

# ANNUAL REGIONAL PCS CONFERENCE “CS - A SERVER”



## OPPORTUNITIES IN FOREIGN EXCHANGE MANAGEMENT ACT - (FEMA)



**PUNE**  
**14TH & 15TH JUNE, 2019**

**Hinesh. R. Doshi & Co. LLP**  
**Chartered Accountants**

## INDEX

Sr.No	Particulars	Slide nos.
1.	History of FEMA	3
2.	Objectives Of FEMA	4
3.	Structure of FEMA, 2000	5
4.	Policy updations under FEMA	6
5.	Rules/Regulations under FEMA	7
6.	Overall Scheme Of FEMA	8
7.	Overview Of FEMA Compliances	11
8.	Reporting Compliance - Foreign Direct Investment	23
9.	Reporting Compliance - External Commercial Borrowing (ECB)	27
10.	Reporting Delay - Late Submission Fees	32
11.	Reporting Compliance - Overseas Direct Investment (ODI)	33
12.	Compliance - Exports Of Goods & Services	35
13.	Compliance - Import Of Goods & Services	37

# History of FEMA

**Defence of India Rules** - Introduced in India for the first time as a temporary measure at the time of IInd World War in September 1939.

**FERA, 1947** - It then turned into permanent feature through Foreign Exchange Regulation Act ,1947 (FERA) which was very basic law.

**FERA 1973** - FERA re-appeared in new avatar in the form of Foreign Exchange Regulation Act, 1973 (FERA), which however remained draconian and a criminal law.

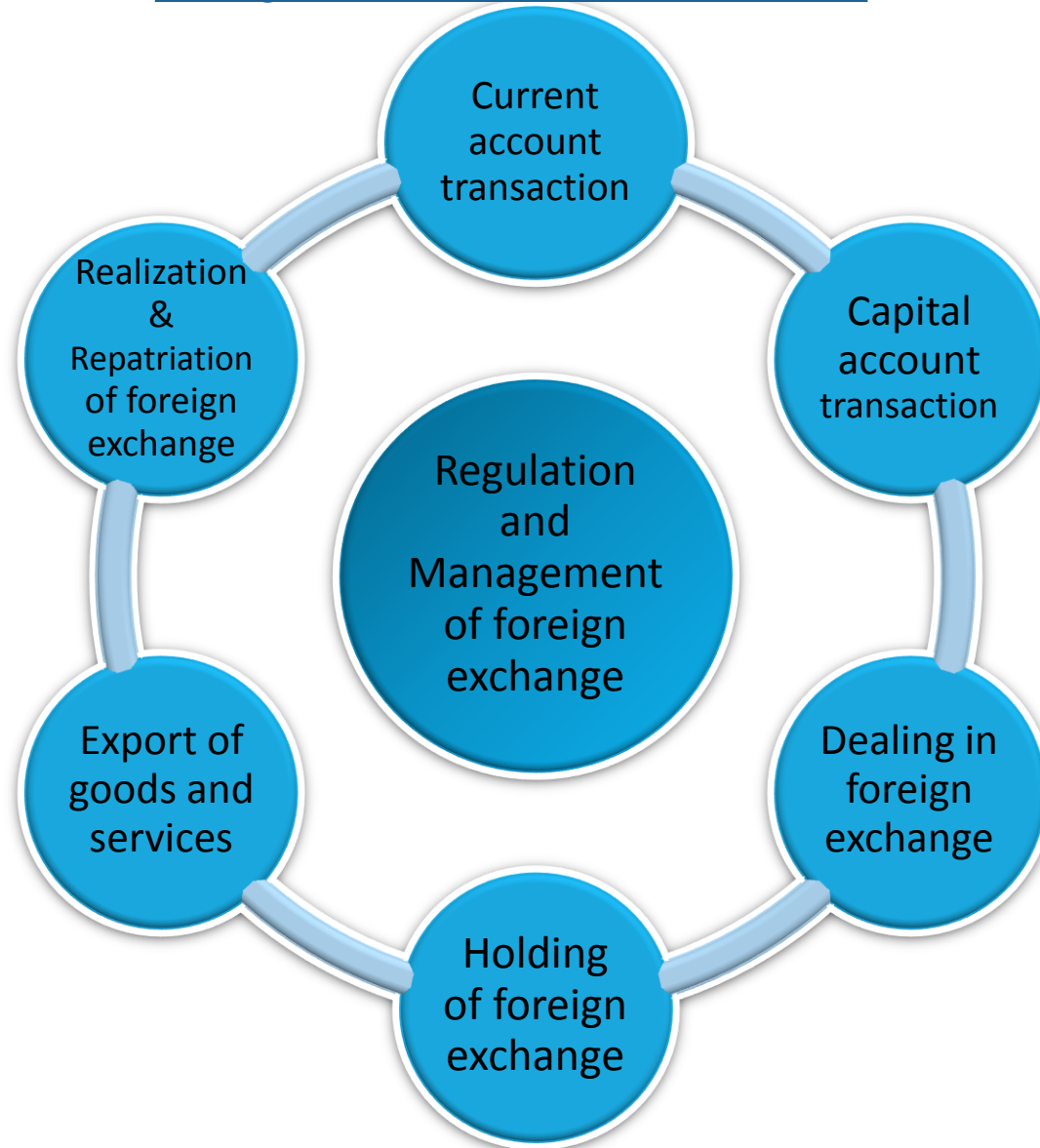
Post Liberalization (i.e. New Industrial Policy of 1991), being a need to attract more foreign investments into country, it was then decided to review provisions of FERA.

**FEMA, 1999** - The Foreign Exchange Management Act,1999 (FEMA) brought in force on June 1, 2000, to replace the then existing FERA. This is more of a civil law, more liberal, relaxed and less draconian.





# Objectives of FEMA



# Structure of FEMA, 2000 (7 Chapters; 49 Sections)



Chapter No.	Chapter	Title	Subject	Sections nos.
I	Preliminary		Jurisdiction and Definitions	1-2
II	Regulation & Management of Forex		<ul style="list-style-type: none"> <li>•Restriction on dealing with PROI</li> <li>•Holding of forex</li> <li>•Current a/c transactions</li> <li>•Capital a/c transactions</li> <li>•Export of goods &amp; services</li> <li>•Realization and repatriation of forex with exemptions</li> </ul>	3-9
III	Authorised Persons		Provisions relating to Authorised Persons	10-12
IV	Contravention and Penalties		Provisions relating to Contravention, its consequences and Compounding	13-15
V	Adjudication and Appeal		<ul style="list-style-type: none"> <li>•Provisions relating to terms of service, composition, appointment of Adjudicating Authority, Members to Appellate Tribunal</li> <li>•Provisions relating to Appeal to Special Director (Appeals), Appellate Tribunal and High Court</li> </ul>	16-35
VI	Enforcement Directorate		Provisions relating to Appointment & Powers	36-38
VII	Miscellaneous		Power to make Rules and Regulations, etc	39-49

The main operating sections in FEMA are only Section 1 to Section 9.

Rest of the sections are procedural, administrative or enforcement provisions.

