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## GLOBAL CONNECT



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■ Current Account Transactions: What is Acceptable and What is Not?

*A Governance Perspective for Indian Company Secretaries*

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# Current Account Transactions: What is Acceptable and What is Not?

## *A Governance Perspective for Indian Company Secretaries*

Current Account Transactions (CATs) form the backbone of India's cross-border economic activity, covering trade in goods and services, remittances, dividends, interest, travel, and education payments. While they are generally permissible, they operate within a structured regulatory framework under the Foreign Exchange Management Act, 1999 (FEMA), ensuring that foreign exchange outflows remain transparent, legitimate, and aligned with national economic priorities. Company Secretaries play a crucial role in interpreting these rules, liaising with Authorised Dealer (AD) banks, and ensuring that each outward payment meets documentation, compliance, and reporting standards. The article explores permissible CATs, requiring prior approval, and prohibited activities; supported by practical governance insights. It also brings global perspectives from OECD, UK & Singapore frameworks, demonstrating how India's regime balances ease of doing business with regulatory oversight. Strong internal controls, board-level awareness, and proactive compliance help organisations to navigate CAT rules confidently and avoid adverse regulatory consequences.



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## **INTRODUCTION**

**C**urrent Account Transactions (CATs) appear deceptively simple at first glance; routine payments for trade, services, remittances, travel, or educational expenses that do not alter the assets or liabilities of a person resident in India. Yet anyone who has worked in corporate FEMA compliance knows that complexities often arise precisely within this seemingly straightforward space. As organisations expand their global footprint, cross-border payments have become deeply intertwined with business strategy, contractual arrangements, tax assessments, and operational decisions. In parallel, Company Secretaries have evolved from mere compliance officers to strategic custodians of governance, risk, and regulatory alignment.

In this context, understanding what constitutes a CAT, what is freely permissible, and what falls into the sphere of regulatory scrutiny is no longer an academic exercise. It is a practical and indispensable governance requirement. This article adopts a practitioner's lens to demystify

CATs within India's FEMA framework while placing the discussion in an international context. The aim is to help governance professionals operate with clarity, confidence, and compliance consciousness.

## **WHY CURRENT ACCOUNT TRANSACTIONS MATTER FOR GOVERNANCE PROFESSIONALS?**

In today's regulatory environment, even a single mis-categorised outward remittance can trigger a chain of undesirable consequences. Governance professionals frequently encounter situations where a payment that appears routine at the business level reveals deeper regulatory implications upon closer scrutiny. Missteps may result in FEMA non-compliance, penalties under the compounding framework, reputational concerns, delays in funding flows, and extended questioning from auditors or Authorised Dealer (AD) banks. They may also create obstacles during due diligence events such as fundraising, M&A processes, or IPO readiness assessments.

CATs sit at the intersection of multiple governance domains. They involve foreign exchange management, board-level financial decision-making, internal controls, tax considerations, and reporting obligations. A Company Secretary's role is not limited to checking regulatory boxes. It extends to ensuring that the organisation's cross-border dealings align with statutory expectations, internal policies, and ethical business conduct. In this sense, mastery over current account transaction governance is a strategic competency—not merely a compliance function.

## **THE LEGAL FOUNDATION: FEMA AND THE PRINCIPLE OF FREEDOM**

The Foreign Exchange Management Act, 1999 (FEMA) represents a paradigm shift from the control-centric regime of FERA to a more liberalised and facilitative framework. Section 5 of FEMA establishes a core legal principle: **CATs**

are generally permitted unless expressly restricted by the Central Government or by the Reserve Bank of India (RBI). This is often described as the 'freedom principle', where permissibility is the default rule.

In contrast, Section 6, which governs CATs, adopts the opposite presumption: CATs are prohibited unless specifically permitted. This fundamental dichotomy shapes the interpretation of every cross-border payment. For Company Secretaries, appreciating this distinction is the starting point for classifying transactions correctly and advising internal stakeholders appropriately.

The detailed regulatory architecture is laid down through the Current Account Transaction Rules, 2000 (CAT Rules), RBI Master Directions on export and import of goods and services, and various circulars. Collectively, they define the contours of permissible, partly restricted, and prohibited CATs.

## UNDERSTANDING WHAT CONSTITUTES A CURRENT ACCOUNT TRANSACTION

A CAT is essentially a payment or receipt that does not involve the creation or liquidation of an asset or liability outside India. These transactions relate to the day-to-day needs of individuals and businesses and support ongoing economic activity without altering the balance sheet.

