereas FEMA seeks to make offenses relating to foreign exchange civil offenses

FEMA, which replaced FERA, had become the need of the hour since FERA had become incompatible with the pro-liberalization policies of the Govt. of India

FEMA has brought a new management regime of foreign exchange consistent with the emerging frame work of the World Trade Organization (WTO)

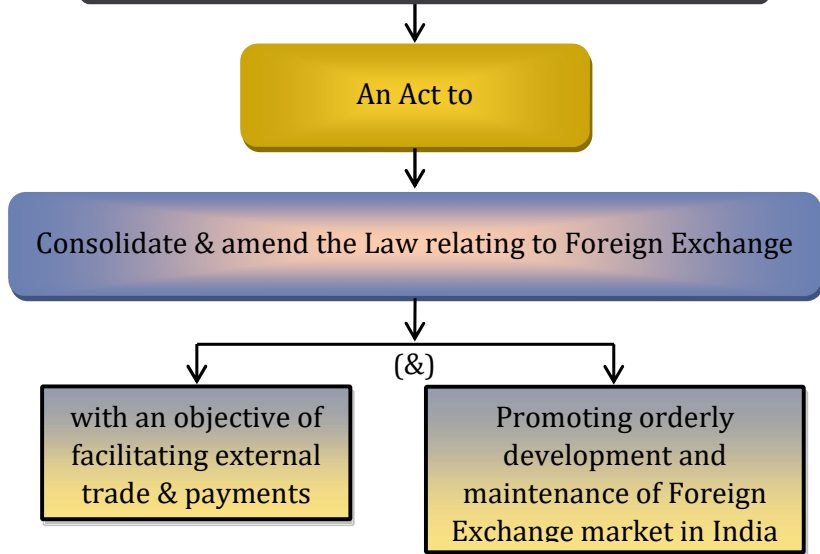
DEMARKATION BETWEEN FERA & FEMA (Not for Exams)

PARTICULARS	FERA	FEMA
Origin	Year 1947 amended in Year 1973	Year 1999
Extra territorial applicability	No	Yes
Objective	Conserve Foreign exchange and prevent its misuse.	Facilitate external trade and payments and maintenance of foreign exchange market in India.
Violation	Criminal Offence	Civil Offence
Quantum of Penalty	5 times the amount involved	3 times the amount involved
Compoundable	No	Yes
Criteria of applicability	Citizenship	Residential Status
Types of Transactions	NA	Capital and Current account transactions
Definition of Authorized Person	Definition of A.P. in FERA was narrow one under Sec.2(b)	The definition of A.P. has been widened to include banks, money changers, off-shore banking units, etc.
Number of sections	81	49
Emphasis on	Prohibitions	Disclosures
Nature of transactions	All transactions are prohibited unless permitted.	All transactions are permitted unless prohibited.
Approach	Rigid	Flexible
Appeal	External Judiciary being High Court	Internal Judiciary being special director (appeals) or Appellate tribunal.
Onus of proof	On the guilty	On the prosecution

PART - I

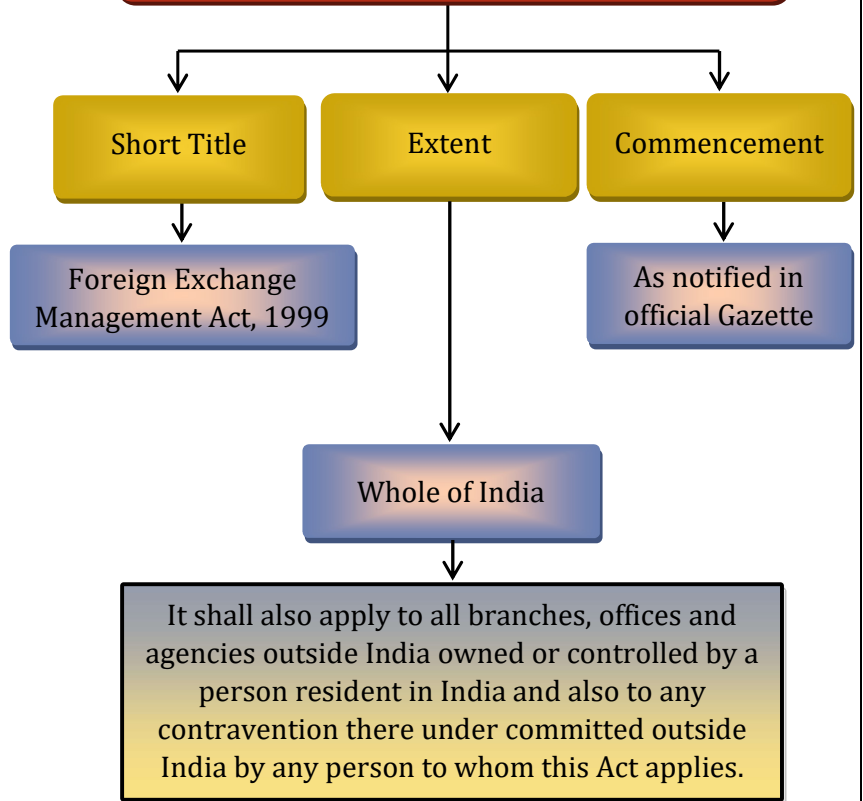
(1)

PREAMBLE TO THE ACT



(2)

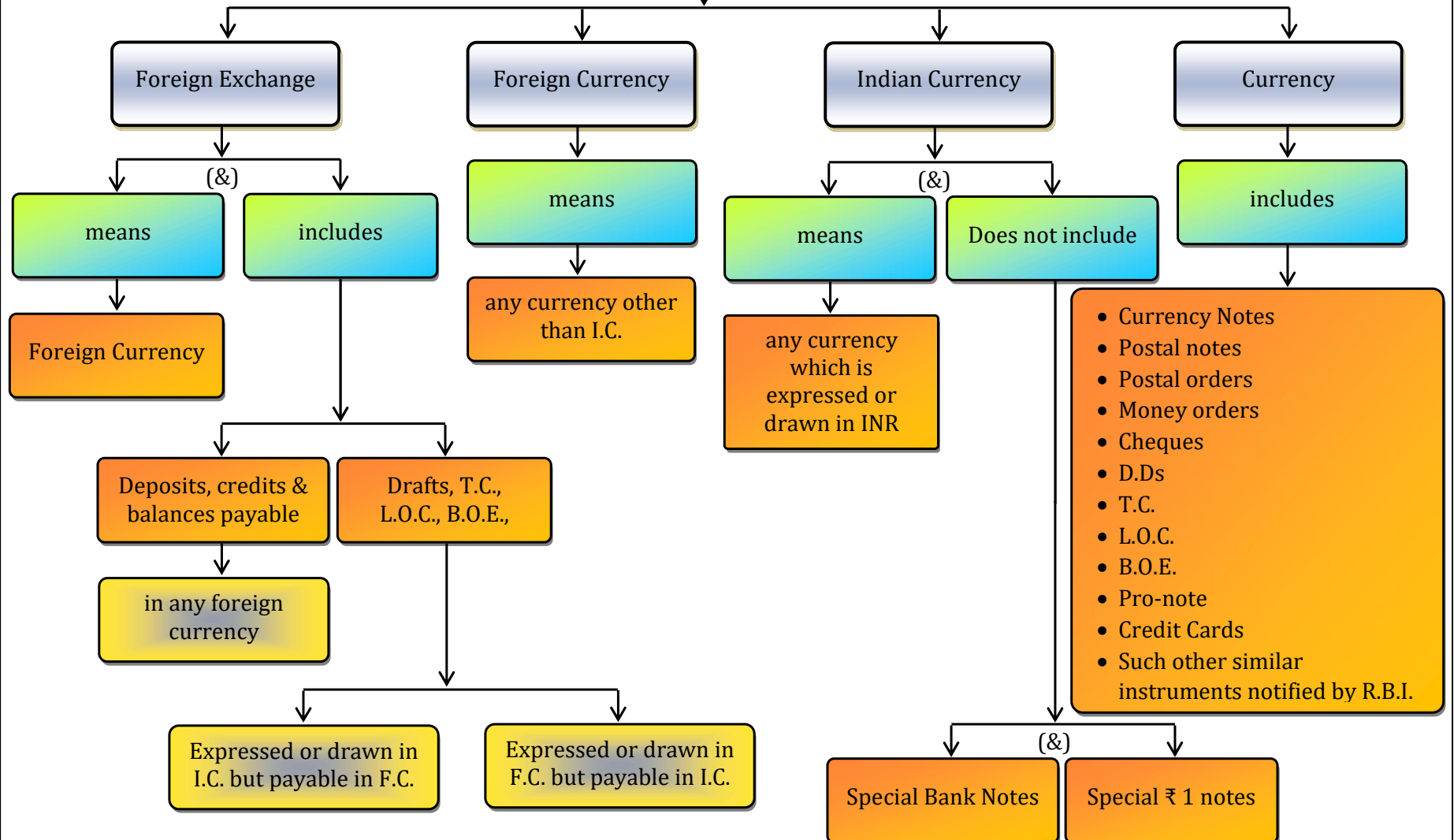
SHORT TITLE, EXTENT AND COMMENCEMENT (Section 1)



(3)

DEFINITIONS UNDER FEMA [D1 to D4]

