

Study Circle



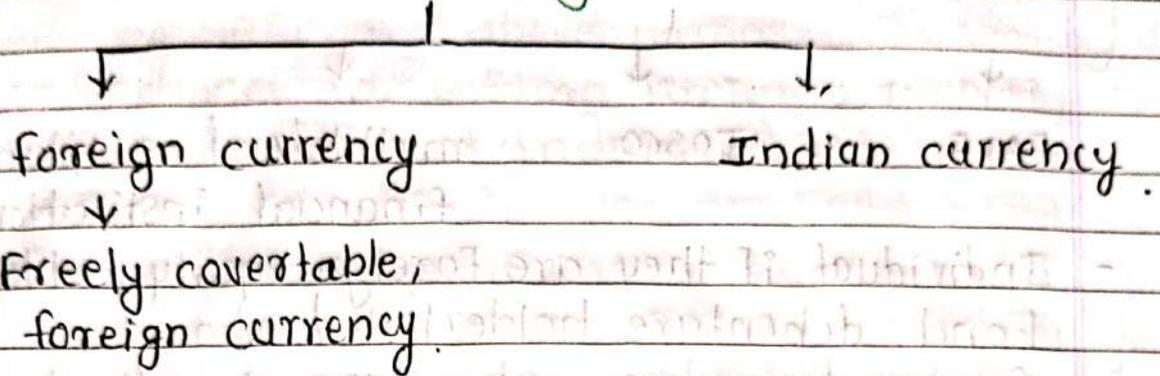
**Prof. Jaivin
Tarwala**

**FOR
DEC. 2023
ATTEMPT**

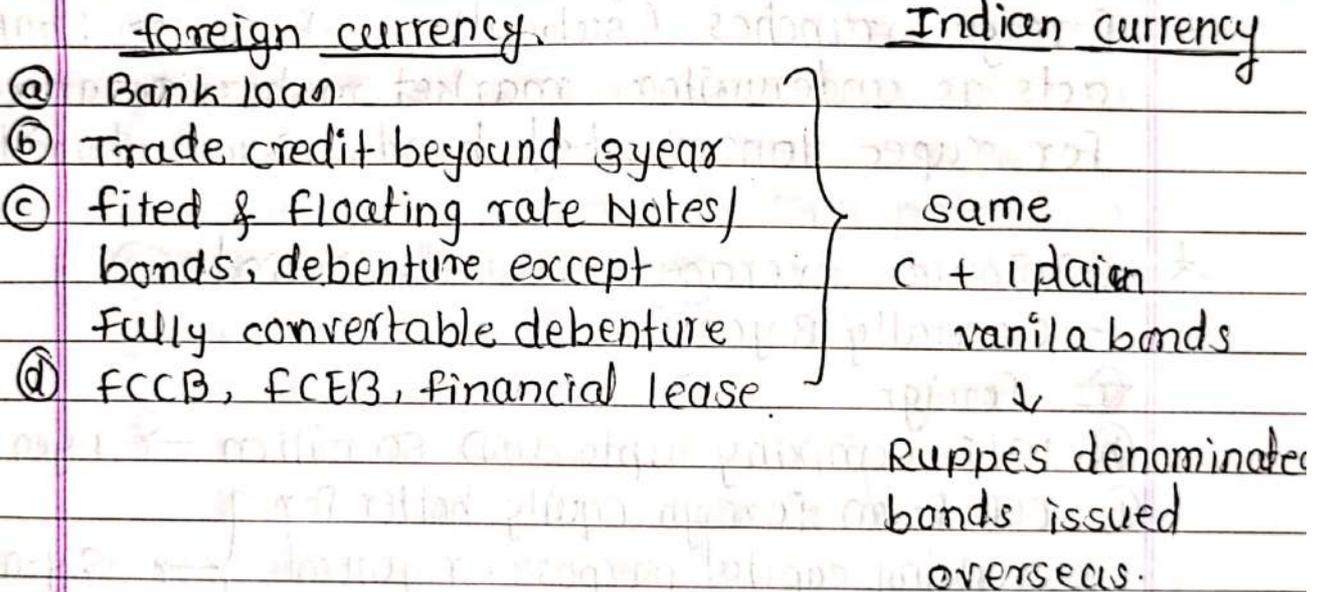
**CS EXECUTIVE
GROUP - 2**

ECIPL-PART - A

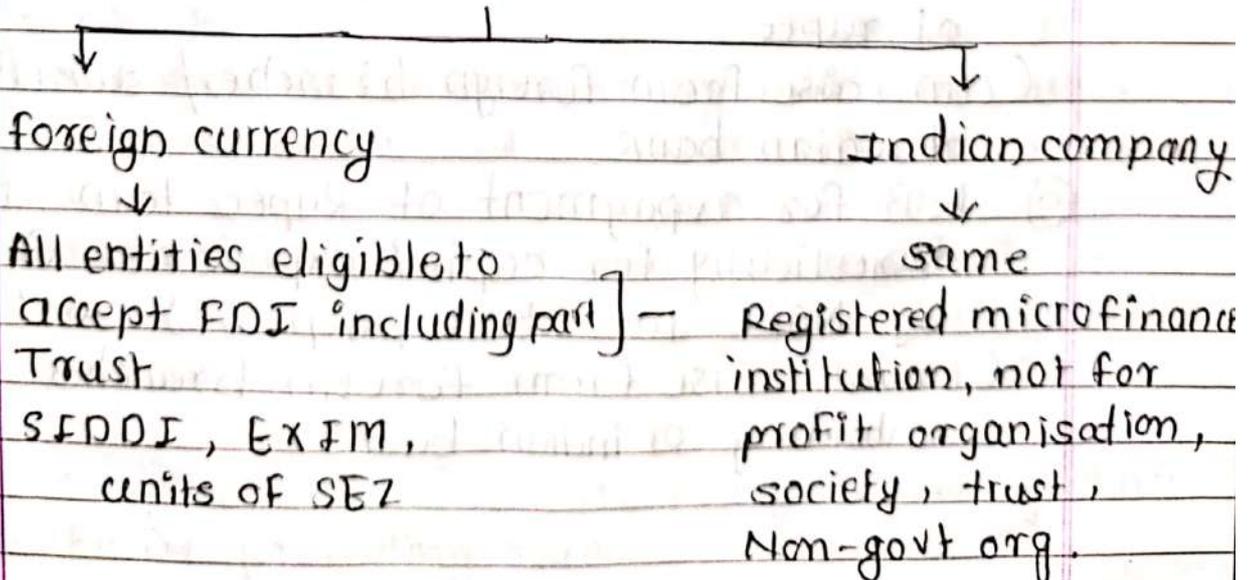
Borrowing



* Forms of ECB

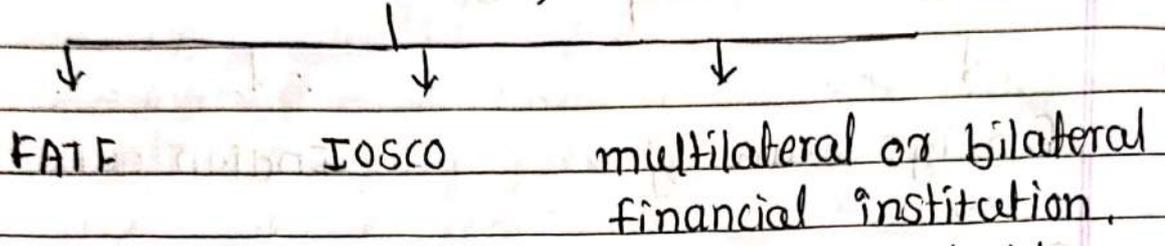


Eligible borrowers



* Eligible lender

Resident of a country which is member of



- Individual if they are foreign equity holder or bond, debenture holder listed abroad.
- foreign branches subsidiary of india banks permitted for foreign denominated ECB.
- foreign branches (subsidiary of indian bank can acts as underwriter, market maker, arranger for rupee denominated bonds issued abroad)

* minimum Average maturity period.

- Generally 3 years.

- (a) foreign
- (b) M/F company upto USD 50 million → 1 year.
- (b) ECB from foreign equity holder for working capital purpose or general corporate purpose or repayment of rupee } → 5 year

(can raise from foreign branches/ subsidiary of indian bank)

- (c) ECB for repayment of Rupee loan raised domestically for capital exp. or on pending by NBFC for above purpose) = 1 year.

