

CHAPTER 3 : FOREIGN EXCHANGE MANAGEMENT ACT, 1999

DEFINITIONS

FOREIGN EXCHANGE [Sec 2(n)]	FOREIGN SECURITY [Sec 2(o)]	PERSON [Sec 2(u)]	IMPORT [Sec 2(p)]	EXPORT [Sec 2(l)]	AUTHORIZED PERSON [Sec 2 (c)]
Means Foreign currency (not an Indian Currency) Includes (A) Deposit, Credits, Balances payable in foreign currency (B) Drafts, traveller cheques, Letter of credit, BOE drawn in Indian currency but payable in foreign currency (C) Drafts, traveller cheques, Letter of credit, BOE drawn by Bank Outside India payable in Indian Currency	1. Share 2. Debenture 3. Bond 4. Stock expressed in foreign Currency ↓ Although Redemption or Return is in Indian Currency	It includes: a. an individual; b. a Hindu undivided family; c. a company; d. a firm; e. an association of persons or a body of individuals, whether incorporated or not; f. every artificial juridical person, not falling within any of the above; Any agency, office or branch owned or Controlled by such person	It means bringing into India any goods or services.	It means: a. The taking out of India to a place outside India any goods b. Provision of services from India to any person outside India.	Authorize dealer, money changer, offshore banking unit or any other person authorized u/s 10 to deal in forex or forse

