

## Foreign Exchange Management Act, 1999

- Preamble to FEMA 1999:

*“An Act 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**”.*

- Extends to the **whole of India** (including J&K)
- Extra-territorial jurisdiction (applies to overseas Offices)
- FEMA came into force w.e.f. June 1, 2000 with over **330+ amendments** since then
- **FEMA has 49 sections.**

# Foreign Exchange Management Act, 1999

Sec.1-2	Short title, <b>Definitions</b>
Sec. 3-9:	Regulation and management of <b>FOREIGN EXCHANGE:</b>
<b>3</b>	<b>Dealing in foreign exchange</b>
<b>4</b>	<b>Holding of foreign exchange, foreign security or any immovable property situated outside India by a person resident in India</b>
<b>5</b>	<b>Current account transactions</b>
<b>6</b>	<b>Capital account transactions</b>
<b>7</b>	<b>Export of goods and services</b>
<b>8</b>	<b>Realisation and repatriation of foreign exchange</b>
<b>9</b>	<b>Exemption from realisation and repatriation</b>
Sec.10-12	<b>Authorised person</b>
Sec. 13-15	<b>Contravention and penalties, power to compound contravention</b>
Sec. 16-35	<b>Adjudication and appeal</b>
Sec. 36-38	<b>Directorate of Enforcement</b>
Sec. 39-45	Miscellaneous
46, 47	<b>Power to make Rules; Power to make Regulations @</b>
48, 49	<b>Rules/Regulations laid before Parliament@@; Repeal &amp; Savings</b>
<p><b>@ Central Government makes Rules; &amp; RBI makes Regulations</b></p> <p>@@ For a total period of thirty days in one or more successive sessions.</p> <p>*Both Houses must either agree or disagree.</p>	

# Rules under FEMA

1.	<b>FEM (Encashment of Draft, Cheque, Instrument and Payment of Interest) Rules, 2000</b>
2.	<b>FEM (Authentication of Documents) Rules, 2000</b>
3.	<b>FEM (Adjudication Proceedings and Appeals) Rules, 2000</b>
4.	<b>FEM (Current Account Transactions) Rules, 2000</b>
5.	<b>FEM (Compounding proceedings) Rules, 2000</b>
6.	<b>Appellate Tribunal for Foreign Exchange (Recruitment, Salary &amp; Allowances &amp; Other Conditions of Service of Chairperson &amp; Members) Rules, 2000</b>
7.	<b>FEM (Non-Debt) Instruments Rules, 2019</b> <b>Administered by the Reserve Bank.</b> may interpret and issue such directions, circulars, instructions, clarifications, as it may deem necessary, for effective implementation of the provisions of these rules.

# Regulations under FEMA

1.	<b>FEMA 1/2000 - FEM (Permissible Capital Account Transactions) Regulations, 2000</b> Permissible Capital Account Transactions + <b>Liberalised Remittance Scheme</b>
2.	<b>FEMA 2/2000 - FEM (Issue of Security in India by a branch, office or Agency of a person resident outside India) Regulations, 2000</b> Transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India
3.	<b>FEMA 3(R)/2018 - FEM (Borrowing or Lending) Regulations, 2018</b> Borrowing and lending between a person resident in India and a person resident outside India
4.	<del><b>FEMA 4/2000 - FEM (Borrowing and Lending in Rupees) Regulations, 2000</b></del> – <b>Superseded by FEMA 3(R)/2018</b> Any borrowing or lending in rupees in whatever form or by whatever name called between a person resident in India and a person resident outside India
5.	<b>FEMA 5(R)/2016 - FEM (Deposit) Regulations, 2016</b> Deposits between persons resident in India and persons resident outside India
6.	<b>FEMA 6(R)/2015 - FEM (Export &amp; Import of Currency) Regulations, 2015</b> Export, import or holding of currency or currency notes
7.	<b>FEMA 7(R)/2015 - FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015</b> Transfer of immovable property outside India, other than a lease not exceeding five years, by a person resident in India

