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Module- A

Lec-5

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Unit-8 FOREIGN EXCHANGE REMITTANCE FACILITIES FOR INDIVIDUALS

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Introduction to Foreign Exchange

Global trade and travel between countries requires the exchange of respective currencies, creating the need to determine the value of one currency in terms of another. This necessitates a systematic mechanism to facilitate such exchanges for individuals and businesses engaged in foreign trade and travel.

The foreign exchange market is highly competitive and is the largest and most liquid market in the world. It constantly undergoes changes and innovations that can either benefit a country or expose it to greater risks.

Foreign exchange management is essential to mitigate risks associated with international transactions and maintain sufficient reserves.

Evolution of Foreign Exchange Regulation in India

1 — 1939

Exchange control introduced under the Defence of India Rules on September 3, 1939, as foreign exchange was treated as a controlled commodity due to limited availability.

2 — 1947

The Foreign Exchange Regulation Act (FERA) of 1947 provided statutory power for exchange control in newly independent India.

3 — 1973

A more comprehensive Foreign Exchange Regulation Act replaced the 1947 Act, with stringent provisions treating forex violations as criminal offenses.

FERA-1974

4 — 2000

FEMA-1999

Foreign Exchange Management Act (FEMA) replaced FERA, effective from June 1, 2000, making offenses related to foreign exchange civil offenses rather than criminal ones.

FEMA brought a new management regime consistent with the emerging framework of the World Trade Organization (WTO), relaxing controls on foreign exchange and making external trade transactions easier.

Objectives and Key Features of FEMA

*FEMA aimed at consolidating and amending laws relating to foreign exchange with the objective of **facilitating external trade and payments** and promoting the orderly development and maintenance of foreign exchange markets in India.*

*The shift from FERA to FEMA represents a fundamental change in the government's approach to foreign capital, moving from **control to management** and from **Import Substitution to Export Promotion**.*

Main Features of FEMA

Restricted Transactions

Payments to or receipts from persons outside India, as well as other deals in foreign exchange and foreign security, are restricted and regulated.

Authorized Persons

Transactions in foreign exchange should be made only through an Authorized Person designated by the RBI.

Government Powers

FEMA empowers the Central Government to impose restrictions on foreign exchange transactions in the public interest.

RBI Authority

RBI is empowered to subject capital account transactions to various restrictions and grant permissions for foreign exchange activities.

FEMA extends to the whole of India, except the Gujarat International Foreign Tec-City (GIFT City), which operates under special provisions to facilitate international financial services.

Taxing

Key Definitions Under FEMA

Authorized Persons and Dealers

Authorized Dealer (AD) Category I

Entities authorized by the RBI to carry out all permissible current and capital account transactions as per directions issued from time-to-time. Typically includes commercial banks.

Authorized Dealer Category II

Entities authorized to carry out specified non-trade related current account transactions and activities permitted to Full-Fledged Money Changers. Includes upgraded FFMCs, select Regional Rural Banks, Urban Cooperative Banks, and other designated entities.

Authorized Dealer Category III

Entities authorized to carry out specific foreign exchange transactions incidental to their business/activities, with limited scope compared to Category I and II dealers.

*An **Authorized Person (AP)** refers to any authorized dealer, money changer, off-shore banking unit, or any other person authorized under section 10(1) to deal in foreign exchange or foreign securities.*

Floating Rate

fixed

Understanding Transaction Types

60%40

100% Floating

Capital Account Transactions

Transactions which alter the assets or liabilities, including contingent liabilities:

- ***Outside India of persons resident in India***
- ***In India of persons resident outside India***

Examples: Foreign investments, external commercial borrowings, acquisition of immovable property abroad

Current Account Transactions

Transactions other than capital account transactions, including:

- ***Payments for foreign trade, business, services***
- ***Interest payments on loans and income from investments***
- ***Remittances for living expenses of family members abroad***
- ***Expenses for foreign travel, education, and medical care***

Understanding the distinction between these transaction types is crucial as they are regulated differently under FEMA, with current account transactions generally facing fewer restrictions.