(cannot raise from foreign branches subsidiary of indian banks)

(d) ECB for working capital purpose or general corporate purpose or on-lending by NBFC for above purpose (cannot raise from foreign branches) subsidiary of Indian bank } 10 years

(e) raised for repayment of Rupee loan availed domestically for purpose other than capital exp. or on lending by NBFC for above purpose } 10 years

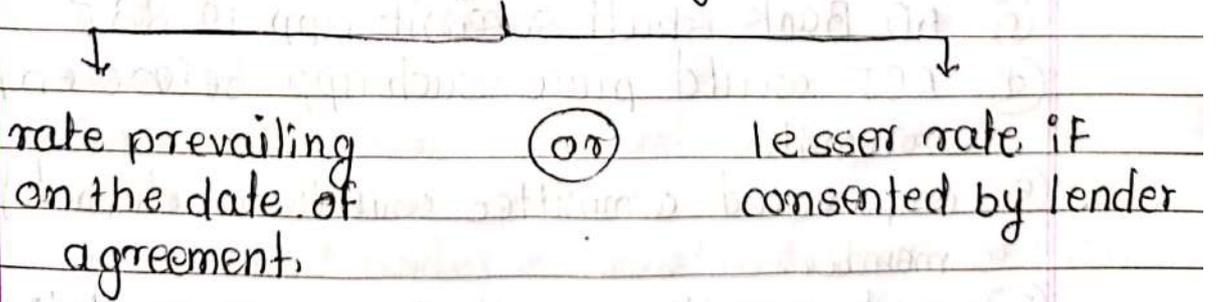
★ End use (Negative list)

- Cannot utilise for below purpose.

- (a) Real estate activities
 - (b) investment in capital market
 - (c) equity investment
 - (d) working capital purpose
 - (e) General corporate purpose
 - (f) Repayment of rupee loan.
- }- however can utilise if raised for such purpose only.

★ Exchange rate

- conversion of foreign currency into Indian rupee



- conversion of rupee into foreign currency shall be at prevailing rate.

★ limit & leverage.

- All borrower can raise ECB upto 150 million per FY
- ECB from foreign equity holder shall not exceed 7:1 (ECB:equity) under automatic route
- Ratio shall not apply if ECB upto USD 5 million

★ Parking of ECB proceeds

- | | |
|--|--|
| ↓ | ↓ |
| foreign currency. | Indian currency |
| - Deposit, certificate of deposit, or other product of bank having AA rating | - repatriated immediately & deposit with AD bank for maximum 12 months |
| - T-bill & other monetary instrument having AA-rating of one year maturity | |
| - Deposit with foreign branches, subsidiary of indian abroad. | |

★ Procedure of raising ECB.

- check the route
- for approval route - approach to AD Bank.
- AD Bank shall submit app to RBI
- RBI would place such app. before empowered committee
- empowered committee will have external & internal member.
- such committee shall give recommendation to RBI
- final Decision by RBI.

* Reporting requirement.

- (a) obtain loan registration number from RBI after filing from ECB through AD Bank.
- (b) file revised from ECB within 7 days from change in terms & condition of ECB.
- (c) file ECB-2 within 7 working day from closing of month & report ECB transaction.
- (d) submit late fees for delay in reporting.

* Untraceable entity.

- Entity / Promoter / director / Auditor are not reachable over mail, letter, phone for atleast 2 quarter & with 6 reminder.
- (a) Not operative as registered office &
- (b) Not submitted statutory auditor certificate for 2 years.

* Action on untraceable entity.

- file ECB 2 without companies certificate & write untraceable entity on top.
- No fresh ECB app process by AD
- Inform directorate of enforcement
- No inward remittance under auto route.

* conversion of ECB into equity.

- Borrower is converted under auto route No need to obtain Govt. app.
- if converted under automatic route - obtain govt approval.
- obtain lender's consent & No. additional cost.

conversion

- | | |
|--|--|
| <p>↓</p> <p>Partial</p> <ul style="list-style-type: none"> - File FC-GPR - ECB 2 every month - consent of other lender if any. | <p>↓</p> <p>Full conversion (4)</p> <ul style="list-style-type: none"> - File FC-GPR - ECB with fully converted remark. |
|--|--|

*** ECB for oil marketing companies.**

- Public sector co.
- object - working capital requirement
- limit - upto 10 billion
- Board approved forex mark for market procedure

*** ECB for startup.**

- Recognised as a startup by CG.
- minimum maturity period - 3 year
- Recognised lender & Resident of FATF compliance country, except foreign branch / subsidiary / entity having
- Form - loan or non convertible / optionally / partially convertible pre-F-share.
- currency - foreign or Indian
- Amt - 3 Billion in FY
- All in cost - agreed between borrower & lender
- end use - for business object only conversion is permitted.
- conversion at market rate as on the date of agreement.

CH. 7 Law Relating to Foreign Contribution regulation

★ Foreign Contribution :-

- Donation, delivery or transfer of any article (excluding gift upto 25K for personal use) of any currency or any security made by foreign source.
- It includes interest & other income derived from foreign contribution.
- It Exclude any fees charged by educational institute from foreign students or amount received us due to foreign trade.

★ Foreign Source

1. foreign citizen
2. foreign trade union
3. foreign trust
4. foreign society
5. ^{Indian} foreign company control & outside india.
6. foreign company.
7. foreign corporation
8. multi national corporation.
9. Internal agency. not UN, world Bank, IMF
10. foreign government & agency.

Following person cannot accept Foreign contribution

- a) Candidate for election
- b) member of legislature
- c) political party or office bearer thereof
- d) organisation of a political nature
- e) public servant or employee of government company
- f) Judge
- g) correspondent / columnist / cartoonist / editor / owner / printer / publisher of registered news paper.
- h) association or company engaged in the production or broadcast of audio news, audio visual news, current affair or mass communication & corresponded, columnist, cartoonist, editor, owner of such news agency-

Indirect Foreign contribution is not allowed

- a) Citizen of india cannot accept foreign contribution behalf of political party.
- b) person cannot accept foreign contribution on behalf of other person who intends to give such contribution to political party.
- c) Indian citizen residing outside india cannot accept foreign contribution or cannot deliver foreign contribution to political party.
- d) person cannot deliver foreign contribution to any person other than a person for which it was received.

e) In simple word, political party cannot accept foreign contribution from any person.

* following person can accept foreign contribution without restriction (sec. 4)

- 1) wages, salary & other remuneration.
- 2) Payment received in the ordinary course of business (e.g. export)
- 3) payment received from agent of foreign source as a part of transaction with central govt & state govt.
- 4) Gift & presentation to any indian delegation.
- 5) From his relative ^{ordinary}
- 6) remittance received in the ^{ordinary} course of business through any official channel or under FEMA regulation
- 7) By way of scholarship, stipend or payment of like nature

hospitality - मेहमानवाजी

* foreign hospitality

- Not be offer not being casual one
- made in cash or kind by foreign source
- providing the cost of travel, Free boarding, lodging transport & medical treatment.

Person who cannot accept foreign ^{hospitality} contribution.

- member of legislature
- Political party
- judge
- government servant
- employee of govt. organisation.

- ⊛ In case of medical aid can accept the foreign hospitality however within 1 month from acceptance shall inform to central government.

24-08-23

- ⊛ Eligibility criteria for registration.

- a. registered under trust Act, society Act or as a section 8 company.
- b. Existence for atleast 3 years in reasonable activities for the benefite of society.

⊛

- ⊛ eligibility criteria for grant of prior permission.

1. An organisation in formative stage is not eligible for registration hence to accept FC they need to obtain prior approval from CG.
2. Registered under society Act, trust Act or sec. 8 under CO-Act.
3. Submit a commitment letter from donor indicating the amount & purpose of FC.
4. Donor & donee must have common member

- ⊛ Condition for grant of registration & prior permission

1. fictitious or benami application
2. Engage in conversion of religious faith.
3. Prosecuted or convicted for creating communal tension.
4. Guilty of conversion or misutilisation of fund.
5. Engage in propagation of sedition, seditious or advocate violent method.