ILLUSTRATION -I

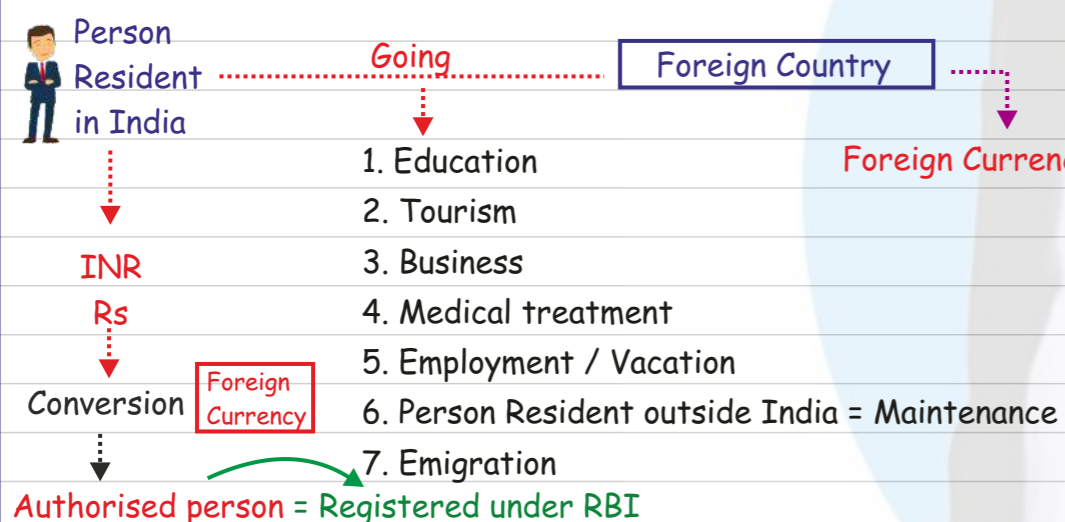
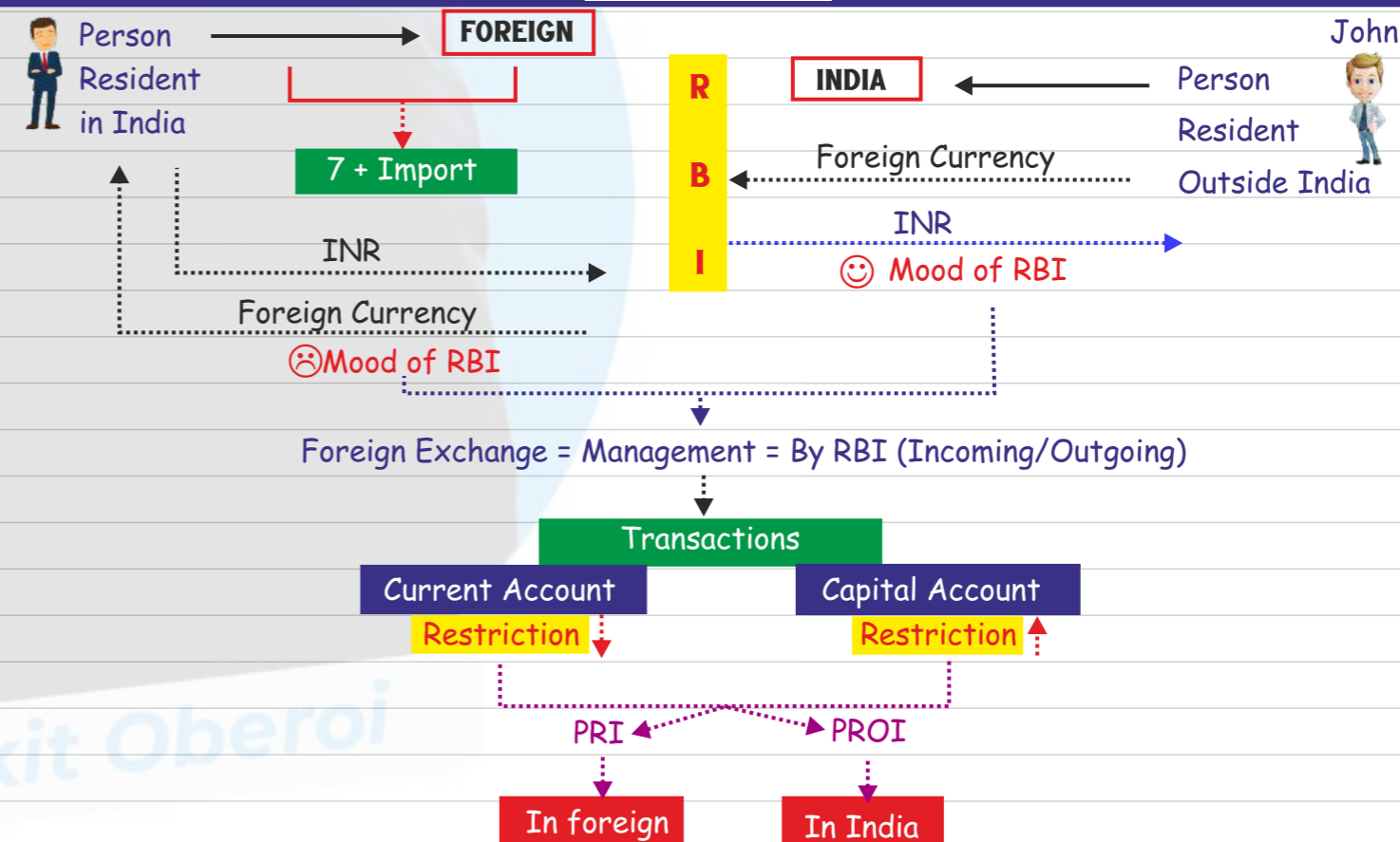


ILLUSTRATION II



DEALING IN FOREIGN EXCHANGE (SECTION 3)

No person shall:

a. Deal in or transfer

Foreign Exchange (as defined in 2 (n)) ;or

Foreign Security (as defined in 2 (o))

with a person who is not an Authorised Dealer

b. Make payment on order of PROI/on credit of PROI

c. Received payment from PROI

d. Entering into Financial transaction in India in association of acquisition/creation of asset outside India by any person

PERSON RESIDENT IN INDIA (INDIVIDUAL)

