

# FEMA

## Foreign Exchange Management Act

- The **Foreign Exchange Management Act, 1999 (FEMA)**, is an **Act of the Parliament** of India "to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and **maintenance of foreign exchange market in India**".
- It was passed in the 29th December 1999 in parliament, replacing the Foreign Exchange Regulation Act (**FERA**).
- This act makes offences related to foreign exchange **civil offenses**.
- It extends to the **whole of India**,
- It enabled a new foreign exchange management regime consistent with the emerging framework of the **World Trade Organization (WTO)**. It also paved the way for the introduction of the **Prevention of Money Laundering Act, 2002**, which came into effect from 1 July 2005.

# DEFINITIONS - AUTHORISED PERSON [SEC 2(C)]

- an Authorised Dealer (AD),
- Money Changer,
- off-shore (SEZ) Banking unit or
- any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities (WUMT)

[Any transactions that involve Foreign Currency should be made only through an authorized person]





# WHO IS AN AUTHORIZED DEALER (AD) ?

An Authorised Dealer (AD) is any person specifically authorized by the **Reserve Bank** under Section 10(1) of FEMA, 1999, to deal in foreign exchange or foreign securities (the list of ADs is available on [www.rbi.org.in](http://www.rbi.org.in)) and normally includes banks.

There is two type of AD.



# WHO ARE AUTHORIZED BY **THE RESERVE BANK** TO **SELL** FOREIGN EXCHANGE FOR TRAVEL PURPOSES?

Foreign exchange can be purchased from any authorised person, such as an -

**AD Category-I** - Banks and

**AD Category II.** Full-Fledged Money Changers (**FFMCs**)



## FFMC VS. RMC (RESTRICTED)

- The Reserve Bank of India under Section 10 of the Foreign Exchange Management Act, 1999 may provide license to work as Authorised Money Changers (AMCs). An AMC may either be a Full Fledged Money Changer (FFMC) or a Restricted Money Changer (RMC).
- FFMCs are authorised to purchase foreign exchange from residents and non-residents visiting India, and to sell foreign exchange for certain approved purposes
- RMCs are authorised only to purchase foreign exchange from residents and non-residents.



# HOW MUCH FOREIGN CURRENCY CAN BE CARRIED IN CASH FOR TRAVEL ABROAD ?

Travellers going to all countries [other than (a) and (b) below] are allowed to purchase foreign currency notes / coins only up to USD 3000 per visit.

Balance amount can be carried in the form of Cards, travellers cheque, banker's draft.

Exceptions to this are - (a) travellers proceeding to Iraq and Libya who can draw foreign exchange in the form of foreign currency notes and coins not exceeding USD 5000 or its equivalent per visit;

(b) travellers proceeding to the Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States who can draw entire foreign exchange (up-to USD 250,000) in the form of foreign currency notes or coins.

For travellers proceeding for Haj/ Umrah pilgrimage, full amount of entitlement (USD 250,000) in cash or up to the cash limit as specified by the Haj Committee of India, may be released by the ADs and FFMCS.

# HOW MUCH FOREIGN EXCHANGE CAN BE BROUGHT IN WHILE VISITING INDIA?



A person coming into India from abroad can bring with him foreign exchange without any limit.

However, if the aggregate value of the foreign exchange in the form of **currency notes**, **bank notes** or **travellers cheques** brought in exceeds **USD 10,000** or its equivalent

and/or

the value of **foreign currency alone exceeds USD 5,000** or its equivalent, -

It should be **declared** to the Customs Authorities at the Airport in the **Currency Declaration Form (CDF)**, on arrival in India.



# CAN ONE PAY EXCHANGE

# BY CASH FULL RUPEE EQUIVALENT OF FOREIGN BEING PURCHASED FOR TRAVEL ABROAD?

Foreign exchange for travel abroad can be purchased from an authorized person against rupee payment in cash below Rs.50,000/-.

However, if the sale of foreign exchange is for the amount equivalent to Rs 50,000/- and above, the entire payment should be made by way of a crossed cheque/ banker's cheque/ pay order/ demand draft/ debit card / credit card / prepaid card only.





IS THERE ANY **TIME-FRAME**  
RETURNED TO INDIA

FOR A TRAVELLER  
TO **SURRENDER FOREIGN EXCHANGE?**

On return from a foreign trip, travellers are required to surrender unspent foreign exchange held in the form of currency notes and travellers cheques **within 180 days** of return.

However, they are **free to retain** foreign exchange **up to USD 2,000**, in the form of foreign currency notes or TCs for future use or credit to their Resident Foreign Currency (Domestic) Accounts.