* Cancellation of certificate

Ground - Breach the provision of FCRA Act

- Breach the condition

- It is in public interest

- Obtain certificate by submitted wrong or false info

- failed to discharge the function for continues 2 years or becomes defunct.

Authority - Central government.

- Not eligible for registration or grant of prior permission for next 3 years.

* Surrender of certificate

- Such person may surrender such certificate.

- CG after enquiry may accept the surrender after satisfied that such person has not contravened the Act.

* Management of FC whose certificate has been cancelled or surrendered.

- CG shall appoint authority to manage FC

- authority shall manage the activities.

- authority may utilise the FC or dispose off the assets to run the activities.

- If such person subsequently registered shall return such FC to person.

* Renewal of Certificate

- App for renewal before 6 month expire of period.

- renewal within 90 days from such app.

- Valid for 5 years.

FC through scheduled Bank.

Received FC through single account.

- can utilise through several account.
- cannot deposit other fund in such account Except
- Report the depts details of FC to CG.

★ Reporting to CG

Amt of FC received

source of FC.

Purpose of FC.

- Procedure to notify on organisation of a political nature
- CG after considering the activities, ideology, propoganda programme, may notify such organisation as on political nature.
- CG shall give written notice with reasons to such organisation
- Organisation shall give representation within 30 days from such notice.
- CG after considering the representation may pass the order.

Note - 20% of total FC can be utilise for administrative purpose.

However above 20% → obtain CG approval.

- a) Investment in equity instrument by PROI in unlisted Indian company
- b) Investment in Indian listed company of 10% or more of post issue paid-up equity.
- c) Once it is considered as FDI, subsequent fall in holding does not change the status.

* Eligible investor.

- a) citizen of Bangladesh - can invest under ~~automatic~~ ^{government} route only.
- b) Citizen of Pakistan cannot invest in defence, space, atomic energy & prohibited sectors except these through Govt route only.
- c) citizen of Nepal & Bhutan can invest only in free foreign exchange through normal banking channels.
- d) OCB have been derecognised as investor
→ OCB means any Co. firm, society, trust or other body corporate in which 60% or more held by NRI.
- e) Co./Trust/Firm incorporate outside India owned by NRI can invest as per FDI policy.
- f) NRI may subscribe to national pension system governed by PFRDA
(pension fund regulatory Authority)

* Prohibited sector.

- a) lottery including Govt & PVT & online lotteries.
- b) Gambling, betting including casinos including licensing for franchises or brand name
- c) Chit fund/ Nidhi co.

- d) Real estate business or construction of farm house
 e) cigars, cheroots, cigarillos & cigarette manufacture
 f) sectors which are prohibited
 i.e. defence & railway sector.

* FDI in partnership firm / proprietary concern

- NRI / PIO can invest on non-repatriation basis
- Payment through normal banking channel
- cannot invest in firm or proprietary concern engage in agricultural, plantation, real estate or print media.
- for repatriation obtain prior RBI approval
- PROF other than NRI / PIO may invest in firm or sole proprietary after obtaining RBI approval.

* FDI in trust

- Not permitted in trust other than venture capital fund.

* FDI in LLP

- permitted under automatic route
- IF LLP is operating in sectors where 100% FDI is allowed.
- No FDI linked performance condition
- LLP can also make downstream investment in other company or LLP where 100% for FDI is allowed under automatic route.
- conversion of LLP into company & receiving is allowed if operating in 100% FDI limit.

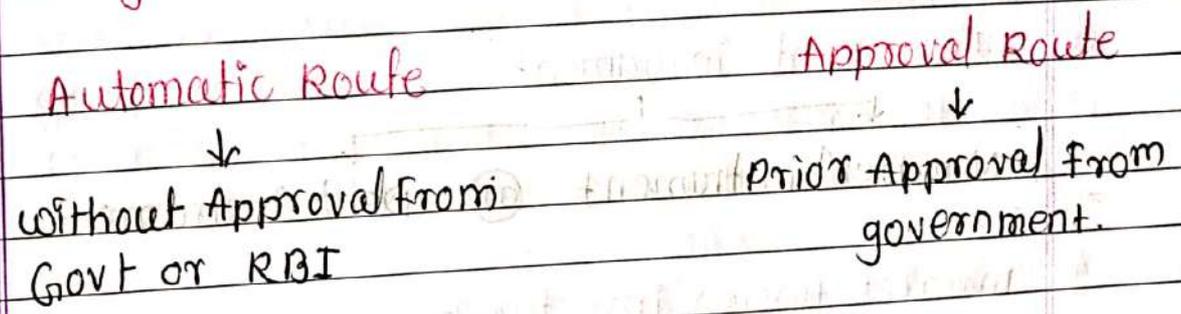
* FDI in investment vehicle

- a) can invest in registered vehicle
- b) Permitted to receive FDI from PROI other than Pakistan & Bangladesh.

* FDI in start-up

- a) FVCF can invest in equity and equity linked product of startup
- b) startup can issue convertible notes to PROI other than Bangladesh & Pakistan for an amount of ₹ 2500,000 or more
- c) such company must be recognised as a start-up by central govt.
- d) inward remittance through Normal Banking channel only
- e) escrow A/c must be closed within 6 months or completion of requirement whichever is earlier
- f) furnish report to RBI.

* Entry route for investment.



* FDI in trust

not permitted in trust other than venture capital fund

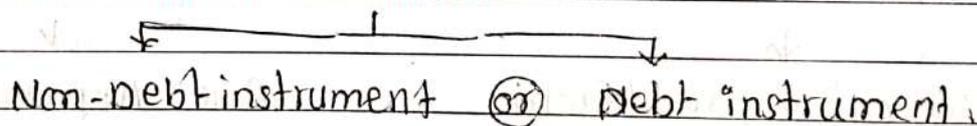
Imp Questions 4m each.

- (*) FDI in LLP / compounding same as FEMA
- (*) Penalties under FDI
- (*) Prohibited sector
- (*) Reporting under FDI
- (*) Conversion of ECB into FDI
- (*) What do you mean by FDI & its advantages.
- (*) FDI in partnership firm or sole proprietorship
- (*) FDI in E-commerce signal brand
- (*) Two way fungibility
- (*) Sponsored ADR/GDR

(*) Procedure under Govt route:

- a) such indian co. is establish with foreign investment & not owned & controlled by resident entity.
- b) company owned & controlled by resident entity will be transfer to non-resident entity through m & A
- c) conversion of Debt instrument shall be considered foreign investment.
- d) investment by NRI shall deemed to be domestic investment.

(*) Investment instrument



(*) Indirect foreign investment.

Investment received by indian entity from
 indian / investment vehicle owned & controlled by pro-
 entity or not owned & controlled by resident.

FDI in major sector

a) petroleum refining by PSU → upto automatic without disinvestment 49% route

FDI in E-commerce activities

→ E-commerce means buying & selling of goods & services over digital & electronic network like flipkart

Inventory based model market place based model

↓
Inventory of goods owned by E-commerce company & sold to consumer directly.

↓
Providing a platform for buying & selling. Company is only acting as facilitator betⁿ buyer & seller

FDI in E-commerce (Terms & conditions)

- a) 100% FDI in market place model
- b) FDI not permitted in inventory based model
- c) market place model can enter into transaction with sellers registered on its platform on B2B basis
- such E-commerce entity will not exercise ownership over inventory
- max 25% sales value from one vendor or their group company.
- provide name, address, contact details of sellers.
- warrantee/ guarantee will be responsibility of seller.

FDI in single brand product, retail Trading

→ single brand → 100% under automatic & above 49% obtain Govt approval

condition

- a) Product to be sold through single brand only in india & internationally
- b) retail-trading would cover only product which are branded during manufacturing

- c) Non-resident entity can invest in india through legally tenable agreement.
- d) FDI beyond 51% in such case minimum 30% total goods purchase shall be done from india, preferably from MSMEs.