Essential FEMA Terminology

Foreign Exchange

Includes foreign currency, deposits/credits/balances payable in foreign currency, and drafts/travelers cheques/letters of credit in Indian currency but payable in foreign currency or drawn by institutions outside India but payable in Indian currency.

Currency

Includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travelers cheques, letters of credit, bills of exchange, promissory notes, credit cards, debit cards, and ATM cards.

Drawal

Drawal of foreign exchange from an authorized person, including opening Letters of Credit or using International Credit/Debit Cards that create foreign exchange liability.

Residency Status Under FEMA

Person Resident in India

A person residing in India for more than 182 days during the preceding financial year, but excluding:

- *A person who has gone out of India for employment, business, or with uncertain return intention*
- *A person who has come to India for purposes other than employment, business, or with intention to stay permanently*

Person Resident Outside India

Simply defined as a person who is not resident in India, including:

- ***Non-Resident Indian (NRI):** A person resident outside India who is a citizen of India*
- ***Person of Indian Origin (PIO):** A non-resident who was a citizen of India or belonged to territory that became part of India, or is a child/grandchild/great-grandchild of such a person*
- ***Overseas Citizen of India:** Cardholder within the meaning of Section 7(A) of the Citizenship Act, 1955*

Bringing In and Taking Out Foreign Exchange

Bringing Foreign Exchange into India

- *Foreign exchange in any form can be brought into India freely without any limit*
- *Currency Declaration Form (CDF) required if:*
  - *Currency notes and/or travelers' cheques exceed USD 10,000 or equivalent*
  - *Foreign currency notes exceed USD 5,000 or equivalent*

Taking Foreign Exchange out of India

- *Taking out foreign exchange requires authorization from an AD or money changer*
- *Non-residents can take out an amount not exceeding what they originally brought in*
- *Requires proof of original currency declaration and encashment certificate if applicable*

Encashment Certificate

APs may issue an encashment certificate when purchasing foreign currency. Non-residents should be advised that unspent local currency will be converted back into foreign currency only against production of a valid encashment certificate.

Purchase and Sale of Foreign Currency

$1,000	$3,000	₹10,000	₹50,000
Purchase Limit	Non-Resident Limit	Reconversion Limit	ATM Reconversion
Maximum cash payment in INR per transaction for foreign currency purchased from resident persons	*Maximum cash payment in INR per transaction for foreign currency purchased from foreign visitors/NRIs*	*Maximum unspent rupees that can be converted to foreign currency without encashment certificate*	*Maximum rupees withdrawn from ATM that foreign tourists (not NRIs) may reconvert with proper documentation*

Sale of Indian Rupees to foreign tourists/visitors against International Credit Cards/International Debit Cards is permitted. Payments to resident customers for foreign currency sold can be made via account payee cheque, demand draft, INR debit cards, or electronic funds transfer.

Inward Remittances to India

Overview

Inward remittance refers to transfer of money made to India from any foreign country. There are no restrictions for resident individuals receiving inward remittances through AD banks. Foreign exchange received must be sold to an authorized person within 180 days from the date of its receipt.

Bank Wire Transfer

Money transferred electronically from one bank to another, typically taking two working days. Most secure and widely used method for significant amounts.

Bank Money Orders & Drafts

Similar to postal money orders but processed by banks. Foreign currency drafts are useful for business transactions or payments to unknown persons. Takes 20-25 days for processing.

Remittance Cards

Reloadable debit cards purchased by NRIs under the recipient's name. Cost-effective and can be used at ATMs and stores in India once received.

FEMA does not specify any limit for money being brought into India, aiming to increase foreign exchange inflows to the country.

Indo-Nepal Remittance Scheme

The Indo-Nepal Remittance Facility Scheme was launched by the RBI in May 2008 in consultation with Nepal Rastra Bank. It provides a formal remittance system between India and Nepal with special focus on migrant workers of Nepali origin working in India.

Ceiling

A/C

Maximum of INR 2,00,000 per remittance. For walk-in customers, the limit is INR 50,000 per remittance with a maximum of 12 remittances per year.