# Regulations under FEMA (25)

8.	<b>FEMA 8/2000 - FEM (Guarantees) Regulations, 2000</b> Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred - (i) by a person resident in India and owed to a person resident outside India and (ii) by a person resident outside India
9.	<b>FEMA 9(R)/2015 - FEM (Realisation, repatriation and surrender of foreign exchange) Regulations, 2015</b> Realisation , Repatriation and Surrender of Foreign Exchange
10.	<b>FEMA 10(R)/2015 - FEM (Foreign currency accounts by a person resident in India) Regulations, 2015</b> Foreign Currency Accounts by a Person Resident in India
11.	<b>FEMA 10A/2014 - FEM (Crystallization of Inoperative Foreign Currency Deposits) Regulations, 2014</b> Inoperative foreign currency deposits - inoperative for a period of 3 years
12.	<b>FEMA 11(R)/2015 - FEM (Possession and retention of foreign currency) Regulation, 2015</b> Possession and retention of Foreign Currency
13.	<b>FEMA 12(R)/2015 - FEM (Insurance) Regulations, 2015</b> Holding by a person resident in India of a general or life insurance policy issued by an insurer outside India
14.	<b>FEMA 13(R)/2016 - FEM (Remittance of Assets) Regulations, 2016</b> Remittance outside India by a person whether resident in India or not, of assets in India
15.	<b>FEMA 14(R)/2016 - FEM (Manner of Receipt &amp; Payment) Regulations, 2016</b> Manner of Receipt and Payment
16.	<b>FEMA 395/2019 - FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019</b>

# Regulations under FEMA (25)

17.	<del>FEMA 21(R)/2018</del> - FEM ( <b>Acquisition and Transfer of Immovable Property in India</b> ) Regulations, 2018 - <b>Superseded by NDI Rules 2019</b> Acquisition or transfer of immovable property in India, other than a lease not exceeding five years, by a person resident outside India
18.	<b>FEMA 22(R)/2016</b> - FEM ( <b>Establishment in India of a Branch Office or a Liaison Office or a Project Office or any Other Place of Business</b> ) Regulations, 2016 Establishment in India of a Branch Office or a Liaison Office or a Project Office or any Other Place of Business
19.	<b>FEMA 23(R)/2015</b> - FEM ( <b>Export of Goods and Services</b> ) Regulations, 2015 Export of Goods and Services
20.	<b>FEMA 25/2000</b> - FEM ( <b>Foreign Exchange Derivative Contracts</b> ) Regulations, 2000 Foreign Exchange Derivative Contracts
21.	<b>FEMA 120/2004</b> - FEM ( <b>Transfer or Issue of any Foreign Security</b> ) Regulations, 2004 - <b>ODI Regulations</b> Transfer or issue of any Foreign Security
22.	<b>FEMA 348/2015</b> -Foreign Exchange Management ( <b>Regularization of assets held abroad by a person resident in India</b> ) Regulations, 2015 Regularization of assets held abroad by a person resident in India - The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
23.	<b>FEMA 71/2002</b> - FEM ( <b>Offshore Banking Unit</b> ) Regulations, 2002 Branch of a bank in India located in the Special Economic Zone
24.	<b>FEMA 101/2003</b> - FEM ( <b>Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)</b> ) Regulations, 2003 Withdrawal of General Permission to OCBs
25.	<b>FEMA 339/2015</b> - FEM ( <b>International Financial Services Centre</b> ) Regulations, 2015 Financial institutions set up in International Financial Services Centres
26.	<b>FEMA 396/2019</b> - FEM ( <b>Debt Instruments</b> ) Regulations, 2019

# Master Directions

**Borrowing and Lending transactions in Indian Rupee** between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin – updated as on **01.01.2016** - **FED Master Direction No. 6/2015-16**