* FDI in multi brand retail trading

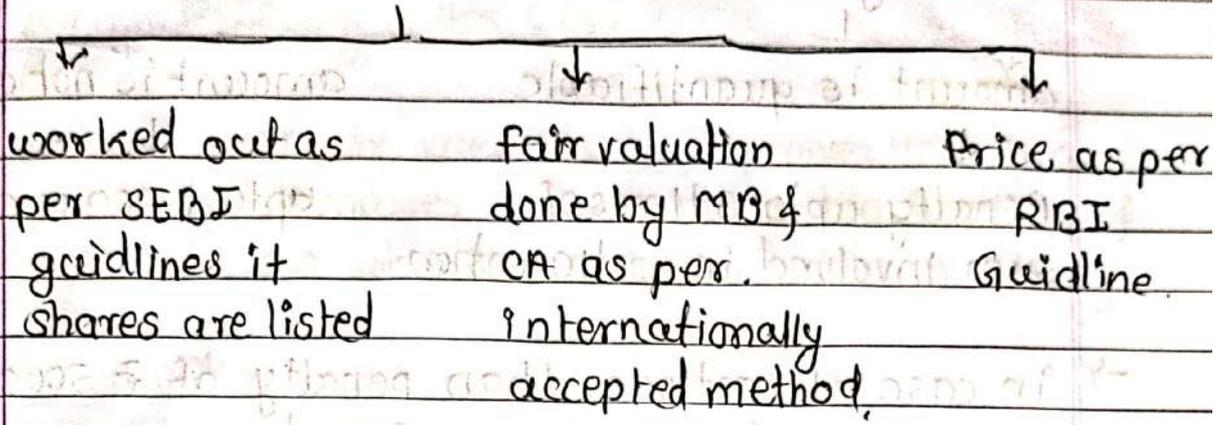
- 51% FDI under Govt route
- Agricultural product, Fruits, vegetable, Flower grains may be unbranded
- minimum FDI \$ 100 million
- 30% of total FDI brought shall be invest in backend infrastructure within 3 years.
- At least 30% product purchased shall be source from MSME which have investment in plant & machinery not exceeding \$ 2 million
- outlets in cities with 10,00,000 population & setup within 10 km from such city.
- Government have first right to procurement of agricultural product.

* Issue of shares.

- Issue shares within 60 days from receipt of inward remittance received through normal banking channel.
- failed to issue, shares within 60 days amount should be refunded immediately on sufficient ground RBI can grant extension.

* Pricing

shall not be less than price.



*** Reporting under FDI.**

- file form FC-GPR within 30 days from the date of issue of equity instrument.
- file annual return on foreign liability & Assets. in form FCA to RBI on or before 1st July every year
- file form FC-TRS within 60 days from transfer of equity instrument on stock exchange.
- file form ESOP within 30 days from issue of ESOP
- file form DRP within 30 days from issue of Depository receipt.
- file form LLP(I) within 30 days from receipt of capital contribution & Form LLP II within 60 days from disinvestment or transfer of capital contributed

*** Penalties under FDI**

- FDI is capital account transaction hence violation of FDI are covered by penal provision of FEMA.
- Directorate of enforcement is the authority for investigation.

Penalty

↓
amount is quantifiable

↓
amount is not quantifiable

↓
Penalty upto 3 times of sum involved in contravention

↓
upto ₹ 200,000

in case of continues than penalty of ₹ 5000 every days & can also confiscate any currency, security, money etc.

12

* PRI

Any person who rendering in india for more than 182 days in previous financial year.

It includes:

Person comes in india.

- for taking employment
- for carrying on business or vocation
- for a stay of uncertain period.

It excludes:

Person gone outside india.

- for taking employment.
- for carrying on business or vocation.
- for a stay of uncertain period.

It also includes

- Body corporate registered in india
- Any branch/office in india but controlled outside india.
- Any branch/office outside india but controlled in india.

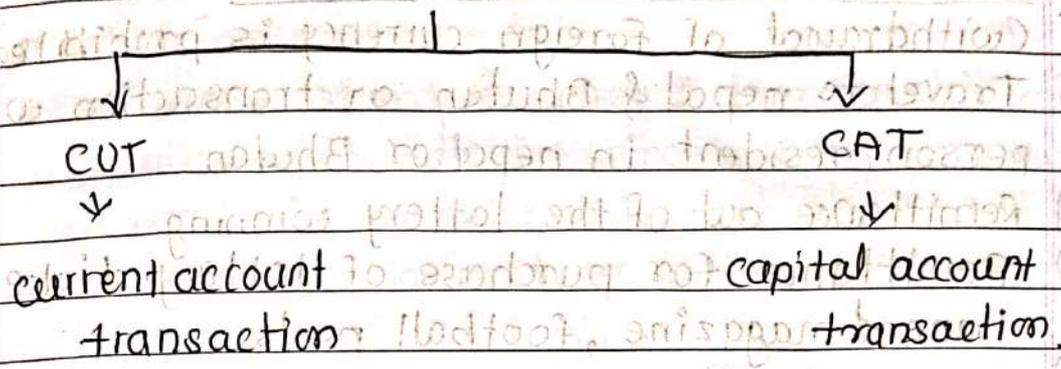
* Foreign exchange

It means foreign currency which includes

- balance payable in foreign currency, credits, deposits, draft, traveller cheque.

Bill of exchange letter of credit drawn in india but payable in foreign currency.

Transaction.

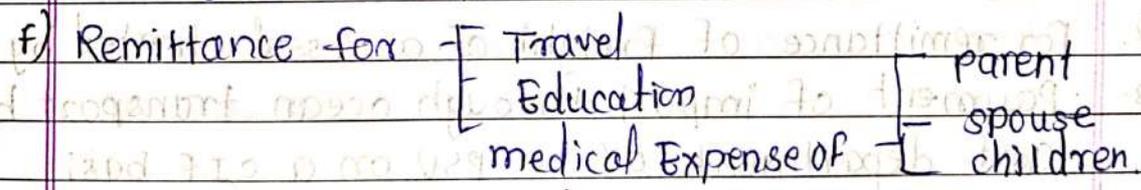


A. Current A/c transaction.

Any transaction other than capital A/c transaction it includes.

- a) Payment in relation foreign trade in goods & services
- b) short term borrowing in ordinary course of business
- c) Interest on loan
- d) Net Income from investment i.e. dividend after tax
- e) Remittance of living expenses of.

Parents spouse children.



* Capital A/c transaction :-

1. Any transaction which alters assets liability including contingent liability of PRI, outside india.
2. alters assets or liability in india of PROI.

* Prohibited current account transaction

(Withdrawal of foreign currency is prohibited)

- a) Travel to nepal & Bhutan or transaction with the person resident in nepal or Bhutan.
- b) Remittance out of the lottery winning.
- c) Remittance for purchase of lottery tickets, banned magazine, football pools.
- d) payment of commission on exports towards wholly owned subsidiary, joint venture abroad.
- e) commission on export under rupee state credit route except 10% on tea of invoice value on export of tea & tobacco.
- f) Payment related to call back securities.
- g) Remittance of interest on fund held in non resident special rupee scheme account.

* Prior approval of govt of india for certain transaction

1. for cultural tours
2. for remittance of freight of a vessel chartered by PSU
3. Payment of import through ocean transport by a Govt. department or a PSU on a CIF basis.
4. Remittance to the agents of multi modal transport operator.
CIF = carriage insurance & freight.
5. Advertise in Foreign print media exceeding 10,000 USD by SG or PSU however such restriction is not applicable for promotion of tourism, foreign investment international bidding.
6. Remittance of hiring charges of transpondery of TV channels, & internet service providers

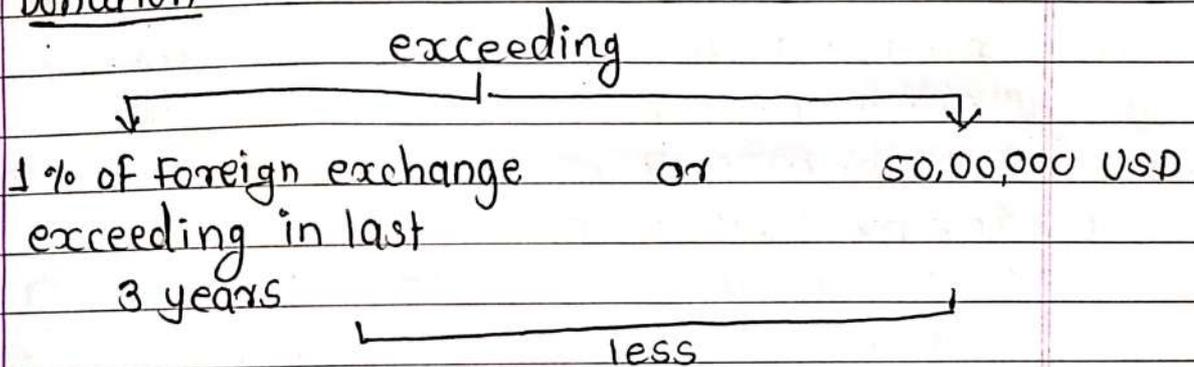
7. Remittance of container detention charges exceeding the pre prescribe rate.
8. Remittance of price money / sponsorship of sports activities abroad in excess of ₹ 100,000 USD. however such restriction is not applicable to international / National or state level sports bodies.
9. membership of P&I club.