Accessibility

Available to both account-holders and non-account holders. Nepalese migrant workers without bank accounts can also avail this facility.

Documentation

Non-account holders must produce identification documents like Passport, PAN, Driving License, Telephone Bill, or Certificate of identification issued by employer in India.

The system leverages the National Electronic Funds Transfer (NEFT) ecosystem and is designed to ensure faster remittances from India to any part of Nepal with safety and security.

International Credit/Debit Cards

Key Regulations

- *FEMA restrictions are not applicable to International Credit Cards (ICCs) issued by overseas banks and used by residents while abroad*
- *Residents can use ICCs on the internet for any purpose for which exchange can be purchased from an AD in India*
- *Permissible uses include import of books, purchase of downloadable software, or any other item allowed under Foreign Trade Policy*

Prohibited Uses

- *ICCs cannot be used for prohibited items like lottery tickets, banned magazines, participation in sweepstakes, or payment for call-back services*

These regulations aim to balance convenience for Indian residents engaging in international transactions while preventing misuse for prohibited activities or excessive outflow of foreign exchange.

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Unit-9 Operational Aspects of NRI business

Non-Resident Indian

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NRI Banking Regulations in India

The Foreign Exchange Management Act (FEMA) empowers the Reserve Bank of India (RBI) to regulate transactions between residents of India and non-residents, including the maintenance of bank deposits. Given India's large diaspora worldwide, special banking facilities have been developed for Non-Resident Indians (NRIs), Persons of Indian Origin (PIOs), and Overseas Citizens of India (OCI) cardholders to maintain their economic ties with India while managing the country's foreign exchange resources.

Types of NRI Accounts in India

FCNR (B)

Non-Resident (External) Rupee Account

NRE accounts are maintained in Indian Rupees and offer full repatriation benefits. All funds and interest earned are freely repatriable.

Foreign Currency (Non-resident) Account

FD

FCNR(B) accounts are maintained in foreign currencies with specific tenor requirements. These provide protection against exchange rate fluctuations.

Non-Resident (Ordinary) Account

NRO accounts primarily handle income earned in India. Limited repatriation is permitted after tax deduction.

These specialized account types serve the dual purpose of managing India's foreign exchange resources while meeting the specific needs of the Indian diaspora worldwide. Each account type has distinct features designed for different financial objectives.

Non-Resident External (NRE) Accounts: Key Features

NRI/PIO/OCI

Account Types & Eligibility

- *Available as savings, current, recurring, or fixed deposits*
- *Can be opened by NRIs and PIOs with authorized dealers (ADs) and approved banks*
- *Joint accounts permitted between NRIs/PIOs or with resident relatives on 'former or survivor' basis*
- *Residents can operate only as Power of Attorney holders during NRI's lifetime*

Permitted Transactions

- *Cross-border remittances (both inward and outward)*
- *Credit of foreign currency/notes during temporary visits*
- *Transfer from other NRE/FCNR(B) accounts*
- *Current income earned in India (subject to taxes)*
- *Refunds from real estate transactions if original payment was from NRE/FCNR(B)*

NRE Accounts: Interest & Tax Benefits

Interest Rate Framework

Interest rates for NRE term deposits can vary based on tenor and for bulk deposits (₹2 crore and above)

Interest rate on NRE term deposits cannot exceed comparable domestic rupee term deposits

Tenor Requirements

Minimum tenor for NRE term deposits is one year

Interest on savings accounts credited quarterly or at shorter intervals

Tax Exemptions

NRE deposits and interest earned are exempt from both Income Tax and Wealth Tax in India

This provides significant tax advantages compared to resident deposits

For premature withdrawals, a penalty may apply according to the bank's board-approved policy. Additional interest given to staff and senior citizens on domestic deposits is not permitted for NRE accounts.

