

The Dual Pillars of Global Trade: Navigating India's FEMA, FT (D&R) Act, and the Enforcement Landscape

The article throws light on the shifts in the regulatory framework of foreign exchange legislation in India post liberalisation where FERA was replaced by FEMA that operates on the principle of trust, assuming all transactions are permissible unless expressly prohibited or regulated. This change in ethos was vital to unlocking the country's economic potential.



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INTRODUCTION

The regulatory trajectory of foreign exchange in India is deeply intertwined with its evolving economic philosophy, signifying a profound paradigm shift from stringent sovereign control to market-driven facilitation. The legislative transition from the restrictive Foreign Exchange Regulation Act, 1973 (FERA) to the liberalising Foreign Exchange Management Act, 1999 (FEMA), constitutes one of the most critical milestones following the initiation of India's comprehensive economic liberalisation.

THE CONTEXT OF LIBERALISATION AND THE SHIFT IN NATIONAL MINDSET

To fully comprehend the necessity and scope of FEMA, one must address the critical 1991 Balance of Payments (BoP) crisis. This fiscal exigency necessitated the abandonment of the erstwhile centrally planned, import-substitution economic framework, serving as the decisive impetus for the Liberalisation, Privatisation, and Globalisation (LPG) reforms. This new orientation towards global commerce brought the prevailing foreign exchange statute, FERA, into immediate philosophical conflict with the new reform agenda. India's aspirations for economic integration unequivocally demanded a regulatory architecture that could actively facilitate, rather than penalising, cross-border financial transactions.

The shift was not just statutory; it was fundamentally psychological. FERA operated on a principle of suspicion, every foreign exchange transaction was assumed guilty unless proven otherwise, requiring explicit governmental permission (licensing) for nearly all cross-border activity. FEMA, by contrast, operates on the principle of trust, assuming all transactions are permissible unless expressly prohibited or regulated. This change in ethos was vital to unlocking the country's economic potential.

FERA VS. FEMA: A PARADIGM SHIFT IN LEGAL APPROACH

The enactment of FEMA in 1999 represents more than a legislative amendment; it signifies a decisive regulatory divorce from the conservative, insular economic policies of the pre-1991 era. The most consequential operational difference lies in the treatment of non-compliance.

- FERA:** The Era of 'Regulation' FERA (1973) was codified during an era defined by acute foreign exchange scarcity. All transactions were subject to rigorous sovereign control.
- FEMA:** The Era of 'Management' FEMA, enacted in 1999, codified the post-1991 paradigm of economic confidence. The deliberate change in nomenclature from "Regulation" to "Management" emphatically denotes a shift from stringent sovereign control to strategic, market-oriented facilitation.

Table 1: Key Comparisons

Characteristics	FERA	FEMA
Nature	Criminal Law: Contraventions were characterised as criminal offences, attracting severe punitive sanctions, including custodial sentences. The term "offence" was used repeatedly.	Civil Law. Contraventions are classified as civil defaults and are subject to calculated monetary penalties. Jail time is removed as a penalty.

Philosophy	Presumption of Guilt: The onus was on the accused to prove innocence, making legal defence extremely challenging.	Presumption of Innocence. Transactions are deemed permissible unless expressly prohibited or regulated by the statute.
Objective	Conservation and Control: treating foreign currency as a scarce national resource that needed hoarding.	Facilitation and Promotion- The primary goal is “facilitating of external trade and payments.”

THE CORE REGULATORY FRAMEWORK

India's cross-border transactions are administered by a dual regulatory system designed to manage both the financial flows and the physical movement of goods and services. The Foreign Exchange Management Act, 1999 (FEMA) governs the monetary aspect, whilst the Foreign Trade (Development And Regulation) Act, 1992 (hereinafter FT(D&R) Act, 1992) governs the trade policy aspect.

A. The Foreign Exchange Management Act, 1999 (FEMA)

FEMA serves as the primary statute governing all external financial transactions. It is enforced through a series of rules, regulations, and directions issued by the Central Government and the Reserve Bank of India (RBI).