Provision Has resided for more than 182 days in preceding Financial Year

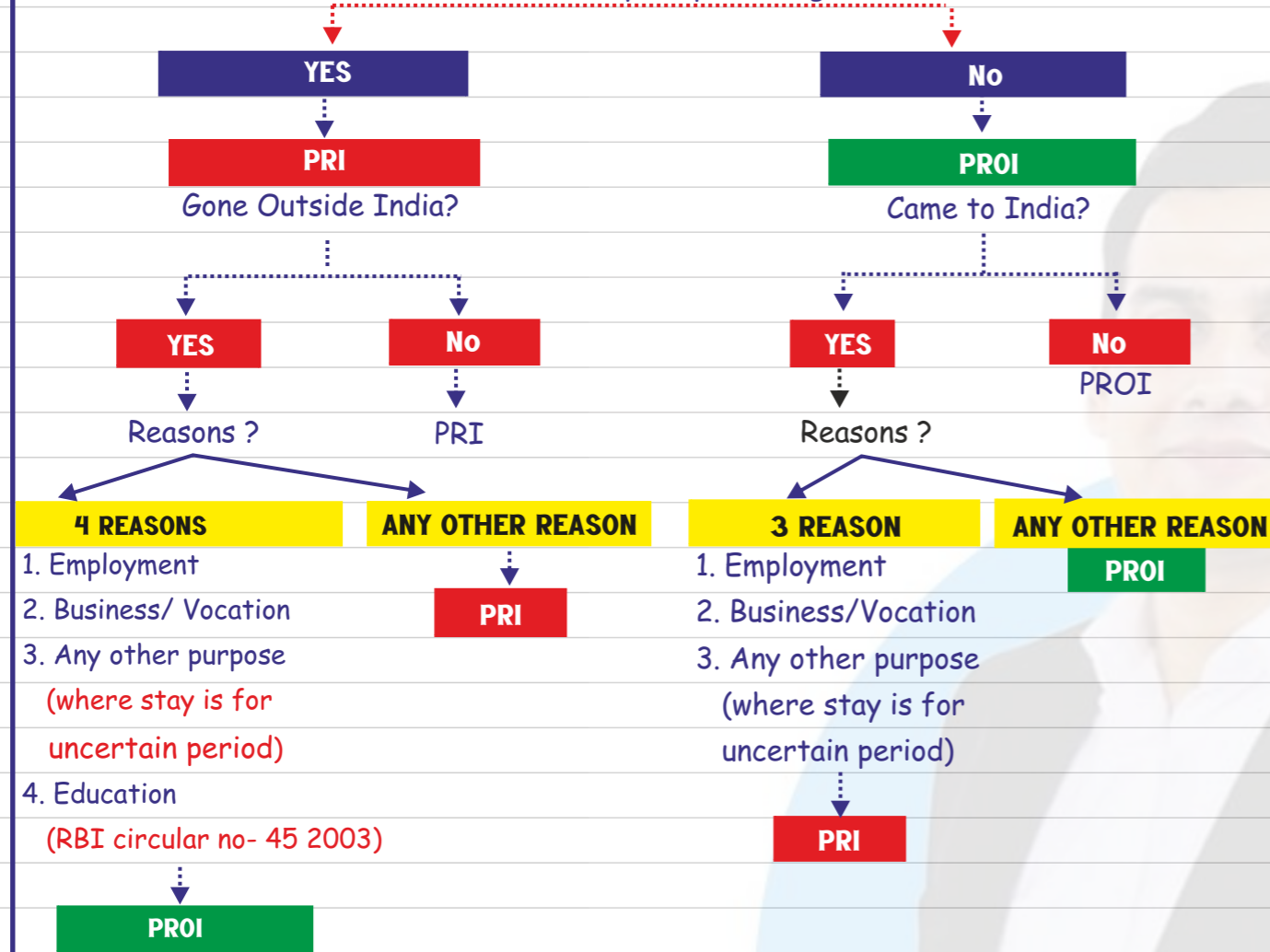


ILLUSTRATION I

PRI

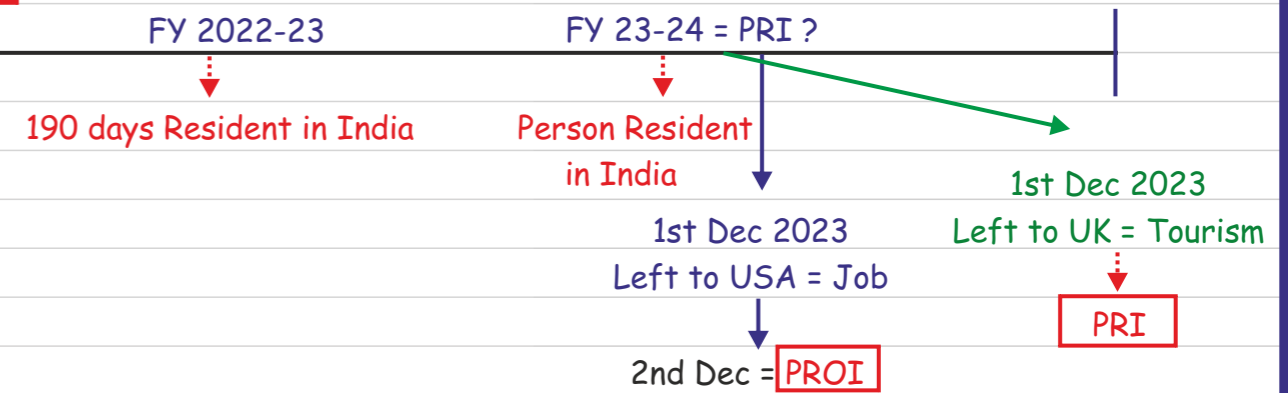


ILLUSTRATION II

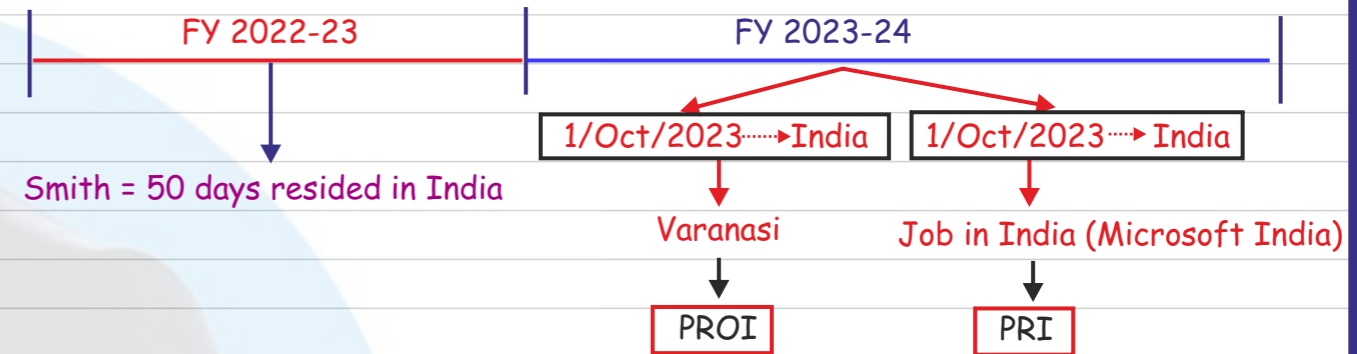


ILLUSTRATION III

Mr. X had resided in India during the financial year 2019-2020 for less than 182 days. He had come to India on April 1, 2020 for carrying on business. He intends to leave the business on April 30, 2021 and leave India on June 30, 2021. Determine his residential status for the financial years 2020-2021 and 2021-2022 up to the date of his departure