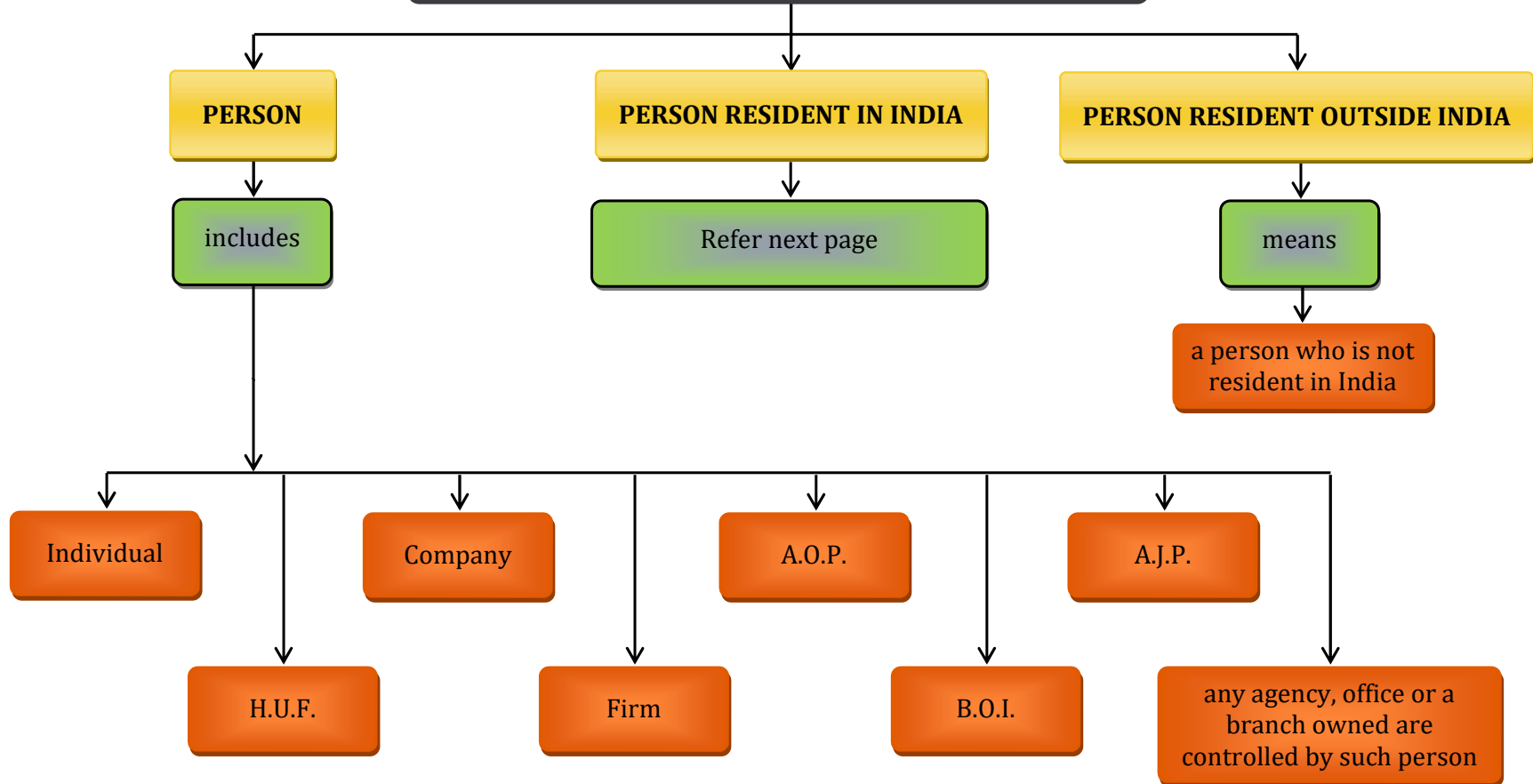
PART - II

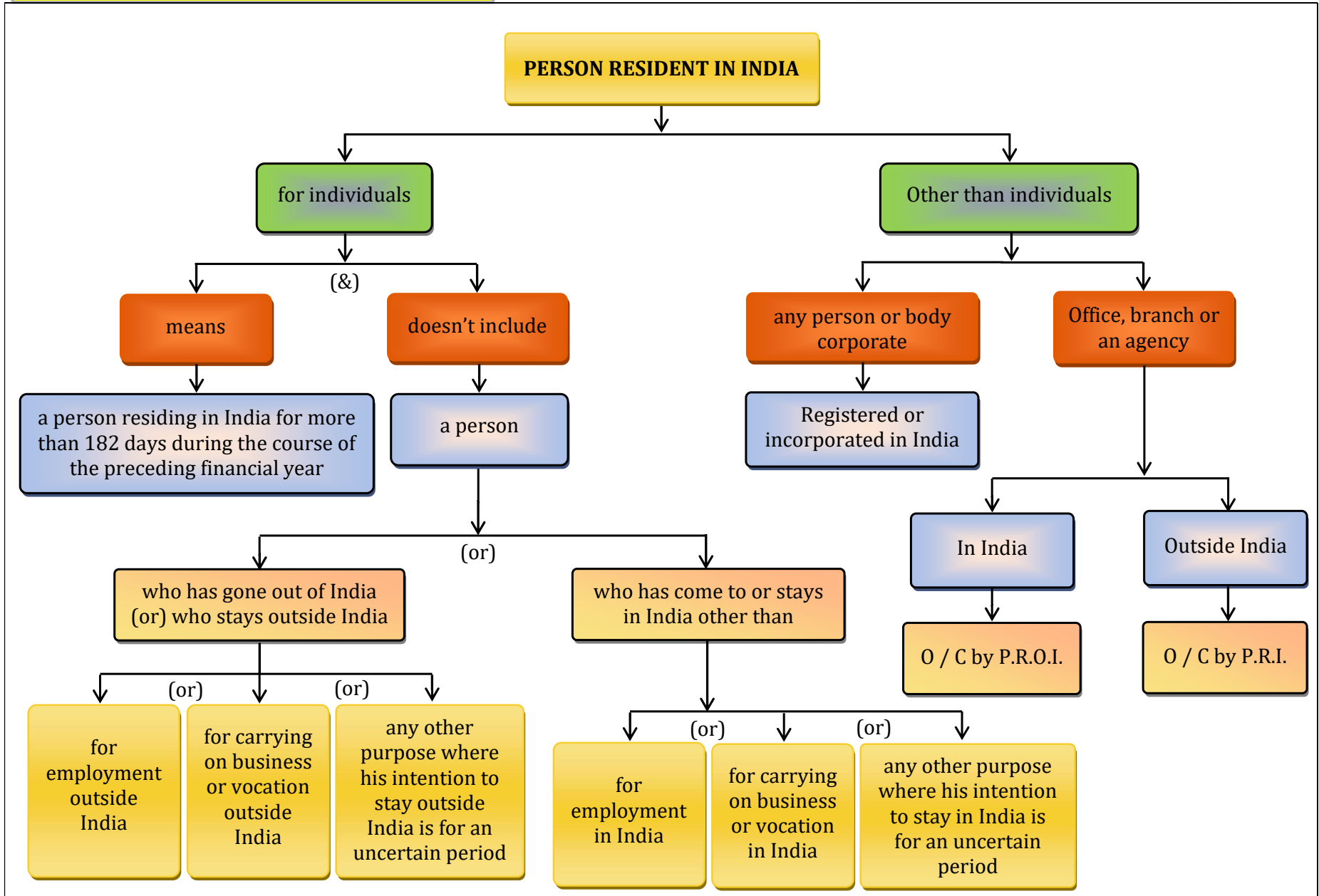


RESIDENTIAL STATUS UNDER FEMA

VARIOUS TYPES OF PERSONS UNDER FEMA (D5 to D7)

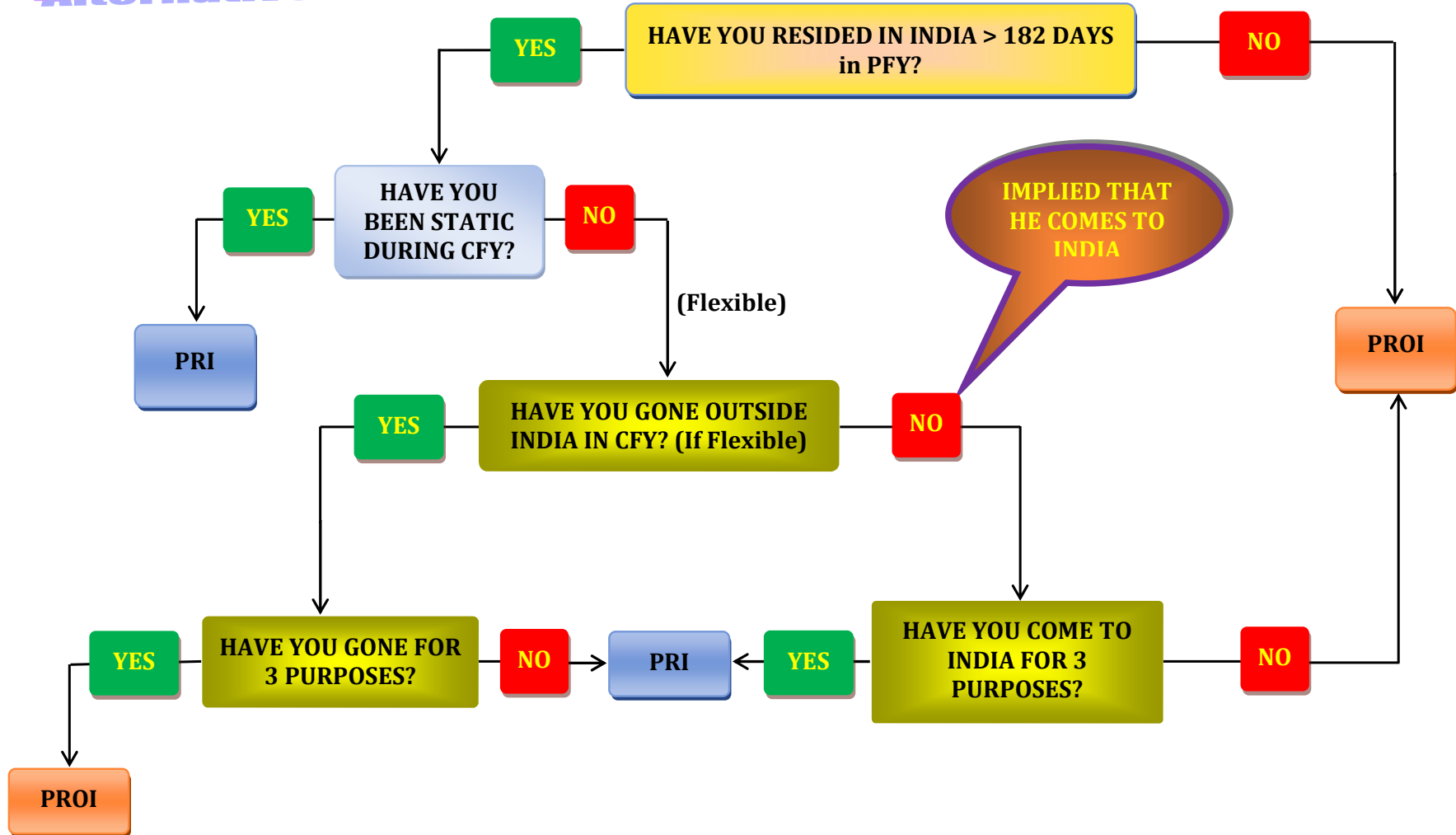
(4)