# Policy updates under FEMA



Notifications by RBI + CG

- For making or revising Regulations and Rules
- [https://www.rbi.org.in/Scripts/BS\\_viewfemanewnotification.aspx](https://www.rbi.org.in/Scripts/BS_viewfemanewnotification.aspx)

A.P.(Dir Series) Circulars by RBI

- Contains procedural instructions to Authorized Dealers / Banks
- [https://www.rbi.org.in/Scripts/BS\\_ApCircularsDisplay.aspx](https://www.rbi.org.in/Scripts/BS_ApCircularsDisplay.aspx)

Press Notes by DPITT

- <https://dipp.gov.in/policies-rules-and-acts/press-notes-fdi-circular>

Master Directions by RBI

- MD are consolidated updated instructions, rules and regulations.
- [https://www.rbi.org.in/Scripts/BS\\_ViewMasterDirections.aspx](https://www.rbi.org.in/Scripts/BS_ViewMasterDirections.aspx)

FDI Policy by DPITT

- <https://dipp.gov.in/foreign-direct-investment/foreign-direct-investment-policy>

FAQs & Compounding Orders

- <https://m.rbi.org.in/Scripts/FAQView.aspx?Id=80>

**DPIIT:** Department for promotion of Industry and Internal Trade (Earlier known as DIPP)

**DIPP:** Department of Industrial Policy and Promotion

**AP (DIR) :** Authorized Person (Directions)



# Rules/Regulations under FEMA

<u>Nature of Transactions</u>	<u>Borrowing/Lending/ Guarantee</u>	<u>Issue Of Securities</u>	<u>Asset</u>	<u>Others</u>
<p>FEM (Permissible capital account transactions) Regulations, 2000</p> <p>FEM (Current Account Transaction) Rules , 2000</p>	<p>FEM (Borrowing and Lending) Regulations, 2018</p> <p>FEM (Guarantees) Regulations, 2000</p>	<p>FEM (Transfer or issue of security by a person resident outside India) Regulations, 2017</p> <p>Consolidated FDI policy, 2017</p> <p>FEM (Transfer or Issue of Any Foreign Security) Regulations, 2004</p>	<p>FEM(Acquisition and transfer of immovable property outside India) Regulations, 2015</p> <p>FEM (Acquisition and transfer of immovable property in India) Regulations, 2018</p>	<p>FEM (Establishment of Branch Office / Liaison Office/ Project Office or any other place of business) Regulations, 2016</p> <p>FEM (Export of Goods &amp; Services) Regulations, 2015</p> <p>FEM (Foreign currency accounts by a person resident in India) Regulations, 2015</p>

# Overall scheme of FEMA

Transactions in FEMA are classified into two broad heads:  
**Capital account and Current account transactions**



## Capital Account Transaction

**A transaction which alters assets or liabilities:**

- a) Outside India of a person resident in India (PRI) or
- b) In India of persons resident outside India (PROI)

Capital account transactions are permitted to the extent allowed by RBI/CG

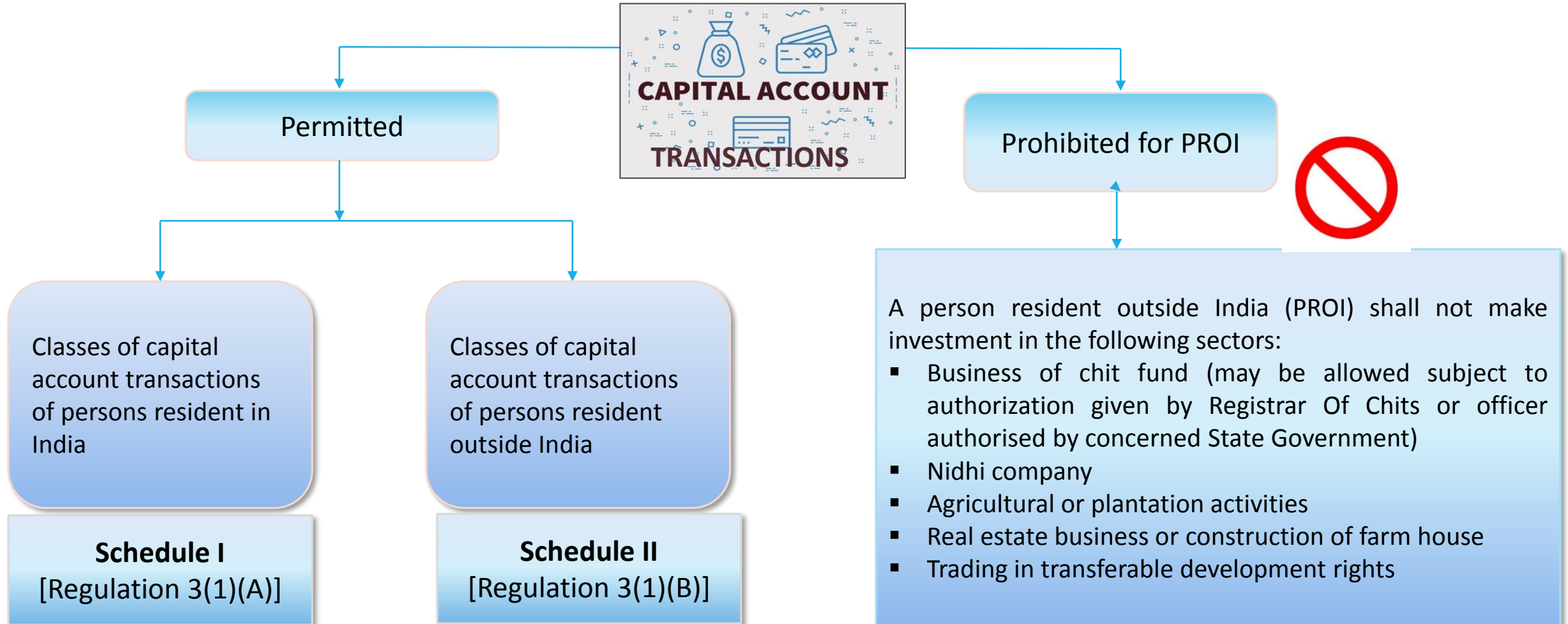
## Current Account Transaction

It is transaction other than a capital account transaction

All current account transactions are freely permitted unless specifically restricted by Central Government



