<table>
<thead>
<tr>
<th>Ch No.</th>
<th>Name of the Chapter</th>
<th>Chart No.</th>
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<tbody>
<tr>
<td>1</td>
<td>Foreign Exchange Management Act, 1999</td>
<td>1.01 - 1.08</td>
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<td>2</td>
<td>Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002</td>
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<td>Prevention of Money laundering Act, 2002</td>
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<td>The Arbitration And Conciliation Act, 1996</td>
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<td>6</td>
<td>Overview of Insolvency and Bankruptcy Code 2016</td>
<td>6.01 - 6.15</td>
</tr>
</tbody>
</table>
SPC KE SAARE AIR OF NOV-2018
EK HI SAATH EK HI PLATFORM PAR
Do You Want To Be The Next?
THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.1)

Definitions

1) Person
"Person" includes-
  a) An individual (I),
  b) A Hindu undivided family (HUF),
  c) A company (C),
  d) A firm (F),
  e) An association of persons (AOP) or a body of individuals (BOI), whether incorporated or not,
  f) every artificial juridical person (AJP), not falling within any of
  g) any agency, office or branch owned or controlled by such person;

2) Authorised Person
It means an authorised dealer, money changer, off-shore banking unit or any other person for time being authorised to deal in foreign exchange or foreign securities.

3) Repatriate To India
It means bringing into India realised foreign exchange and
  a) Selling of such FE to an authorised person in India in exchange for rupees, or
  b) the holding of realised amount in an account with an authorised person in India to extent notified by RBI. It includes use of realised amount for discharge of a debt or liability.

4) Person Resident In India (PRI)
A) person residing in India for more than 182 days during course of preceding FY but does not include-
   i) a person who has gone out of India or who stays outside India, in either case-
      a) for or on taking up employment outside India, or
      b) for carrying on outside India a business or vocation outside India, or
     c) any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
   ii) a person who has come to or stays in India, in either case, otherwise than
      a) for or on taking up employment in India, or
      b) for carrying on in India a business or vocation in India, or
      c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;
   B) any person or body corporate registered or incorporated in India,
   c) an office, branch or agency in India owned or controlled by a PRI,
   d) an office, branch or agency outside India owned or controlled by a PRI

5) Person Resident Outside India (PROI)
"Person Resident Outside India" means a person who is not resident in India.

6) Capital Account Transaction
It means a transaction which alters-
   a) Assets or liabilities, including contingent liabilities, outside India of persons resident in India or
   b) assets or liabilities in India of persons resident outside India, &
   c) includes transactions referred to in sub-section (3) of section 6

7) Current Account Transaction
It means a transaction other than a capital account transaction & without prejudice to generality of foregoing such transaction includes-
   a) Payments due in connection with foreign trade, other current business, services, & short-term banking & credit facilities in ordinary course of business.
   b) Payments due as interest on loans & as net income from investments.
   c) Remittances for living expenses of parents, spouse & children residing abroad, and

Dealing in foreign exchange, etc. (sec 3)
With general or special permission of RBI no person shall-
  a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;
  b) Payment to or for credit of any PROI
  c) receive through an authorised person, any payment by order or on behalf of any PROI
  d) Financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire any asset outside India

Holding of foreign exchange (Section 4)
Except as provided in this Act, No PRI shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India
### The Foreign Exchange Management Act 1999 (Chart 1.2)

#### Current Account Transactions (Section 5)

As per rules, drawing of foreign exchange for certain current account transactions is prohibited, a few need permission of appropriate Govt. of India authority. The three categories are:

#### Schedule I (See Rule 3)
- **Transactions for which drawing of foreign exchange is prohibited:**
  - a) Remittance out of lottery winnings
  - b) Remittance of income from racing/riding, etc., or any other hobby
  - c) Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweep- stakes, etc.
  - d) Payment of commission on exports made towards eq. investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies
  - e) Remittance of dividend by any co. to which requirement of dividend balancing is applicable.
  - f) Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea & tobacco
  - g) Payment related to "Call Back Services" of telephones
  - h) Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c
  - i) Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/State Level sports bodies, if amount involved exceeds US $ 1,00,000
  - j) Remittance for membership of P & I Club

#### Schedule II (See Rule 4)

<table>
<thead>
<tr>
<th>SR NO</th>
<th>Purpose of Remittance</th>
<th>Ministry/Department of Govt. of India whose approval is required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cultural Tours</td>
<td>Ministry of HR Development (Hindi) (Department of Education &amp; Culture)</td>
</tr>
<tr>
<td>2</td>
<td>Advertisement in foreign print media for purposes other than promotion of tourism, foreign investments and international bidding (exceeding US $ 10,000) by a Singapore &amp; its Public Sector Undertakings.</td>
<td>Ministry of Finance, Department of Economic Affairs</td>
</tr>
<tr>
<td>3</td>
<td>Remittance of freight of vessel charted by a PSU</td>
<td>Ministry of Surface Transport (Chartering Wing)</td>
</tr>
<tr>
<td>4</td>
<td>Payment of import through ocean transport by Govt. Department or a PSU on c.i.f. basis (i.e., other than f.o.b. and t.a.b. basis)</td>
<td>Ministry of Surface Transport (Chartering Wing)</td>
</tr>
<tr>
<td>5</td>
<td>Multi-modal transport operators making remittance to their agents abroad</td>
<td>Registration Certificate from Director General of Shipping</td>
</tr>
<tr>
<td>6</td>
<td>Remittance of hiring charges of transponders by TV Channels internet service providers</td>
<td>Ministry of Information and Broadcasting Ministry of Communication &amp; Information Technology</td>
</tr>
<tr>
<td>7</td>
<td>Remittance of container detention charges exceeding rate prescribed by Director General of Shipping</td>
<td>Ministry of Surface Transport (Director General of Shipping)</td>
</tr>
<tr>
<td>8</td>
<td>Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/State Level sports bodies, if amount involved exceeds US $ 100,000.</td>
<td>Ministry of Human Resource Development (HRD) (Department of Youth Affairs &amp; Sports)</td>
</tr>
<tr>
<td>9</td>
<td>Remittance for membership of P &amp; I Club</td>
<td>Ministry of Finance (Insurance Division)</td>
</tr>
</tbody>
</table>