6-9-23

(*) Permitted transaction for a person other than individual

→ Prior approval is required from RBI above such limit.

1. Donation



Donation for creation of chairs contribution to educational institution.

2. commission

limit

25000

or

5% of inward remittance.

higher.

commission per transaction to agent for sale of residential / commercial plots.

3) consultation

Infra projects → 100,00,000 USD per project
 Other project → 10,00,000 USD.

4) Pre incorporation expenses :-

5% investment in india or
 100,000 USD → whichever is higher

★ Capital A/c transactiona) Prohibited capital account transaction For PRTI
investment in

1. chit fund
2. Nidhi company
3. Agriculture or plantation activities.
4. Real estate business or construction of farm house.
5. Trading in transferable development right.

Note 1:- Real estate does not include

- a) Townships
- b) residential & commercial projects
- c) Roads & bridges.
- d) Real estate investment transaction.

Note 2 TDR → certificate issued by govt.
 in respect of land aquired from
 owner for development purpose
 → TDR certificate are transferable

⊛ Permitted for PRI

S - Security - Foreign security
 A - Assets - Remittance of capital Assets outside india.

LA - Loan - loan/overdraft to PROI

M - maintaince of foreign currency account in india or outside india.

I - Immoval property → purchase transfer

G - Grant of IP outside india.

O - overdraft/ loan from PROI

L - loan → foreign currency loan.

I - Insurance policy from a co. incorporated outside india.

DE - Derivative → sale & purchase of foreign exchange derivative.

⊛ Permitted CAT to PROI

1. Investment in indian security.
2. Investment in capital of firm or sole proprietorship
3. Acquisition & transfer of IP in india.
4. Guarantee in favour of PRI
5. Import & export of currency in india.
6. Deposit between PRI & PROI
7. Opening of foreign currency account in india
8. Remittance of capital asset in india

⊛ Person who is resident but not permanetly resident in india can make remittance upto his net salary outside india.

→ person resident but not permanently resident means a person resident in india for period of 3 years

* Repatriation india

1. Bringing into the realise foreign exchange &

selling to authorised person or Holding upto specified amt or use to discharge the debt in foreign currency

* Surrender of foreign exchange.

① Person other than individual → Remuneration, settlement amt, income on foreign assets, inheritance Gift. → within 7 days from receipt.

→ other cases → 90 days from receipt.

② other than individual → unused foreign exchange → 60 days from acquisition

③ other than resident individual → unspent amt in the form of coin & currency acquired foreign currency for travel → 90 days from returning to india.

→ unspent amt in traveller cheque → 180 days

4) PRI → unspent amt _____, 180 days
in any form

⊕ Remittance of Assets

a) Remittance by individual not being NRI/ PIO

- Remittance outside India of fund
Deposit with bank, form company
Provident \sqrt balance fund.
superannuation benefit
Insurance claim

Sale of shares, Immovable property

Authorized Dealer

→ AD may allow remittance if such person

- such person retired from india
- Such person is Non-resident widow & has inherited from deceased spouse → upto, million USD per year
- Balance in bank account by a foreign student

⊕ Remittance by NRI/ PIO

- upto \pm million per financial year is allowed.
→ out of the balance held in non resident ordinary account or from sale of assets in india.
→ assets acquired under deed of settlement made by relative.

⊕ Remittance by companie

→ Remittance by indian company under liquidation or direction by court after submitting following document

- Auditor's certificate that confirming that all liability have been fully paid,
- Auditor's certificate that winding up is in accordance with companies Act.
- Auditor's certificate that no legal proceeding is pending

⊕ Acquisition or transfer of immovable property in india

a) PROI

- PROI can hold, own, transfer immovable property if such property is acquired when he was PRI or inherited from PRI

b) NRI/OCI

- Can purchase IP other than agriculture, plantation & farm house.
- may acquire IP from relative by way of gift from PRI/NRI/OCI other than A/P/F
- can acquire by inheritance from PROI who acquire property under FEMA provision (any property)
- can acquire or transfer IP in india from PRI
- NRI/OCI may transfer IP except A/P/F to an NRI by way of GIFT if they are relative.
- Payment through normal banking channel or by debit from authorised amount.

⊕ NRI/OCI → acquire IP → except A/P/F

⊕ NRI/OCI ← Gift IP → PRI/NRI/OCI
except A/P/F

- a) NRI/OCI ← Inheritance Only IP including A/P/F → PROI - acquired as per FEMA
- a) NRI/OCI → acquired/transfer, Any property A/P/F → PRI
- s) NRI/OCI → Gift except A/P/F → NRI

⊕ Acquisition of IP by long term visa holder.

- a) minority citizen of Bang, Pak, Afgani [Hindu, Sikhs, jains, budhist, Parsi, christians.] can acquire one residential & one commercial property in india.
- b) Property shall not located in restricted or prohibited area.
- c) submit declaration to revenue authority of such district about the source of fund.
- d) registration document shall specify nationality of the person.
- e) can sale such property only after acquisition of indian citizenship.

⊕ Acquisition of IP by foreign embassies/ diplomats

- a) can acquire IP other than A, P, F.
- b) clearance from ministry of external affairs
- c) payment through normal banking channel.

* Acquisition of IP by PROI for carrying on permitted activities.

- a) Branch office except liaison office establishments can acquire the IP.
- b) File declaration to RBI within 90 days from acquisition.

- c) can mortgage with authorised dealer.
 d) person of Pak, Bang, Sri Lanka, China, Iran, Afg, Hong Kong, Nepal, Butan obtain prior approval from RBI.

LIB * Authorised person

→ It means

- authorised dealer
- money changer
- off shore banking unit
- & other specified person.

* Applⁿ for appointment as an authorised person

- Appl to RBI in prescribe form
- RBI shall consider the application
- can grant the authorisation in writing subject to condition laid down by RBI.

* Revocation of authorisation by RBI

- a) Ap failed to comply with condition
- b) Failed to follow the provision of this Act or regulation.

* Duties of authorised person

- comply the RBI direction
- Not to engage in transaction which are not in conformity with the condition of RBI or obtain prior approval form from RBI.
- Duty to comply with FEMA Act.

* Power of RBI

a) Power to issue direction.

↓ ↓ ↓ ↓

making the payment Doing an act Persist in doing any act Furnish such Information.

b) Power to inspect the authorised person

↓ ↓ ↓

verify the correctness of any statement obtain the Information Securing compliances.