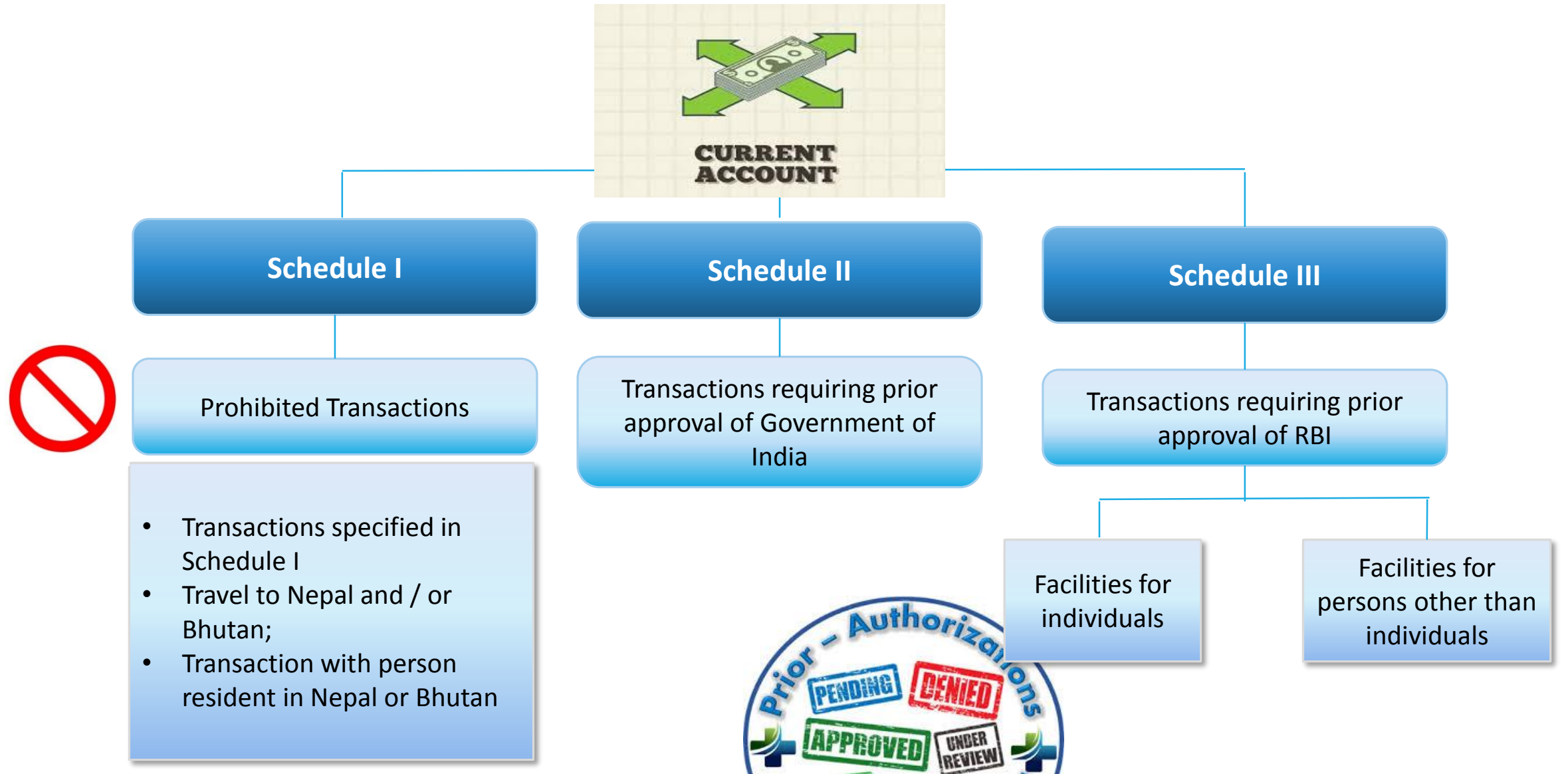
# Overall scheme of FEMA



Foreign Exchange Management (Permissible Capital account transactions) Regulations, 2000

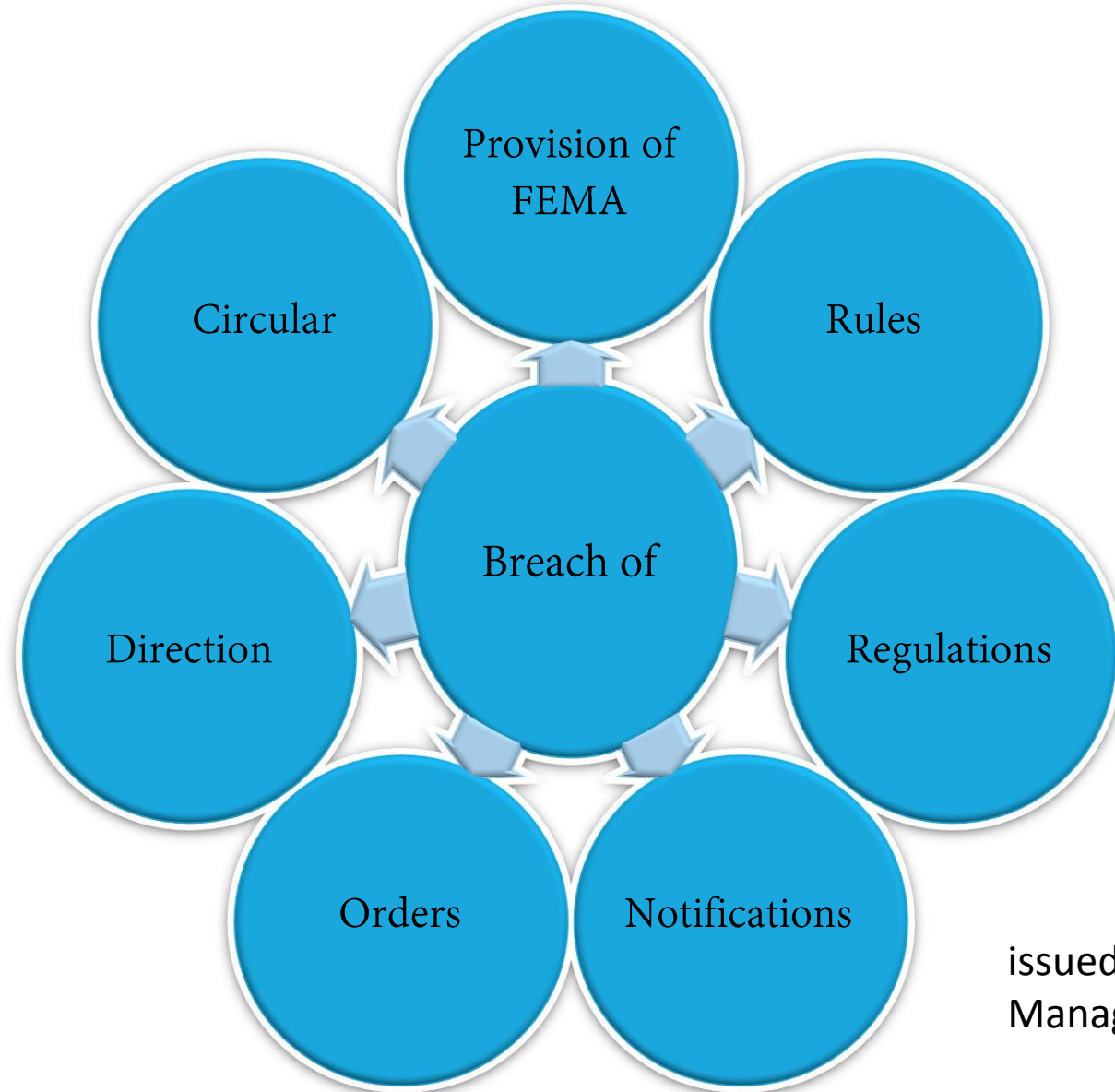
Link : [https://rbi.org.in/Scripts/BS\\_FemaNotifications.aspx?Id=155](https://rbi.org.in/Scripts/BS_FemaNotifications.aspx?Id=155)

