Dealing in Foreign Exchange and currency,

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1. Introduction

Currency is a generally accepted form of money, including coins and paper notes, which is issued by a government and circulated within an economy. It is used as a medium of exchange for goods and services, currency is the basis for trade. In most of the cases, the central bank of a country has the sole right to issue money for circulation. In this article we will understand the FEMA laws related to Indian and foreign currency.

Foreign currency means any currency other than Indian currency as per Sec 2(m) of Foreign Exchange Management Act,1999(FEMA)
Foreign exchange means foreign currency and includes, —
(i) deposits, credits and balances payable in any foreign currency,
(ii) drafts, travellers cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,
(iii) drafts, travellers cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency; (Sec 2(n) of FEMA)

1.1 Dealing in Foreign exchange

Dealing in Foreign Exchange is governed by Section 3 of the Foreign Exchange Management Act,1999 FEMA, which states that
Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall—"
(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;
(b) make any payment to or for the credit of any person resident outside India in any manner;
(c) receive otherwise through an authorised person, any payment by order or on behalf of any person resident outside India in any manner.
Explanation.—For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorised person;
(d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.
Explanation.—For the purpose of this clause, "financial transaction" means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

Various regulations are made to carry out the transactions which will otherwise be in violations of the Sec 3 as to making or receipt of any payments from PROI or their order by a Person in India.

1.2 Dealing in Foreign Exchange & Security

Clause (a) under section 3 may be read as under:
No person shall, deal in/transfer any foreign exchange/foreign security to a person not being an authorised person (AP);

Thus foreign securities or foreign exchange cannot be transferred to any person. Not only transfer, the prohibition extends to dealing with such foreign exchange or securities which will normally include sale, transfer, acquisition, borrowing or lending etc under its fold and the provision will apply to all the persons whether person resident in India (PRII) or person resident outside India(PROI).

i. Foreign exchange can be dealt in the following (illustrative list) ways by PRII and PROI. Besides these regulations, transactions cannot be carried out
   a) Borrowing and Lending in Foreign Exchange (Notification 3 of FEMA)
   b) Borrowing and Lending in Rupees (Notification 4 of FEMA)
   c) Foreign Exchange Management Deposit Regulation (Notification 5 of FEMA)
   d) Import and export of foreign currency mentioned below (Notification 6 of FEMA)
   e) Purchase/sale of Immovable Property Abroad (Notification 7 of FEMA)
   f) Earning foreign exchange outside India and bringing it back and depositing the same in Resident Foreign Currency Account (RFC) (Notification 10 of FEMA)
   g) By way of Gift from PROI or to PROI (Notification 11 of FEMA and Notification 5 respectively)
   h) Foreign Direct Investment (for Companies and LLP, Notification 20(R) of FEMA)
   i) Export of goods or services (Notification 23 of FEMA)
   j) By way of Inheritance from PROI or to PROI

ii. Regulations regarding transfer of foreign securities are given in Notification 120 of FEMA which states that Foreign securities can be transferred between:
   a) PROI and PRII in the form of Gift, Inheritance and sale
   b) PRII and PRII by way of Inheritance and sale
   c) PROI and PROI FEMA may not be applicable

Thus due to the presence of the above Notifications, Section 3 will not apply in such situations and transactions will be carried on in accordance with the respective regulations.

1.3 Making any Payment

Clause (b) under section 3 states that no person shall make any payment to or for the credit of any PROI in any manner;
Any person in India whether PRII or PROI cannot make any payment to PROI or to any other person (PRII or a PROI) for the credit of a PROI in rupees or foreign currency. As explained, Payer is a person in India hence it can be a PRII or PROI.
Thus a PRII/PROI (in India, Indian bank A/c) cannot make payment to PROI whose bank account could be in India or outside India.