ILLUSTRATION IV

Mr. Z had resided in India during the financial year 2019 2020. He left India on Ist August, 2020 for United States for pursuing higher studies for three years. What would be his residential status during financial year 2020 2021 and during 2021 2022

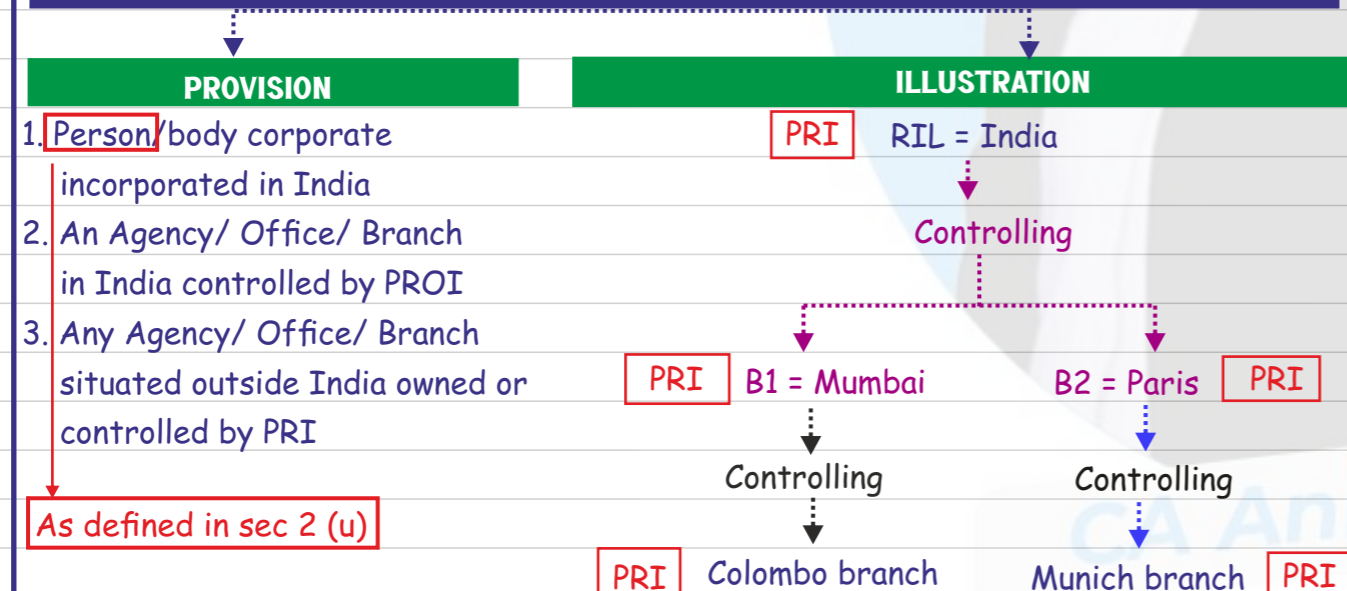
ILLUSTRATION V

Toy Ltd. is a Japanese company having several business units all over the world. It has a robotic unit with its head quarters in Mumbai and has a branch in Singapore. The Headquarters at Mumbai controls the Singapore branch of the robotic unit. What would be the residential status of the robotic unit in Mur and that of the Singapore branch?

ILLUSTRATION VI

Miss Alia is an airhostess with the British Airways. She flies for 12 days in a month and thereafter takes a break for 18 days. During the break, she is accommodated in 'base', which is normally the city where the Airline is headquartered. However, for security considerations, she was based at Mumbai. During the financial year, she was accommodated at Mumbai for more than 182 days. What would be her residential status under FEMA?