#### Schedule III (See Rule 5)

<table>
<thead>
<tr>
<th>1</th>
<th>Facilities for Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individuals can avail of foreign exchange facility for following purposes within limit of USD 2,50,000 only. For additional remittance prior approval of RBI is required.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Facilities for persons other than individuals</td>
</tr>
<tr>
<td>3</td>
<td>Procedure</td>
</tr>
<tr>
<td>4</td>
<td>Procedure for travel or remit abroad of any foreign exchange under this schedule shall be same as applicable for remitting any amount under said Liberalised Remittance Scheme.</td>
</tr>
<tr>
<td>5</td>
<td>Commission per transaction, to agents abroad for sale of residential flats or commercial plots in India</td>
</tr>
<tr>
<td>6</td>
<td>Consultancy services in respect of infrastructure project India</td>
</tr>
<tr>
<td>7</td>
<td>Other consultancy services procured from outside</td>
</tr>
<tr>
<td>8</td>
<td>Reimbursement of pre-incorporation expenses</td>
</tr>
<tr>
<td>9</td>
<td>a) Remittances exceeding 5% of investment brought into India or b) US $ 1,00,000 whichever is higher for remitting any amount under said Liberalised Remittance Scheme</td>
</tr>
</tbody>
</table>

#### Schedule IV

- a) Private visits to any country (except Nepal and Bhutan)
- b) Gift or donation.
- c) Going abroad for employment
- d) Emigration
- e) Maintenance of close relatives abroad
- f) Travel for business, or attending a conference or specialised training or for meeting expenses, for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up
- g) Expenses in connection with medical treatment abroad
- h) Studies abroad
- i) Any other current account transaction for purposes mentioned at item numbers (a), (f) & (h), may avail of exchange facility for an amount in excess of limit prescribed under Liberalised Remittance Scheme

#### Schedule V

- i) If individual has already remitted any amount under LRS, then applicable limit for such an individual would be reduced from present limit of USD 250,000.
THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.3)

Capital Account Transaction (Section 6)

Section 6(1)
Any person may sell or draw FE to or from an authorized person for a CAT

Section 6(2)
RBI may, in consultation with CIF, specify:
- Class or classes of CAT, which are permissible
- Limit up to which CE shall be admissible for such transactions

Section 6(3)
RBI may, by regulations, prohibit, restrict, or regulate the following:
- Signing or issue of any SS by a person resident in India
- Signing or issue of any security by a person resident outside India
- Title or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India
- Any borrowing or lending of Rs.
- Any borrowing or lending in Rs.
- Deposits between PR & PR
- Export, import or holding of currency or currency notes
- Transfer of immovable property outside India, other than a lease not exceeding 5 years
- Any income arising therefrom & conversion or replacement or accrual to same

Section 6(4)
A PRI may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India in such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a PRI.

Section 6(5)
A PRI may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India in such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a PRI.

Capital account transaction is basically split into the following categories:

Permissible Transactions made by PRI
- Investment in foreign securities.
- Foreign currency loans raised in India & abroad by a PRI.
- Transfer of immovable property outside India by a PRI.
- Guarantee issued by a PRI in favour of a PRI.
- Export, import & holding of currency or currency notes.
- Loans & overdrafts (borrowings) by a PRI from a PRI.
- Maintenance of foreign currency accounts in India & outside India by a PRI.
- Taking out of insurance policy by a PRI from an insurance company outside India.
- Loans & overdrafts by a PRI to a PRI.
- Remittance outside India of capital assets by a PRI.
- Sale & purchase of foreign exchange derivatives in India & abroad by a PRI.

Permissible Transactions made by PROR
- Investment in India by a PRI, that is to say.
- Issue of security by a body corporate or an entity in India & investment therein by a PRI.
- Investment by way of contribution by a PRI to a capital or a proprietary concern or an AOP in India.
- Acquisition & transfer of immovable property in India by a PRI.
- Guarantee by a PRI in favour of, or on behalf of, a PRI.
- Import & export of currency notes into or from India by a PRI.
- Deposits between PR & a PRI.
- Foreign currency accounts in India of a PRI.
- Remittance outside India of capital assets by a PRI.