# Overall scheme of FEMA



# Overview of FEMA Compliances

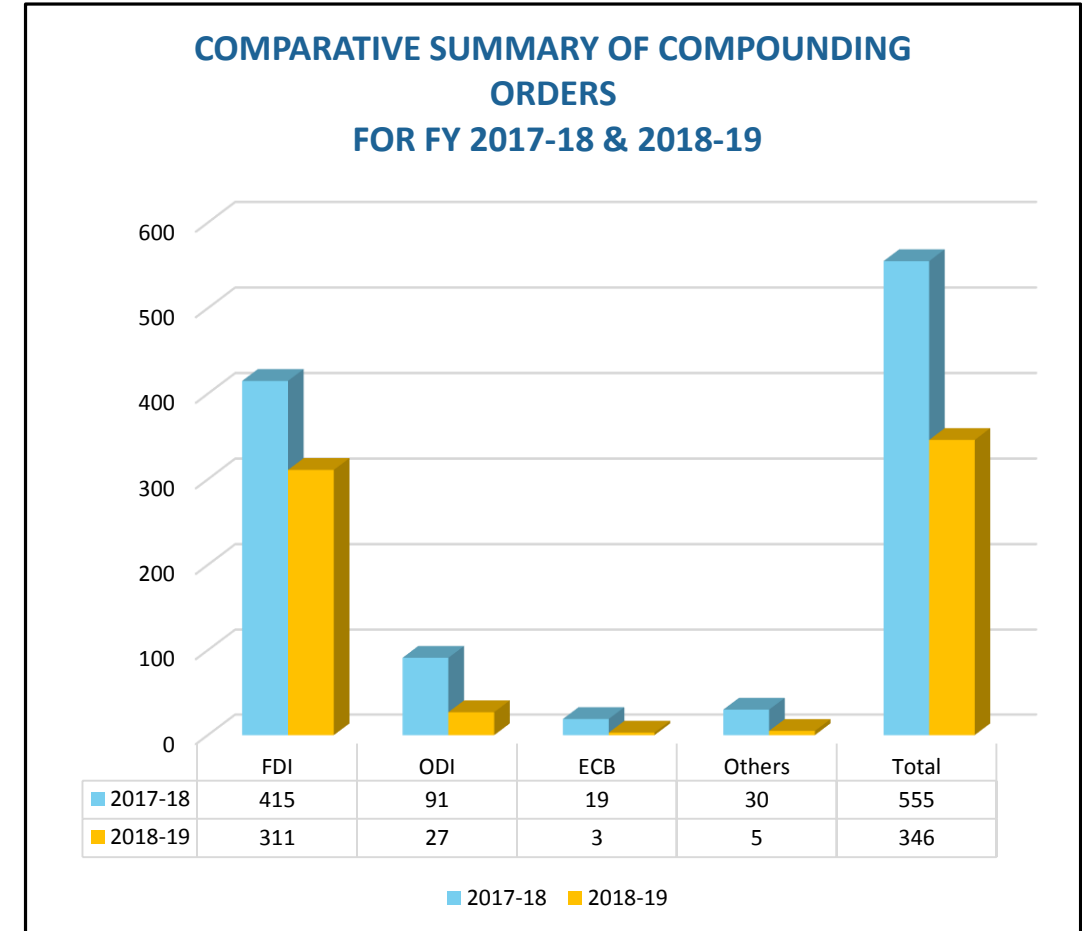
# What is Contravention??



issued under the Foreign Exchange Management Act (FEMA), 1999.

## Summary of Compounding orders between April 2017 – March 2019

Sr. No.	Nature of Compliance	No. of Compounding orders	
		FY 2017-18	FY 2018-19
1	Foreign Direct Investment	415	311
2	Overseas Direct Investment	91	27
3	ECB	19	3
4	Others	30	5
	<b>Total</b>	<b>555</b>	<b>346</b>



Source : <https://www.rbi.org.in/scripts/Compoundingorders.aspx>

# CONTRAVENTION

## Generally Committed Contraventions

### Foreign Direct Investment

- Not reporting of inward remittance within 30 days (*now not required after SMF*)
- Not allotting equity instruments or not refunding the amount within 60 days
- Not submitting form FC-GPR within 30 days from the date of allotment
- Non submission of form FCTRS on transfer of shares
- Issue of instruments other than equity shares,
- Non compliance of any other regulation of FEMA 20R

### Overseas Direct Investment

- Non submission of form ODI after investment and UIN not allowed
- Not a permitted method of funding
- Not obtaining share certificate within stipulated time period from the date of remittance
- Non-submission of Annual Performance Reports (APR) every year
- Non compliance of any other regulation of FEMA 120.

### External Commercial Borrowing

- Loan Registration Number not obtained
- Drawdown without LRN
- Borrower not an eligible borrower
- Lender not a recognized lender
- Minimum maturity period not adhered to
- Breach of all in cost ceiling
- End use not a permitted one
- Non-Filing of monthly return (ECB-2)

## Balance Sheet as at 31/03/2019

Particulars	Note No.	As at 31/03/2019	Particulars	Note No.	As at 31/03/2019
<b>I. EQUITY AND LIABILITIES</b>			<b>II. ASSETS</b>		
<b>(1) Shareholders' funds</b>			<b>Non-current assets</b>		
(a) Share capital		× ×	(1) (a) Fixed assets		× ×
(b) Reserves and surplus		× ×	(b) Non-current investments		× ×
(c) Money received against share warrants		× ×	(c) Deferred tax assets (net)		× ×
<b>(2) Share application money pending allotment</b>		× ×	(d) Long-term loans and advances		× ×
<b>(3) Non-current liabilities</b>		× ×	(e) Other non-current assets		× ×
(a) Long-term borrowings		× ×	<b>(2) Current assets</b>		
(b) Deferred tax liabilities (Net)		× ×	(a) Current investments		× ×
(c) Other Long term liabilities		× ×	(b) Inventories		× ×
(d) Long-term provisions			(c) Trade receivables		× ×
<b>(4) Current liabilities</b>			(d) Cash and cash equivalents		× ×
(a) Short-term borrowings		× ×	(e) Short-term loans and advances		× ×
(b) Trade payables		× ×	(f) Other current assets		× ×
(c) Other current liabilities		× ×			
(d) Short-term provisions		× ×			
<b>TOTAL</b>		<u>× ×</u>	<b>TOTAL</b>		<u>× ×</u>

# FEMA Compliance- Balance Sheet -“LIABILITIES”

## Share Capital/ Compulsory Convertible Debentures

- Foreign Direct Investment
- FEMA (Transfer or issue of security by a person resident outside India) Regulations, 2017- **FEMA 20(R)/2017-RB**
- Consolidated FDI policy, 2017
- FED Master Direction No. 11/2017-18
- FAQs (Updated as on May 07, 2018)