In case of a PRII, payment of US$ 2,50,000 is allowed under Liberalised Remittance Scheme (LRS) to PROI to his Indian Bank Account or to foreign Bank Account located outside India , hence other payments will require scrutiny as to whether each of payment is authorised as a current A/c transaction in addition to LRS or it is a permitted capital A/c transaction of PRII.
PROI may transfer Rupees from Indian bank A/c to another PROI being gift to transferee or some other transaction as authorised under Notification 5 as permitted debits.
In an another case ,if a PRII purchases goods from PROI and request his friend who is PROI to make the payment from his bank account in India on his behalf then such a transaction is not permitted, as payment is being made from an Indian bank A/c of a PROI to a PROI for goods purchased by the PRII which is not permitted as per FEMA provisions relating to import of goods in to India..

1.4 Receipt of Payment

Clause (c) under section 3 states no person shall receive otherwise (than) through an AP, any payment by order or on behalf of any PROI in any manner;

Thus any person in India, whether PRII or PROI is not authorised to receive any payment from PROI or from any other person on behalf of a PROI. Also the definition includes in any manner which can mean actual payment or constructive payment. The above provision also includes Rupee transactions between two residents representing payment by order or on behalf of any non-resident unless it is through an Authorized Dealer and represented by way of corresponding inward remittance from outside India;

For example, if PRII sells goods to PROI and the PROI tells his brother who is a PRII to make the payment for the same. Such a transaction is not permitted under FEMA. Although the payment would be from a PRII to another PRII in Indian rupees, the same will not be permitted because the payment is on behalf of a PROI and not in accordance with regulations relating to Export of goods.

1.5 Financial Transaction

Clause (d) of section 3 states that no person shall enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person..

The above clause states that any financial transaction undertaken by person in India cannot be settled through a consideration payable for any other transaction outside India either by the same person or any other person For Eg: if Mr Y (PROI) is traveling to India to meet his friend Mr X (PRII) and Mr Y requests Mr X to buy his flight tickets from London to India for him, who in turn would buy flight tickets of Mrs X(PRII) for her travel to London, due a month later. Such transaction is not permitted under FEMA.

An exception to the above clause would be payment made 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 (PROI) who is on a visit to India as provided in Notification 16 in respect of hospitality services by PRII.

1.6 It may be noticed that:

i. Item (i) and (iii) above includes reference to authorised dealer whereas (ii) and (iv) does not have any such reference
ii. Item (ii) and (iv) are dealing with payment or credit to PROI and financial transaction of PRII or PROI which has an effect of settling the transaction in India without consideration being paid or received in India

1.7 Clause b,c,d of section 3 do not apply to any transaction entered into in Indian rupees by or with:

i. A person who is a citizen of India, Nepal or Bhutan resident in Nepal or Bhutan;
ii. A branch situated in Nepal or Bhutan of any business carried on by a company or a corporation incorporated under any law in force in India, Nepal or Bhutan;
iii. A branch situated in Nepal or Bhutan of any business carried on as a partnership firm or otherwise, by a citizen of India, Nepal or Bhutan. (Notification 17 of FEMA)

The above exemption is obvious because Notification 6 and 17 permits free movement of Indian Rupees, Nepali Rupees and Bhutanese Rupees across the border of these 3 countries including overseas investment to Nepal and Bhutan in Rupees.

2. There are 2 types of transactions under FEMA:

i. Capital Account Transactions
ii. Current Account Transactions
Foreign Exchange can be drawn for Current or Capital Account Transaction

2.1. Capital Account Transaction

Capital Account transaction means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liabilities in India of persons resident outside India, and includes transactions referred to in sub- section (3) of section 6; Sec 2 (e) of FEMA
It may be noted that contingent liabilities in India of PROI is not considered as capital account transaction

Section 6(3) contains ten sub clauses covering a wide range of transactions. For each of such categories RBI has issued separate notifications.

No.	Transactions specified under Sec 6(3)	Notf.No
1	Transfer/Issue of Foreign Security by a PRII	Notf.No.120
2	Transfer/Issue of Foreign Security by a PROI	Notf.No.20
3	Transfer/Issue of Security/Foreign security by branch, office or agency in India by PROI	Notf.No.2
4	Borrowing/Lending in Foreign currency in whatever form or by whatever name called	Notf.No.3
5	Borrowing/Lending in Rupees in whatever form or by whatever name called between a PRII and a PROI	Notf.No.4
6	Deposits between PRII and PROI	Notf.No.5
7	Export, Import or holding of currency or currency notes	Notf.No.6
8	Transfer of Immovable property outside India, other than a lease ≤ 5 years, by PRII	Notf.No.7
9	Acquisition/Transfer of Immovable property in India, other than a lease ≤ 5 years by PROI	Notf.No.21
10	Giving of a guarantee/surety in respect of any debt, obligation or other liability incurred: 1) by PRII owed to PROI or 2) by PROI	Notf.No.8