* Adjudication & Appeal

- > Appointment of AA by C&D
- > AA will adjudicate & impose penalty
- > before imposing penalty give OOBH

* Appeal to special Director

- > C&D by Notification in official gazette may appoint special director
- > special director is appointed to accept appeal against the order of AA or assistant director or Deputy Director.
- > Appeal within 45 days.
- > special director may accept the appeal even after expiry of 45 days

* **Appellate director tribunal**

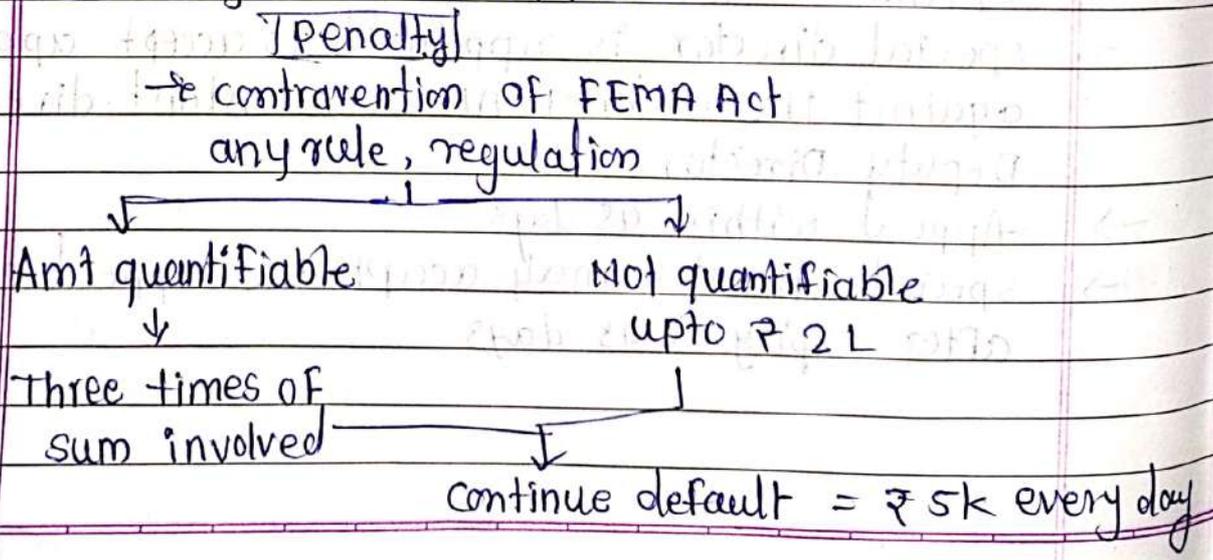
- Accept appeal against the order of AA or special director.
- Before filing the appeal deposit penalty amount with the authority however central govt may dispense the amt such deposit
- Appeal within 45 days
- extension on sufficient cause
- Dispose of the appeal within 180 days or record its reasons in writing if fail to dispose.

* **Appeal to high court**

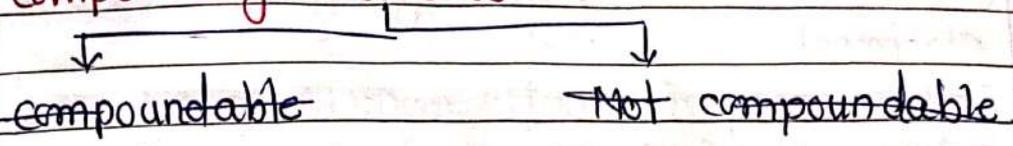
- CG or aggrieved party may file appeal to HC within 60 days
- Against the order of Appellate tribunal.
- extension on sufficient cause → 60 days.

* **Directorate of enforcement.**

- CG can establish the ED
- Rank of assistant officer.
- Investigate the contravention



* Compounding of offence



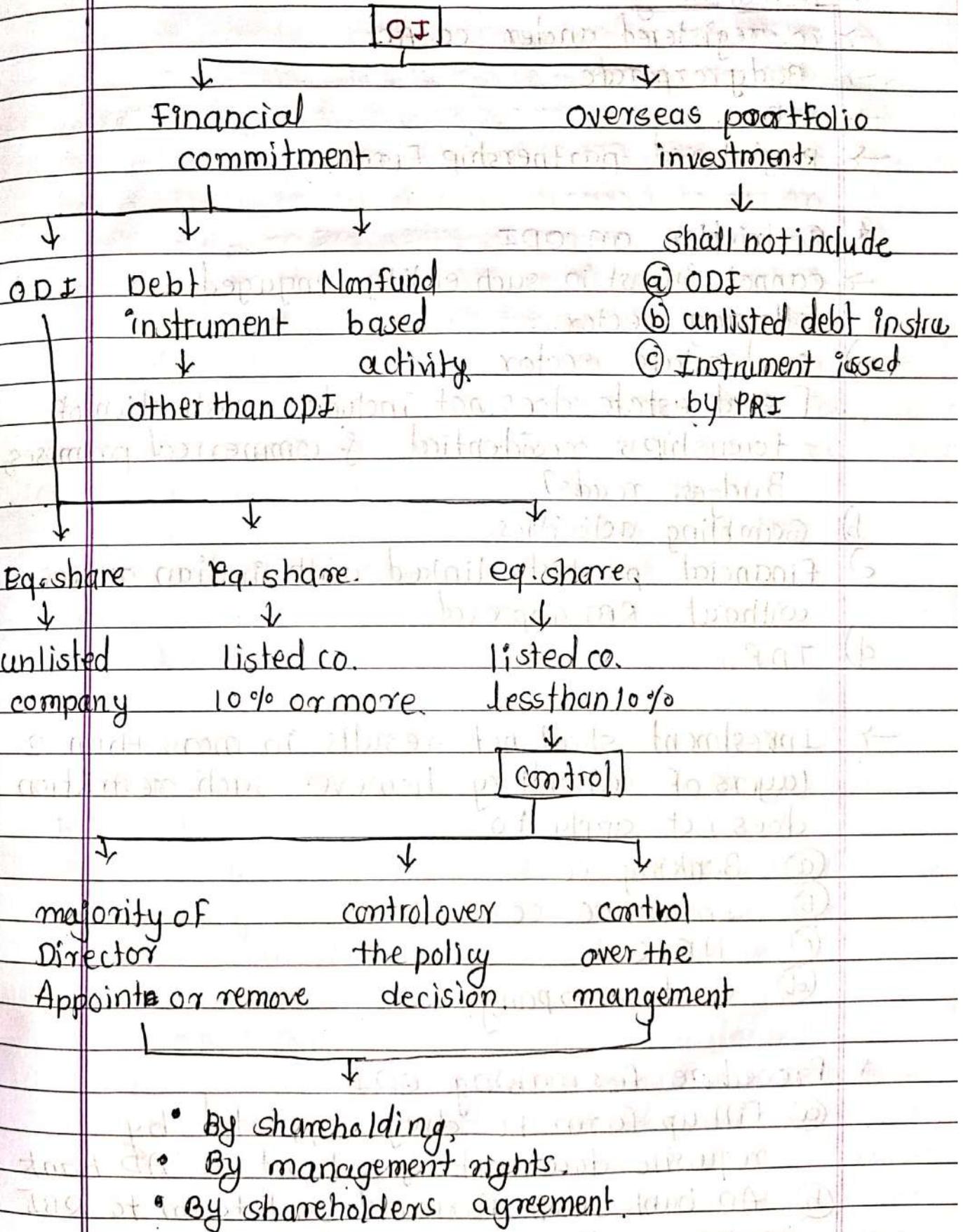
offence involve

1. Voluntarily admitting the contravention.
2. Apply to RBI for compounding with fees of ₹ 5000 by way of demand draft in favour of RBI
3. RBI shall examine the appeal & can pass the compounding order.
4. may called additional info
5. order within 180 days from such appeal.
6. Contravention of similar nature cannot be compound within the period of 3 years.

* RBI

* Preamble of RBI

Overseas Direct investment



* Indian entity

- co. registered under co. Act.
- Body corporate.
- LLP
- Registered partnership firm.

* Restriction on ODI

→ cannot invest in such entity engaged in following sector.

a) Real estate sector

[Real estate does not include construction of township, residential & commercial premises, Bridges, roads]

b) Gambling activities.

c) financial product linked with Indian rupees without RBI approval.

d) TDR.

→ Investment shall not result in more than 2 layers of subsidiary however such restriction does not apply to

(a) Banking co.

(b) Insurance co.

(c) NBFC

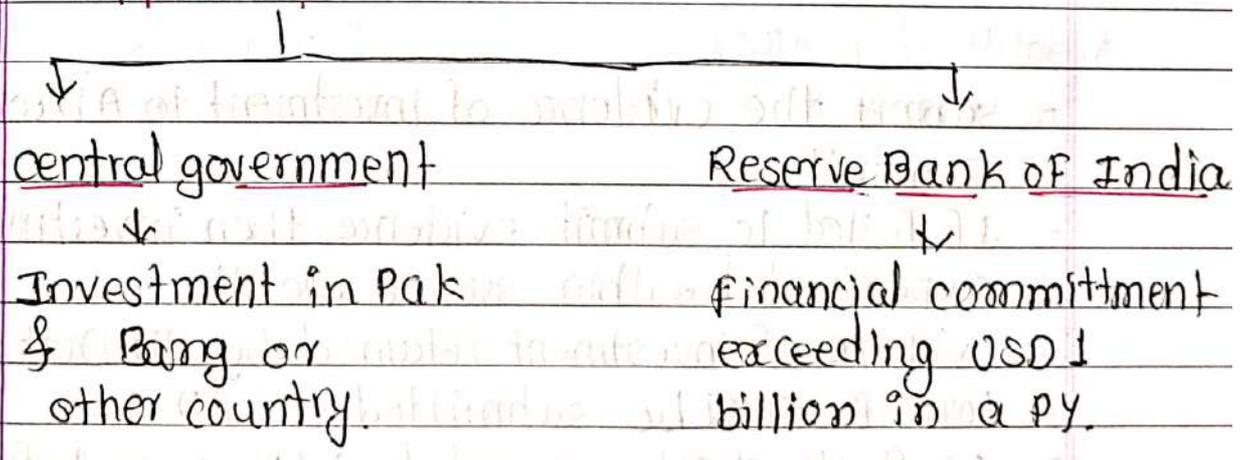
(d) Govt. company.