## Loans (Secured/ Unsecured/ Long /Short term)

- External Commercial Borrowings
- FEMA (Borrowing and Lending) Regulations, 2018- **FEMA 3(R)/2018-RB**
- FED Master Direction No.5/2018-19
- FAQ (Updated as on May 29, 2019)



## Trade Payables

- Imports
- Foreign Exchange Management (Current Account Transactions rules), 2000
- FED Master Direction No. 17/2016-17





# FEMA Compliance- Balance Sheet -“ASSETS”

## Fixed Assets

- Acquisition of Immovable Property outside India
- Import of Machinery
- FEMA (Acquisition and transfer of immovable property outside India) Regulations, 2015 - **FEMA 7(R)/2015-RB**
- Foreign Exchange Management (Permissible capital account transactions) Regulations, 2000 - **FEMA 1 /2000-RB**
- FED Master Direction No. 12/2015-16
- FAQs (Updated as on May 07, 2018)



## Investments

- Overseas Direct Investment
- Liberalised Remittance Scheme
- Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 - **FEMA 120/ RB-2004**
- FED Master Direction No. 15/2015-16
- FED Master Direction No. 7/2015-16
- FAQs (Updated as on May 29, 2019)
- FAQs (Updated as on February 13, 2019)



## Short term Loans

- Loan to the foreign entity
- Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 - **FEMA 120/ RB-2004**
- FED Master Direction No. 15/2015-16
- FAQs (Updated as on May 29, 2019)



# FEMA Compliance- Balance Sheet-“ASSETS”

## Branch Office

- Foreign Branch office
- Establishment of Branch Office (BO)/ Liaison Office (LO)/ Project Office (PO) or any other place of business in India by foreign entities ) Regulations, 2016- **FEMA 22(R) /2016-RB**
- FED Master Direction No.10/2015-16
- FAQs (Updated as on December 26, 2016)



## Trade Receivables

- Export Proceeds
- FEMA (Export of Goods & Services) Regulations, 2015- **FEMA.23(R)/2015-RB**
- FED Master Direction No. 16/2015-16



## Cash/Bank

- Foreign Currency A/c in India or Bank A/c outside India
- Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015 - **FEMA 10 (R) /2015-RB**
- FED Master Direction No. 14/2015-16
- Foreign Exchange Management (Export and import of currency) Regulations, 2015 - **FEMA 6 (R)/RB-2015**
- FAQ (Updated as on August 01, 2016)



## Contingent Liability

- Guarantee
- Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 - **FEMA 120/ RB-2004**
- FEMA (Guarantees) Regulations, 2000-**FEMA 8/2000-RB**
- FED Master Direction No. 15/2015-16



# Profit & Loss A/c

Particulars	Note No.	For the year ended 31.03.2019
1	2	3
<b>I. Revenue from operations</b>		xx
<b>II. Other income</b>		xx
<b>III. Total Revenue (I + II)</b>		<u>xx</u>
<b>IV. Expenses:</b>		
• Cost of materials consumed		xx
• <b>Purchases of Stock-in-Trade / Imports</b>		xx
• Changes in inventories of finished goods work-in-progress and Stock-in-Trade		xx
• Employee benefits expense Finance costs		xx
• Depreciation and amortization expense		xx
• <b>Other expenses</b>		xx
Total expenses		<u>xx</u>
<b>V. Profit before exceptional and extraordinary items and tax (III-IV)</b>		<u>xx</u>
<b>VI. Exceptional items</b>		xx
<b>VII. Profit before extraordinary items and tax (V - VI)</b>		xx
<b>VIII. Extraordinary items</b>		xx
<b>IX. Profit before tax (VII- VIII)</b>		xx

# FEMA Compliance- Profit & Loss account -“INCOME”

## Sales

- **Export Sales**
- Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 - **FEMA 23(R)/ 2015- RB**
- FED Master Direction No. 16/2015-16



## Other Income - Interest

- **Interest on loan from foreign entities**
- FEMA (Borrowing and lending in foreign exchange) Regulations, 2018- **FEMA 3(R)/2018-RB**
- FED Master Direction No.5/2018-19
- FAQ (Updated as on May 29, 2019)



# FEMA Compliance- Profit & Loss account-“EXPENSES”

## Purchase

- Imports
- Foreign Exchange Management (Current Account Transactions rules), 2000
- FED Master Direction No. 17/2016-17



## Bad Debts W/off

- Export Sales
- Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 - **FEMA 23(R)/ 2015-RB**
- FED Master Direction No. 16/2015-16



## Interest on Loan

- Interest on loan to foreign entities
- FEMA (Borrowing and Lending) Regulations, 2018 - **FEMA 3(R)/2018-RB**
- FED Master Direction No.5/2018-19
- FAQ (Updated as on May 29, 2019)



## Other expenses

- Miscellaneous Remittances
- FED Master Direction No. 8/2015-16



## Royalty Payment

- Royalty payment
- Earlier the limits were there in Schedule II for cap.
- This has been removed w.e.f. 16/12/2009



# Reporting Compliances under FEMA

# Reporting Compliance - FDI (1/4)

Foreign Direct Investment is freely permitted in almost all sectors. The routes for investment are:

## Automatic Route

- The foreign investor or the Indian company **does not require any approval** from the Reserve Bank or Government of India for the investment.

## Government Route

- Prior approval of the Government of India, Ministry of Finance is required.

## Prohibited Route

- Unless otherwise specifically stated in the Act or the rules or regulations framed thereunder, investment by a person resident outside India is **prohibited in certain sectors.**

## Prohibited sectors

Lottery Business including Government/private lottery, online lotteries, etc	Gambling and Betting including casinos etc.	Chit funds
Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Activities/sectors not open to private sector investment e.g.(I) Atomic Energy and (II) Railway operations(other than permitted activities mentioned in para 5.2)	Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract
Real Estate Business or Construction of Farm Houses*	Trading in Transferable Development Rights (TDRs)	Nidhi company

\*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.

# Reporting Compliance – FDI (2/4)

## Overview of 20R

Foreign Direct Investments (FDI)	Schedule 1
Foreign Portfolio Investors (FPI)	Schedule 2 & 5
Purchase/Sale capital instrument on <b>repatriation basis</b>	Schedule 3
Purchase/Sale capital instrument on <b>non-repatriation basis</b> for LLP, firm, Proprietary	Schedule 4
Investment in <b>Limited Liability Partnership</b>	Schedule 6
Investment by <b>Foreign Venture Capital Investors (FVCI)</b>	Schedule 7
Investment in units of an <b>Investment Vehicle</b>	Schedule 8
Investment in <b>Depository Receipts (DRs)</b>	Schedule 9
Issue of <b>Indian Depository Receipts (IDRs)</b>	Schedule 10