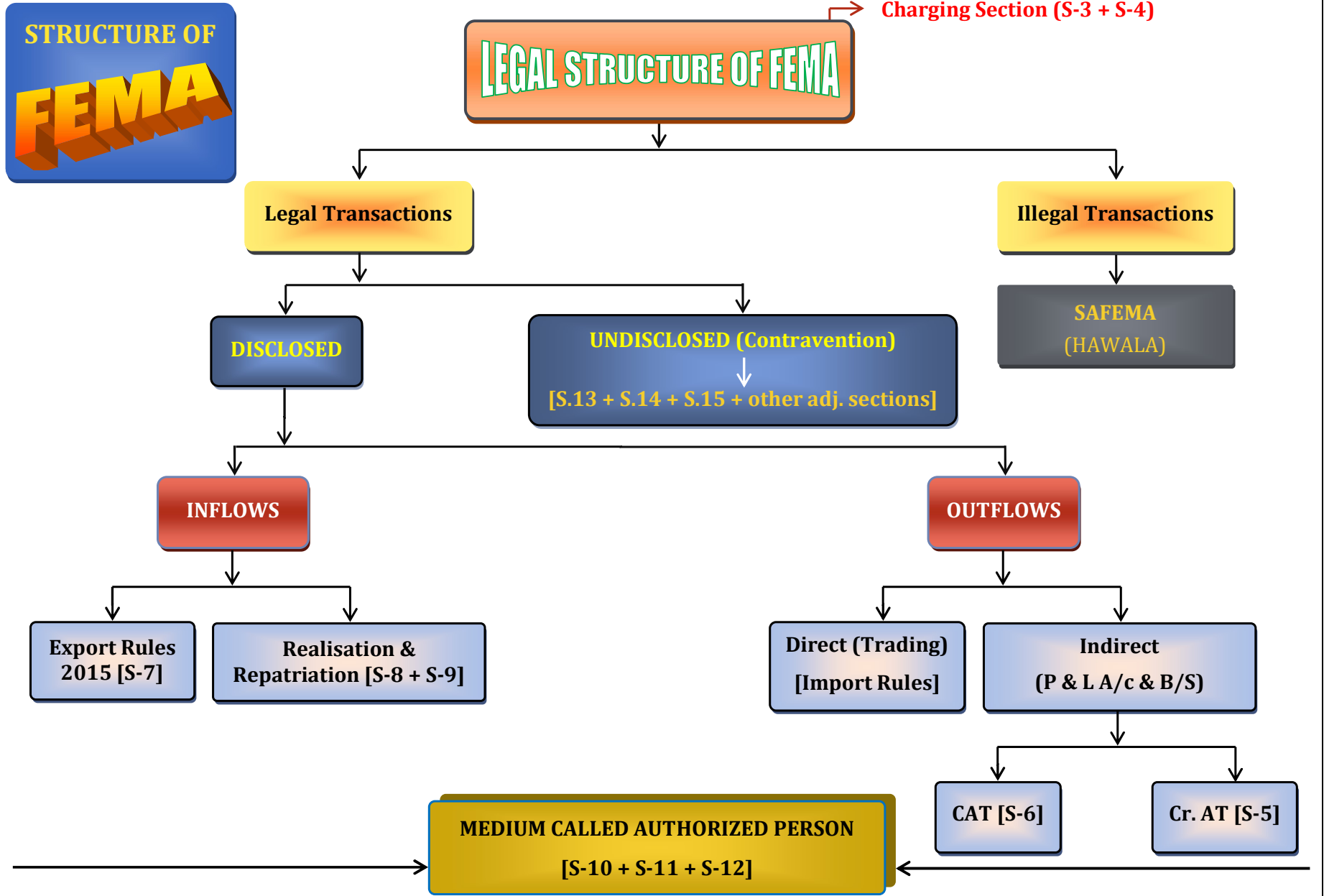


PERSON RESIDENT IN INDIA (for individuals)

Alternative Method



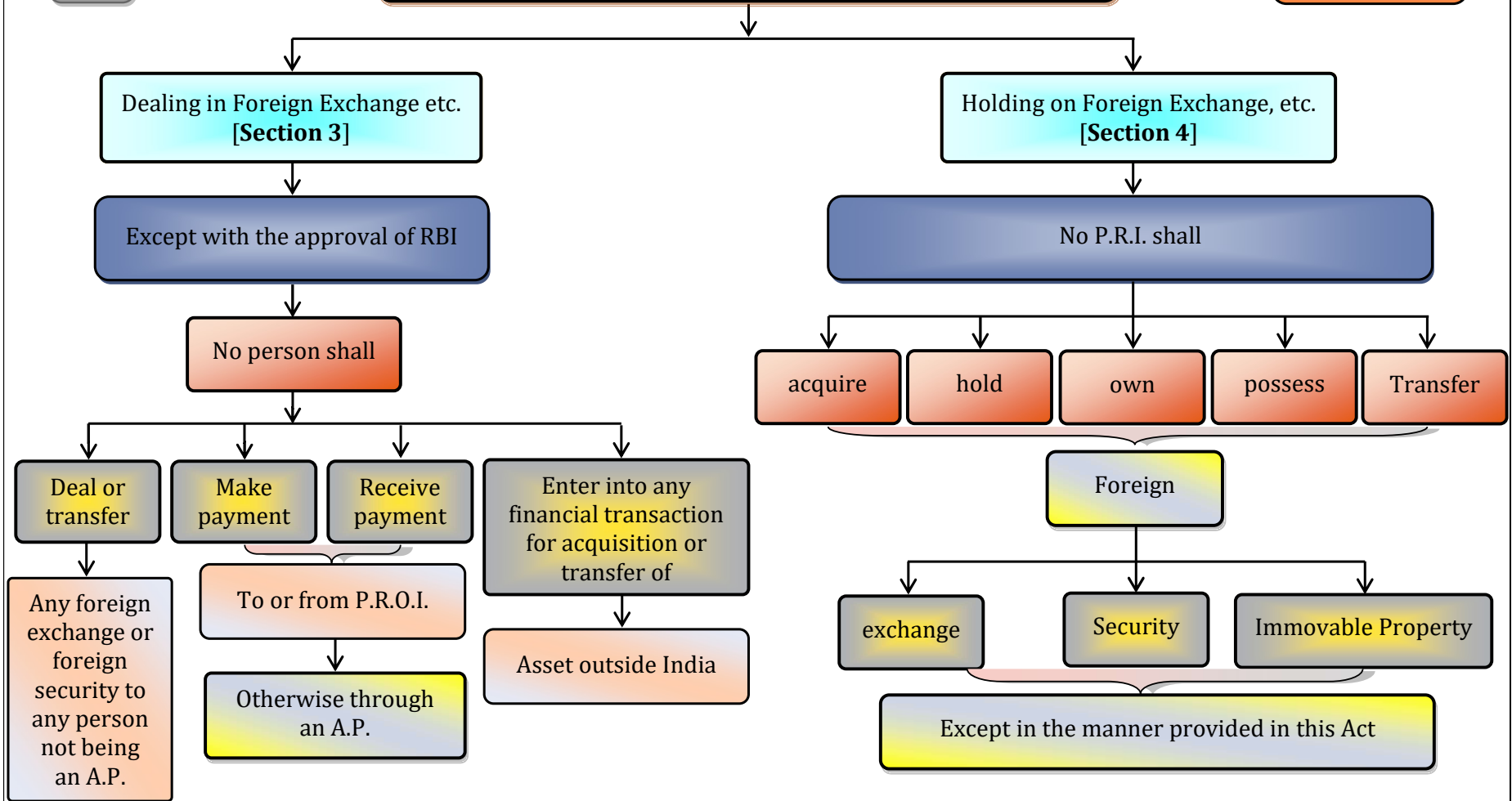
Charging Section (S-3 + S-4)



(5)

CHARGING PROVISIONS UNDER FEMA

PART - III

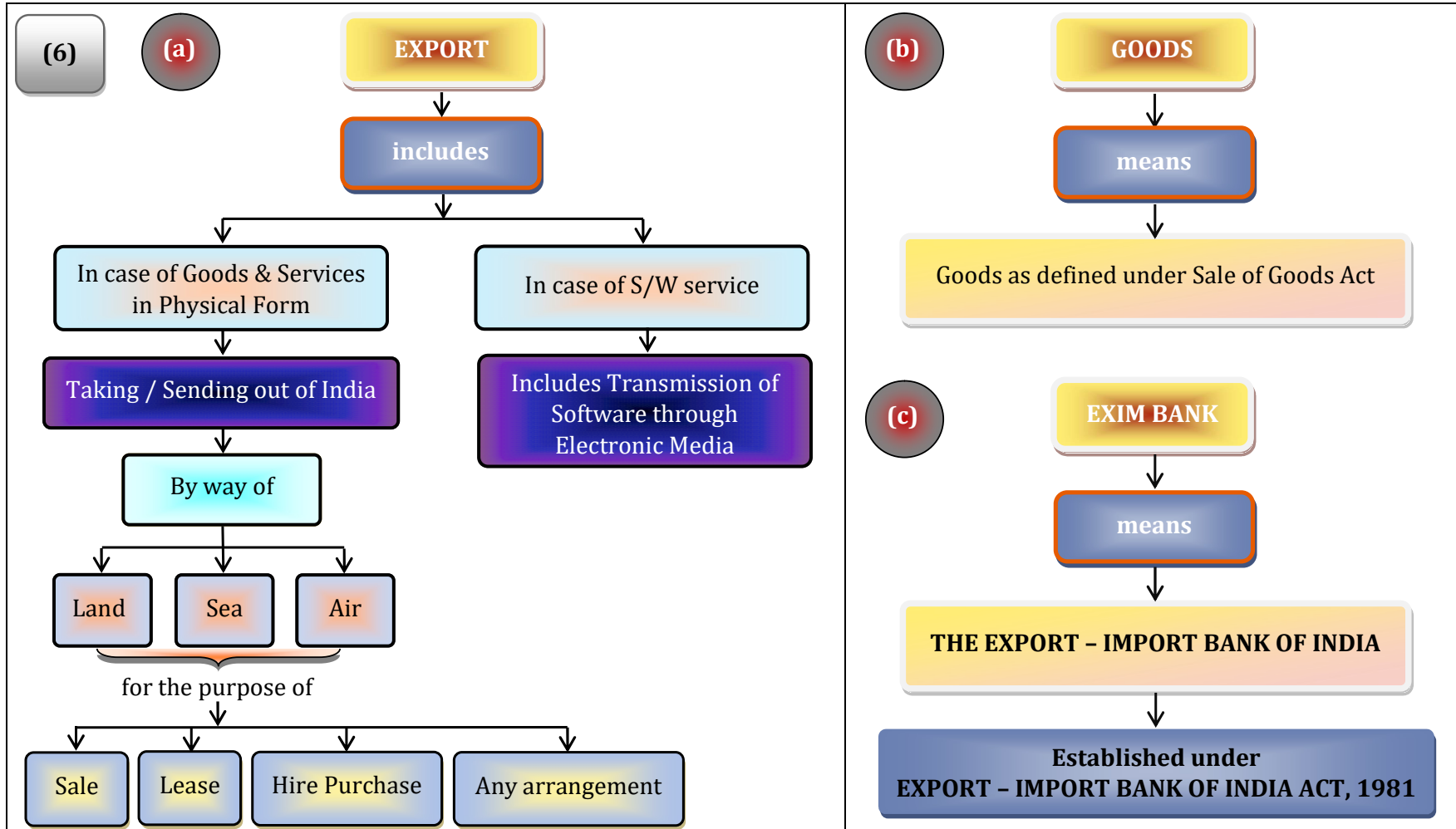


Section 3 & 4 shall be read with Rules regarding Possession and Retention of Foreign Exchange Rules & Realization, Surrender and Repatriation of Foreign Exchange Rules