*PROI – Person Resident outside India; PRII – Person resident in India

Capital account transactions are generally prohibited unless permitted. They are regulated by RBI. They are classified under the following heads, namely :-
i. Transactions, specified in **Schedule I**, of a person resident In India;
ii. Transactions, specified in **Schedule II**, of a person resident outside India.
Details of Schedule I and Schedule II can be found on:
https://rbi.org.in/Scripts/BS_FemaNotifications.aspx?Id=155
About 25 Notifications have been issued by RBI to deal with the manner in which permissible Capital Account Transactions can be carried out.

2.2. Current Account Transaction

Current account transaction means a transaction other than a capital account transaction. Such transaction includes:-

i. Payments due in connection to foreign trade, other current business, services and other short-term banking facilities in the ordinary course of business;

ii. Payments due as interest on loans and as net income from investments;
iii. Remittances for living expenses of parents, spouse and children residing Abroad;
iv. Expenses in connection with foreign travel, education and medical care of parents, spouse and children; (section 2(j) of FEMA)

Current Account transactions are freely permitted, unless prohibited. Any person may sell or draw foreign exchange to or from an AP if such sale or drawal is a current account transaction as per Section 5 of FEMA. They are regulated by Central Government. Current Account Transactions are divided into 3 categories:
Schedule I -Transactions which are prohibited
Schedule II -Transactions which require prior approval of the Central Government
Schedule III- Transactions which require prior approval of the RBI
Details of Schedule I, II, and III can be found on:
https://m.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10193

2.3 A few current account transactions like private visit; gift/donation; going abroad on employment; emigration; maintenance of close relatives abroad; business trip; medical treatment abroad; studies abroad are subsumed in the Liberalised Remittance Scheme (LRS) limit i.e. of US$ 2,50,000. **In case of emigration, medical treatment abroad and studies abroad the actual expenses are permitted which may exceed the LRS limit**. An example to explain the same, let us consider 3 different situations:

i. The LRS limit has been exhausted and after that there are medical expenses to the tune of US$ 2,50,000 have emerged.
ii. Medical expenses in the year is of US$ 2,60,000 and no other expenses in that year.
iii. There are medical expenses in the year to the tune of US$ 2,00,000 in that year

In situation i) Though the LRS limit has been exhausted medical expenses will be allowed by AD, based on the estimate from the doctor in India or hospital/ doctor abroad. If the above expenses were expenses other than medical treatment, studies abroad and emigration then the same would require RBI approval since the LRS limit has been exhausted for that year.
In situation ii) Since medical expenses are allowed on actual basis the same would be allowed.
In situation iii) Medical expenses upto US$ 2,00,000 will be allowed and any other expenses like business trip, private visit, gift/donation, maintenance of close relatives abroad will be allowed upto the balance limit of LRS i.e. US$ 50,000 for that year

2.4 Drawal of foreign exchange by any person for the following purpose is prohibited, namely:-
i. Transaction specified in the Schedule I; or
ii. Travel to Nepal and/or Bhutan; or
iii. Transaction with a person resident in Nepal or Bhutan;
Provided that the prohibition in clause (iii) may be exempted by RBI subject to such terms and conditions as it may consider necessary to stipulate by special or general order. Rule 3 of FEM (CAT) Rules, 2000

<u>2.5 Holding Assets Abroad</u>

A person resident in India (PRII) shall not acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India. —Save as otherwise provided in this Act, as per Sec 4 of FEMA. Provisions concerning foreign assets and foreign securities are dealt in Notification 7 (Acquisition and transfer of immovable property outside India) and Notification 120 (Transfer or Issue of Any Foreign Security)