# IS THERE ANY CATEGORY OF VISIT WHICH REQUIRES PRIOR APPROVAL FROM THE RESERVE BANK OR THE GOVERNMENT OF INDIA ?

Dance troupes, artistes, etc., who wish to undertake cultural tours abroad -

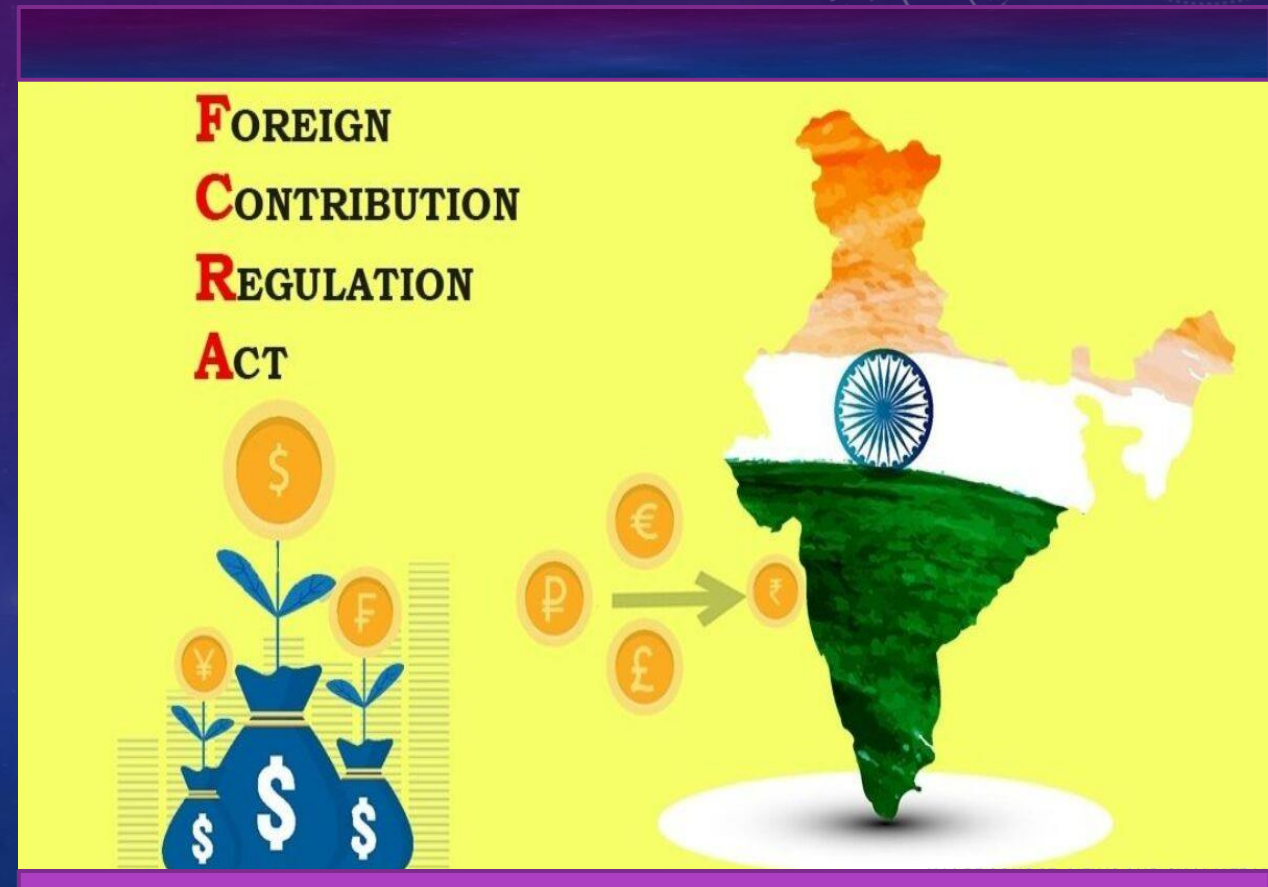
should obtain prior approval from the Ministry of Human Resources Development (Department of Education and Culture), Government of India, New Delhi.





# WHETHER PERMISSION GRANT/DONATION IS REQUIRED FROM ABROAD FOR RECEIVING UNDER THE FOREIGN CONTRIBUTION REGULATION ACT, 1976?

- The Foreign Contribution Regulation Act, 1976 is administered and monitored by the **Ministry of Home Affairs** whose address is given below:
- Ministry of Home Affairs, FCRA Wing, 1st Floor, Major Dhyan Chand National Stadium, Near Pragati Maidan, New Delhi-110001
- No specific approval from the Reserve Bank is required in this regard





## WHO IS PERMITTED TO HOLD INTERNATIONAL CREDIT CARD (ICC) AND INTERNATIONAL DEBIT CARD (IDC) FOR UNDERTAKING FOREIGN EXCHANGE TRANSACTIONS?