Prohibited Transactions
- On certain transactions, RBI imposes prohibition.
- No person shall undertake or sell or draw FE to or from an authorized person for any CAT.
- Investment in India by a PRI, that is to say.
- Issue of security by a body corporate or an entity in India & investment therein by a PRI.
- Investment by way of contribution by a PRI to a capital or a proprietary concern or an AOP in India.
- Acquisition & transfer of immovable property in India by a PRI.
- Guarantee by a PRI in favour of, or on behalf of, a PRI.
- Import & export of currency notes into or from India by a PRI.
- Deposits between PR & a PRI.
- Foreign currency accounts in India of a PRI.
- Remittance outside India of capital assets by a PRI.

Transaction with no Restriction
- For amortization of loan and
- For depreciation of direct investments in ordinary course of business.
SWAPNIL PATNI'S CLASSES
ALL INDIA RANKERS - NOV 2018
एक ही साथ, एक ही मंच पर
### The Foreign Exchange Management Act 1999 (Chart 1.6)

#### Chapter III - Authorised Person

<table>
<thead>
<tr>
<th>Power of Reserve Bank to inspect authorised person (Section 12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) RBI may revoke it if it is in public interest so to do; or</td>
</tr>
<tr>
<td>b) Verifying correctness of any return as directed by RBI.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reserve Bank’s powers to issue directions to authorised person (Section 11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) In regard to making of payment or doing or desist from doing any act relating to foreign exchange or foreign security</td>
</tr>
<tr>
<td>b) To furnish such information, in such manner, as it deems fit.</td>
</tr>
<tr>
<td>c) Penalty for contravene any direction - Amt extend to 10,000 Rs &amp; in case of continuing contravention with an additional penalty which may extend to 2,000 Rs for every day</td>
</tr>
</tbody>
</table>

#### Chapter IV - Contravention & Penalties

<table>
<thead>
<tr>
<th>Sec No.</th>
<th>Contravention</th>
<th>Quantum of Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Authorised person contravenes any direction by RBI or failure to file any return as directed by RBI</td>
<td>Upto Rs. 10,000. If continuing offense additional penalty upto Rs. 2,000 per day</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sec No.</th>
<th>Compounding of Contravention under section 13</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Of any provision of Act, or any rule, regulation, notification, direction or order of any condition subject to which an authorisation was issued</td>
</tr>
<tr>
<td>14</td>
<td>Failure to pay penalty as above where demand is of an amount exceeding Rs. 1 crore. In any other case</td>
</tr>
</tbody>
</table>

#### Adjudication & Appeal

<table>
<thead>
<tr>
<th>Sec No.</th>
<th>Obligation</th>
<th>Time Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>Full penalty to be paid</td>
<td>Within 30 days from date on which notice for payment of penalty is served</td>
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<td>Full penalty to be paid</td>
<td>Within 30 days from date on which notice for payment of penalty is served</td>
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</table>

#### Appointment of Adjudicating Authority (Section 16)

<table>
<thead>
<tr>
<th>Section</th>
<th>Obligation</th>
<th>Time Limit</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Within 30 days from date on which notice for payment of penalty is served</td>
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</table>

#### Directorate of Enforcement

<table>
<thead>
<tr>
<th>Section</th>
<th>Obligation</th>
<th>Time Limit</th>
</tr>
</thead>
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<td>14</td>
<td>Full penalty to be paid</td>
<td>Within 30 days from date on which notice for payment of penalty is served</td>
</tr>
</tbody>
</table>

a) CG may, by an order published in Official Gazette, appoint as many officers of CG as it may think fit

b) Where Adjudicating Authority is of opinion that said person is likely to abscond or is likely to evade in any manner, payment of penalty, if levied, it may direct said person to furnish a bond or guarantee for such amount & subject to such conditions as it may deem fit.

c) CG may, by order authorize any officer of customs or any central excise officer or any police officer or any other officer of CG or a 56 to exercise all powers & discharge such of duties of Director of Enforcement.
SARFAESI ACT, 2002 (Chart 2.2)

Enforcement of security interest (Section 13)

1) Where borrower makes a default payment of debt:
   Then, secured creditor may require borrower by notice in writing to discharge in full his liabilities to secured creditor within 60 days

2) Notice prescribing details of debts:
   a) Notice shall give details of amount payable by borrower & secured assets in event of non-payment of secured debts
   b) If borrower makes any representation or raises any objection, secured creditor shall consider such representation or objection
   c) If rejection is not acceptable then he shall communicate within 15 days of receipt of such representation or objection reasons for non-acceptance

3) Borrower fails to discharge his liability:
   Following measures to recover his secured debt:
   a) Take possession of secured assets including right to transfer by way of lease, assignment or sale for realising secured asset
   b) Take over management of business, including right to transfer by way of lease, assignment or sale for realising secured asset
   c) Appoint any person to manage secured assets possession of which has been taken over by secured creditor
   d) Any money is due or may become due to borrower, to pay secured creditor, so much of money as is sufficient to pay secured debt

4) Discharge from payment:
   Any payment made by any person to secured creditor shall give such person a valid discharge as if he has made payment to borrower

5) Right with respect to immovable property:
   a) Where sale of an immovable property, for which a reserve price has been specified, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for any officer of secured creditor, if so authorised by secured creditor in this behalf, to bid for immovable property on behalf of secured creditor at any subsequent sale.
   b) If secured creditor, declared to be purchaser of immovable property at any subsequent sale, amount of purchase price shall be adjusted towards amount of claim