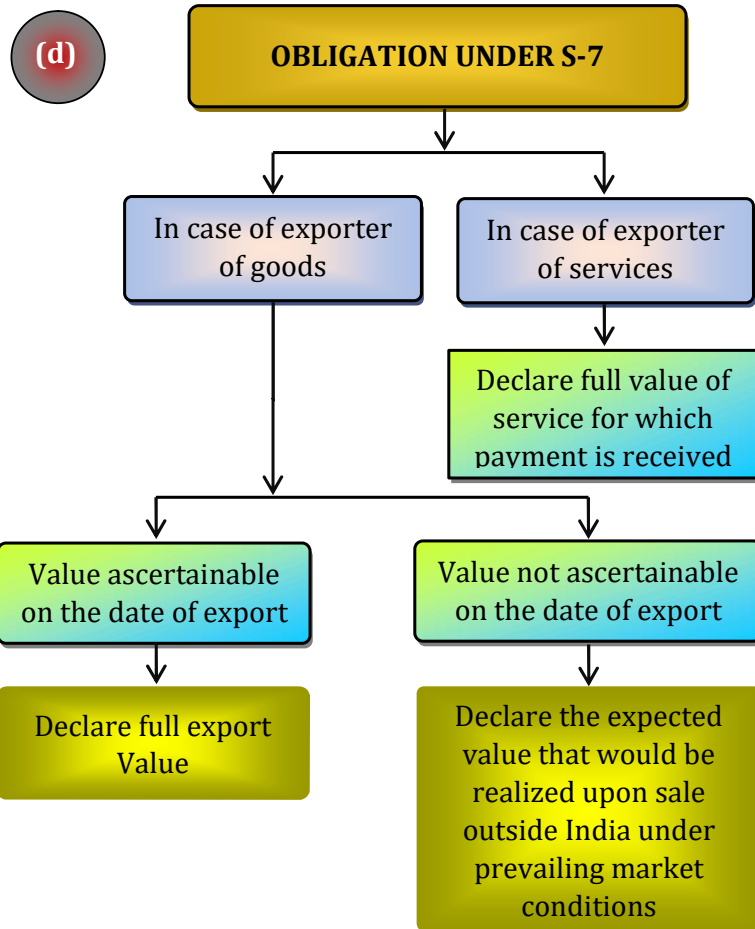
**DEFINITIONS
(PART - A)**

EXPORTS UNDER FEMA

PART - IV

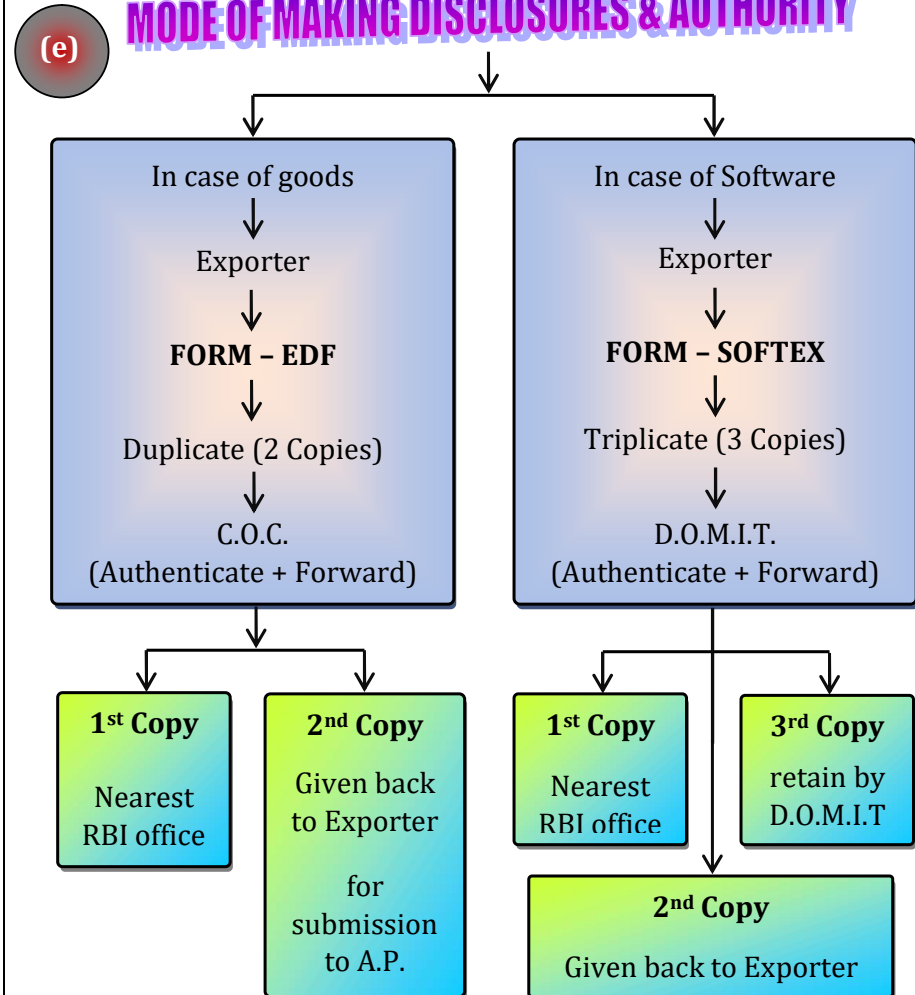


CONTENT OF SECTION 7



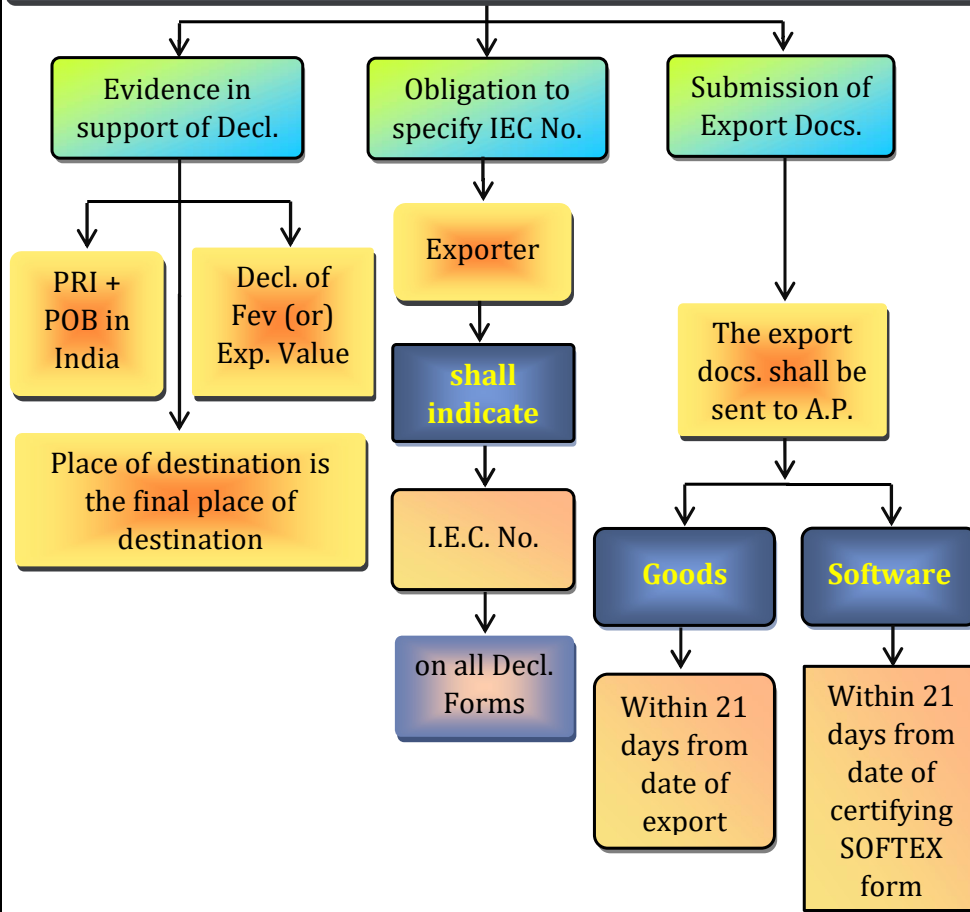
NOTE: RBI may approve for a reduced value

MODE OF MAKING DISCLOSURES & AUTHORITY



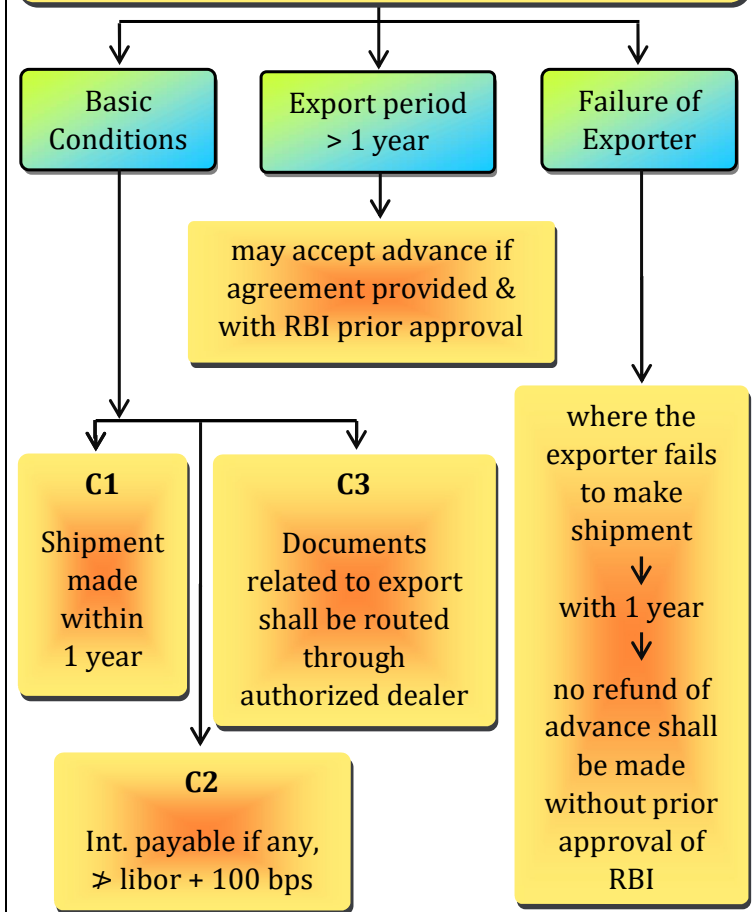
(f)