# Reporting compliance – FDI (3/4)

## Transactions to be reported under FDI and Timeline



Nature of transaction	Reporting in Form	Time limit to report the transaction	Reporting site
Existing FDI Inflows	Form EMF	Was initiated between June 28 – July 20 2018 <i>(Need to file clarification letter if Form EMF is not filed in the above period)</i>	<b>RBI FIRMS WEBSITE :</b> <a href="https://firms.rbi.org.in/firms/">https://firms.rbi.org.in/firms/</a>
<b>Issue of Shares</b> - Bonus/Right issue/conversion of ECB/royalty/ technical know-how fee/import of capital goods by units in SEZs	Form FC-GPR	<b>30 days</b> from the date of issue of capital instruments	
Transfer of Shares	Form FC-TRS	<b>60 days</b> from receipt/ remittance of funds or transfer of capital instruments, <b>whichever is earlier.</b>	
FDI in LLP	Form FDI LLP (I)	<b>30 days</b> from the date of receipt of the amount of consideration	
Disinvestment /Transfer in LLP	Form FDI LLP (II)	Within <b>60 days</b> from the date of receipt of funds.	
Reporting of Downstream Investments	Form DI along with certificate of FEMA compliances from its Statutory Auditor	Within <b>30 days</b> from the date of receipt of the amount of consideration.	
Reporting of ADR/GDR issue	Form DRR	Within <b>30 days</b> of close of the issue/program	
Reporting of issue or transfer of Convertible notes	Form CN	Within <b>30 days</b> of issue of Convertible notes	
Reporting of ESOP	Form ESOP	Within <b>30 days</b> from issuance of such shares	
Reporting of all FDI and/or ODI during the previous years	Annual Return on Foreign Liabilities and Assets (FLA return)	By <b>15<sup>th</sup> July</b> for year ended on preceding 31st March based on un-audited figures. <i>(Due date for submitting revised FLA is <b>30<sup>th</sup> September</b>)</i>	Email soft copy to <b><a href="mailto:fla@rbi.org.in">fla@rbi.org.in</a></b>

# Reporting compliance – FDI (4/4)



## Checklist of documents

### FORM FC-GPR

#### Documents to be attached for Form FC-GPR:

- ✓ Certificate indicating fair value of shares from a Chartered Accountant / SEBI registered Category I Merchant Banker
- ✓ Attested copy of FIRC
- ✓ KYC form of both remitter and beneficial owner
- ✓ Certified copy of MOA
- ✓ Board Resolution
- ✓ Declaration for filing FC-GPR by director
- ✓ **CS Certificate**
- ✓ No objection certificate from the remitter for the shares being allotted to the third party mentioning their relationship, if applicable.
- ✓ Letter from the foreign investor explaining the reason for making subscription to shares by the remitter on his behalf, if applicable.

### FORM FC-TRS

#### Documents to be attached for Form FC-TRS:

- ✓ KYC Form
- ✓ Attested copy of FIRC
- ✓ Certificate indicating fair value of shares from a Chartered Accountant / SEBI registered Category I Merchant Banker
- ✓ Extracts of Share Purchase Agreement (SPA)
- ✓ No Objection Certificate from Buyer and Seller
- ✓ Declaration from buyer that he is eligible to acquire shares and that pricing guidelines are followed
- ✓ Shareholding pattern – Pre & Post
- ✓ FCTRS Declaration

# External Commercial Borrowing (ECB) (1/5)



ECBs are commercial loans raised by eligible resident entities from recognized non-resident entities and should conform to parameters such as minimum maturity, permitted and non-permitted end-uses, maximum all-in-cost ceiling, etc.

**The negative list, for which the ECB proceeds cannot be utilised, would include the following:**

Real estate activities

Investment in capital market

Equity investment

Working capital purposes except from foreign equity holder

General corporate purposes except from foreign equity holder

Repayment of Rupee loans except from foreign equity holder

On-lending to entities for the above activities

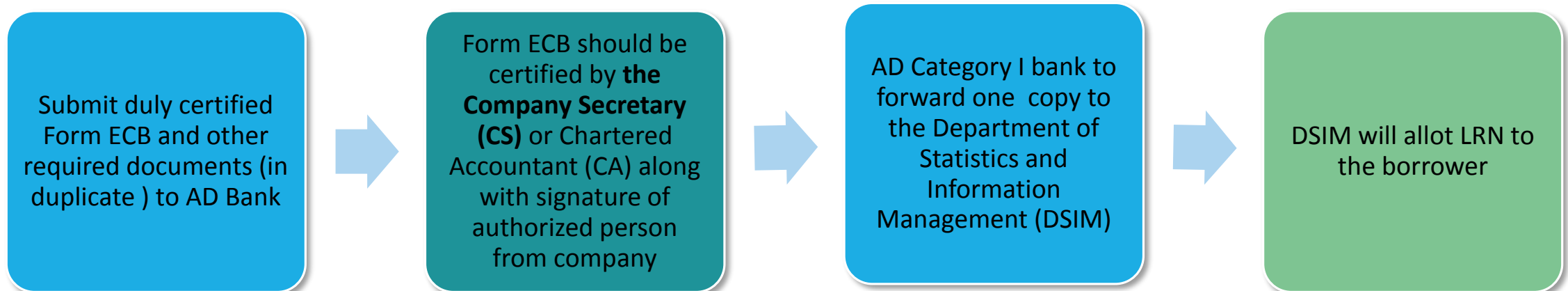
# Reporting compliance - External Commercial Borrowing (ECB) (2/5)



**Reporting Requirements:** Borrowings under ECB Framework are subject to reporting requirements in respect of the following:

**Loan Registration Number (LRN):** Any draw-down in respect of an ECB as well as payment of any fees/ charges for raising an ECB should happen only after **obtaining the LRN** from RBI.

## **Process of obtaining LRN:**



# Reporting compliance - External Commercial Borrowing (ECB) (3/5)

## Monthly return regarding use of External Commercial Borrowings



If there is no transactions still a **NIL** return should be submitted

### Checklist of documents:

1. Copy of Form ECB filed (Original / Revised)
2. Copy of LRN issued by RBI
3. Bank statement for the month.
4. Drawdown or utilization details from client
5. Underlying supporting for verification of above.



# Reporting compliance - ECB (4/5)

## Conversion of ECB into Equity

### In case of Full Conversion

Form FC- GPR and Form ECB-2

Online on FIRMS portal (under SMF) and DSIM, RBI respectively

The words "ECB Wholly Converted to Equity" should be indicated on top of the ECB- 2 form.  
Once reported, filing of ECB-2 in the subsequent months is not necessary.

### In case of Partial Conversion

Form FC- GPR for conversion of shares and for remaining portion of ECB, Form ECB- 2

Online on FIRMS portal and DSIM, RBI

The words "ECB Partially Converted to Equity" should be clearly indicated on top of the ECB- 2 form

**Within 7 working days from the close of month to which it relates**

# Reporting compliance - ECB (5/5)

## Changes in ECB Parameters



Drawdown/ repayment schedule

Currency of Borrowings

AD Bank

Name of the Borrower Company

Recognised Lender

End use of ECB proceeds.

Cancellation of LRN.