6) Right related to transfer of secured assets by secured creditor:
   Any transfer of secured asset after taking possession thereof by secured creditor shall vest in transferee all rights in, or in relation to, secured asset transferred as if transfer had been made by owner of such secured asset

7) Recovery of expenses from borrower:
   All costs, charges & expenses shall be recoverable from borrower

8) Payment of dues of secured creditors:
   a) Secured assets shall not be transferred by way of lease assignment or sale by secured creditor; &
   b) In case, any step has been taken by secured creditor for transfer by way of lease or assignment of sale of assets before tendering of such amount no further step shall be taken by such secured creditor for transfer by way of lease or assignment

9) Role of liquidator with respect to workmen dues:
   liquidator shall intimate secured creditor workmen’s dues in accordance with provisions & in case such workmen’s dues cannot be ascertained, liquidator shall intimate estimated amount of workmen’s dues

10) In case of deposits of amount of workmen dues by secured creditor:
    In case secured creditor deposits estimated amount of workmen’s dues, such creditor shall be liable to pay balance of workmen’s dues or entitled to receive excess amount, if any, deposited by secured creditor with liquidator

11) Furnishing of undertaking by secured creditor:
    secured creditor shall furnish an undertaking to liquidator to pay balance of workmen’s dues

12) Filing of an application by secured creditor:
    Where dues of secured creditor are not fully satisfied with sale proceeds, he may file an application in form & manner as may be prescribed to Debts Recovery Tribunal

13) Rights of secured creditors in relation to secured assets:
    a) Rights of a secured creditor under this Act may be exercised by one or more of his officers authorised in this behalf in such manner as may be prescribed
    b) No borrower shall, after receipt of notice, transfer by way of sale, lease or otherwise any of his secured assets
CA Final All India Rankers of Nov 2018. Studied LAW & ISCA From CA Swapnil Patni

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SARFAESI ACT, 2002 (Chart 2.4)

- Making of application to Court of District Judge in certain cases (Section 17A)
  - Any fee levied & collected for preferring an appeal to DRT before commencement of Enforcement of Security Interest & Recovery of Debts Laws [Amendment] Act, 2004, shall be deemed always to have been levied & collected in accordance with law.
  - Notice of caveat: Where a caveat has been lodged -
    - Secured creditor or any other person by whom caveat has been lodged shall serve notice of caveat by registered post, acknowledgment due, on person by whom application has been or is expected to be made.
  - Validity of period of caveat -
    - Caves shall not remain in force after expiry of period of 90 days from date on which it was lodged unless application or appeal has been made before expiry of period.
- Appeal to Appellate Tribunal (Section 18)
  - Any person aggrieved by any order made by DRT, may prefer an appeal to Appellate Tribunal. Within 30 days from date of receipt of order of DRT.
  - Appeal shall be entertained only if borrower has deposited 50% of amount of debt due from him.
- Appeal to High Court in certain cases (Section 18B)
  - Any borrower residing in State of Jammu & Kashmir, application under section 17A may prefer an appeal to High Court, within 30 days from date of receipt of order of Court of District Judge.
- Right to lodge a caveat (Section 18C)
  - Notice of caveat: Where a caveat has been lodged -
    - Secured creditor or any other person by whom caveat has been lodged shall serve notice of caveat by registered post, acknowledgment due, on person by whom application has been or is expected to be made.
  - Validity of period of caveat -
    - Caves shall not remain in force after expiry of period of 90 days from date on which it was lodged unless application or appeal has been made before expiry of period.
- Central Registry
  - Integration of registration systems with Central Registry (Section 20)
    - CG may, by notification, set up registry to be known as Central Registry for purposes of registration of transaction of securitisation & reconstruction of financial assets.
  - Central Registrar (Section 21)
    - CG may, for purpose of providing a Central database, in consultation with SG or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest or security interest created over properties, who shall be known as Central Registrar.
    - Other Officers: CG may appoint such other officers with such designations as it thinks fit for purpose of discharging, under superintendence & direction of Central Registrar.
- Filing of transactions of securitisation, reconstruction & creation of security interest (Section 23)
  - CG may, for purpose of providing a Central database, in consultation with SG or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest or security interest created over properties, who shall be known as Central Registrar.
  - Other Officers: CG may appoint such other officers with such designations as it thinks fit for purpose of discharging, under superintendence & direction of Central Registrar.
  - Modification of security interest registered under this Act (Section 26)
    - Whenever terms or conditions, or extent or operation, of any security interest registered, are or is, modified it shall be duty of ARC to send Central Register, particulars of such modification.
- ARC or secured creditor to report satisfaction of security interest (Section 25)
  - CG may, for purpose of providing a Central database, in consultation with SG or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest or security interest created over properties, who shall be known as Central Registrar.
The Prevention of Money Laundering Act, 2002 (Chart 3.1)

Money Laundering

- As per Section 3, it is observed that whoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use & projecting or claiming it as untainted property shall be guilty of offence of money laundering.

Punishment for the offence of Money Laundering (Section 4)
- a) Whoever commits offence of money-laundering shall be punishable with imprisonment for a term which shall not be less than 3 years but which may extend to 7 years & shall also be liable to fine.
- b) Where proceeds of crime involved maximum punishment may extend to 10 yrs.