EVIDENCE IN SUPPORT OF DECL., INDICATION OF IEC & SUBMISSION OF EXPORT DOCUMENT

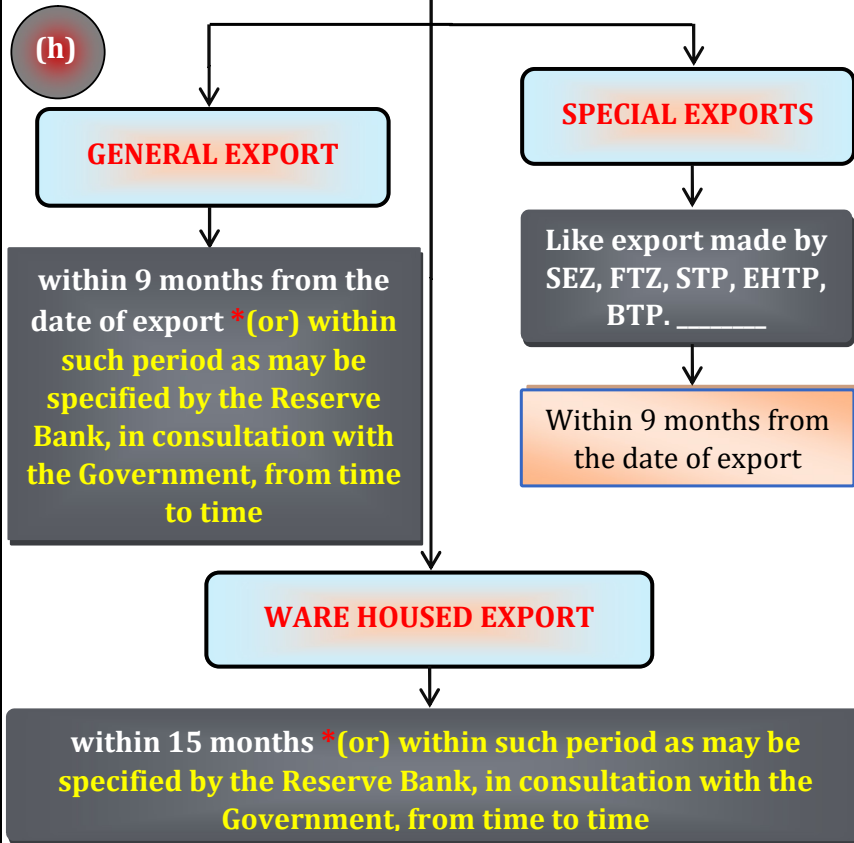


(g)

ADVANCE AGAINST EXPORTS

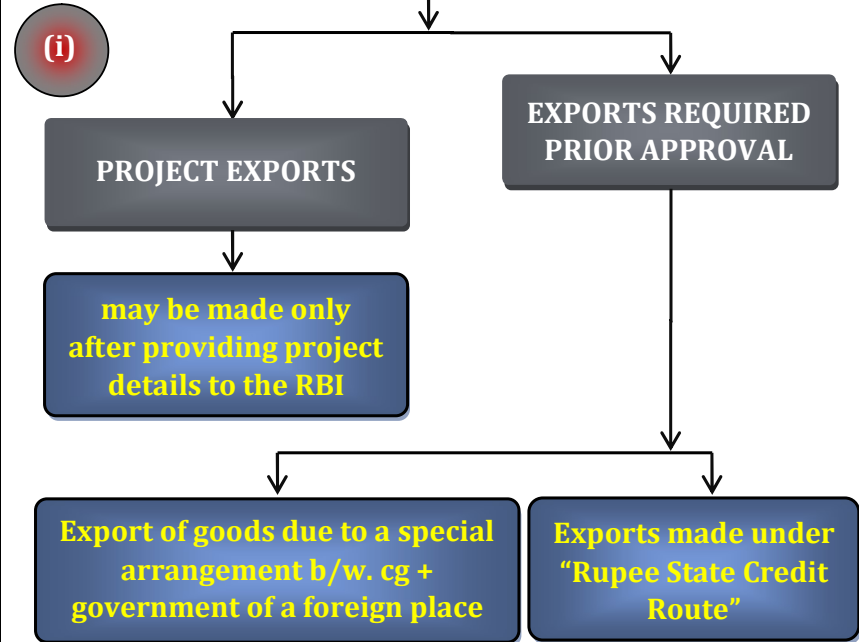


TIME LIMIT TO REALIZE EXPORT PROCEEDS



NOTE:
The period so specified may be extended with the permit of RBI

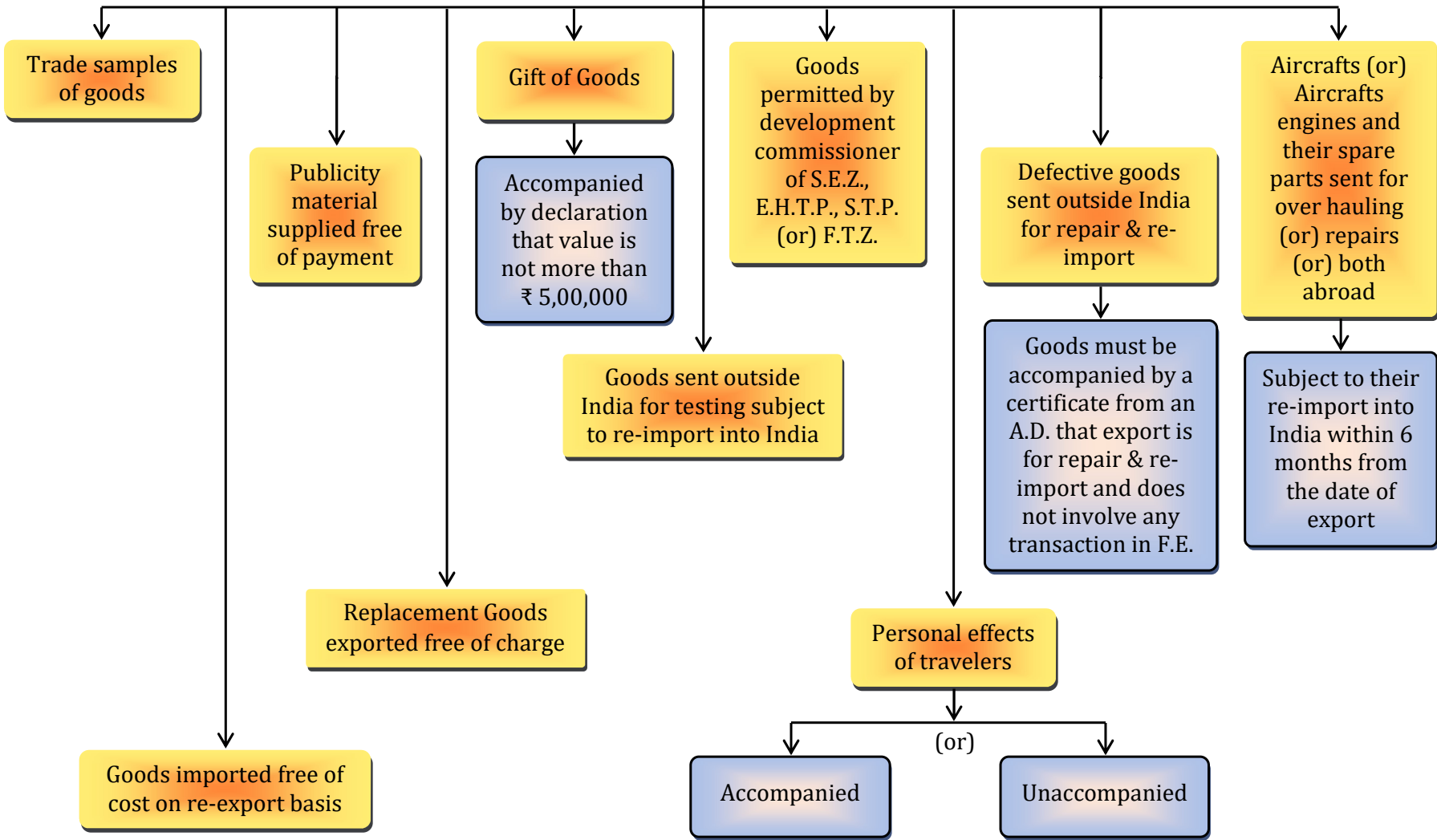
PROJECT EXPORTS & EXPORTS REQUIRED PRIOR APPROVAL



* Latest Amendment

(7)