1. Key Divisions: Current Account vs. Capital Account Transactions

FEMA fundamentally bifurcates transactions into two distinct categories, each subject to differing levels of regulatory scrutiny. This division is the cornerstone of the entire FEMA structure.

- Current Account Transactions (CAT):** These include all transactions that do not alter the assets or liabilities of a Person Resident in India (PRI) outside India (e.g., trade payments, royalties, consultancy fees, insurance premiums, maintenance remittances). They are governed by Section 5 of FEMA.

Regulatory Approach: Generally deemed fully permissible and virtually unrestricted (the “Positive List” approach). The Foreign Exchange Management (Current Account Transaction) Rules only specify a small Negative List of transactions that are prohibited (e.g., remittance out of lottery winnings) or require prior approval¹

- Capital Account Transactions (CT):** These transactions do change the assets or liabilities of

a PRI or a Person Resident Outside India (PROI) in India (e.g., Foreign Direct Investment (FDI), Overseas Direct Investment (ODI), External Commercial Borrowings (ECBs), purchase of foreign equity). They are governed by Section 6 of FEMA.

Regulatory Approach: These are subject to rigorous control and require specific authorisation or notification by the Reserve Bank of India (RBI). The regulations specify *what* is permitted and *under what limits*, often using both the automatic route (no prior approval) and the government approval route.

2. Key Definitions: “Person Resident in India” (PRI) and the 182-Day Rule

A critical element of FEMA is the establishment of regulatory jurisdiction based on the residential status of the individual or entity. A PRI is defined under Section 2(v) of FEMA as a person residing in India for more than 182 days during the preceding financial year. This definition is key because a PRI is subjected to a far stricter set of regulations concerning their foreign holdings than a PROI. Misclassification of residency is a frequent trigger for major FEMA investigations.

3. Role of the Reserve Bank of India (RBI)

The RBI functions as the central executive and notification authority. It is responsible for framing the detailed regulations for all Capital Account Transactions (in consultation with the Government), granting authorisation to dealers, and ensuring the orderly development and maintenance of the foreign exchange market.

B. The Foreign Trade (Development & Regulation) Act, 1992

In parallel with FEMA's control over financial movement, the FT(D&R) Act, 1992 provides the statutory foundation for India's policy concerning the physical exchange of goods and services.

Objective: Legal Framework for India's Foreign Trade Policy (FTP)

The primary objective of the FT(D&R) Act, 1992 is to provide the legal framework for the formulation and implementation of India's Foreign Trade Policy (FTP). It empowers the Central Government to regulate, restrict, or prohibit all imports and exports in line with national economic security, environmental concerns, and international obligations.

1. Regulatory Classification of Imports

The FT(D&R) Act, 1992 classifies imports into three core categories:

- Open General Licence (OGL):** Freely importable, subject to certain conditions. This is the default.

¹ Refer Master Direction on Foreign Exchange Management (Current Account Transaction) Regulations, 2000 (RBI Notification).

- **Restricted:** Requires a specific licence from the DGFT (e.g., certain electronic goods, old machinery).
- **Prohibited:** Items whose import is banned (e.g., specific waste materials, some endangered species). Enforcement of this classification is crucial for customs compliance.

2. **Role of the Directorate General of Foreign Trade (DGFT)**

The DGFT is the pivotal implementing authority under the FT(D&R) Act, 1992. Its responsibilities include translating the FTP into actionable regulations, issuing all necessary licences and authorisations for imports and exports, and publishing the authoritative Handbook of Procedures (HBP).