Reduction in Amount of ECB

Reduction in all-in-cost of ECB

\*Subject to certain terms & conditions

## Reporting Delay - Late Submission Fees

The payment of LSF is an option for regularizing reporting delays without undergoing the compounding procedure

Late fees is applicable even if the Form was filed within time limit but was rejected and final form was filed thereafter i.e Form FCGPR should be file with proper details and documents to avoid LSF

The late submission fee is for reporting delays only

Contravention for non-issue/ late issue of capital instruments and other contraventions of the provisions FEMA 20(R), one has to go for only compounding procedure

Where LSF is required to be paid, the reports shall be, wherever necessary, conditionally acknowledged subject to payment of the LSF

**The final acknowledgement shall be given after the LSF is paid by the applicant**



# Overseas Direct Investment (ODI) (1/2)

It means investments, either under the Automatic route or the Approval route, by way of contribution to the capital or subscription to Memorandum of Association of a foreign entity, signifying a long term interest in the overseas entity (by setting up or acquiring WOS or JV)

## Approval Route

- An Indian party is required to take prior approval of the Reserve Bank for which a specific application in FORM ODI with prescribed documents.
- ODI not meeting conditions prescribed for automatic route
- Overseas investments by :
  - proprietorship concerns
  - unregistered partnership firms
  - Registered Trusts/ Societies satisfying certain eligibility criteria.
- Indian party undertaking financial commitment without equity contribution in JV/WOS



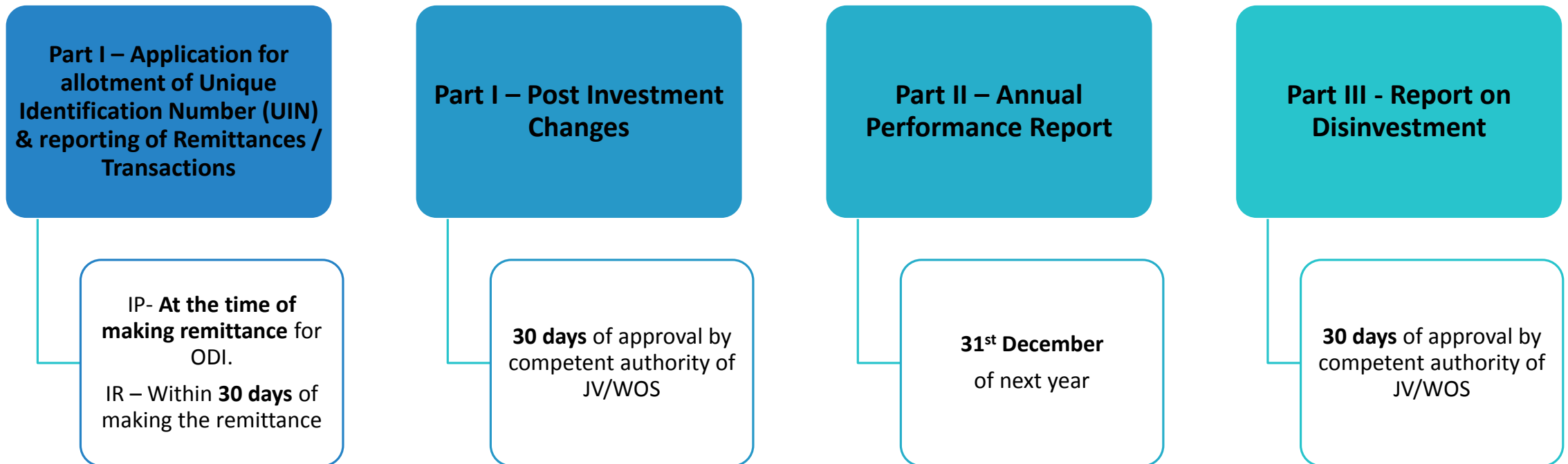
## Automatic Route

- An Indian party does not require any prior consent from RBI
- An Indian party is required to approach the AD category – 1 bank
- ODI investment within limit of 400% of Indian Party's Net Worth
- ODI by Indian Party engaged in financial services sector (subject to prescribed conditions)
- ODI in oil sector (subject to prescribed conditions)



# Reporting compliance - Overseas Direct Investment (2/2)

Form ODI is divided into below parts :



# EXPORTS OF GOODS & SERVICES



## TIME LIMIT



## EXTENSION TIME

### Up to 6 months

No pending investigations of export transactions by Directorate of Enforcement or CBI or other agencies;

AD Category – I Bank is satisfied that exporter's reasons for not realizing export proceeds are beyond his control;

The exporter submits a **declaration** that the export proceeds will be realized during the extended period.

### Extension beyond 1 year

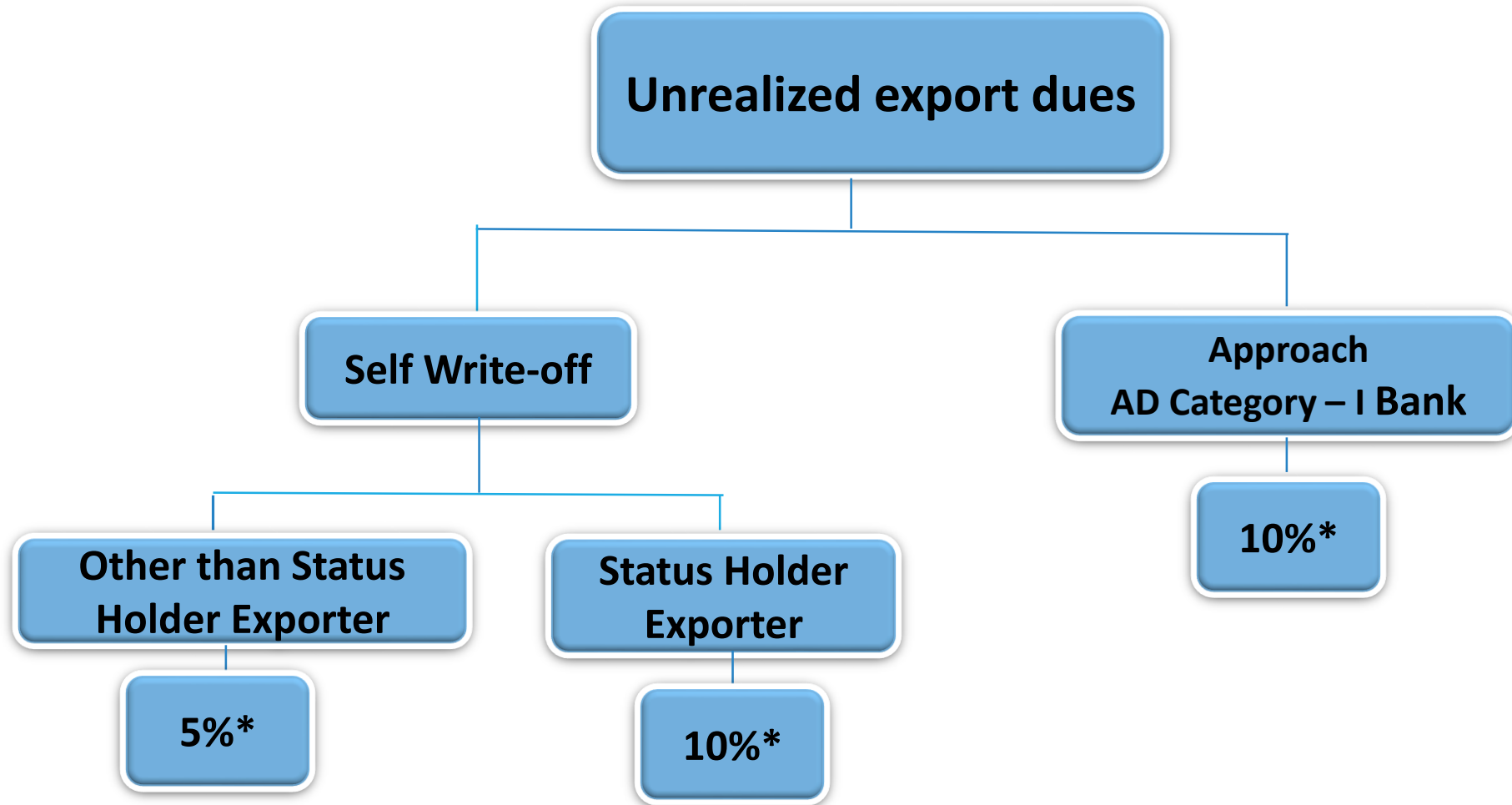
Outstanding amount should **not exceed US \$1 mn OR**