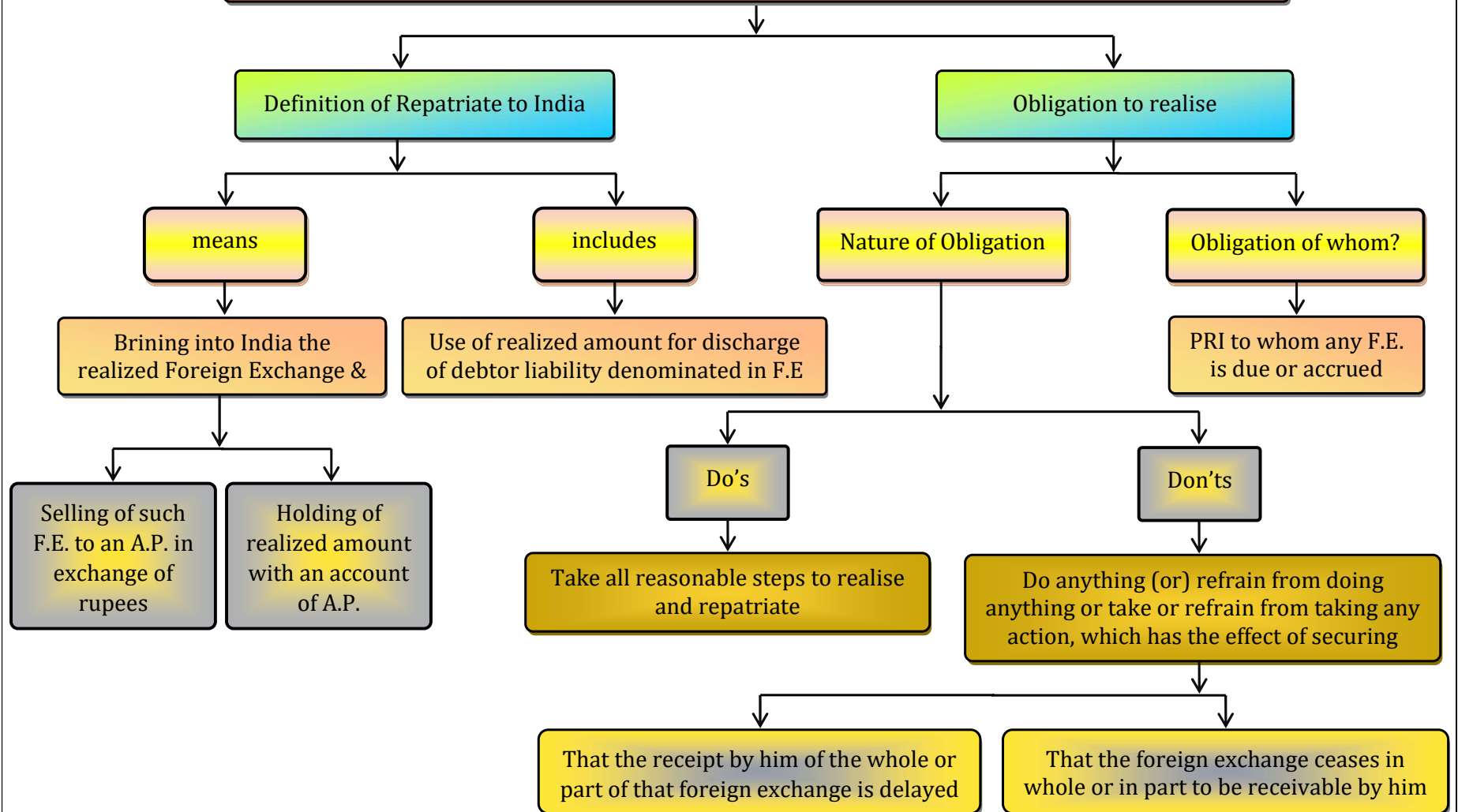
EXPORTS NOT REQUIRING DECLARATION



(8)

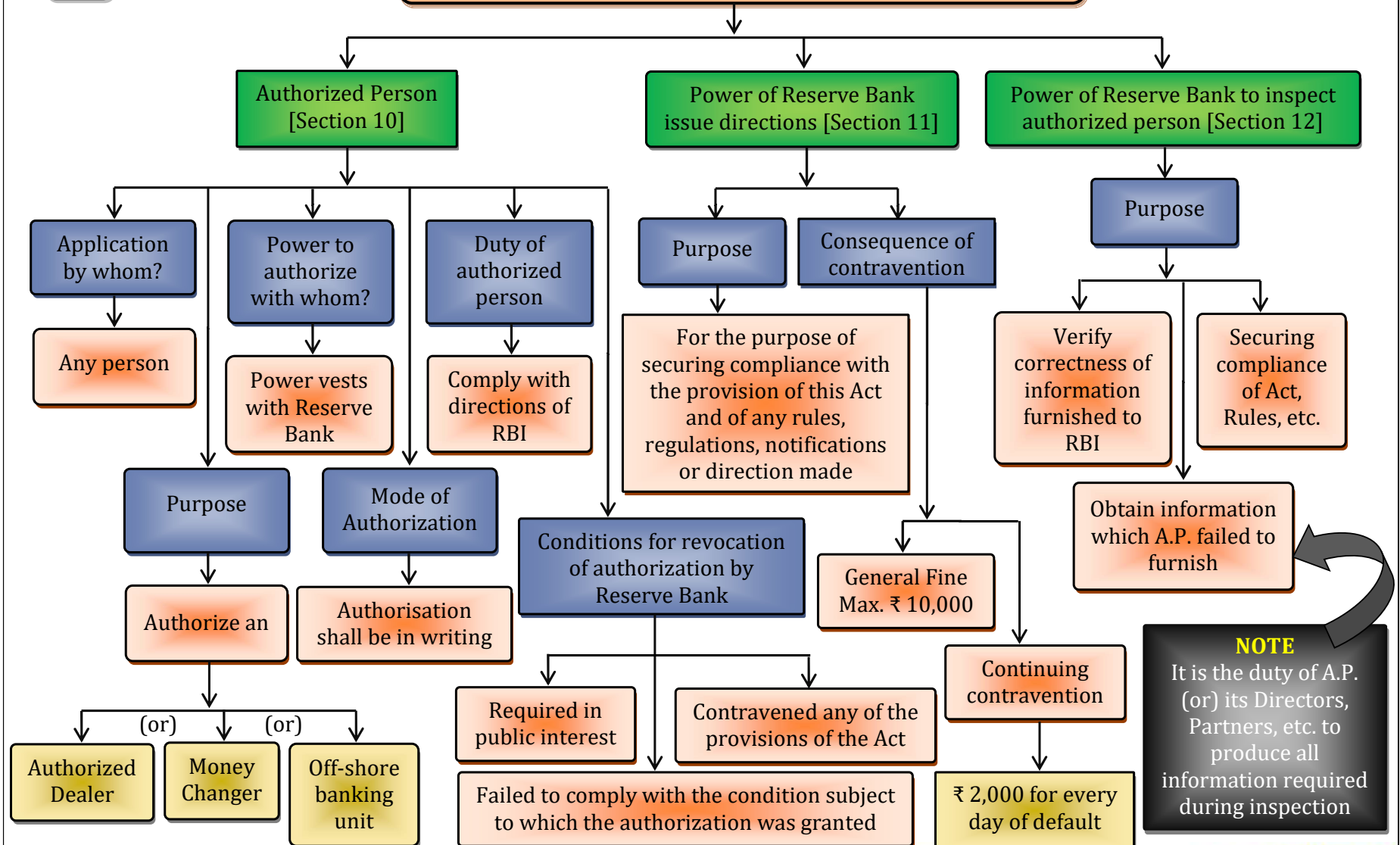
REALISATION AND REPATRIATION OF FOREIGN EXCHANGE AND EXEMPTION FROM REALISATION & REPATRIATION IN CERTAIN CASES [SECTION 8 AND SECTION 9]

REALIZATION, REPATRIATION, POSSESSION & SURRENDER



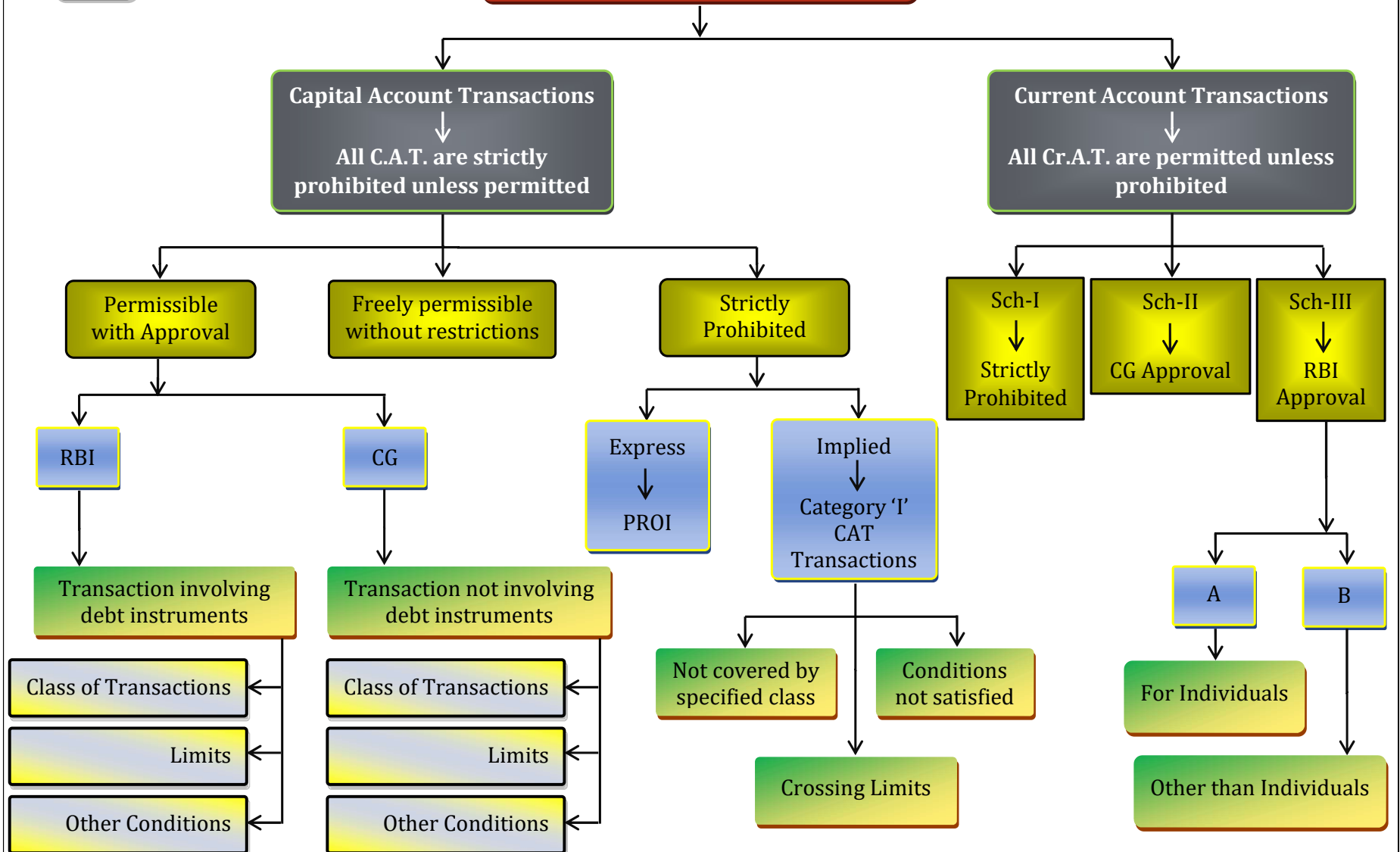
(9)

AUTHORIZED PERSON [SECTION 10 TO 12]