* Procedure for making ODI.

- (a) fill up form FC duly supported by requisite document & submit to AD bank
- (b) AD bank shall forward such form to RBI along with recommendation.

- (c) AD bank before forwarding such form generate OID app & transaction number.
- (d) submit following document along with proposal
 - Background & details of transaction
 - Reason for seeking approval
 - observation by AD bank about viability of foreign entity, benefit occure to india financial position & business track record of indian entity & other material observation
- (e) recommendation confirming Board resolution is in place.
- (f) Diagrammatic representation of the organisation structure.

* Approval



* NOC from Bank or investigation authority.

- PRJ appearing as a NPA or willful defaulter or under investigation than before making ODI obtain an NOC from bank or such agency.
- Indian entity already issued a guarantee before investigation has begun shall not required to obtain NOC.

*** mode of payment**

- (a) Normal banking channels
- (b) fund held in permissible account as per FEMA [eg. RFC Acc]
- (c) swap of security.
- (d) Using proceeds of ADR/GDR or ECB.

*** payment shall not be made through following means**

- (a) OI by way of cash
- (b) Remittance to branch/office outside india for making OI
- (c) payment OA behalf of foreign entity except by way of fc.
- (d) OI in Nepal & Bhutan shall be done as per FEMA rules.

*** obligation of PRE**

- submit the evidence of investment to AD within 6 month
- IF failed to submit evidence then investment repatriated within such 6 month.
- Evidence of investment retained by AD Bank.
- form fo shall be submitted to AD.
- AD Bank shall generated VIN on or before OPI application
- Allotment of VIN does not constitute approval from RBI it signified taking record of investment.

* Manner of ODI

- (a) ODI for Bonafide business activity only
- (b) ODI by way of
 - subscribing the MOA
 - acquisition through bidding or tender procedure
 - acquisition under Right issue
 - Capitalisation of amt due from foreign entity
 - swap of security
 - merger & amalgamation

* ODI in financial securities Activity

Eligibility condition

- (a) Net profit during proceeding 3 year.
- (b) Register with financial services regulator in india
- (c) obtain necessary approval from regulatory in india or outside india.
- Entity not engage in financial services may make ODI in financial services activity except banking & Insurance if Net profit in last 3 years.

* limit of financial commitment.

- 400% of Net worth
- above 400% obtain RBI approval.
- fc made by Navratna/ miniratna or their
- * subsidiary the limit is not applicable.

* ODI by Trust/ society

- (a) obtain prior approval of RBI
- (b) Registered
- (c) ODI in same sector that of trust or society in engage.

- (d) existence for atleast 3 year
- (e) ODI is permitted by Trust deed or MOA.
- (f) obtain approval of trustee or governing body
- (g) obtain necessary govt. approval.

plii * ODI in IFSC by PRI

- Approval from financial service regulator.
- Approval within 45 days from such application
- contribution in investment fund in IFSC shall be treated ODI
- Resident individual may make ODI in IFSC or foreign entity if such entity does not have subsidiary outside IFSC.

* Reporting

- Reporting through AD Bank about
 - (a) making of FC or outside remittance of FC- earlier
 - (b) Disinvestment within 30 days of receipt of disinvestment proceeds.
 - (c) Restructuring within 30 days of restructuring
 - (d) In case ODI within 60 days from end of half year i.e. sep & march.
 - (e) file APR shall be certified by CA.

Special Economic Zone.

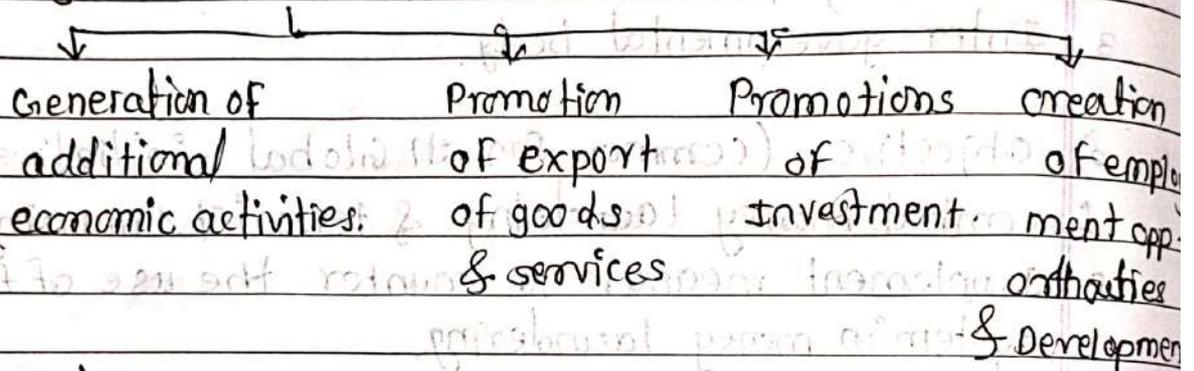
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Date.

* SEZ

- Specifically designated duty free enclave
- Treated as deemed to be foreign land
- for trade operation & duties & tariffs.

* objects of the Act



* Features of the Act.

- Establishment of SEZ and setting up of units
- setting up of share banking units.
- Tax regime for developer at zones level.
- establishment of Authority for each special economic zone.
- Designation of special court.
- single window clearance at zone level.

* Export

a) Taking goods / services out of India from SEZ by air, road & sea.
SEZ → outside india.

b) supply of goods form DTA to SEZ
DTA → SEZ

c) supply of goods form 1 unit of SEZ to another unit of same or different.
SEZ → SEZ

* Import

1. Bringing goods or services in SEZ form outside india
outside india → SEZ

2. Receiving goods form one SEZ to another unit of SEZ or different SEZ
SEZ → SEZ

* constitution of Board of approval. constituted by CG.

* Power of Board of approval.

→ Approve, reject, modify the proposal for establishment of SEZ

→ Approving authorised operation to be carried out in SEZ.

→ Approving foreign collaboration & FDI

→ Approve, reject, modify the Infra facility structure in SEZ

- suspension the letter of approval granted to Developer.
- Appointment of administrator
- Disposing of appeal.

* suspension of letter of approval

- Board of approvals may suspend the letter of approval for whole or part of the area
- max period - 1 year
- During suspension → Board of approval may appoint the administrator to discharge the function of developer.
- Grounds
 - a) unable to discharge the function
 - b) Default in complying the director of Board
 - c) violate the terms of conditions
 - d) poor financial position that he cannot discharge his duties efficiently.
- Before suspension shall give 3 months advance notice

L3

* Approval committee

1. constituted by CG for every SEZ
2. power & function.
 - a) Approve the import from DTA to Developer
 - b) Approve the import & services form DTA or outside India to SEZ
 - c) Approve, modify, reject the proposal for setting up of unit in SEZ
 - d) monitor the compliances of condition by units in SEZ

⊕ Development Commissioner

→ CG may approval appoint DC for one or more SEZ
→ function of DC

a) Guide the entrepreneur for setting up of unit in SEZ

b) Promotion of export from SEZ

c) co-ordinate with CG/SG or other agencies.

d) monitor the performance of Developer & units in SEZ

e) other function delegated by BOA

⊕ SEZ authority

→ CG to constitute SEZ authority for every SEZ

→ CG can supersede for max 6 month if authority failed to discharge the function

→ function.