700 - 80-85%

Loans Against NRE Deposits

Loans in India

- *Authorized dealers can grant loans in India against NRE deposits*
- *Eligible borrowers include account holders or third parties in India*
- *No monetary limit on loan amount, but normal margin requirements apply*
- *Loan amount cannot be repatriated outside India*

Loans Outside India

- *ADs may allow their branches/correspondents outside India to grant loans against NRE deposits*
- *Loans can be to the non-resident depositor or third parties for legitimate purposes*
- *ADs may allow remittance from India necessary for liquidating such loans*

Loans against NRE deposits can be used for personal purposes, business activities, capital investment in Indian firms/companies, or acquiring residential property in India. However, they cannot be used for relending, agricultural/plantation activities, or real estate business investments.

Foreign Currency Non-Resident (FCNR-B) Accounts

Account Characteristics

FCNR(B) accounts allow NRIs and PIOs to maintain deposits in freely convertible foreign currencies with authorized dealers in India. These accounts offer protection against exchange rate fluctuations since they're denominated in foreign currencies.

Key features include:

- *Only term deposits permitted (no recurring deposits)*
- *Tenor ranges from 1-5 years in specific blocks*
- *Both floating and fixed interest rates available*
- *Floating rates reset every 6 months*

Interest Payment Scenarios

Death of Depositor:

- *Paid on maturity: Contracted rate applies*
- *Paid before maturity: Rate for period deposit remained, no penalty*
- *Resident claimants: On maturity, converted to INR with domestic TD rates*

Return to India:

- *Can continue till maturity at contracted rate*
- *On maturity, must convert to Resident Rupee Deposit or RFC Account*

Non-Resident Ordinary (NRO) Accounts

Eligibility & Types

Any person resident outside India and foreign nationals of non-Indian origin visiting India can maintain NRO accounts. These can be savings, current, term deposits, or recurring deposits with authorized dealers, approved banks, or Post Offices in India.

Joint Accounts & Tenure

NRIs can hold joint accounts with residents on a 'former or survivor' basis or jointly with other NRIs/PIOs. The minimum tenor for fixed deposits is seven days, with interest rates as applicable to domestic rupee deposits.

Purpose & Limitations

NRO accounts primarily handle income earned in India such as rent, dividends, pension, or interest. While these accounts have limited repatriation benefits, up to USD 1 million per financial year can be repatriated subject to tax compliance.

NRO accounts are essential for NRIs who generate income in India or need to maintain funds for expenses during visits. Unlike NRE accounts, the interest earned on NRO accounts is taxable in India at applicable rates.

19

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Special Non-Resident Rupee (SNRR) Accounts

Purpose & Eligibility

SNRR accounts are designed for foreign nationals or entities with business interests in India. Eligible business activities include investments, import/export of goods and services, trade credit transactions, and ECB lending. Nationals or entities from Pakistan and Bangladesh require prior RBI approval.

Account Characteristics

Account tenure is concurrent with the business contract period, with a maximum of seven years. No interest is paid on these accounts. Banks must ensure account operations comply with FEMA regulations, with debits/credits commensurate with business operations.

Restrictions

SNRR accounts cannot make foreign exchange available to residents in India. Transfers from NRO accounts to SNRR accounts are prohibited. All transactions are subject to applicable taxes in India. Balances can be repatriated outside India.

Special Considerations for Foreign Nationals

Visiting Foreign Nationals

Foreign nationals of non-Indian origin visiting India can open NRO accounts with funds remitted from outside India or by selling foreign exchange brought to India. When leaving India, the balance can be paid if the account was held for less than six months and contained no local funds (except interest).

Foreign Nationals Leaving India

When foreign nationals leave India after employment, their resident accounts can be re-designated as NRO accounts to collect pending bonafide dues. Funds credited must be immediately repatriated abroad after tax payment, not exceeding USD 1 million per financial year.

Country-Specific Restrictions

- *Pakistan Nationals/Entities: Prior RBI approval required*
- *Bangladesh Nationals: Allowed with valid visa and residential permit*
- *Bangladesh Entities: Prior RBI approval required*
- *Minority Communities from Bangladesh/Pakistan: Special provisions for those with Long Term Visa (LTV)*

Authorized dealers must report accounts of minority communities (Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians) to the Ministry of Home Affairs quarterly.