3. Interplay with FEMA: The Essential Nexus

The FT(D&R) Act, 1992 regulates the *transaction* of goods (the physical delivery), whilst simultaneously creating mandatory reporting obligations under FEMA concerning the resulting *financial payment*. For example, when an exporter ships goods (regulated by DGFT), FEMA mandates the timely realisation and repatriation of the sale proceeds into India within a specified time limit (usually 9 months for non-status holders). Failure to receive the funds on time is a *FEMA contravention*, but it originates from a *trade transaction* governed by the DGFT framework.²

THE FIRST LINE OF DEFENSE: AUTHORISED DEALER (AD) BANKS

Before any regulatory scrutiny from the RBI or ED begins, the Authorized Dealer Category-I Banks (AD Banks) serve as the indispensable, frontline gatekeepers of India's foreign exchange ecosystem.

A. The Mandate and Responsibility of AD Banks

The AD Banks are specifically authorised by the RBI under Section 10 of FEMA to deal in foreign exchange. They are not merely facilitators; they are regulatory extensions of the RBI itself. Their duties include:

1. **Due Diligence:** Ensuring the commercial legitimacy of every transaction (e.g., is the invoice real? Does the payment amount match the underlying service?).

SCOMET list items are regulated precisely because of their dual-use potential. These are technologies that possess legitimate civilian applications (e.g., specific software, advanced materials, high-precision machinery) but can be repurposed or adapted for military use, especially in the development of Weapons of Mass Destruction (WMD). Strict adherence to SCOMET regulations is therefore an integral component of India's commitment to international non-proliferation treaties and directly impacts its standing in the global trade community.

2. **Reporting:** Mandatory reporting of all specified foreign exchange transactions to the RBI through various platforms like the External Commercial Borrowing (ECB) Reporting Platform or the Foreign Investment Reporting and Management System (FIRMS).
3. **Certification:** They are required to issue numerous certificates confirming adherence to FEMA limits before capital account transactions can be executed.

B. Common AD Bank Failures Leading to FEMA Contraventions

The majority of compounding cases filed by companies stem from the inability of the AD Bank to accurately or timely report the transaction to the RBI, or a failure in their initial due diligence check. Common errors include:

- C. Delay in reporting inward remittances (ARF filing).
- D. Failure to ensure the customer provides supporting documents, leading to technical breaches that the customer ultimately bears responsibility for.
- E. Misinterpretation of the "end-use" clause for specific fund transfers, which, while executed by the bank, is treated as a compliance failure by the customer.

FEMA COMPLIANCE AND THE COMPOUNDING MECHANISM (THE PATH TO REGULARISATION)

Non-compliance, even if technical or inadvertent, constitutes a civil contravention. The mechanism of compounding, enshrined under Section 15 of FEMA, offers a crucial administrative recourse for entities seeking to regularise such violations without protracted and damaging litigation.

A. Understanding Common FEMA Contraventions and Liability

Compliance failures generally arise from administrative lapses, delays, or misinterpretation of complex regulatory requirements. The liability under FEMA often falls on the person responsible for compliance, which typically includes the company's directors, CEO, or CFO.

- **Foreign Direct Investment (FDI) Violations:** Delay in reporting inward remittances (ARF filing), non-compliance in filing Form FC-GPR (Foreign Currency-Gross Provisional Return) after share allotment, or failure to comply with pricing guidelines (valuation).

² Refer RBI Master Circular on Export of Goods and Services (Compliance Mandate).

- **Overseas Direct Investment (ODI) Issues:** Non-submission of the mandatory Annual Performance Report (APR) for the foreign entity, exceeding the prescribed financial commitment limits, or non-realisation of sale proceeds upon divestment.
- **External Commercial Borrowing (ECB) Non-Compliance:** Delay in filing the requisite monthly ECB-2 Returns, or diverting the borrowed funds to unapproved end-uses.

B. **The RBI Compounding Proceedings: Acknowledging and Resolving Default**

The Compounding Mechanism is a voluntary process where the contravener formally acknowledges the contravention (an important legal step) and requests its regularisation in exchange for payment of a monetary penalty.

