

Foreign Exchange Management Act, 1999

Section 2 - Definitions

In this Act, unless the context otherwise requires, -

- (a) "Adjudicating Authority" means an officer authorised under sub-section (1) of section 16;
- (b) "Appellate Tribunal" means the Appellate Tribunal for Foreign Exchange established under section 18;
- (c) "authorised person" means an authorised dealer, money changer, off-shore 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;
- (d) "Bench" means a Bench of the Appellate Tribunal;
- (e) "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;
- (f) "Chairperson" means the Chairperson of the Appellate Tribunal;
- (g) "chartered accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949);
- (h) "currency" includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letter of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank;
- (i) "currency notes" means and includes cash in the form of coins and bank notes;
- (j) "current account transaction" means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes, -
 - (i) payments due in connection with foreign trade, other current business, services, and short-term banking and credit 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, and
 - (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children;
- (k) "Director of Enforcement" means the Director of Enforcement appointed under sub-section (1) of section 36;
- (l) "export", with its grammatical variations and cognate expressions, means,--

- (i) the taking out of India to a place outside India any goods,
- (ii) provision of services from India to any person outside India;
- (m) "foreign currency" means any currency other than Indian currency;
- (n) "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;
- (o) "foreign security" means any security, in the form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency and includes securities expressed in foreign currency, but where redemption or any form of return such as interest or dividends is payable in Indian currency;
- (p) "import", with its grammatical variations and cognate expressions, means bringing into India any goods or services;
- (q) "Indian currency" means currency which is expressed or drawn in Indian rupees but does not include special bank notes and special one rupee notes issued under section 28A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (r) "Legal practitioner" shall have the meaning assigned to it in clause (i) of subsection (1) of section 2 of the Advocates Act, 1961 (25 of 1961);
- (s) "Member" means a Member of the Appellate Tribunal and includes the Chairperson thereof;
- (t) "notify" means to notify in the Official Gazette and the expression "notification" shall be construed accordingly;
- (u) "person" includes--
 - (i) an individual,
 - (ii) a Hindu undivided family,
 - (iii) a company,
 - (iv) a firm,
 - (v) an association of persons or a body of individuals, whether incorporated or not,
 - (vi) every artificial juridical person, not falling within any of the preceding sub-clauses, and
 - (vii) any agency, office or branch owned or controlled by such person;
- (v) "person resident in India" means. -
 - (i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include--

(A) a person who has gone out of India or who stays outside India, in either case--

(a) for or on taking up employment outside India, or

(b) for carrying on outside India a business or vocation outside India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) a person who has come to or stays in India, in either case, otherwise than--

(a) for or on taking up employment in India, or

(b) for carrying on in India a business or vocation in India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India;

(w) "person resident outside India" means a person who is not resident in India;

(x) "prescribed" means prescribed by rules made under this Act;

(y) "repatriate to India" means bringing into India the realised foreign exchange and--

(i) the selling of such foreign exchange to an authorised person in India in exchange for rupees; or

(ii) the holding of realised amount in an account with an authorised person in India to the extent notified by the Reserve Bank, and includes use of the realised amount for discharge of a debt or liability denominated in foreign exchange and the expression "repatriation" shall be construed accordingly;

(z) "Reserve Bank" means the Reserve Bank of India constituted under subsection (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(za) "security" means shares, stocks, bonds and debentures, Government securities as defined in the Public Debt Act, 1944 (18 of 1944), savings certificates to which the Government Savings Certificates Act, 1959 (46 of 1959) applies, deposit receipts in respect of deposits of securities and units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 (52 of 1963) or of any mutual fund and includes certificates of title to securities, but does not include bills of exchange or promissory notes other than Government promissory notes or any other instruments which may be notified by the Reserve Bank as security for the purposes of this Act;

(zb) "service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, medical assistance, legal assistance, chit fund, real estate, transport, processing, supply of electrical or other energy, boarding or lodging or both, entertainment, amusement or the purveying of news or

other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(zc) "Special Director (Appeals)" means an officer appointed under section 18;

(zd) "specify" means to specify by regulations made under this Act and the expression specified" shall be construed accordingly;

(ze) "transfer" includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.