- **Compounding of Contraventions** under FEMA, 1999 – updated as on **04.01.2021** - **FED Master Direction No.4/2015-16**
- **Deposits and Accounts** – updated as on **09.01.2020** - **FED Master Direction No. 14/2015-16**
- **Direct Investment Abroad** by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) – updated as on **24.06.2021** - **FED Master Direction No.15/2015-16**
- **Immovable Property** under Foreign Exchange Management Act, 1999 – updated as on **11.04.2018** - **FED Master Direction No. 12/2015-16**
- **Liaison/ Branch/ Project Offices in India** by Foreign Entities – updated as on **18.05.2021** - **FED Master Direction No. 10/2015-16**
- **Export of Goods and Services** – updated as on **08.01.2021** - **FED Master Direction No.16/2015-16**
- **Export of Goods and Services – Project Exports** dated **14.01.2016** – A.P. (DIR Series) Circular No.39 dated 14 January 2016
- **External Commercial Borrowings, Trade Credit**, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers – updated as on **22.11.2018** - **FED Master Direction No.5/2015-16**
- **Foreign Investment in India** updated **08.03.2019** - **FED Master Direction No.11/2017-18**
- **Guarantees and Co-acceptances - Master Circular** - dated **01.07.2015** - DBR. No. Dir. BC.11/ 13.03.00/ 2015-16
- **Import of Goods and Services** – updated as on **28.10.2020** - **FED Master Direction No.17/2016-17**
- **Insurance** – updated as on **17.11.2016** - **FED Master Direction No. 9/2015-16**
- **Liberalised Remittance Scheme (LRS)** – updated as on **20.06.2018** - **FED Master Direction No. 7/2015-16**
- **Miscellaneous** – updated as on **12.11.2018** - **FED Master Direction No.19/2015-16**
- **Money Changing** Activities – updated as on **29.03.2019** - **FED Master Direction No. 3/2015-16**
- **Other Remittance Facilities** – updated as on **06.11.2018** - **FED Master Direction No. 8/2015-16**
- **Remittance of Assets** – updated as on **28.04.2016** - **FED Master Direction No. 13/2015-16**
- **Reporting** under Foreign Exchange Management Act, 1999 – updated as on **08.06.2021** – **FED Master Direction No.18/2015-16**
- **Risk Management and Inter-Bank Dealings** updated as on **21.03.2017** - FMRD Master Direction No. 1/2016-17
- **Opening and Maintenance of Rupee/Foreign Currency Vostro Accounts** of Non-resident Exchange Houses – updated as on **08.09.2020** - **FED Master Direction No. 2/2015-16**

## Frequently Asked questions (FAQs) by RBI

### **Accounts in India by Non-residents - 12.02.2020**

- **Annual Return** on Foreign Liabilities and Assets (**FLA return**) under FEMA 1999 - **18.06.2014**
- **Asian Clearing Union - 03.03.2021**
- **Compounding of Contraventions** under FEMA, 1999 – **16.02.2021**
- **Exchange Earner's Foreign Currency (EEFC) Account** - **05.07.2016**
- **External Commercial Borrowings & Trade Credits (ECB)** – **29.05.2019**
- **Foreign Currency Accounts by Resident Individuals** - **01.08.2016**
- **Foreign Investments in India** - **07.05.2018**
- **Hedging** of Price Risk in Commodities - **04.07.2014**
- **Immovable Property** – **07.05.2018**
- **Liberalised Remittance Scheme (LRS) for Residents** – **13.02.2019**
- **Liaison / Branch / Project Offices** of foreign entities in India - **26.12.2016**
- **Miscellaneous Forex Facilities** - **01.08.2017**
- **Money Changing Activities** - **23.10.2019**
- **Remittance of Assets** - **02.09.2016**
- **Overseas Direct Investments** - **19.09.2019**
- **Special Non-Resident Rupee Accounts**-**19.11.2020**
- Issuance of **Rupee denominated bonds overseas** - **9.10.2017**
- Remittances [**Money Transfer Service Scheme** (MTSS) and Rupee Drawing Arrangement (RDA)] - **18.01.2017**
- Swap Window for attracting FCNR (B) Dollar funds - **18.09.2013**