If there is any amount of foreign exchange due or has accrued to any PRII, such person shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the Reserve Bank as per Sec 8 of FEMA
The law further provides that
Provisions of section 4 and section 8 shall not apply to the following cases (Sec 9 of FEMA):
(a)Possession of foreign currency or foreign coins by any person upto such limit as the Reserve Bank may specify;
(b) Foreign currency account held or operated by such person or class of persons and the limit upto which the Reserve Bank may specify;
(c) Foreign exchange acquired or received before the 8th day of July, 1947 or any income arising or accruing thereon which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank;
(d) Foreign exchange held by a person resident in India upto such limit as the Reserve Bank may specify, if such foreign exchange was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising there from;
(e) Foreign exchange acquired from employment, business, trade, vocation, services, honorarium, gifts, inheritance or any other legitimate means upto such limit as the Reserve Bank may specify; and
(f) Such other receipts in foreign exchange as the Reserve Bank may specify

Thus one can observe that drawing of foreign exchange for any current account transaction is freely permitted whereas drawal of foreign exchange for Capital Account transaction is subjected to rules and restrictions under FEMA, except in the case of an Individual who is permitted to transfer upto US$ 2,50,000 LRS limit for any capital or current account transaction. Also, no restrictions under FEMA will apply to payments made from balance in Resident Foreign Currency Account (RFC).

Regulations to hold or transfer any currency or foreign exchange, is provided in **Notification No. FEMA 6 (R)/RB-2015 dated December 29, 2015** (hereinafter referred to as "FEMA 6") & **Notification No. FEMA 11(R)/2015-RB dated December 29, 2015** (hereinafter referred to as "FEMA 11").
Any foreign exchange due to a PRII must be realised and repatriated as per the provisions of **Notification No. FEMA 9 (R)/2015-RB dated December 29, 2015** (hereinafter referred to as "FEMA 9")

3.Export & Import of Currency

3.1 Export & Import of Indian Currency

i. A PRII
  a) May take Indian currency notes outside India (except Nepal and Bhutan) upto Rs 25,000 per person or such amount subject to conditions as notified by RBI
  b) Who had gone outside India (except Nepal and Bhutan) on a temporary visit may bring back Indian currency notes upto Rs 25,000 per person or such amount subject to RBI conditions
  c) May take or send outside India (other than to Nepal and Bhutan) commemorative coins not exceeding two coins each (Reg 3(1) of FEMA 6)

ii. A PROI (other than citizen of Pakistan & Bangladesh)
  a) May take Indian currency notes outside India (except Nepal and Bhutan) upto Rs 25,000 per person or such other amount and subject to such conditions as notified by RBI.

b) May bring into India currency notes of India upto an amount not exceeding Rs.25,000 per person or such other amount and subject to such conditions as notified by RBI (Reg 3(2) of FEMA 6)

iii. Reserve Bank may, on application made to it by a PROI/PRII allow to take or to send out of India or bring into India currency notes subject to terms and conditions.

iv. A PROI may hold, own, transfer or invest in Indian currency, if such currency, was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India. (Sec 6(5) of FEMA)

It may be observed that the limit of Rs 25,000 is on transfer of Indian currency for every person i.e. it's the limit is the same for a PRII and PROI

3.2 Export & Import of Foreign Currency

i. Except as otherwise provided in these regulations, no person shall, without the general or special permission of the Reserve Bank, export or send out of India, or import or bring into India, any foreign currency. (Reg 5 of FEMA 6)

ii. Any person may send into India without any limit foreign exchange in any form other than currency notes, bank notes and travellers' cheques. Which means any transfer through banking channels is permitted without any limit (Reg 6a of FEMA 6)

iii. Any person may bring into India from any place outside India without limit foreign exchange (other than unissued notes), provided he makes a declaration to the custom authorities in currency declaration form (CDF) if aggregate value of the foreign exchange in the form of currency notes, bank notes or traveller's cheques brought in by such person at any one time exceeds US$10,000 and/or the aggregate value of foreign currency notes brought in by such person at any one time exceeds US$ 5,000. (Reg 6b of FEMA 6)

iv. Any person may send or take out of India:
   a) Cheques drawn on foreign currency accounts
   b) Foreign exchange obtained by him by drawal from an AP in accordance with the provisions of FEMA
   c) Currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank

(Reg 7(2) of FEMA 6)

v. Any person may take out of India:
   a) Foreign exchange possessed by him in accordance with FEMA regulations. Which would include foreign currency brought in by him and declared, balances in foreign currency bank accounts like NRE, RFC, EEFC account.
   b) Unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with FEMA regulations; but the same shall be surrendered to AP within 90/180 days as per Notification 9 of FEMA

(Reg 7 (3) of FEMA 6)

vi. PROI may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in accordance with clause iii above (Reg 7(4) of FEMA 6)

vii. PRII may hold, own, transfer or invest in foreign currency, if such currency, was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India. (Sec 6(4) of FEMA)

viii. If a PRII makes any foreign exchange payment from funds held in the Resident Foreign Currency Account(RFC) or Exchange Earner's Foreign Currency Account(EEFC) then the limits on Investment amount will not be applicable (Notf 10(R) of FEMA)

Question arises in cases where a person carrying foreign currency of more than US$ 10,000 forgets to declare or does not declare the same in the custom declaration form on arrival into India?
In such situations it would be assumed that the person has not received such money in accordance with FEMA and a penalty would be imposed for violating the FEMA regulations. Compounding facility may be available only if breach is technical in nature

3.3 Export and import of currency to or from Nepal and Bhutan

A person may:

i. Take/Send out of India, currency notes of India of denominations of Rs 100 or less. An individual travelling from India to Nepal or Bhutan can carry Reserve Bank of India notes of Mahatma Gandhi (new) Series of denominations Rs. 200/- and/or Rs. 500/- upto a total limit of Rs. 25,000;
ii. Bring into India from Nepal or Bhutan, Indian currency notes of denominations of Rs.100 or less;
iii. Take out of/Bring into India , from Nepal or Bhutan, currency of Nepal or Bhutan
(Reg 8 of FEMA 6)

4. Other Remittances made by PRII in Indian Currency to or for a PROI

i. Payment made 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 (PROI) who is on a visit to India – no limit specified for such expense under Fema
ii. An individual resident in India may make a gift in Rupees to a Non-Resident Indian (NRI)/Person of Indian Origin (PIO), who is a close relative by way of crossed cheque/electronic transfer upto LRS limit
iii. A resident individual may grant loan in rupees to an NRI relative by way of crossed cheque/electronic transfer as per the provisions of Notification 4 of FEMA upto LRS limt
iv. A company which is a resident in India, can make payment in rupees to its non whole time director who is PROI and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance, with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors.
v. A PRII can make payment in rupees to a PROI, by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person subject to conditions (Reg,2,3,4&5 of Notification 16 of FEMA)

It can be observed from the above provisions that gifting and giving a loan to a Non resident come under the LRS limit but making payments for a PROI towards boarding, lodging, travel within India do not come under the LRS limit hence expenses incurred for boarding, lodging or travel purpose of PROI would be in addition to LRS limit

5. Realisation, Repatriation & Surrender of Foreign Exchange

A PRII to whom any amount of foreign exchange is due or has accrued shall take all reasonable steps to realise and repatriate to India such foreign exchange as per Section 8 of FEMA, and shall in no case do or refrain from doing anything, or take or refrain from taking any action, which would result in ceasing/delay of receipt of part or whole of the foreign exchange (Reg 3 of FEMA 9)

5.1 Manner of Repatriation

i. On Realisation of foreign exchange due, a person shall repatriate the same to India and –
   a) Sell it to an AP in India in exchange for rupees; or
   b) Retain/hold it in account with an AD in India to the extent specified by RBI; or
   c) Use it for discharge of a debt or liability denominated in foreign exchange to the extent and in the manner specified by RBI. (Reg 4(1) of FEMA 9)

ii. 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 (Western union, Money gram) situated in any country outside India, maintained with an AD.
(Reg 4(2) of FEMA 9)

Thus each and every transaction of entitlements of the Foreign Exchange due to PRII is required to be eventually converted in to a receipt of the Foreign Exchange in India within the permitted time.