Prohibited Investment Sectors for NRIs

Investment Restrictions Apply

Gambling & Betting

All forms of gambling, betting, and casino operations are prohibited for NRI investment

Lottery Business

Government/private lotteries and online lotteries are restricted sectors

Real Estate Business

Real estate business or construction of farm houses (distinct from property purchase for personal use)

Restricted Sectors

Sectors not open to private investment like atomic energy and railway operations

Additional prohibited sectors include chit funds (except for NRIs/OCIs on non-repatriation basis), Nidhi companies, trading in Transferable Development Rights (TDRs), and manufacturing of tobacco products. Foreign technology collaborations in lottery and gambling sectors are also prohibited.

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Unit-10 FOREIGN CURRENCY ACCOUNTS FOR RESIDENTS AND OTHER ASPECTS

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Foreign Currency Accounts Under FEMA

A comprehensive guide to opening, holding, and maintaining foreign currency accounts for residents of India under the Foreign Exchange Management Act (FEMA).

Overview of Foreign Currency Accounts

Purpose

Provides natural hedge against exchange risk for those who regularly conduct transactions in foreign exchange

Benefits

Saves bank charges on currency conversion and facilitates capital account convertibility

Regulation

Governed by FEMA regulations for both domestic and overseas accounts

Residents can hold foreign currency accounts both in India and abroad to meet bonafide business or personal needs.

Types of Foreign Currency Accounts in India

Accounts Permitted in India

- *Exchange Earner's Foreign Currency (EEFC) Account*
- *Resident Foreign Currency (RFC) Account*
- *Resident Foreign Currency (Domestic) Account - RFC (D)*
- *Diamond Dollar Account (DDA) Scheme*

General Provisions

- *Can be current, savings, or term deposit accounts*
- *Can be in single name or joint names of eligible persons*
- *Specific rules apply for disposal of funds upon death of account holder*

Exchange Earner's Foreign Currency (EEFC) Account

Permitted Credits

- *100% foreign exchange earnings through normal banking channels*
- *Professional earnings received in individual capacity*
- *Interest earned on funds in the account*

Permitted Debits

- *Payments outside India for capital or current account transactions*
- *Payment of customs duty as per Export Import Policy*
- *Payment in foreign exchange to a person resident in India*

EEFC accounts are non-interest bearing accounts. Withdrawal in rupees is permitted but the amount cannot be re-credited.

Resident Foreign Currency (RFC) Account

Permitted Credits

- *Pension or superannuation benefits from overseas employer*
- *Converted assets acquired as a non-resident*
- *Inherited or gifted assets from a person resident outside India*
- *Proceeds of LIC claims/maturity settled in forex*

Key Features

The balance in RFC account can be fully utilized outside India and converted to Indian Rupee.

Can have resident relative as joint holder on "former or survivor" basis, who cannot operate the account during the lifetime of the account holder.

NRE/FCNR(B) Account balances can be credited to RFC account when residential status changes.

Resident Foreign Currency (Domestic) Account

RFC(D) Account Sources

For foreign exchange acquired in the form of currency notes, bank notes and travellers cheques from overseas sources such as:

- *Payment received during visits abroad*
- *Honorarium or gift from non-residents visiting India*
- *Unspent foreign exchange from travel abroad*
- *Gift from a relative*

Usage & Conditions

Balances can be used for permitted current or capital account transactions.

The sum total of accruals during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month.

Balances may be credited to NRE/FCNR(B) Accounts if status changes to non-resident.

Diamond Dollar Account (DDA) Scheme

Firms and companies complying with eligibility criteria in the Foreign Trade Policy may open DDA accounts.

Credits Allowed

- ***Realization of export proceeds***
- ***Local sales (in USD) of rough, cut, polished diamonds***
- ***Pre and post shipment finance availed in USD***

Debits Allowed

- ***Payments for purchase of rough, cut and polished diamonds***
- ***Funds can be transferred to rupee account***

Key Condition

The account should be a non-interest bearing current account

Special Categories Permitted to Hold Foreign Currency Accounts

Indian agents of shipping or airline companies

Can maintain accounts for local expenses of the overseas company, with credits from freight or passage fare collections.