(10)

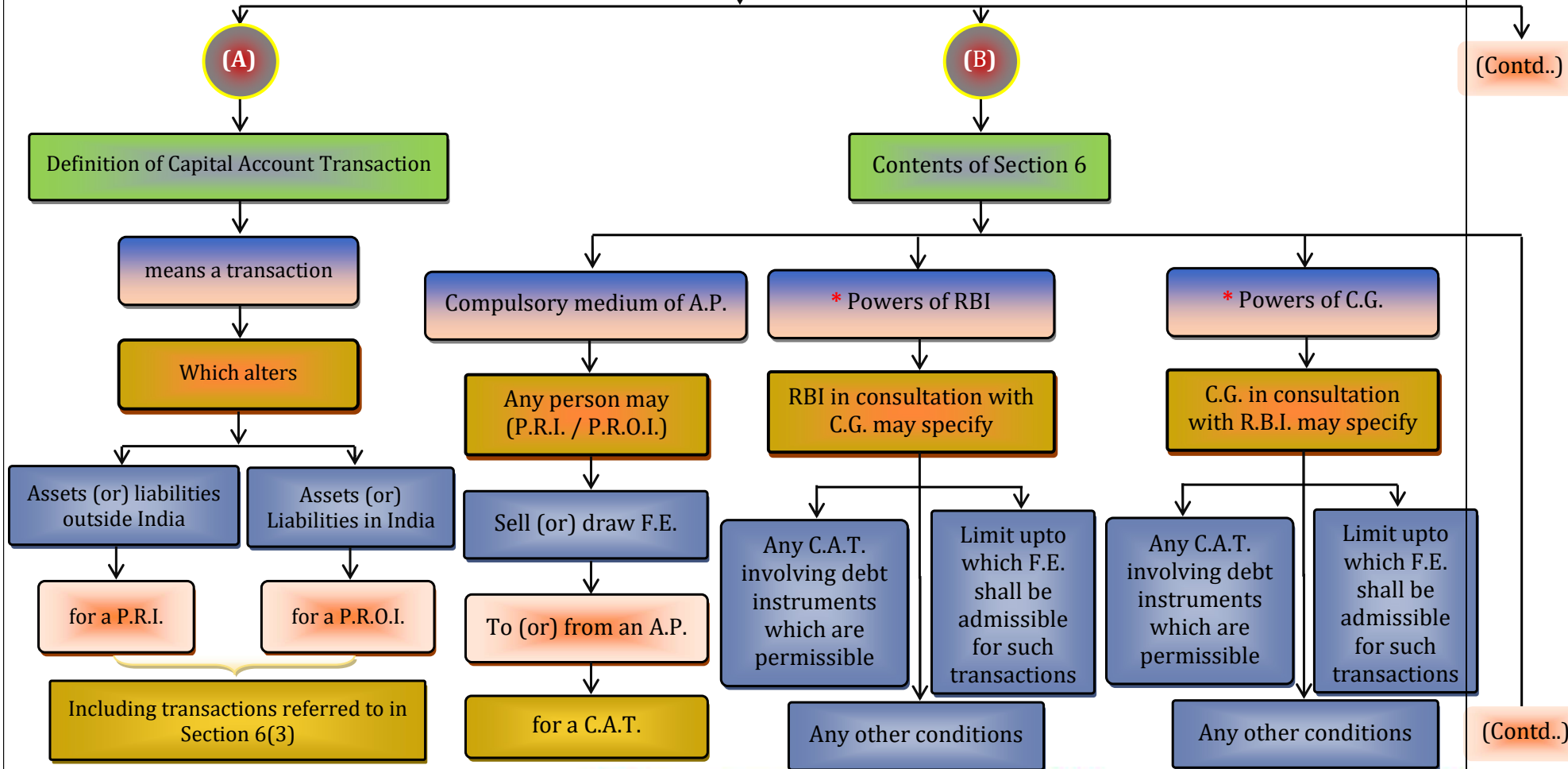
TRANSACTIONS UNDER FEMA



(11)

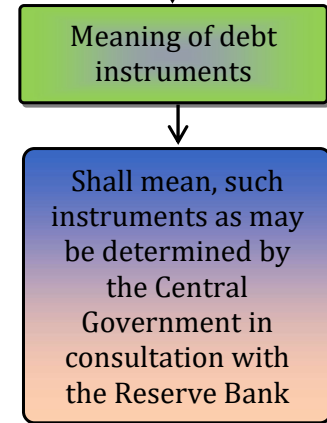
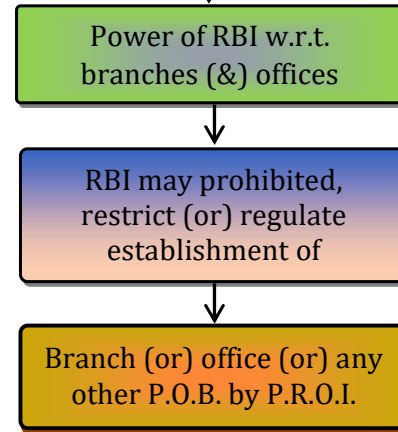
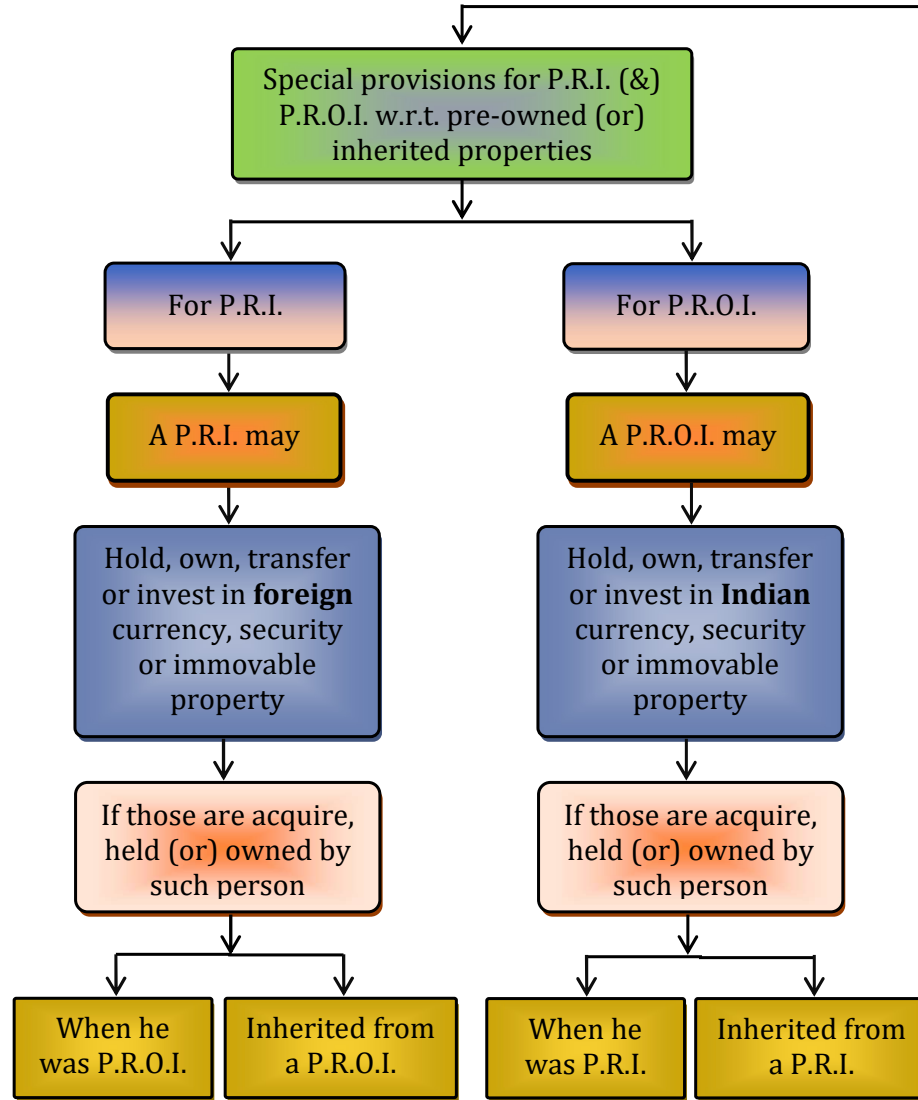
CAPITAL ACCOUNT TRANSACTIONS

[Section 6 r/w. FEMA (Permissible C.A.T.) Regulations, 2000]



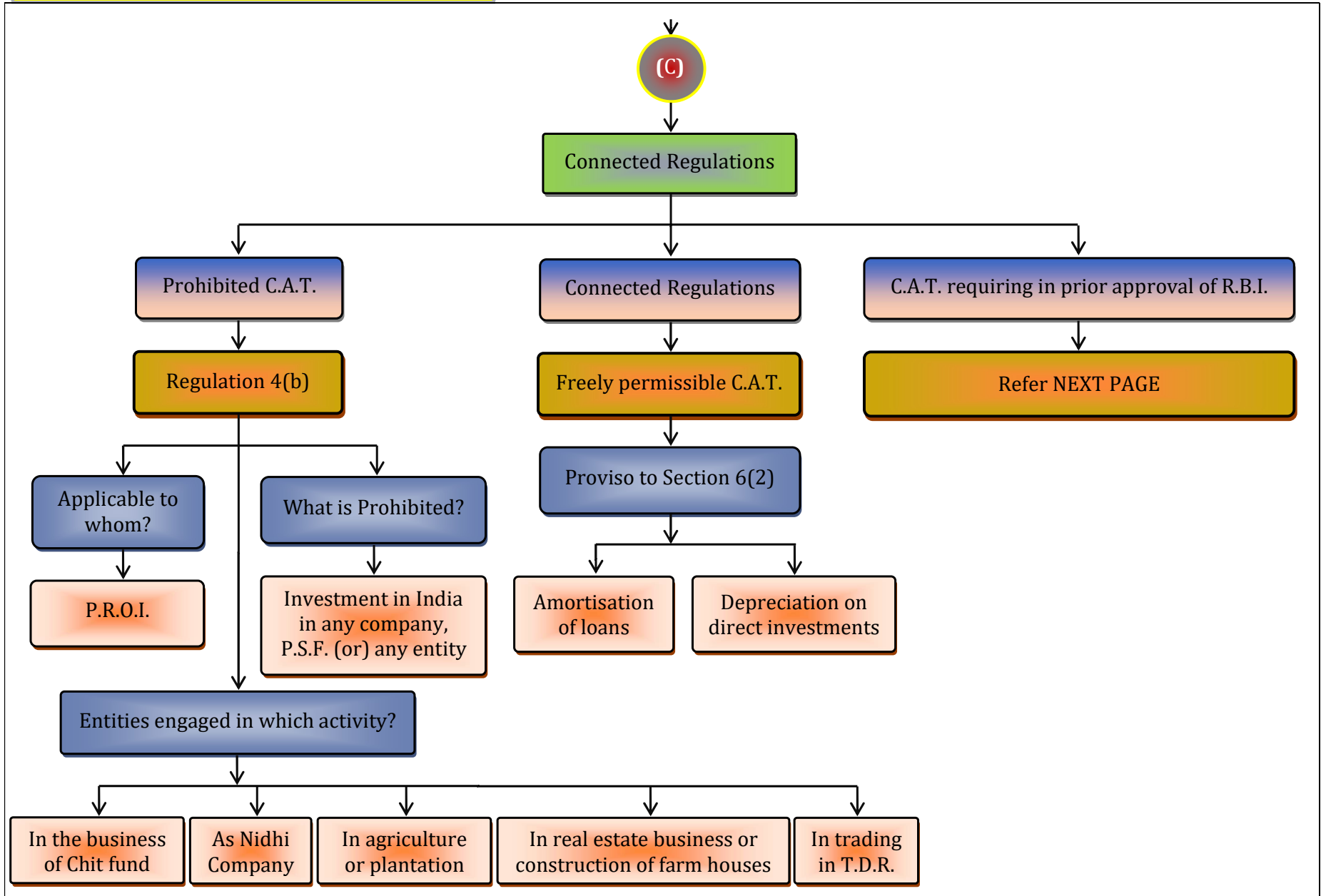
(Contd..)

