

FOREIGN EXCHANGE MANAGEMENT ACT, 1999

Foreign Currency [Sec-2(m)] - any currency other than indian currency.

Foreign Exchange [Sec-2(n)] - means foreign currency, it includes

- I. deposits, credits & balances payable in foreign currency
- II. drafts, travellers cheques, letters of credit (or) bills of exchange
 - expressed in indian currency but payable in foreign currency
 - drawn outside india, but payable in indian currency

Foreign Security [Sec-2(o)]

- I. Any security denominated in foreign currency
- II. It includes securities expressed in foreign currency even if
 - such security shall be redeemed in india currency
 - any form of return is payable in indian currency.

Import [Sec-2(p)] - bringing into india any goods & service

Export [Sec-2(q)] - taking out of india to a place outside india any goods;

provision of services from india to any person outside india

Transfer [Sec-2(zc)] - includes sale, purchase, exchange, mortgage, pledge, gift, loan, any other form of transfer of rights, title, possession or lien

Person [Sec-2(v)] - includes an individuals, HUF, firm, company, an association of person, any artificial juridical person, agency, office (or) branch owned by such person.

Person Resident in india (PRI) [Sec-2(v)]

- I. A person residing in india for more than 182 days during FY but does not include -

- a. A person who has gone out of india (or) who stays outside india
 - for taking up employment outside india
 - for carrying on outside india a biz outside india
 - for any other purpose [intention to stay outside india for uncertainty]

- b. A person who has come to india (or) stays in india
 - for taking up employment in india
 - for carrying on in india a biz in india
 - for any other purpose.

II. Any person registered in india

III. An office, branch in india owned by PROI

IV. An office, branch outside india owned by PRI

Person Resident Outside India (PROI) [Sec-2(w)]

A person who is not resident in India

Regulation & Management of Foreign Exchange

* Dealing in Foreign Exchange etc., [Sec-3]

* No person shall -

- I. deal in any foreign exchange or foreign security to any person not being an authorised person
- II. make any payment to credit of any person resident outside India
- III. received otherwise than through an authorised person
- IV. Enter into any financial transaction in India as consideration for acquisition of a right to acquire any assets outside India by any person:

v. The above transactions may be carried on:

- as otherwise provided in this act &
- with the general permission of the Reserve Bank

* Holding of Foreign Exchange [Sec-4]

Except as provided in this act no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India

Current Account Transaction [Sec-5]

It means a transaction other than a capital account transaction & includes the following types of transactions:

- I. payments in the course of ordinary course of foreign trade, other services such as ST Banking & credit facilities in the ordinary course of biz
- II. payments in the form of int on loans or income from investments.
- III. Remittances for living expenses of parents, spouse or children living abroad
- IV. Expenses in connection with foreign travel, Education etc.,

Provisions

- It is freely permitted
- CB may impose reasonable prohibitions & restrictions on such current AC transaction as it deems fit

SCHEDULE - I

Transactions for which drawal of foreign Exchange is prohibited

- I. Remittance out of lottery winnings
- II. Remittance of income from racing / riding etc...
- III. Remittance for purchase of lottery tickets, banned, football pools
- IV. Payment of commission on exports made towards equity interest in joint ventures of Indian companies
- V. Remittance of dividend by any co to which the requirements of dividend balancing is applicable
- VI. Remittance of int income on funds held in NRI Special Rupee Scheme a/c
- VII. Payment of commission on exports under Rupee State Credit Route, except commission upto 10% of invoice value of exports of tea & tobacco
- VIII. Payment related to 'call back services' of telephones

SCHEDULE - II

Transactions, which require prior approval of govt of India for drawal of foreign Exchange.

- I. Remittance for membership of P&L club
- II. Remittance of freight of vessel chartered by a PSU
- III. Remittance of hiring charges of transponders by T.V channels, Internet service providers
- IV. Remittance of container detention charges exceeding the rates prescribed by director general of Shipping
- V. Remittance of prize money / Sponsorship of sports activity abroad by a person other than international / National / State level sports bodies, if the amt involved exceeds US \$ 100000
- VI. Multi-modal transport operators making remittance to their agents abroad
- VII. Cultural tours
- VIII. Payment of import through ocean transport by a govt dept
- IX. Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investment & international bidding exceeds US \$ 10000 by SEI & its public sector undertakings.

SCHEDULE - III

Individuals can avail of foreign exchange facility for the following purpose within the limit of USD 25000 only.

- I. Gift (or) donation
- II. Private visits to any country (except Nepal & Bhutan)
- III. Emigration
- IV. Studies abroad.