Proceeds of crime

- It means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or value of any such property or where such property is taken or held outside country, then property equivalent in value held within country or abroad.

Stages in Money Laundering

- a) Placement: Money is injected into formal financial system.
- b) Layering: Money injected into system is layered & moved or spread over various transactions in different accounts & different countries.
- c) Integration: Money enters financial system in such a way that original association with crime is sought to be obliterated so that money can then be used by offender or person receiving as clean money.

Obligation of Banking Companies, Financial Institutions & Intermediaries (Section 12)
- 1) Every Banking co. shall maintain a record of all transactions.
- 2) Every information maintained, furnished or verified, shall be kept confidential.
- 3) Records shall be maintained for a period of 5 years from date of transaction between a client & reporting entity.
- 4) CG may exempt any reporting entity or class of reporting entities from any obligation under this chapter.

Access to Information (Section 12A)
- a) Every reporting entity shall furnish to Director such information as may be required by him.
- b) Every information sought by Director shall be kept confidential.

Powers of Director (Section 13)
- a) Director may make such inquiry, as he thinks fit to be necessary, with regard to obligations of reporting entity.
- b) He may direct concerned reporting entity to get its records, audited by an CA from amongst a panel of accountants, maintained by CG.
- c) If director finds that a reporting entity or its designated director on Board or any of its employees has failed to comply with obligations he may-
  i) Issue a warning in writing
  ii) Direct such reporting entity, to comply with specific instructions
  iii) Direct such reporting entity to send reports at such interval
  iv) Impose a monetary penalty, which shall not be less than 10000 Rs but may extend to 1 Lakh Rs for each failure.
- d) Director shall forward a copy of order passed to every banking company, financial institution or intermediary or person who is a party to proceedings.
## The Prevention of Money Laundering Act, 2002 (Chart 3.2)

### Attachment, Adjudication & Confiscation

**Attachment of property involved in money-laundering (Section 5)**

1. Where Director has reason to believe on basis of material in his possession, that-
   a) any person is in possession of any proceeds of crime
   b) proceeds of crime are likely to be concealed, transferred which may result in frustrating any proceedings relating to confiscation of such proceeds

He may, by order in writing, provisionally attach such property for a period not exceeding 180 days from date of order. For purposes of computing period of 180 days, period during which proceedings under this section is stayed by the HC, shall be excluded & a further period not exceeding 30 days from date or order of vacation of such stay order shall be counted.

2. Director shall forward a copy of order, along with material in his possession to Adjudicating Authority, in a sealed envelope.

3. Every order of attachment shall cease to have effect after expiry of period or on date of an order made whichever is earlier.

4. Director shall, within a period of 30 days from such attachment, file a complaint before Adjudicating Authority.

**Adjudicating Authorities composition, powers, etc. (Section 6)**

1. CG shall appoint an Adjudicating Authority to exercise jurisdiction & powers.
2. An Adjudicating Authority shall consist of a Chairperson & 2 other Members. Each member shall be a person having experience in field of law, administration, finance or accountancy.

**Vesting of property in CG (Section 9)**

Where an order of confiscation has been made in respect of any property of a person, all rights and title in such property shall vest absolutely in CG free from all encumbrances.

- **1.** On receipt of a complaint it may serve a notice of not less than 30 days on such person calling upon him to indicate sources of his income, earning or assets, out of which or by means of which he has acquired property attached.
- **2.** Adjudicating Authority shall, after-
  - a) Considering reply,
  - b) Hearing aggrieved person
  - c) Taking into account all relevant materials placed on record before him,

by an order, record a finding whether all or any of properties are involved in money laundering.

- **3.** Where Adjudicating Authority decides that any property is involved in money-laundering, he shall, by an order in writing, confirm attachment of property & record a finding to that effect, whereupon such attachment or retention or freezing of seized or frozen property or record shall—

  i. continue during investigation for a period not exceeding 30 days or the pendency of proceedings relating to any offence under this Act before a court or under corresponding law of any other country, before competent court of criminal jurisdiction outside India, as case may be; &
  ii. become final after an order of confiscation is passed by Special Court.

- **4.** Where provisional order of attachment has been confirmed, Director shall forthwith take possession of property attached under Section 5.

- **5.** If Special Court finds that offence of money-laundering has been committed, it shall stand confiscated to CG.

- **6.** If Special Court finds that offence of money laundering has not taken place, he shall order release of such property.

- **7.** Where trial under this Act cannot be conducted by reason of death, Special Court shall pass appropriate orders regarding confiscation or release of property, as the case may be, having regard to the material before it.

- **8.** Where a property stands confiscated to CG, restore such confiscated property or part thereof of a claimant with a legitimate interest in property.

### Adjudication [Section 8]

- 1) If Director, Deputy Director, Assistant Director, or any other officer authorised in this behalf by CG by general or special order, has on basis of material in his possession reason to believe that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.
- 2) Every person arrested under sub-section. (1) shall within 24 hrs, be taken Special Court or to a Judicial Magistrate or a Metropolitan Magistrate, as case may be, having jurisdiction.

Provided that period of 24 hours shall exclude time necessary for journey from place of arrest to Special court or Magistrate’s Court.