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NOTE (Not for exams):
Bifurcation of Debt & Non-Debt instruments

DEBT INSTRUMENTS	NON-DEBT INSTRUMENTS
Govt. bonds	Investments in equity in any company
Corporate bonds	Capital participation in L.L.P.
Security receipts	F.D.I.
Borrowings by Indian firms through loans	Investment in A.I.F., R.E.I.T., I.I.T.
Depository receipts whose underlying securities are debt securities	Investment in units of M.F., units of E.T.F. which invest more than 50% in equity
	Acquisition, sale (or) dealing directly in immovable property
	Contribution to trusts
	Depository receipts whose underlying securities are equity instruments



SCHEDULE I**CLASSES OF CAPITAL ACCOUNT TRANSACTIONS OF PERSONS RESIDENT IN INDIA**

- Investment by a person resident in India in foreign securities.
- Foreign currency loans raised in India and abroad by a person resident in India
- Transfer of immovable property outside India by a person resident in India
- Guarantees issued by a person resident in India in favour of a person resident outside India
- Export, import and holding of currency/currency notes
- Loans and overdrafts (borrowings) by a person resident in India from a person resident outside India
- Maintenance of foreign currency accounts in India and outside India by a person resident in India
- Taking out of insurance policy by a person resident in India from an insurance company outside India
- Loans and overdrafts by a person resident in India to a person resident outside India
- Remittance outside India of capital assets of a person resident in India
- Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad by a person resident in India

SCHEDULE II**CLASSES OF CAPITAL ACCOUNT TRANSACTIONS OF PERSONS RESIDENT OUTSIDE INDIA**

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

- Issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and
- 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

Acquisition and transfer of immovable property in India by a person resident outside India

Guarantee by a person resident outside India in favour of, or on behalf of, a person resident in India

Import and export of currency/currency notes into/from India by a person resident outside India

Deposits between a person resident in India and a person resident outside India

Foreign currency accounts in India of a person resident outside India

Remittance outside India of capital assets in India of a person resident outside India

(12)

CURRENT ACCOUNT TRANSACTIONS

[SECTION 5 R/W.FEMA CURRENT ACCOUNT TRANSACTIONS] RULES, 2000

(A)

Definition of Current Account Transaction

(&)

Current account transaction means

Any transaction other than capital account transaction

Current account transaction includes

Trade related

Payments in connection with foreign trade

Other current business & services

Short-term banking & credit facilities

Finance related

Interest on loans

Net income on investments

Personal expenses

Remittances for living expenses of parents, spouse & children residing abroad

Expenses in connection with foreign travel, education and medical care of parents, spouse & children

(B)

Regulations on Cr.A.T. [Section 5]

Any person may [P.R.I. / P.R.O.I.]

May sell or draw F.E. to an A.P. (or) from an A.P.

For Cr.A.T

Powers of Central Government

C.G. in public interest & in consultation with RBI

May impose reasonable restrictions

(C) CURRENT ACCOUNT TRANSACTION

- Strictly prohibited (Sch-I)**
1. Remittance out of income from lottery winnings
 2. Remittance out of income from racing, riding and other hobbies
 3. Remittance for purchase of lottery tickets, banned magazines & football pools etc.
 4. Payment of commission on exports made towards equity investment in J.V. / W.O.S. abroad of Indian companies
 5. Payments made when dividend balancing is applicable
 6. Payment of export commission under RSC route
 7. Payments for callback services
 8. Interest on NRSRS A/c.
 9. Travel payment to Nepal / Bhutan
 10. Payment to person resident in Nepal / Bhutan

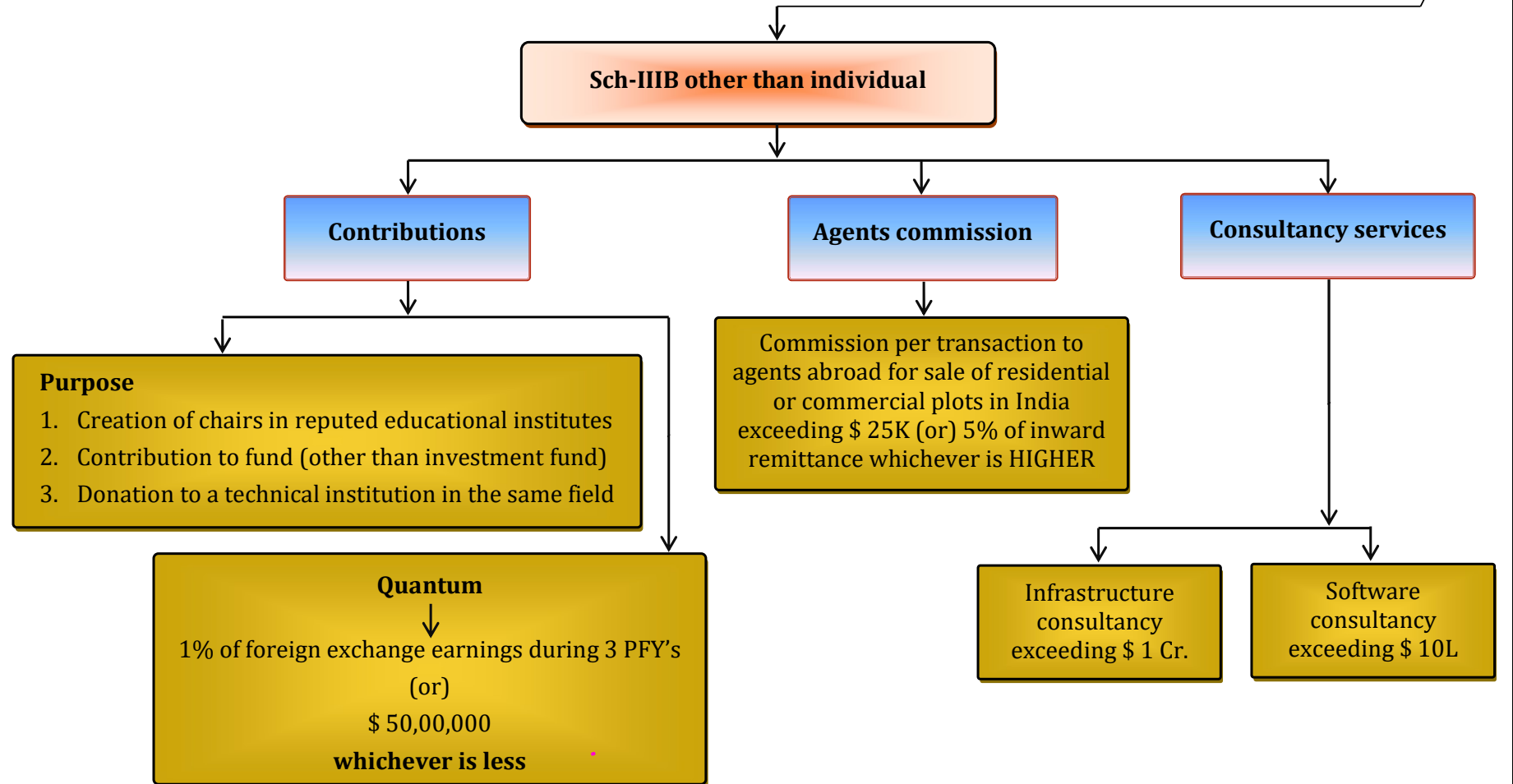
- Prior CG approval (Sch-II)**
1. Cultural tours
 2. Payment of import by ocean transit
 3. Payment of freight through ocean transit
 4. Container detention charges in an ocean transit
 5. Payment of commission to the agents abroad by multimodal transport operators
 6. Remittance for membership of P and I club (protection and indemnity)
 7. Payment of hiring charges for transponders by TV channels and internet service providers
 8. Prize money or sponsorship payment
 - (a) Payment made by International / National / State level sports body → No approval required.
 - (b) Payment made by persons other than (a) above
- ↓
- | | |
|---------------------------|-----------------------|
| Not exceeding \$ 1,00,000 | Exceeding \$ 1,00,000 |
| ↓ | ↓ |
| No CG approval | CG approval required |
9. Advertisement expenditure

C1: Adv. Expenditure	C2: Foreign print media
C3: By SG, PSU	C4: > \$10K
C5: Other than for Tourism, Int. Bidding and Foreign investments	

Transaction required. RBI approval (Sch-III)

- Sch-III A for Individual**
1. Business travel
 2. Private visit to any country other than Nepal / Bhutan
 3. Gifts / Donations
 4. Going abroad for employment
 5. Emigration
 6. Maintenance of close relative abroad
 7. Medical expenses abroad
 8. Medical checkup abroad
 9. Payments made to a person accompanying the patient abroad
 10. Expenses in connection with medical treatment abroad
 11. Any other current account transaction
- ↓
- Exceeding \$ 2,50,000

NOTE: No permission is required where the payment is made out of funds held in RFC account of the remitter



NOTE: No permission is required where the payment is made out of funds held in RFC account of the remitter