- V. Going abroad for Employment
- VI. Maintenance of close relatives abroad
- VII. Expenses in connection with medical treatment abroad
- VIII. Travel for his
- IX. Expenses relating to medical check-up
- X. Any other current account transaction

Capital Account Transaction [Sec 6(4) & 6(5)]

Person Resident
In India
Sec - 6(4)

⇓
MAY

Hold, own, Transfer (or) invest
in foreign currency, foreign
Security (or) any immovable
Property Situated outside
India

⇓
If

The Same was acquired, Held
(or) owned by such person when
he was PROI (or) inherited from
a PROI Person Resident outside India

Person Resident
Outside India
Sec - 6(5)

⇓
MAY

Hold, own, Transfer (or) invest
in Indian currency, Security (or)
any immovable Property
Situated in India

⇓
If

The Same was acquired, held (or)
owned by such person when he
was PROI (or) inherited from
a PROI

SCHEDULE - I

The list of Permissible Classes of transactions made by PRII is :-

- I. Investment by a person resident in India in foreign Securities
- II. Foreign currency loans raised in India & abroad by a person resident in India
- III. Transfer of immovable property outside India by a person resident in India
- IV. Export, import & holding of currency & currency notes.
- V. Remittance outside India of capital assets of a person resident in India
- VI. Undertake derivative contracts
- VII. Guarantees issued by a person resident in India in favor of a person resident outside India
- VIII. Loans & overdrafts by a person resident in India from a person resident outside India
- IX. Loans & overdrafts by a person resident in India to a person resident outside India
- X. Maintenance of foreign currency a/c's in India & outside India by a person resident in India
- XI. Taking out of insurance policy by a person resident in India from an insurance to outside India

SCHEDULE - II

The list of permissible classes of transactions made by persons resident outside india is :-

- I. Investment in india by a person resident outside india, that is to say:-
 - issue of security by a body corporate in india & investment therein by a person resident outside india.
 - investment by way of contribution by a person resident outside india to the capital of a firm in india
- II. Acquisition & transfer of immovable property in india by a person resident outside india
- III. Guarantees by a person resident outside india in favour of, on a behalf of a person resident in india
- IV. Import & Export of currency & notes from india by a person resident outside india
- V. Deposits b/w a person resident in india & a person resident outside india
- VI. Foreign currency accounts in india of a person resident outside india
- VII. Remittance outside india of capital assets in india of a person resident outside india
- VIII. Undertake derivative contracts

Prohibited Capital Account Transaction [Regulation -4]

No PROI shall make investment in india in any entity which is engaged (or) proposes to engage.

In the biz of chif fund

as Nidhi company

in agricultural or plantation activities

In trading in transferable development Rights

In real estate biz (or) construction of farm houses

shall not include

-> development of township

-> construction of residential (or) commercial premises

-> construction of roads (or) bridges

-> Real Estate investment Trusts registered under REITs Regulation

Facilities for other than individuals—

Category of transaction	Limits prescribed (No approval is (no approval of RBI is required if payment is made out of RFC account) Resident foreign currency (no approval of RBI is required if payment is made out of EEFC account) (Except item 5) Exchange Earnings foreign currency
<p>Donations by corporate, for –</p> <p>(a) creation of Chairs in reputed educational institutions;</p> <p>(b) to funds (not being an investment fund) promoted by educational institutes; and</p> <p>(c) to a technical institution or body or association in the field of activity of the donor company.</p>	<p>(a) 1% of foreign exchange earnings during the previous <u>3</u> financial years of the Corporate; or (b) US \$50,00,000 whichever is less. } WGL</p>
<p>Remittance by an entity in India by way of reimbursement of pre-incorporation expenses.</p>	<p>(a) 5% of investment brought in India; or (b) US \$ 1,00,000 whichever is higher } WELH</p>
<p>Remittance for any consultancy services procured from outside India in respect of infrastructure project.</p> <p>Explanation- For the purpose of this item, 'infrastructure project' means a project related to –</p>	<p>US \$ 1,00,00,000 per project</p>
<p>(i) Power</p>	<p>(ii) Telecommunication</p>
<p>(iii) Railways</p>	<p>(iv) Roads including bridges</p>
<p>(v) Sea port and Airport</p>	<p>(vi) Industrial Parks</p>
<p>vii) Urban infrastructure (water supply, sanitation and sewage)</p>	
<p>Remittance for any consultancy services procured from outside India</p>	<p>US \$ 10,00,000 per project</p>

Commission, per transaction, to agents abroad for sale of resident flats/commercial plots in India	Higher of – (a) 5% of inward remittance; or (b) US \$ 25,000. } WEM
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Note:

- In case of **remitter being a minor**, the LRS declaration form must be countersigned by the minor's natural guardian. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.
- **Consolidation of remittance of family members** - Remittances under the Scheme can be consolidated in respect of family members subject to individual family members complying with its terms and conditions.
- **Exception:** 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.
- **Exemption for payment by International Credit Card while on a visit abroad** – If a person is on a visit abroad, he can incur expenditure stated in Schedule III if he incurs it through International credit card.