BODY CORPORATE



PRI= Person Resident In India
PROI= Person Resident outside India

CURRENT ACCOUNT TRANSACTIONS (SECTION 5)

FOREIGN EXCHANGE = WITHDRAWAL	WITHDRAWAL		WITHDRAWAL = LIMIT (NO APPROVAL OF RBI IS REQUIRED)	
NOT ALLOWED	(WITH APPROVAL OF CG)		SCHEDULE III	
SCHEDULE I	SCHEDULE II			
R - Rupee state credit route = payment of commission on export except on Tea & Tobacco (upto 10%)	1. Cultural Tour	HRD Ministry (Department of Education & culture)	INDIVIDUAL	BODY CORPORATE
E - Equity investment= Joint Venture/ Wholly owned Subsidiary abroad	2. Sports event abroad = (Other than international/ national/state Body) withdrawal = > US \$ 1 lakh	HRD Ministry (Department of Sport & Youth Affairs)	1. Private visit (1 or more)	1. Commission to Agent for sale of plot/ flat in India = 5% x inward remittance or US \$ 25000 } higher
D - Dividend by company on which dividend Balancing is applicable	3. Advertisement in foreign print media by State Government or its public sector Undertaking exceeding \$ 10,000 (other than tourism, investment, International Bidding)	Ministry of Finance	2. Gift or donations = PRI to PROI	2. Consultancy = PROI = a.for infrastructure = US \$ 1cr b.for other consultancy = US \$ 10lakh
P - Purchase of lottery ticket/Banned Magazines.	4. Membership of P&I club	Ministry of Finance	3. Maintenance of close relative abroad	3. Donation a.creation of chair in university (reputed) 1% of FE earning of IP3FYs or US \$ 50 lakh whichever is lower
O - Out of lottery winnings (Remittances)	5. Freight of inland vessel (Chartered by PSU)	Ministry of surface Transport	4. For employment	b.Funds of University
P - Person Resident of Nepal/Bhutan	6. Container detention charges exceeding rate prescribed	Ministry of Surface Transport	5. For Business purpose (irrespective of no. of visit)	c.Technical institute= similar object as of Donor company
C - Call back services of Telephone	7. Payment for import by ocean transport by a Government department or PSU	Ministry of Surface Transport	6. Attendant for Patient going for Medical treatment	4. Reimbursement of pre-incorporation expenses = 5% of investment or US \$ 1 lakh } higher
O - Out of racing/ riding = proceeds	8.Hiring charges of Transponders : a.TV Channels b.Internet service providers	Ministry of information and Broad casting ministry of Communication and IT	7. Studies abroad = Fees prescribed by educational institute } Higher	
R - Remittance of interest income from Non-Resident special Rupee Account	9. Multi-modal transport operators	Registration certificate from-Director General of shipping	US\$ 2,50,000 or estimate by hospital } Higher	
N - Travels to Nepal/Bhutan=			If amount > \$ 2.5 lakh = estimate by hospital/Doctor abroad is required to be submitted to authorised dealer = outside India	
RED POPCORN			9. Emigration = US\$ 2,50,000 or Amount stated by country of emigration } Higher	
P & I CLUB				
Protection & indemnity insurance known as P & I, is a form of marine insurance provided by P & I club				

FE: Foreign exchange ; IP3FYs: Previous 3 Fys

MEANING OF CURRENT ACCOUNT TRANSACTION	EXEMPTION IN CURRENT ACCOUNT TRANSACTION			
DEFINITION [SEC 2(J)]	RFC ACCOUNT	EEFC ACCOUNT	CREDIT CARD	LIBERALIZED REMITTANCE SCHEME (LRS)
Means a transaction other than capital account transaction and includes:-	↓ Exempted	Exempted Approval is required:-	PRI visiting abroad he is permissible to make expenditure from international credit card	1. Limit = USD 2,50,000 per individual (Resident) 2. Not for company, firm, AOP 3. Clubbing can be for family members (including minor)
1. Payment due wrt foreign trade, current business services, short term Banking/ credit facilities		1. Membership fees of P&I club		
2. Interest on loan, Income from investment		2. Commission to agent abroad (exceeding limit)		
3. Living expenses for parents, spouse, children residing abroad.		3. Reimbursement of pre-incorporation expenses (exceeding limit)		
4. Expenses wrt foreign travel, education, medical treatment				LRS form= signed by natural guardian of minor If opening firm, Bank account abroad, then all family members must be partner/Account holder