1. **Compounding Defined (Section 15):** The key benefit is the avoidance of any further penal action or criminal prosecution regarding the specified matter. Critically, once compounded, the offence is treated as closed; however, compounding only applies to the specific facts admitted in the application and does not cover ongoing or separate contraventions.
2. **Procedure and Timeline:** The application for compounding must be made within a stipulated timeframe, usually 30 days of receiving a show cause notice from the Enforcement Directorate (ED), although it is often filed proactively upon discovery of the default. The applicant must clearly state the facts and admit the contravention.
3. **Compounding Formula and Discretion:** The penalty amount is determined based on a structured formula comprising a fixed component and a variable component based on the value and duration of the contravention. Crucially, the final compounding amount also involves an element of discretion exercised by the Compounding Authority (CA), who considers factors like the gravity of the contravention, the intention of the contravener (*malafide* vs. technical), and the time elapsed since the default.³
4. **Recent Amendments and Trends (2025 Updates):** Regulatory adjustments reflect a shift toward reducing the punitive element for minor defaults:
 - **Cap on Non-Reporting Contraventions:** Introduction of a discretionary cap of INR 2,00,000 for specific, miscellaneous non-reporting violations to ease the burden on SMEs.
 - **'Fresh Start' Policy for Re-applicants:** Deletion of the previous 50% penalty enhancement for repeat applicants,

^{3.} Refer RBI Master Direction on Compounding of Contraventions under FEMA, 1999 (RBI Master Circular).

promoting a genuine "fresh start" approach to compliance regularisation, provided the subsequent breach is significantly different or minor in nature.

STRATEGIC TRADE CONTROLS AND DGFT COMPLIANCE

A. SCOMET: Special Chemicals, Organisms, Materials, Equipment and Technologies

The SCOMET list is India's domestic embodiment of multilateral export control regimes, notably the Nuclear Suppliers Group (NSG), Missile Technology Control Regime (MTCR), and the Wassenaar Arrangement.

B. Dual-Use Importance and Geopolitical Significance

SCOMET list items are regulated precisely because of their dual-use potential. These are technologies that possess legitimate civilian applications (e.g., specific software, advanced materials, high-precision machinery) but can be repurposed or adapted for military use, especially in the development of Weapons of Mass Destruction (WMD). Strict adherence to SCOMET regulations is therefore an integral component of India's commitment to international non-proliferation treaties and directly impacts its standing in the global trade community.

C. Licensing Authority and Due Diligence

- **Primary Licensing Authority:** The DGFT is designated as the primary authority for processing and granting licences across most SCOMET categories.
- **Specialised Authority (Category 6):** The Department of Defence Production (DDP) within the Ministry of Defence has been specifically authorised to handle applications pertaining to Category 6 (Military Items)⁴

D. The Catch-All Control: Burden on the Exporter

A critical component is the "Catch-All" Control, which mandates that an exporter must apply for an export licence even if the item is *not* explicitly listed, provided the exporter knows, or has reason to believe, that the product could be diverted to a prohibited end-use (e.g., WMD development or terrorist use). This places a significant burden of due diligence on the exporter to investigate the end-user and end-use, often involving checking global sanctions lists and maintaining an elevated level of vigilance.⁵

E. Handbook of Procedures (HBP) and Documentary Safeguards

The HBP serves as the definitive operational manual for the Foreign Trade Policy, detailing the process for obtaining licenses and meeting post-export obligations.

^{4.} Refer SCOMET Guidelines and List (DGFT Notification).

^{5.} Refer DGFT Public Notice on denial of export authorization due to 'Catch-All' concerns (DGFT Trade Notice).

F. End-Use and End-User Certificates (EUCs)

The primary documentary safeguard is the requirement for End-Use and End-User Certificates (EUCs). These are mandatory declarations furnished by the final recipient in the foreign jurisdiction, certifying that the item will be used strictly for the stated, non-prohibited purpose. The integrity and verification of these certificates are critical checkpoints for DGFT and customs officials.

