

**IMPORTANT AREAS TO BE COVERED FOR NOV 2014 EXAMINATIONS**

- Write ' Companies Act' - You may not mention the year of the Act.
- Do not hesitate to mention the section no. of Companies Act, 1956 as the same are still very well applicable, but do not mention wrong section nos.
- No need to remember the definitions as mentioned u/s 2 of the Companies Act, 2013.
- Concentrate of the following area.

**I. Chapter - 1 ACCOUNTS AND AUDIT**

- Maintenance of A/cs
- Place where they are to be kept.
- Compliance with accounting standards. (Deviation from standards)
- Extension of period of A/cs (Holding Co - subsidiary company case)
- Signing of annual A/cs
- Appointment of Auditors - Rotation of Auditors.
- Disqualifications of being appointed as auditors.
- Branch of audit report.

**II. Dividend**

- sources of funds for dividend payment.
- When dividend can be kept in abeyance.
- Time limit for payment / distribution of dividend warrants.
- Using past year's reserves thr dividend payment.
- Using past year's profits for the dividend payment.
- Investor education and protection fund.
- Payment of interest on capital

**III. Board of directors and board meetings**

Chapter 3 and Chapter 4 of Module.

- Do what are done during the lectures - Concentrate on all aspects.

**IV Inspection & Investigation also Amalgamation & Compromise - Chapter 5 & 6**

- Who can inspect books of A/cs.
- Can the share- holders of the Co. Inspect books of A/cs.
- Central Govt. to conduct an investigation into the affairs of the Co.
- Investigation regarding true persons - controlling the affairs of the Co.(Section 247)

**V. Chapter 7 Oppression and Mismanagement (sec. 397 . sec398)**

- Sections - 397 , 398
- Who can apply - sec 399
- Powers of C/B u/s 402
- Distinction between sec. 397 - 398
- Powers of Central Govt. u/s 408 and u/s 388B

**VI. Chapter 9 Winding up of companies.**

- Distribution of assets upon winding up
- Definition of workmen - workmen dues - preferential payments.
- Arrears of Govt. due not to be considered as preferential payments.
- Disposal of books of A/cs by the liquidation after 5 years.

**VII. Chapter 10 Producer Company**

- Formation of producer Co.
- How an existing Inter - State Co. op. society can be converted into producer Co.
- Documents to be submitted as the time of conversion.
- Voting rights of members.
- Restrictions on transfer of shares.
- Loans to members and loans to directors.
- Investments by producer Co.
- Appointment of Board of Directors.
- Amendment of the clauses of MOA
- Re- conversion into Co. op. society.

**VIII. Government Companies.**

- Appointment of Auditors.
- Submission of annual report before both the houses of parliament or state legislatures.
- Can the Central Govt. modify the provisions regarding Govt. Cos.
- Can the Govt. Co. be considered as the State/ Govt. Authority?'
- Residual penalty clause - where there is no penalty prescribed.

**IX. SEBI Act**

- Object of the act
- Composition and constitution of SEBI board.
- Appointment - Removal - Terms of appointment of chairman and other members.
- Powers of SEBI u/s II, IIA, IIB, IIC, IID.

**X. SCRA 1956**

- Specific provisions to be concentrated are -
  - Sec 3 & 4 - Recognition of stock exchange.
  - Sec 4A & 4B- Corporation & Demutualisation of stock exchange.
  - Sec 7A - Voting rights
  - Sec 13a - Additional trading floor.
  - Sec 21, 22, 22A - Listing, Delisting, Refusal of listing and appeal provisions
  - Sec. 27 - Title to dividend
  - Sec. 28 - Act not to apply
  - Sec. 15 - Members not to purchase shares from investors.

**XI. Interpretation of Statutes.**

- Definition of Interpretation - Document .
- Primary rules of Interpretation
- Rules regarding Interpretation of deeds & documents.
- Internal & External Aids of Interpretation.

**NOV 2014 EXAMS**

**Q. 1.** Define the following terms with reference to FEMA, 1999 :

- (a) currency (b) Person (c) Person resident in India

**Q. 2.** What is Current Account Transactions? What are restrictions created under the FEMA, 1999?

**Ans.** Transactions other than Capital Account Transaction are considered as current A/c Transactions. Generally, all the transactions which affect the trading profit and loss A/c or the personal transactions are considered as current A/c transactions (like living expenses of parents, spouse, children, expenses in connection with foreign travel, education and medical care of parents, etc.,)

After the globalisation of Indian economy the rupee is fully convertible on current A/c that means a person can withdrawal is for current A/c transaction. However, RBI may put some restrictions or prohibitions on use of foreign exchange on the ground of public interest.

On the basis of restrictions and prohibitions we can divide the transactions on the basis of following 3 categories :

**(A) Prohibited Transactions :**

That means for the following transactions - withdrawal (drawal) of foreign exchange is absolutely prohibited.