- Banks authorised to deal in foreign exchange are permitted to issue International Debit Cards (IDCs) which can be used by a resident individual for drawing cash or making payment to a merchant establishment overseas during his visit abroad. IDCs can be used only for permissible current account transactions and the usage of IDCs shall be within the LRS limit.
- AD banks can also issue Store Value Card/Charge Card/Smart Card to residents traveling on private/business visit abroad which can be used for making payments at overseas merchant establishments and also for drawing cash from ATM terminals. No prior permission from Reserve Bank is required for issue of such cards. However, the use of such cards is limited to permissible current account transactions and subject to the LRS limit.
- Use of ICCs/ IDCs can be made for travel abroad in connection with various purposes and for making personal payments like subscription to foreign journals, internet subscription, etc. However, use of ICCs/IDCs is NOT permitted for prohibited transactions indicated in Schedule 1 of FEM (CAT) Amendment Rules 2015 such as purchase of lottery tickets, banned magazines etc.
- Use of these instruments for payment in foreign exchange in Nepal and Bhutan is not permitted.

# HOW MUCH **JEWELLERY** CAN BE **CARRIED** WHILE **GOING ABROAD**?

- Taking personal jewellery out of India is as per the **Baggage Rules**, governed and administered by Customs Department, Government of India. While no approval of the Reserve Bank is required in this case, approvals, if any, required from Customs Authorities may be obtained.





CAN

A RESIDENT EXTEND  
TO A NON-RESIDENT?

LOCAL HOSPITALITY

- A person resident in India is free to make any payment in Indian Rupees towards meeting expenses, on account of boarding, lodging and services related thereto or travel to and from and within India, of a person resident outside India, who is on a visit to India.





# CAN RESIDENTS PURCHASE FOR THEIR TRAVEL

# AIR TICKETS IN INDIA NOT TOUCHING INDIA?

- Residents may book their tickets in India for their visit to any third country. For instance, residents can book their tickets for travel from London to New York, through domestic/foreign airlines in India.
- However, the same (air tickets) would be a part of the traveller's overall LRS entitlement of USD 250,000.

**Liberalized Remittance Scheme (LRS)** facilitates resident individuals to remit up to USD 2,50,000 or its equivalent abroad per Financial Year (April-March) for permitted current or capital account transactions or combination of both.





# CAN A PERSON **RESIDENT** IN INDIA **HOLD ASSETS OUTSIDE INDIA?**

- In terms of sub-section 4, of Section (6) of the Foreign Exchange Management Act, 1999, a person resident in India **is free to 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.
- Further, a resident individual can also acquire property and other assets overseas under LRS.





# CAN A RESIDENT INDIVIDUAL SEND REMITTANCES AND PURCHASE PROPERTY OUTSIDE INDIA?

- A resident individual can send remittances under the Liberalised Remittance Scheme (LRS) for purchasing immovable property outside India.
- In case members of a family pool their remittances to purchase a property, then the said property should be in the name of all the members who make the remittances.





# TO WHOM DO THE RESTRICTIONS OF TRANSFERRING PROPERTY OUTSIDE INDIA **NOT APPLY?**

- The prohibition of a resident acquiring property outside India is not applicable if:
  - i. The resident is a **foreign national**; or
  - ii. The property was acquired **before July 8, 1947** and continued to be held after obtaining permission; or
  - iii. If it is acquired on a **lease not exceeding five years**



# WHAT ARE THE ACCEPTED MODES OF PAYMENT FOR PROPERTY ACQUIRED IN INDIA?

- Payment for immovable property has to be received in India **through banking channels**
- and
- is subject to payment of all **taxes and other duties**/ levies in India.
- The payment can also be made out of **funds held in NRE/ FCNR(B)/ NRO** accounts of the NRIs/ OCIs.
- Payments should not be made through **travellers' cheque** and **foreign currency notes**.





# CAN FOREIGN EMBASSIES/ DIPLOMATS/ CONSULATE GENERALS ACQUIRE PROPERTY IN INDIA?

- Foreign Embassy/ Diplomat/ Consulate General, can purchase/ sell immovable property (other than agricultural land/ plantation property/ farm house) in India provided –
  - ✓ Clearance from the **Government of India, Ministry of External Affairs** is obtained for such purchase/sale, and
  - ✓ The consideration for acquisition of immovable property in India **is paid out of funds remitted from abroad through banking channels.**



# CAN FOREIGN NATIONALS ACQUIRE PROPERTY IN INDIA?

- Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau, Hong Kong or Democratic People's Republic of Korea (DPRK), irrespective of their residential status, cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years. This prohibition shall not be applicable to an OCI.
- Foreign nationals of non-Indian origin resident in India (except 11 countries listed at (a) above) can acquire immovable property in India.
- Foreign nationals of non-Indian origin resident outside India can acquire/ transfer immovable property in India, on lease not exceeding five years and can acquire immovable property in India by way of inheritance from a resident.
- All other acquisitions/ transfers by foreign nationals will require the prior permission of RBI