In practice, CATs broadly include trade-related payments, operational business expenses, travel and educational payments, remittances for medical treatment, income such as dividends and interest, and short-term banking transactions. They facilitate commercial operations and personal spending without meaningfully changing long-term financial positions.

While simple in definition, the challenge lies in the fact that the boundary between current and capital account transactions can sometimes blur. Certain payments—particularly those involving intellectual property, intangible rights, inter-company arrangements, or multi-year obligations—require a more nuanced assessment. Governance professionals must therefore evaluate each transaction not just on its face value but on its substance and long-term implications.

## WHAT IS FREELY PERMITTED: THE LANDSCAPE OF ACCEPTABLE CURRENT ACCOUNT TRANSACTIONS

A substantial number of CATs are consciously kept outside the approval regime, allowing businesses to operate efficiently in a globalised environment. These freely permitted items rely on AD banks to act as the first line of regulatory interpretation and risk management.

- **Trade-Related Payments**

Import and export payments constitute the largest category of current account transactions. These include payments for goods, services, consultancy, software development, licensing, technical support, and professional services provided by overseas parties.

The general rule is that such payments are freely permitted subject to KYC, documentation, purpose coding, and anti-money laundering checks. As international trade structures become more complex, documentation plays a critical role in enabling banks to verify the commercial legitimacy of the transaction.

- **Payments for Professional and Consultancy Services**

Globalisation has expanded the need for consultancy and specialised services from foreign entities—whether in technology, legal advisory, engineering, design, product development, or industry-specific expertise. Payments for such services are largely permissible without requiring prior RBI approval, provided they fall outside the specific restricted or prohibited categories under CAT Rules. From a governance viewpoint, clarity in contracts, scope of work, and deliverables ensures smooth processing and mitigates regulatory questions.

- **Travel, Education, and Medical Remittances**

Corporate travel payments, training program expenses, and reimbursements for employees undergoing international skill development fall within the domain of permissible current account transactions. For individuals, the Liberalised Remittance Scheme (LRS) places annual limits, but corporate entities are not subject to LRS caps. Educational and medical payments continue to be treated liberally, supported by streamlined documentation norms.

- **Dividend and Interest Payments**

Payments relating to the distribution of profits or income to non-resident shareholders and lenders are permitted, subject to compliance with company law, tax regulations, transfer pricing norms where applicable, and adherence to sectoral FDI caps. These payments represent legitimate commercial obligations and constitute a significant share of current account outflows in many corporate structures.

- **Routine Business Operational Payments**

Modern business operations necessitate frequent payments for global SaaS subscriptions, cloud hosting, online advertising, digital tools, participation fees for international conferences, and memberships in global professional associations. These payments are freely permissible but require careful attention to purpose codes and supporting documentation to avoid misinterpretation.

## UNDERSTANDING WHAT IS NOT ACCEPTABLE: THE REGULATED AND PROHIBITED AREAS

Although FEMA adopts a liberalised posture, certain CATs remain prohibited due to policy priorities or regulatory risk. Others may be permitted only with prior approval. Governance professionals must remain particularly vigilant about these categories.

- **Prohibitions Under Rule 3 of CAT Rules**

Rule 3 sets out categories where outward remittances are expressly disallowed. These include remittances relating to lottery winnings, earnings from racing or riding, purchase of lottery tickets or proscribed items, payments for hedging in overseas commodity markets, and certain call-back services. These prohibitions are absolute and cannot be circumvented through alternate structures.

- **Transactions Requiring Prior Approval**

Rule 4 outlines transactions that require government or RBI approval when exceeding specified limits. Examples include certain cultural remittances, film-related payments, publicity or advertisement expenditures beyond thresholds, hiring of foreign ships or aircraft, and high-value consultancy payments in limited scenarios. While the need for approvals has reduced over time due to liberalisation, the framework remains relevant and must be monitored closely.

- **Risks Arising From Misclassification**

Among the most frequent sources of FEMA non-compliance is the misclassification of a capital account payment as a current account transaction. Payments relating to overseas investments, loans to non-residents, share transfers, guarantees, acquisition of intangible rights with long-term implications, or setting up of overseas offices fall within the capital account domain. Routing such payments incorrectly exposes organisations to regulatory scrutiny, compounding, and adverse audit observations.

- **Crypto-Related Remittances**

RBI maintains a conservative stance on cryptocurrencies and virtual digital assets. Banks routinely block outbound remittances linked to the purchase or trade of crypto assets or payments to overseas crypto exchanges. Governance professionals must therefore treat any crypto-adjacent remittance request with heightened caution.