6. Period for Surrender of Realised Foreign Exchange

i. A person not being an Individual resident in India shall sell the realised foreign exchange to an AP within the period specified below:-
   a) 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;
   b) In all other cases within a period of ninety days from the date of its receipt

ii. Any person not being an individual resident in India who has acquired foreign exchange for any purpose mentioned in the declaration made by him to an AP under sub-section (5) of Section 10 (which states that an AP shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make a declaration and give such information that there will be no contravention or evasion of the provisions of this Act or of any rule, regulation, notification, direction or order made thereunder.) 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 shall surrender such foreign exchange or the unused portion thereof to an AP within a period of sixty days from the date of its acquisition or purchase by him. (Reg 6(1) of FEMA 9)

iii. Where the foreign exchange acquired/purchased by any person other than an individual resident in India from an AP is for foreign travel, then, the unspent balance of such foreign exchange shall be surrendered to an AP -
   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. (Reg 6(2) of FEMA 9)

iv. A person being an individual resident in India shall surrender the received/realised/unspent/unused foreign exchange in any form to an AP 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. A resident Individual can open an Resident Foreign Currency Domestic Account (RFCD)with the unspent foreign exchange (Reg 7 of FEMA 9)

Time limit for realising and repatriating foreign exchange for a PRII who is individual is 180 days but for persons other than individuals it is only 90 days. A resident individual can deposit the unspent foreign exchange in a RFCD account, such a facility is not allowed to resident non individuals.

Any Income earned by an Individual on Investments made through LRS route or through funds in RFC account need not be repatriated back.

Provisions mentioned in FEMA 9 shall not apply to foreign exchange in the form of currency of Nepal or Bhutan and to the cases which are exempted under section 9 of FEMA.

7. Possession & Retention of Foreign Exchange

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 AP within the scope of his authority;

ii. Possession without limit of foreign coins by any person;

iii. A PRII can retain foreign exchange in the form of currency notes, bank notes and foreign currency travellers' cheques upto US$ 2000 or its equivalent in aggregate, provided that such foreign exchange

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 AP for travel abroad.

(Reg 3 of FEMA 11)

Thus there is a relaxation in Realisation and repatriation of the exchange in certain cases as referred above

7.1 Possession of foreign exchange by a PRII but not permanently resident therein

A PRII 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 (Reg 4 of FEMA 11)

8. Foreign Exchange for Travel

i. Drawal of foreign exchange for travel to Nepal and/Bhutan is not allowed
ii. Ticket held by the traveller should be for journey commencing not later than 180 days from the date of drawal of foreign exchange
iii. Payment in Indian currency notes for drawal of foreign exchange should not exceed 50,000 for a single journey/visit
iv. Amount of foreign currency, notes and coins sold to a traveller out of the overall permitted foreign exchange shall be within limits as set below:
   a) US $ 3,000 to travellers proceeding to all countries other than those listed in (b) and (c).
   b) US $ 5,000 to travellers proceeding to Iraq or Libya.
   c) Entire permitted foreign exchange (upto US$ 2,50,000) released can be in the form of currency notes in case of travellers proceeding to Iran, Russian Federation and other Republics of Common

Wealth of Independent States. For travellers proceeding for Haj/ Umrah pilgrimage, full amount of entitlement (US$ 2,50,000) in cash or upto the cash limit as specified by the Haj Committee of India, may be released by the ADs and FFMCs

v. A drawal of upto US$ 2,50,000 can be made for all travel related purpose in a financial year including in currency as explained in above paragraphs. The amount other than in cash can be by way of debit card or a credit card including traveller's cheque within the overall limit of US$2,50,000. However the overall limit of US$ 2,50,000 shall not apply where payment is made out of funds held in RFC or EEFC account.

Conclusion:

Provisions regarding dealing of foreign exchange and currency it's receipt as well as payments and the settlement of each transaction as provided in 3(d) can only be done as per the provisions of FEMA, anything not mentioned in the Act or rules, regulations, notifications, orders issued under the Act shall not be permitted. One may review each transaction as to it's nature whether it's a current or a capital account transaction and if it is not permitted under the detailed regulation they may not enter into any such transaction else it would result in contravention of the provisions under FEMA.