Rule 3 read with schedule I prohibits drawal of foreign exchange (by any person) for the following purposes :

1. Remittance out of lottery winnings.
2. Remittance of income from racing/ riding, etc., or any other hobby.
3. Remittance for purchase of lottery tickets, banned/ prescribed magazines,
4. Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
5. Payment of commission on exports under Rupees State credit Route, except commission upto 10% of invoice value of exports of tea and tobacco.
6. Remittance of interest income on funds held in Non- resident Special Rupee Scheme Account.
7. Payment for travel to Nepal and/ or Bhutan.

**(B) Transactions requiring prior approval of Central Govt :**

That means for the following transactions - Withdrawal of foreign exchange. Is permissible but prior approval of CG necessary.

As per rule 4 read with Schedule II, prior approval of Central Government shall be required for drawal of foreign exchange (by any person) for the following purposes :

1. Cultural Tours.
2. Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding US\$ 10,000) by a State Government and its Public Sector Undertakings.
3. Remittance of freight of vessel chartered by a PSU.

4. Payment of import through ocean transport by a Government Department or a PSU on CIF basis (i.e. , other than FOB and FAS basis).
5. Remittance of prize money / sponsorship of sports activity abroad by person other than International / National / State level sports bodies, if the amount involved exceeds US\$ 1,00,000.

**(C) Transactions requiring permission from RBI.**

That means for the following transactions -

Withdrawal of foreign exchange is permissible but prior approval of RBI necessary.

1. Remittance exceeding US\$ 10,000,000 per project, for any consultancy services in respect of infrastructure projects and US\$ 1,000,000 per project for other consultancy services procured from outside India.

Explanation - For the purposes of this item number 'infrastructure project' means a project related to ----

- (i) Power ,
  - (ii) Telecommunication
  - (iii) Railways
  - (iv) Roads including bridges,
  - (v) Sea port and airport,
  - (vi) Industrial parks, and
  - (vii) Urban infrastructure water supply, sanitation and sewage).
2. Release of exchange exceeding US\$ 10,000 or its equivalent in one financial year, for one or more private visits to any country(except Nepal and Bhutan).
  3. Gift remittance exceeding US\$ 5,000 per financial year per remitter or donor other than resident individual.
  4. (i) Donation exceeding US\$ 5,000 per year financial year per remitter or donor other than resident individual;
  5. Exchange facilities exceedings US\$ 1,00,000 for persons going broad for employment.
  6. Exchange facilities for emigration exceeding US\$ 1,00,000 or amount prescribed by country of emigration.
  7. Release of foreign exchange, exceeding US\$ 25,000 to a person, irrespective of period of stay, for business travel, or attending a Conference or specialised training or for maintenance expenses of a patient going abroad for medical treatment or check-up abroad , or for accompanying as attendant to a patient going abroad for medical treatment /check-up.
  8. Release of exchange for meeting expenses for medical treatment abroad exceeding the estimate from he doctor in India or hospital /doctor abroad.
  9. Release of exchange for studies abroad exceeding the estimates from the instituton abroad or US\$ 1,00,000 per academic year, whichever is higher.
  10. Commission per transaction, to agents abroad for sale of residential flats or commercial plots in India, exceedings 5% of the inward remittance or US\$ 25,000 whichever is higher.
  11. [Deleted vide Foreign Exchange Management (Current ccount Transactions) (Amendment) Rules, 2006 (Notification G.S.R. 412(E) dated July 10, 2006)].That means for purchase of trade mark / franchise in India RBI approval not required.

**Q. 3.** What is capital account transactions? What are the restrictions and prohibition created under FEMA, 1999?

**Ans.** Transactions which affect the assets and liabilities or transactions which affect the balance - sheet shall be considered as capital A/c transactions. Rupee is not convertible easily if the transaction is a capital A/c transaction and Hence these transactions are classified as follows:

**(A) Permissible transactions for persons resident in India :**

- (a) Investment by a person resident in India in foreign securities.
- (b) Foreign currency loans raised in India and abroad by a person resident in India.
- (c) Transfer of immovable property outside India by a person resident in India.
- (d) Guarantees issued by a person resident in India in favour of a person resident outside India.
- (e) Loans and overdrafts(borrowings) by a person resident in India from a person resident outside India.
- (f) Maintenance of foreign currency accounts in India and outside India by a person resident in India.
- (g) Taking out of insurance policy by a person resident in India from an insurance company outside India.
- (h) Loans and overdrafts by a person resident in India to a person resident outside India.

**(B) Permissible transactions for persons resident outside India :**

- (a) Investment in India by a person resident outside India, that is to say -
  - (i) issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and
  - (ii) investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association persons in India.
- (b) Acquisition and transfer of immovable property in India by a person resident outside India.
- (c) Import and export of currency / currency notes into/ from India by a person resident in India.
- (d) Foreign currency accounts in India of a person resident outside India.

**(C) Prohibited transactions :**

- (a) in the business of chit fund; or
- (b) as Nidhi Company; or
- (c) in agriculture or plantation activities; or
- (d) in real estate business in Transferable development Rights(TDRs).
- (e) in trading in transferable Development Rights (TDRs).