G. Policy Implications and Stakeholder Impact: Bridging Law and Economy

The journey from the restrictive oversight of FERA to the strategic management model of FEMA was not just a legal switch rather; it was a policy triumph that signalled India's commitment to global integration. However, the truth being: this sophisticated framework forces a crucial, high-stakes trade-off. It is a deliberate policy choice, creating a dynamic tension between fostering global integration and maintaining sovereign financial stability. The result is a regulatory environment brimming with immense opportunity and structural economic benefits, yet one that simultaneously presents unavoidable friction and significant compliance challenges. It is an imperfect, yet vital, blueprint for resilient growth.

Stakeholders	Strategic Advantage	Compliance Risk
Foreign Direct Investors	Exit Assurance: Transparent rules on capital repatriation (sale proceeds, profits) provide a clear, reliable exit policy . This certainty is the primary policy incentive for attracting stable, long-term Foreign Direct Investment.	Structural Constraints: The enforcement of sectoral caps and complex RBI pricing guidelines via FEMA necessitates intricate legal structuring, often adding friction and slowing down acquisition timelines.
Authorised Dealers (AD)	Operational Efficiency: Delegating due diligence to AD Banks decentralises compliance, allowing millions of transactions to process quickly and sustaining market velocity.	Regulatory Burden: High legal liability for customer defaults forces banks into risk-averse operational policies , demanding excessive documentation and creating transactional bottlenecks for legitimate commerce.
MSME and Start-ups	Credibility Dividend: India's commitment to a regulated environment (FEMA) lowers the country risk profile , eventually improving MSMEs long-term access to global debt (ECB) and equity markets.	Administrative Overhead: The mandatory, timely submission of reports (e.g., FC-GPR) constitutes a significant cost of compliance , diverting scarce capital and management focus away from core business expansion.
Corporate Treasury	Strategic Latitude: Liberalised Overseas Direct Investment (ODI) rules actively encourage Indian corporations to pursue global acquisitions and build multinational enterprises, advancing national economic strategy.	Escalation Threat: The potent PMLA-FEMA nexus transforms technical, civil non-compliance into criminal investigations, exposing executives to personal liability and posing an existential threat of asset attachment.
Macro-Economic Policy	Stability Mandate: Managed control over the Capital Account prevents disruptive, speculative capital flows and sudden flight, critically supporting the RBI's mandate for macroeconomic stability .	Perceived Overreach: The expansive and aggressive investigative powers of the ED can, at times, create an environment of regulatory apprehension, potentially chilling legitimate risk-taking and entrepreneurial activity.

H. Recent HBP Amendments

- Temporary Export for Testing and Evaluation: New provisions facilitate the export of SCOMET items for specified 'Testing and Evaluation' purposes, subject to mandatory re-import within a stipulated timeframe (e.g., 120 days). This flexibility supports R&D and global integration for high-tech firms.
- Stock & Sale Authorisation: Revision of Para 10.10 simplifies re-export procedures for SCOMET items to pre-approved, reliably compliant countries, reducing the repetitive licensing burden for distributors.

THE ENFORCEMENT APPARATUS: DIRECTORATE OF ENFORCEMENT (ED) AND PENALTIES

The enforcement mechanism for FEMA is primarily vested in the Directorate of Enforcement (ED). However, it is the strategic synergy between the civil provisions of FEMA and the criminal provisions of the Prevention of Money Laundering Act, 2002 (PMLA) that gives the ED its true teeth.

A. Powers and Jurisdiction of the Directorate of Enforcement (ED)

The ED operates with a crucial dual statutory mandate, which explains its formidable investigative powers:

- 1. Foreign Exchange Management Act, 1999 (FEMA) (Civil Law):** The ED acts as the investigative wing for FEMA contraventions, which are civil defaults. Under Section 37 of FEMA, the ED officers are empowered to investigate, summon individuals, and demand the production of evidence.
- 2. Prevention of Money Laundering Act, 2002 (PMLA) (Criminal Law):** The ED is the primary authority for prosecuting money laundering offences. A crucial aspect of PMLA is that it only deals with funds derived from a "Scheduled Offence." Certain sections of FEMA are deemed Scheduled Offences when the contravention exceeds a specific monetary threshold, granting the ED the sweeping power of provisional attachment, search, seizure, and ultimate confiscation of property derived from criminal activity. This is the critical nexus: a serious FEMA breach can thus transition from a civil penalty matter to a criminal money laundering investigation.