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sanctions, anti-money laundering norms, and sector-specific controls in sensitive industries. The regulatory philosophy prioritises market freedom coupled with strong financial crime supervision.

- **European Union and United Kingdom**

The EU and UK adopt a liberalised convertibility framework but impose stringent compliance obligations. Regulations emphasise AML checks, beneficial ownership transparency, sanctions implementation, and import-export controls related to dual-use goods. While remittances themselves are unrestricted, compliance burdens are substantial and emphasise traceability.

- **Singapore**

Singapore maintains open current and capital account regimes alongside a highly sophisticated documentation and supervisory environment. The Monetary Authority of Singapore (MAS) focuses on transparency, financial discipline, and detailed reporting. The compliance culture is strong, and enforcement standards are high.

- **China**

China represents the other end of the spectrum. While CATs are generally permitted, they remain tightly controlled, often requiring quota allocations, approvals, and detailed disclosures. Even CATs in some sectors may encounter practical challenges due to strict foreign exchange quotas at the entity level.

- **India's Position**

India lies between the liberalised Western models and the more controlled Chinese framework. CATs are largely free, but capital account transactions remain regulated, documentation expectations are high, and banks are empowered to scrutinise transactions through an AML and prudential lens. As liberalisation progresses gradually, governance professionals must remain agile, informed, and attentive.

## AN INTERNATIONAL PERSPECTIVE: COMPARING INDIA'S REGIME WITH GLOBAL JURISDICTIONS

A comparative global analysis helps to understand the policy rationale behind India's framework. Countries differ considerably in their treatment of foreign exchange transactions depending on economic priorities, regulatory philosophies, and capital flow management strategies.

- **United States**

The US operates almost a fully liberal regime for both current and CATs. Foreign exchange controls are minimal, with restrictions arising primarily from

## GREY AREAS AND PRACTICAL CHALLENGES IN CLASSIFICATION

Real-world corporate transactions rarely fit neatly into textbook definitions. Certain transactions occupy grey zones where classification depends on substance rather than form. Governance professionals must evaluate these carefully.

Payments for online SaaS products are a typical example. While SaaS subscriptions are generally current account payments, contracts that embed intellectual property assignments, perpetual rights, or multi-year obligations may be interpreted differently. Similarly, reimbursements to group companies may be legitimate CATs if backed by





documentary evidence, transfer pricing compliance, and clear audit trails. However, lumpsum reimbursements without supporting documents may be viewed as disguised loans.

Inter-company charges such as management fees, royalties, or global cost-sharing arrangements require meticulous documentation, arm's length validation, and alignment with sectoral regulations. Even straightforward payments for international conferences or memberships may be flagged by banks if the purpose lacks clarity. These practical challenges underscore the need for robust governance systems.

## STRENGTHENING GOVERNANCE AROUND CURRENT ACCOUNT TRANSACTIONS

For Company Secretaries, strengthening governance in this area is not a mechanical compliance task but a strategic exercise in risk mitigation and organisational transparency. FEMA violations typically arise not from intent but from system failures, unclear classification, inadequate documentation, or insufficient internal awareness. Building a strong governance framework requires a combination of processes, controls, technology, and culture.

- **Building a Robust Categorisation Framework**

An internal decision-making model is essential to classify every cross-border transaction as a permissible, restricted, prohibited, or capital account transaction. A decision tree that raises questions such as whether the payment creates a foreign asset or liability, whether it appears in the prohibited list, or whether it falls within capital account definitions can guide employees effectively. Organisations benefit

from maintaining standard operating procedures that define documentation, purpose codes, approval hierarchies, and relevant legal references. A live compendium consolidating RBI circulars and internal guidance helps to ensure uniformity across teams.

- **Strengthening Documentation and Audit Preparedness**

Banks, auditors, and regulators increasingly require detailed documentation to verify the legitimacy of transactions. A documentation architecture that includes primary records such as invoices, contracts, statements of work, proof of service delivery, and shipping documents, supported by secondary documents such as Board approvals, transfer pricing reports, and legal opinions, ensures audit readiness. Purpose code validation notes help to justify classification decisions and prevent inconsistencies. Digital storage systems must be prioritised to ensure easy retrieval and long-term record retention.

- **Continuous Training for Cross-Functional Teams**

FEMA compliance often falters when frontline teams lack awareness of regulatory nuances. Regular training sessions, quick reference guides, and case study-based learning modules help to bridge this knowledge gap. Training must encompass distinctions between current and capital account transactions, purpose code selection, red flags from an AML perspective, and operational procedures for coordinating with AD banks.