Ship-manning/crew managing agencies

Can hold non-interest bearing accounts for expenses related to ship/crew management, with credits only from overseas principal.

Project offices of foreign companies

Can open non-interest bearing accounts for projects in India, provided the contract specifically allows payment in foreign currency.

Organizers of international events

Can open temporary accounts for registration fees, grants, and sponsorships from abroad.

More Special Categories

Exporters on Deferred Payment Terms

Exporters of construction contracts, turnkey projects, or services on deferred payment terms can hold foreign currency accounts if approval for the contract has been obtained.

Units in Special Economic Zones

SEZ units may open and maintain foreign currency accounts with an AD in India to credit all foreign exchange funds received for bona fide trade transactions.

Companies Receiving FDI

Indian companies receiving foreign investment under FDI route may hold foreign currency accounts if they have impending foreign currency expenditure (must close within 6 months).

Insurance Brokers

Re-Insurance and Composite Insurance Brokers registered with IRDA may hold non-interest bearing foreign currency accounts for usual business transactions.

Foreign Currency Accounts Outside India

1. Business Related

ADs, Indian banks' branches, shipping/airline companies, insurance companies, and Indian firms with foreign offices can maintain accounts abroad for business transactions.

2. Education

Students studying abroad can maintain accounts during their stay. Upon return, the account is deemed to be under Liberalised Remittance Scheme (LRS).

3. Travel

Residents visiting foreign countries can maintain accounts during their stay, but must repatriate balances upon return.

4. Trade & Investment

Accounts for exhibitions/trade fairs, remittances under LRS, raising ECB/GDR/ADR, and for Indian startups with overseas subsidiaries.

Employed persons on deputation or foreign citizens working in India can also hold accounts abroad for salary remittances.

Acquiring Property Outside India

A resident in India can acquire immovable property outside India in the following situations:

1

Property acquired, held or owned when resident outside India or inherited from a person resident outside India

2

By way of gift or inheritance from a person who acquired it as per FEMA regulations

3

Purchase out of foreign exchange in RFC account, or under Liberalised Remittance Scheme

4

Acquired jointly with a relative resident outside India, with no outflow of funds from India

Foreign Contribution (Regulation) Act 2010

Overview

FCRA regulates acceptance of foreign contributions and hospitality by certain organizations like NGOs, political organizations, and media houses.

The Foreign Contribution (Regulation) Act, 2010 replaced the 1976 Act on May 1, 2011, with further amendments in 2020.

Key Definitions

Foreign Contribution: Donation, delivery or transfer made by a foreign source of any article, currency, or security.

Foreign Source: Includes foreign governments, agencies, citizens, companies, corporations, and entities formed outside India.

Foreign Hospitality: Any non-casual offer in cash or kind for travel costs, boarding, lodging, transport, or medical treatment.

FCRA: Prohibitions and Requirements

Prohibited Recipients

- *Election candidates*
- *Media personnel*
- *Public servants*
- *Legislators*
- *Political parties*
- *News organizations*

Registration Requirements

- *Certificate of registration from Central Government*
- *Prior permission if not registered*
- *Registration valid for five years*
- *Subject to suspension or cancellation*

Banking Requirements

- *Receive contributions only in "FCRA Account" at SBI New Delhi*
- *Can open secondary FCRA accounts in scheduled banks*
- *No other funds in these accounts*
- *Banks must report all transactions within 48 hours*