a) Development of infrastructure in SEZ

b) promoting export from the SEZ

c) Review the performance of SEZ

d) levy used or service charge or rent for the use of property belonging to authority.

e) such other function as may be prescribe

f) Direction given by CG shall be binding on SEZ

⊕ Establishment of SEZ

→ By CG

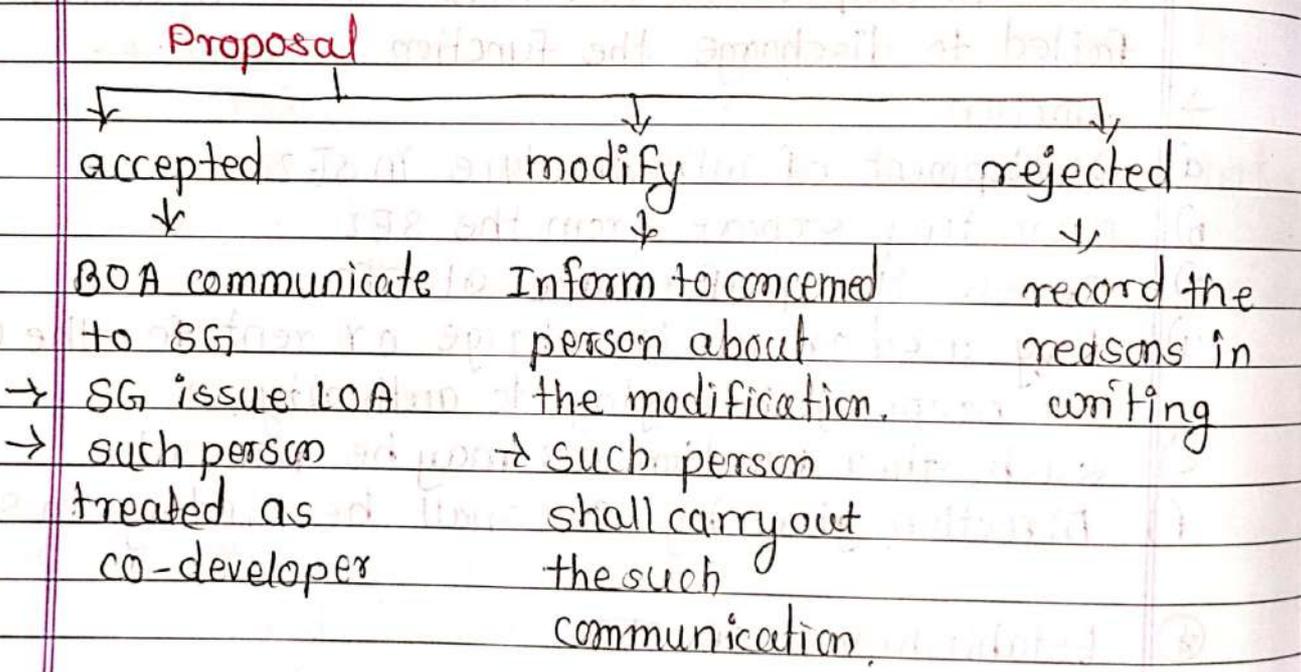
→ SG

→ CG & SG Both

→ any other person even by Foreign company.

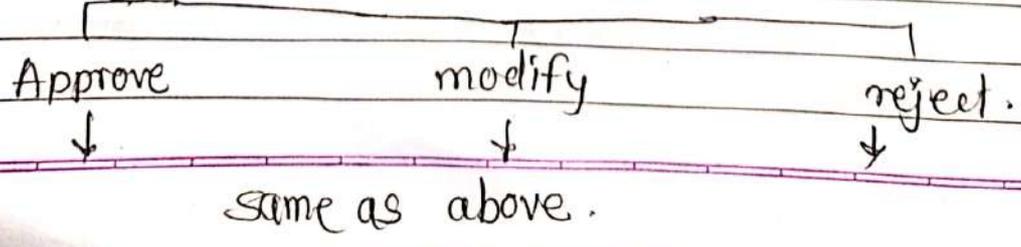
★ modes of applying for SEZ option (2) (proposal to Board)

- Option (i) Proposal to SG.
- Identify the area
 - Give proposal to SG
 - SG will forward such proposal along with recommendation to BOA.
 - BOA either approve approval with condition or modify or reject the application.
- Option (2)
- Identify the area
 - App to BOA.
 - BOA may approve, approve with condition, modify, reject the proposal.
 - obtain concurrence with SG.

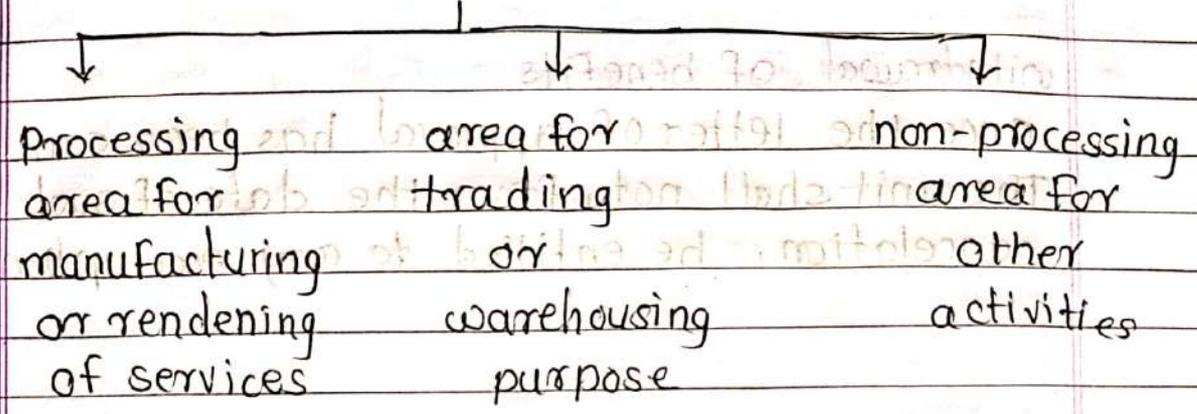


★ Proposal by SG.

- Identify the area.
- forward proposal to BOA.
- BOA shall



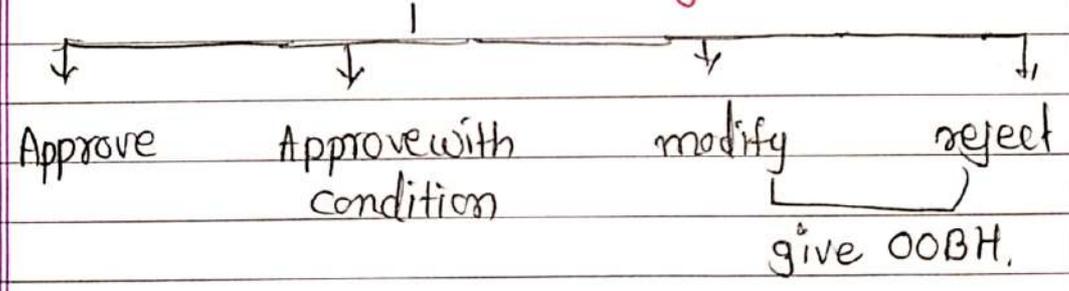
* Demarcation as processing & Non-processing
 CG may specify the



* setting up units in SEZ

- submit proposal to DC
- DC shall submit such proposal before approval committee.

Approval committee may



* cancellation of letter of approval granted to entrepreneur :-

- Approval committee may cancel the letters of Approval after giving OOBH.
- Ground → Any reason that entrepreneur has persistently contravened any of the terms & conditions.

or its obligation subject to which letter of Approval was granted.

withdrawal of benefits

Once the letter of approval has been cancelled the unit shall not, from the date of such cancelation, be entitled to any exemption

Our Rankers



Pulak Bansal



Sidra Khan



Albiya Shaikh



Khushi Dubey



Kushal Todi



Richa Chokhani



Isha Shah



Kartiki Tulaskar



Mansi Rawat



Deep Patel



Aditya Dakh



Aditi Menon



Femi Jain



Ibrat Khan



Rahul Lakhwani



Kausha Sheth



Kimaya Sonawdekar



Suyash Kasat



Siddharth Nair



Anjali Vishwakarma



Kedar More



Raj Singh



Dhruvi Patel



Vaibhavi Palkar



Kinjal Solanki

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