B. The Adjudication Process

For FEMA contraventions, the investigative findings of the ED are documented and presented to the formal Adjudicating Authority (AA), usually a high-ranking ED officer. The AA acts as a quasi-judicial body, empowered to pass an order confirming the contravention and imposing a financial penalty under Section 13. The process involves issuing a Show Cause Notice and allowing the alleged contravener an opportunity to be heard.

C. Financial Penalties under FEMA Section 13

FEMA maintains a strong deterrent effect through substantial monetary penalties designed to discourage non-compliance.

- 1. Proportional Penalty:** A fine of up to thrice the sum involved in the contravention where the contravention amount is quantifiable. This ratio ensures that the penalty significantly outweighs the benefit derived from the illegal act.
- 2. Fixed Penalty:** Where the contravention amount is not readily quantifiable, the penalty can extend up to INR 2 Lakh (₹2,00,000).
- 3. Continuing Contravention:** An additional penalty of INR 5,000 per day for every day the contravention persists after the initial date of contravention.

D. Case of High-Profile Enforcement and Regulatory Interpretation

The ED's actions against major corporate entities often establish key administrative and judicial precedents, defining the boundaries of compliance.

- 1. ECB Default and Mis-Declaration:** An Indian power company faced ED action for alleged non-repatriation of export earnings and default on External Commercial Borrowing (ECB) where funds were purportedly used for unapproved purposes outside the scope of the ECB agreement. This highlights the regulatory focus on the end-use and timely repayment/repatriation aspects of foreign loans, demanding high internal governance standards.
- 2. Appellate Review: Judicial Precedent on Quantum:** Decisions made by the Appellate Tribunal for Foreign Exchange (ATFE) and subsequent High Court rulings are crucial in establishing precedent regarding proportionality⁶. The ATFE frequently assesses whether the imposed financial quantum is commensurate with the nature and magnitude of the contravention (technical versus *malafide* intent) and serves as the primary route for challenging an Adjudicating Authority's order.

CONCLUSION

The regulatory landscape has achieved a level of sophistication reflective of a major global economy. However, the simultaneous enforcement of multiple regimes presents complex challenges that necessitate robust and integrated corporate compliance frameworks.

A. The Challenge of Navigating Two Regimes and the Escalation Risk

The greatest compliance burden arises from the mandatory interaction and subtle distinctions between the two principal regulatory statutes: FEMA (financial flow) and FT(D&R) Act, 1992 (physical transaction). The regulatory overlap is constant and unforgiving.

Furthermore, the PMLA-FEMA nexus remains the single largest threat for non-compliant entities. The moment a FEMA contravention is deemed to involve the proceeds of crime for example, misrepresenting the value of exports to illegally retain funds abroad it triggers PMLA, transforming a monetary penalty into a criminal investigation with the threat of asset attachment and loss of liberty for key managerial personnel.

B. Policy Direction and Ease of Doing Business

The Indian government and the RBI continue to refine the regulatory ecosystem with a view toward reducing administrative friction and enhancing global competitiveness, focusing heavily on technology-driven solutions.

⁶ e-Courts Judgment Search Portal (India)