- **Proactive Engagement with AD Banks**

AD banks serve as the first line of defence and interpretative authority for remittances. Engaging with

them proactively—especially for complex remittances such as royalties, management fees, or inter-company reimbursements—prevents misunderstandings and delays. Maintaining a log of clarifications received from banks provides a useful reference for future cases and supports audit readiness.

- **Regulatory Monitoring and Internal Dissemination**

Given the frequency of regulatory updates, companies must establish mechanisms to track circulars, amendments, and Master Direction changes. A regulatory change register and periodic cross-functional review meetings ensure internal alignment. Each update should trigger an internal impact note, which is then disseminated across relevant teams and incorporated into SOPs.

- **Establishing Internal Controls and Approval Hierarchies**

A threshold-based approval framework supported by dual checks, FEMA compliance checklists embedded in payment requests, and periodic internal audits enhances accountability. Controls should focus on purpose code accuracy, documentation completeness, and alignment between contract terms and remittance amounts.

- **Leveraging Technology for Governance**

ERP-based workflows, digital signature systems, compliance dashboards, and document management solutions significantly improve accuracy, traceability, and transparency. Dashboards that visualise outward remittances, category-wise breakups, pending approvals, and unusual trends help the Board and senior management exercise informed oversight.

- **Building a Governance-Driven Culture**

Ultimately, the most resilient compliance systems are those supported by organisational culture. Employees must be encouraged to prioritise transparency, seek clarification proactively, and avoid shortcuts. Cross-department collaboration involving legal, tax, finance, and CS teams must be institutionalised. Management tone plays a decisive role—when leadership emphasises compliance, adherence becomes a natural outcome.

## CONCLUSION: THE STRATEGIC GOVERNANCE LENS

CATs may appear routine, but incorrect classification or inadequate documentation can expose organisations to significant regulatory risk. For Indian Company Secretaries, understanding the contours of permissible and restricted CATs is a foundational governance competency. It enhances their ability to advise management, protect organisational interests, and ensure smooth conduct of cross-border operations.

A well-governed organisation is not merely compliant but exhibits consciousness, clarity, and ethical discipline in its financial dealings. Current account transaction governance represents a crucial link in achieving this standard. When managed effectively, it reduces risk, builds trust with AD banks, strengthens financial transparency, and aligns the organisation with both domestic regulations

and global best practices. In a world of increasing cross-border complexity, excellence in FEMA governance is not a limitation—it is a strategic enabler of sustainable global business.

## REFERENCES:

- Foreign Exchange Management Act, 1999 (FEMA) – Sections 5 and 6.*
- Foreign Exchange Management (Current Account Transactions) Rules, 2000.*
- Foreign Exchange Management (Export of Goods and Services) Regulations.*
- Foreign Exchange Management (Import of Goods and Services) Regulations.*
- Foreign Exchange Management (Remittance of Assets) Regulations.*
- Liberalized Remittance Scheme (LRS) Guidelines – RBI.*

## International Regulatory and Policy Sources (Comparative Perspective)

- European Central Bank (ECB) – Capital Movements and Payment Regulations.*
- IMF Articles on Balance of Payments and Current Account Frameworks.*
- Monetary Authority of Singapore (MAS) – Notices on Cross-Border Transactions.*
- OECD Reports on Capital Account Liberalization.*
- People's Bank of China (PBOC) – Regulations on Current and Capital Account Convertibility.*
- U.S. Department of Treasury – Exchange Controls & OFAC Guidelines.*

## Professional Insights

- General governance best-practice frameworks (COSO, OECD corporate governance principles).*
- Industry analysis from Deloitte, EY, PwC, KPMG on cross-border remittances and controls.*
- ICSI Publications & Background Material on FEMA & governance.*
- Professional commentary from law firms (Khaitan & Co., Nishith Desai Associates, Trilegal, etc.) on FEMA trends.*
- World Bank & IMF External Sector and Governance Reports.*

## RBI Master Directions & Circulars

- RBI Master Direction – Miscellaneous Remittances from India (MD 12/2015-16).*
- RBI Master Direction – Export of Goods and Services (MD 16/2015-16).*
- RBI Master Direction – Import of Goods and Services (MD 17/2015-16).*
- RBI Master Direction – Reporting under FEMA (MD 18/2015-16).*
- RBI FAQs on Liberalized Remittance Scheme (LRS).*
- RBI Annual Reports (overview of external sector flows).*