**Power to arrest (Section 19)**

- Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed.
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CA INTERMEDIATE All India Rankers of Nov 2018. Studied Audit From CA Harshad Jaju
The Foreign Contribution (Regulation) Act, 2010 (Chart 4.1)

Extent, application and commencement of FCRA (Section 1)

Provisions of act shall apply to:
- Whole of India
- Citizens of India outside India
- Associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

Regulation of Foreign Contribution & Foreign Hospitality

Prohibition to accept foreign contribution (Section 3)

A) As per section following persons are prohibited to accept foreign contribution:
   i) Candidate for election
   ii) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper
   iii) Judge, Govt servant or employee of any corporation or any other body controlled or owned by Govt
   iv) Member of any Legislature
   v) Political party or office bearer
   vi) Organisation of a political nature as may be specified by CG
   vii) Association or company engaged in production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode
   viii) Correspondent or columnist, cartoonist, editor, owner of association or company

B) Further following other persons are also prohibited from accepting foreign contribution:
   i) PRI & citizen of India resident outside India:
      - Shall not accept any currency from a foreign source, on behalf of any political party
   ii) Person, resident in India:
      - Shall not deliver any currency, whether Indian or foreign, which has been accepted from any foreign source
   iii) Citizen of India resident outside India:
      - Shall not deliver any currency which has been accepted from any foreign source, to:
        - Any political party,
        - Any other person, if he knows or has reasonable cause to believe that such other person intends to deliver such currency to a political party
   iv) As an agent of a foreign source:
      - By way of gift or presentation made to him as a member of any Indian delegation
      - From his relative
      - By way of remittance received in ordinary course of business through any official channel, post office, or any authorised person
      - By way of any scholarship, stipend or any payment

Persons to whom section 3 shall not apply (Section 4)

A) Following categories of persons require prior approval:
   i) Members of a Legislature
   ii) Office bearers of political parties
   iii) Judges
   iv) Employees of any corporation or any other body owned or controlled by Govt

Restriction on acceptance of foreign hospitality (Section 6)

B) Foreign hospitality may be received by specified categories of persons in following manner:
   i) Shall apply to CG in prescribed Form for prior permission to accept such foreign hospitality
   ii) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from host or host country
   iii) Application must reach appropriate authority ordinarily 2 weeks before proposed date of onward journey
   iv) In case of emergency medical aid needed on account of sudden illness during a visit abroad, acceptance of foreign hospitality shall be required to be intimated to CG within 60 days of such receipt

No such intimation is required if value of such hospitality in emergency medical aid is upto 1 lakh Rs or equivalent there.
The Foreign Contribution (Regulation) Act, 2010 (Chart 4.2)

Regulation of Foreign Contribution & Foreign Hospitality

Prohibition to transfer foreign contribution to other person (Section 7)

A) Person who-
   i) Is registered & granted a certificate, or has obtained prior permission under this Act; &
   ii) Receives any foreign contribution,

B) Procedure for transferring foreign contribution to any unregistered person as under-
   i) Make an application to CG in prescribed Form.
   ii) Every application shall be accompanied by a declaration to effect that-
       • Amt proposed to be transferred during FY is less than 10% of total value of foreign contribution received by him during FY
       • Transferor shall not transfer until CG approves such transfer.
   iii) A person who has been granted a certificate of registration or prior permission under section 11 shall not be required to seek prior approval of CG
   iv) Both transferor & recipient shall be responsible for ensuring proper utilisation of foreign contribution so transferred & such transfer of foreign contribution shall be reflected in returns in Form FC-4 to be submitted by both transferor & recipient.

Restriction to utilize foreign contribution for administrative purpose (Section 8)

Every person, who is registered & granted a certificate or given prior permission under this Act & receives any foreign contribution, shall—
   a) utilise such contribution for purposes for which contribution has been received.
   Provided that any income arising out of it shall not be used for speculative business
   b) Not defray as far as possible such sum, not exceeding 50% of such contribution, received in a FY, to meet administrative expenses
   Provided that administrative expenses exceeding 50% of such contribution may be defrayed with prior approval of CG

Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases. (Section 9)

CG May-
   a) Prohibit, from accepting any foreign contribution
   b) Obtain prior permission of CG before accepting any foreign contribution
   c) Furnish intimation as to amount of any foreign contribution received & source from which it was received & purpose for which it was utilised;
   d) Require any person specified in that Section 11(1) to obtain prior permission of CG before accepting any foreign contribution
   e) Require any person, to furnish intimation, as to receipt of any foreign hospitality, source from which & manner in which such hospitality was received.