CAPITAL ACCOUNT TRANSACTIONS (SECTION 6)

MEANING	PERMISSIBLE TRANSACTION PRI	PERMISSIBLE TRANSACTION PROI
Any transaction which alters	SCHEDULE - I	SCHEDULE - II [REGULATION 3]
1. Asset/Liability outside India of PRI	1. Investment in foreign security by PRI	1. Investment by PROI that is issue of securities by a body corporate in India
2. Asset/Liability in India of PROI	2. Foreign currency loan in India or Loan obtained outside India by PRI	2. Investment to capital of a Firm, proprietorship or AOP in India by way of contribution by PROI
IT INCLUDES	3. Transfer of Immovable property of outside India by PRI	3. Acquisition and transfer of immovable property in India by PROI
A. Transfer/Issue of foreign security=PRI	4. Guarantees issued by PRI for loan of PROI	4. Guarantee by PROI for loan to PRI
B. Transfer/Issue of any security (Indian)=PROI	5. Export/import/holding = currency/currency notes	5. Import into India } CURRENCY } BY PROI Export from India
C. Transfer/Issue = Indian/for security=Indian Branch/agency of PROI	6. Foreign currency account in India/outside India by PRI	6. Foreign Currency Account in India by PROI
D. Borrowings/lending = PRI ↔ PROI	7. Remittance of outside India of capital asset of PRI	7. Remittance outside India from capital asset in India By PROI
E. Deposit = PRI ↔ PROI	8. Undertaking derivative contract by PRI	8. Derivative contract by PROI
F. Export/Import/Holding=currency	9. Insurance policy taken by PRI from an insurance company which is outside India	9. Deposits between PRI & PROI
G*. Transfer of immovable property=outside India by PRI	10. Loan by PRI to PROI	
H*. Acquisition/transfer of immovable property in India by PROI	11. Loan & Overdraft (Borrowings) by PRI from PROI	
I. Guarantee = wrt liability = PRI → PROI		
J. Guarantee = wrt liability = PROI		
*Except lease not exceeding 5 years		
	PROHIBITED CAPITAL ACCOUNT TRANSACTION FOR PROI	
	SCHEDULE - II [REGULATION 3]	
	PERSON RESIDENT OUTSIDE INDIA	PERSON RESIDENT IN INDIA
	PROI cannot invest in entity engaged in	PRI can only withdraw US \$ 2,50,000 from authorised person That US \$ 2,50,000 shall not be utilized in dealing with
	N = Nidhi Company C = Chit Fund R = Real Estate A = Agricultural Activities F = Farm House T = TDR	a. Citizen of b. Person resident in c. Entity incorporated in } Democratic People's Republic Of Korea (North Korea) (After 21.04.2017) Previous transaction shall be liquidated within 180 days from 21.04.2017
	EXCEPT Development of township, Construction of commercial/ Residential premise, Construction of Roads, Bridges	

TRANSACTION WITH NO RESTRICTIONS

- RBI shall not impose any restriction on drawal of foreign exchange for
 - For amortization of loan
 - For depreciation on direct investment in ordinary course of business
- PROI acquired Foreign exchange assets, then became PRI. He can continue to hold/transfer such asset
- PRI acquired immovable property in India, Indian security, Indian currency then became PROI. He may continue to hold or transfer it.
- PRI may hold/transfer Foreign exchange currency/foreign security/immovable property outside India = If it was inherited from PROI
- PROI may hold/transfer = Indian currency/Indian security/Immovable property outside India = If it was inherited by him from a PRI

AOP: Association of persons

TDR: Transferable development rights