**10%** of average export realizations of preceding 3 years

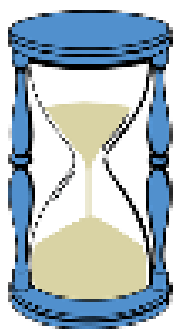
whichever is **higher**.

If suits are filed abroad, extension may be granted irrespective of amount involved/ outstanding.

# Write Off Of Unrealized Exports

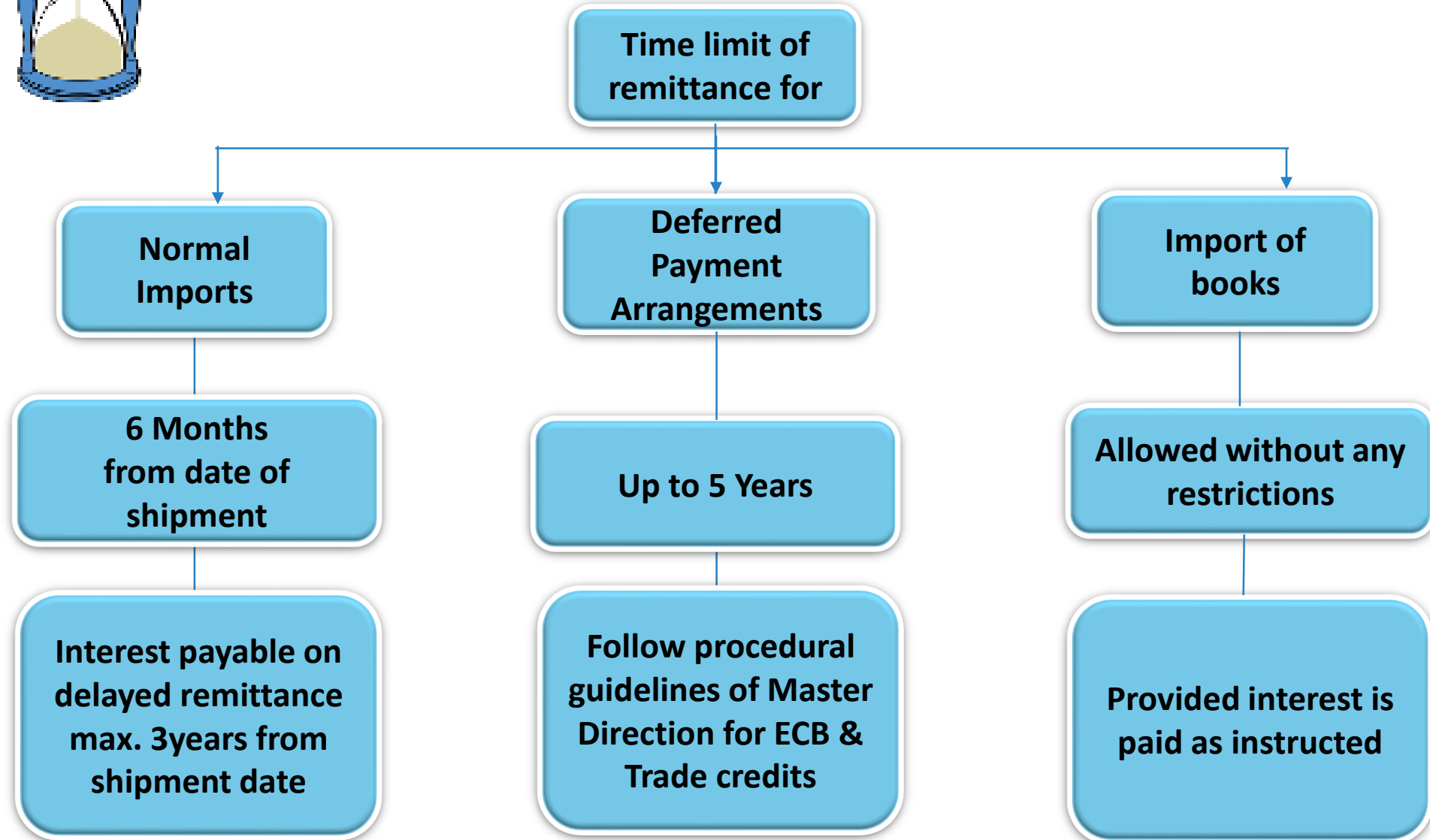


**\* of the total export proceeds realized during the previous calendar year**



# IMPORT OF GOODS & SERVICES

## Time Limit for Settlement of Import Payments



# IMPORT OF GOODS & SERVICES WRITE OFF

AD Category – I Banks permit

## 5% of invoice value

in cases where the amount declared in bill of entry varies from the actual remittance due to operational reasons

Write off is on account of quality issues or short shipment or destruction of goods by the port / customs/ health authorities.

If situation changes, the importer should remit/receive funds- as the case may be

## CONDITIONS to be ensured by Bank for Write-off:

- The case is not the subject matter of any pending civil or criminal suit.
- The Importer has not come to the adverse notice of the Enforcement Directorate or the CBI
- Random sample check to be carried out by auditors

# Set-off Export And Import amounts (Goods) – Conditions

The import is as per the **Foreign Trade Policy (FTP)** in force

Payment for the import is still **outstanding in the books of the importer.**

**Submission of Documents** such as invoices, bill of lading, airway bills, bill of entry is made by the importer to AD bank

Both the transactions of sale and purchase may be **reported** separately

The relative **EDF is released** by the AD bank only after the entire export proceeds are adjusted / received.

The set-off of export receivables against import payments **should be in respect of the same overseas buyer and supplier** and that **consent for set-off** has been obtained from him.

The export / import transactions with ACU countries should be kept outside the arrangement.

# Compliance is better than Compounding !!





# Thank You

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