Power to prohibit payment of currency received in contravention of the Act (Section 10)

- Where CG is satisfied, after making such inquiry, that any person has in his custody or control any-
  a) Article or
  b) Currency or
  c) Security
- Which has been accepted by such person in contravention
- Prohibit such person from paying, delivering, transferring or otherwise dealing with, such article or currency or security
The Foreign Contribution (Regulation) Act, 2010 (Chart 4.3)

Registration

Registration of certain persons with Central Government (Section 11)

I) Conditions to be met for grant of registration & prior permission

- A) 'Person' making an application for registration or grant of prior permission-
  - i) is not fictitious or benamli
  - ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another
  - iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of country
  - iv) has not been found guilty of diversion or misutilisation of its funds
  - v) not engaged or likely to engage in propagation of sedition
  - vi) not likely to use foreign contribution for personal gains
  - vii) has not contravened any of Provisions
  - viii) has not been prohibited from accepting foreign contribution
  - ix) person being an individual or in case of other than individual any of its directors or office bearers, has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him

- B) Acceptance of foreign contribution by association/person is not likely to affect prejudicially-
  - i) Sovereignty and integrity of India
  - ii) Security, strategic, scientific or economic interest of the State
  - iii) Public Interest
  - iv) Freedom or fairness of election to any Legislature
  - v) Friendly relation with any foreign State
  - vi) Harmony between religious, racial, social, linguistic, regional groups, castes or communities

II) Procedure for grant of certificate of registration

- a) Application to be made to CG
- b) CG may reject application if it is not in prescribed form
- c) If CG is of the opinion that conditions are satisfied, it may, ordinarily within 90 days from date of receipt of application, register such person & grant him a certificate
- d) Where CG refuses grant of certificate, it shall record in its order reasons therefor & furnish a copy thereof to applicant.
- e) Certificate granted shall be valid for a period of 5 years from date of its issue

- C) Acceptance of foreign contribution-
  - i) Shall not lead to incitement of an offence
  - ii) Shall not endanger life or physical safety of any person

- D) CG may suspend certificate for such period not exceeding 180 days as may be specified in order

- E) CG may, by an order, cancel certificate if:
  - i) Holder of certificate has made a statement in, or in relation to, application for grant of registration or renewal thereof which is incorrect or false or;
  - ii) Holder of certificate has violated any of terms & conditions of certificate or renewal thereof
  - iii) In opinion of CG, it is necessary in public interest to cancel certificate
  - iv) Holder of certificate has violated any of provisions of this Act or rules
  - v) If holder of certificate has not been engaged in any reasonable activity in its chosen field for benefit of society for 2 consecutive years or has become defunct

- F) No order of cancellation of certificate shall be made unless person concerned has been given a reasonable opportunity of being heard

- G) Cooling period of 3 years

III) Suspension of certificate (Section 13)

IV) Cancellation of certificate (Section 14)
The Foreign Contribution (Regulation) Act, 2010 (Chart 4.4)

**Registration**

V) Management of foreign contribution of person whose certificate has been cancelled (Section 15)
- a) Foreign contribution and assets created out of foreign contribution in custody of every person whose certificate has been cancelled shall vest in such authority as may be prescribed
- b) Such an authority may, if it considers necessary & in public interest, manage activities of person, as CG may direct & such authority may utilise foreign contribution or dispose of assets created out of it if in case adequate funds are not available for running such activity
- c) Authority shall return foreign contribution & assets vested upon it to person, if such person is subsequently registered under this Act

VI) Renewal of certificate (Section 16)
- a) Every person who has been granted a certificate, shall have such certificate renewed within 6 months before expiry of period of certificate
- b) Application for renewal of certificate shall be made to CG
- c) CG shall renew certificate within 90 days & grant a certificate of renewal for a period of 5 years

**Procedure for renewal:**
- a) Every certificate of registration issued to a Person shall be liable to be renewed after expiry of 5 yrs.
- b) Before date of expiry person shall apply to CG, 6 months before date of expiry of certificate of registration.
- c) Application shall be accompanied by a fee of Rs. 500
- d) Fee for renewal shall be remitted by DD or banker's cheque in favour of "Pay & Accounts Officer, Ministry of Home Affairs", payable at New Delhi or through online electronic payment gateway as specified CG
- e) In case no application for renewal of registration is received certificate of registration of such person shall be deemed to have ceased.
- f) If validity of certificate of registration of a person has ceased a fresh request for grant of a certificate of registration may be made to CG.
- g) In case a person provides sufficient grounds, in writing, explaining reasons for not submitting certificate of registration for renewal within stipulated time, his application may be accepted, but not later than 4 months after expiry of original certificate of registration

**Accounts, Intimation, Audit & Disposal of Assets etc.**

I) Foreign contribution through scheduled bank (Section 17)
- Every person who has been granted a certificate or given prior approval shall receive foreign contribution in a single account only through such one of branches of a bank as he may specify in his application for grant of certificate

II) Intimation (Section 18)
- Every person who has been granted a certificate or given prior approval shall give an intimation to CG, & such other authority as may be specified by CG

III) Maintenance of accounts (Section 19)
- Every person who has been granted a certificate shall maintain, in such form & manner as may be prescribed.
  a) An account of any foreign contribution received by him & b) A record as to manner in which such contribution has been utilised by him

IV) Audit of accounts (Section 20)
- a) Where any person who has been granted a certificate, fails to furnish any intimation after inspection of such intimation, CG may-
  i) By general or special order, authorise such Gazetted Officer, any other officer or authority or organisation, as it may think fit
  ii) To audit any books of account kept or maintained by such person
- b) Every such officer shall have right to enter in or upon any premises at any reasonable hour, for purpose of auditing said books of account

V) Disposal of assets created out of foreign contribution (Section 22)
- a) Where any person who was permitted to accept foreign contribution under this Act-
  i) Ceases to exist or has become defunct
  ii) In absence of any such law-CG may specify that all such assets shall be disposed of by such authority, in such manner & procedure as may be prescribed

- c) Any information obtained from such audit shall be kept confidential & shall not be disclosed
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I) Confiscation of article or currency or security obtained in contravention of the Act (Section 28)

Any article or currency or security which is seized shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

II) Adjudication of confiscation (Section 19)

a) Without limit, by Court of Session within local limits of whose jurisdiction seizure was made.
b) Subject to such limits as may be prescribed, by such officer, not below rank of an Assistant Sessions Judge.