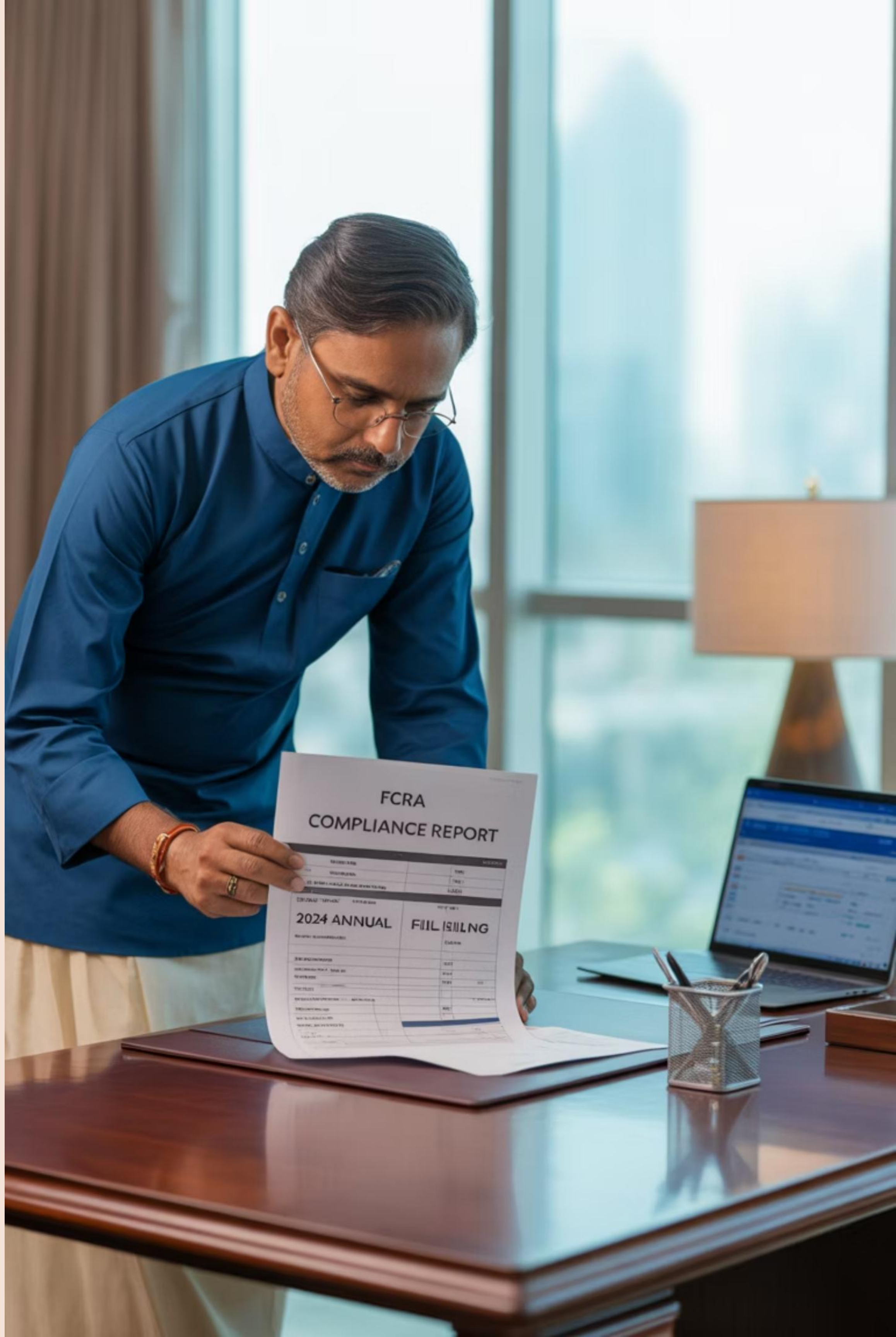
FCRA: Utilization and Reporting

Utilization Restrictions

- *Foreign contribution shall be utilized only for the purposes for which it was received*
- *No use for speculative purposes*
- *Restricted use for administrative expenses*
- *Prohibition on transfer to other persons*

Reporting Requirements

- *Place audited statement on official website within nine months of financial year end*
- *Disclose quarterly details of foreign contribution within fifteen days*
- *Report to Central Government amount, source, manner of receipt, and utilization*
- *Submit bank-certified statement of foreign contribution*



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