1. **Centralised Digital Platforms:** Key initiatives include the simplification of compounding proceedings and the development of centralised digital platforms, such as the PRAVAAH portal. PRAVAAH (Platform for Regulatory Application, Validation, and Authorisation) aims to provide a single-point access for various regulatory approvals and processes under FEMA, significantly improving transparency and reducing processing time⁷.
2. **The Future Trajectory:** AI and Big Data in Enforcement: The future of compliance is inextricably linked to the adoption of advanced technology. Enforcement agencies are increasingly leveraging Artificial Intelligence (AI) and big data analytics in surveillance mechanisms. This technological shift enables the detection of sophisticated financial crimes such as complex multi-jurisdictional round-tripping structures or deliberate misuse of the Liberalised Remittance Scheme (LRS) by analysing transaction patterns and flagging anomalies far faster than traditional paper-based audits.
3. **Final Thought:** The continuous refinement of FEMA and the FT(D&R) Act, 1992 is a strategic masterstroke, underscoring India's commitment to facilitating seamless global integration while safeguarding sovereign financial stability. This robust system deliberately creates a necessary tension – it brilliantly lowers financial risk for external capital, while ensuring market discipline through rigorous compliance standards for domestic businesses. In essence, this architecture is functioning exactly as intended; to build a jurisdiction that is not just attractive, but uncompromisingly safe. Compliance, far from being a burden, is now the foundational investment that guarantees successful, sustainable operation within India's globally integrated financial market, paving the way for the next era of economic leadership.

REFERENCES:

Essential References for Foreign Exchange and Trade Law

When analysing the deep-seated impact of FEMA and the FT(D&R) Act, we rely on core statutes and crucial regulatory circulars. This bibliography lists the foundational legal texts and specific regulatory directions that underpin the analysis of capital flows, trade compliance, and the enforcement nexus.

A. Foundational Acts of Parliament

These are the primary legal texts that define the scope of control and management:

- i. **Foreign Exchange Management Act (FEMA), 1999:** The governing statute that shifted India from control to management of foreign exchange.

Link-https://www.indiacode.nic.in/bitstream/123456789/1988/1/A1999_42.pdf

⁷ <https://pravaah.rbi.org.in/pravaah/#/>

- ii. **Foreign Trade (Development & Regulation) Act (FT(D&R) Act), 1992:** The legal framework detailing the policy and execution of India's import/export trade.

Link- <https://content.dgft.gov.in/Website/om199.htm>

- iii. **Prevention of Money Laundering Act (PMLA), 2002:** Critical for understanding the criminal escalation and the Enforcement Directorate's jurisdiction over FEMA contraventions.

Link-https://www.indiacode.nic.in/handle/123456789/2036?view_type=search

B. Core Regulatory Mandates (RBI Master Directions)

These instructions from the Reserve Bank of India define the practical mechanics of compliance, reporting, and penalty resolution:

- i. **Foreign Exchange Management (Current Account Transactions) Rules, 2000:** Governs transactions that relate to short-term liabilities and trade payments.

Link-<https://incometaxindia.gov.in/Documents/Provisions%20for%20NR/provision-for-non-resident-fema-current-account-transactions-rules-2000.htm>

- ii. **Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000:** Details the specific conditions and limits governing foreign investments (FDI/ODI) and loans (ECB).

Link-<https://www.rbi.org.in/upload/Notification/pdfs/13251.pdf>

- iii. **RBI Master Direction on Compounding of Contraventions under FEMA, 1999:** Defines the administrative process for regularization and penalty calculation for civil defaults.

Link-<https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=849>

- iv. **RBI Master Direction – Export of Goods and Services:** Outlines the mandatory Realisation and Repatriation requirements (Section 8 of FEMA) that exporters and banks must follow.

Link-<https://www.taxtmi.com/article/detailed?id=13445>

C. Trade Policy and Enforcement

- i. **DGFT Handbook of Procedures – SCOMET Guidelines:** The authoritative text on India's strategic trade controls, detailing the licensing and due diligence required for dual-use technology and the crucial "Catch-All" clause.

https://content.dgft.gov.in/Website/HBP2023_Chapter10.pdf

- ii. **Enforcement Directorate (ED) Press Releases/ Adjudication Orders:** The official source material for high-profile enforcement actions, used to validate and exemplify the legal interpretation of FEMA violations related to remittances, pricing, and capital structuring.

Link-<https://www.indiatoday.in/india/kerala/story/ed-fema-notice-kerala-cm-pinarayi-vijayan-thomas-issac-kiifb-masala-bond-case-2828603-2025-12-01>