III) Procedure for confiscation (Sec 30)

No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation has been given.

IV) Appeal (Section 31)

<table>
<thead>
<tr>
<th>Order passed by</th>
<th>Appeal to be made</th>
</tr>
</thead>
<tbody>
<tr>
<td>the Court of Session</td>
<td>To the high court to which such court is subordinate</td>
</tr>
<tr>
<td>any officer specified section 29(1)(b)</td>
<td>Court of session within the local limits of whose jurisdiction such order of adjudication of confiscation was made</td>
</tr>
</tbody>
</table>

Appeal may be preferred within one month from the date of communication to such person of the order. However, the appellate court may, allow such appeal to be preferred within a further period of one month, but not thereafter.

V) Revision of orders by Central Government (Section 32)

a) Power to central Government:
CG may either of its own motion or on an application for revision by person registered under this Act, call for & examine record.

b) Restriction on entertainment of revision:
CG shall not of its own motion revise any order if order has been made more than 1 year previously.

c) In case of an application for revision under this section - Application must be made within 1 year from date on which order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier.

VI) Application of other laws not barred (Section 52)

VII) Power to remove difficulties (Section 53)
The Arbitration And Conciliation Act, 1996 (Chart 5.1)

Arbitration - General Provisions

I) Alternate methods of dispute resolution
   a) Arbitration
   b) Conciliation
   c) Mediation
   d) Negotiation

III) Arbitration
   a) It is a method of adjudication of disputes
   b) by a neutral third person(s) selected by parties
   c) who renders a final & binding decision

IV) Process of arbitration
   Arbitral Tribunal (neutral third party)
   Adjudication
   Arbitral Award (binding decision)

Party 1
Party 2

V) Basic Features of Arbitration
   a) Arbitration agreement
   b) Arbitrator
   c) Seat of arbitration
   d) Party autonomy & procedure
   e) Finality of outcome
   f) Confidentiality
   g) Arbitral Awards
   h) Enforcement of arbitral awards

VI) Distinction between Arbitration and Litigation
   Litigation
   a) Takes place in court
   b) A judge is assigned by court
   c) Procedure followed by court is fixed & determined by Rules of court
   d) Proceedings are generally open to public
   e) Court decisions are subject to numerous appeals
   f) It is often difficult to enforce judgments of court of one country in a foreign country

Arbitration
   a) Place of arbitration is chosen by parties
   b) Arbitrator(s) is selected by parties
   c) Parties have adequate flexibility to choose procedures that would apply to their arbitration
   d) Confidentiality is one of most important characteristic of arbitration
   e) Arbitral awards can be challenged on very limited grounds
   f) Enforcing an arbitral award in foreign nations is much easier & is governed by international treaties

IX) Arbitration Agreement
   a) Definition
   "It means an agreement by parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not"
   b) Types
   - Arbitration clause
   - Submission agreement
   c) General Principles
   - It is an agreement enforceable under law
   - Consent (consensus ad idem)
   - Ouster of jurisdiction
   - Doctrine of separability
   - Competency to rule on its jurisdiction
   d) Requirements of a valid arbitration agreement
   - Writing
   - Clarity of consent
   - Defined Legal relationship
   - Final & binding award
   - Specific words
   - Dispute
   - Arbitrability
   - Signature
   e) Termination of an arbitration agreement
   - Mutual consent
   - Termination of principal contract
   - Death of parties
   - Operation of Law
# The Arbitration And Conciliation Act, 1996 (Chart 5.2)

## Arbitral Tribunal

### I) Arbitral Tribunal
- An arbitral tribunal or arbitral tribunal performs function of a judge, in other words an arbitral tribunal adjudicates/judges dispute between parties.

### II) Who can be an arbitrator?
- Any person capable of contracting, in theory can be an arbitrator.

### III) Appointment of Arbitral Tribunal
- a) An important principle of arbitration is principle of party autonomy. Party autonomy means ‘freedom to choose’ whether it is procedure, venue, seat or arbitrators.
- b) Parties have right to choose persons who would act as arbitrators in their dispute.
- c) There are two aspects to appointment, namely number of arbitrators & actual procedure of appointment.

### IV) Number of Arbitrators
- Parties tend to have high level of freedom when deciding on number of persons that can be chosen as arbitrators.

## Arbitral Award

### V) Procedure for appointment
- a) Parties will jointly appoint.
- b) Each party will appoint one & two arbitrators would appoint rest.
- c) Appointment would be made by a person who is not related to the parties.
- d) The arbitrator could be of any nationality.
- e) Capable of contracting
- f) Lack of bias

### VII) Duties & liabilities of arbitrator
- a) Conduct arbitral proceedings without delay.
- b) Remain at all times impartial i.e. treat both parties equally.
- c) Keep all matters concerning arbitration confidential.
- d) Deliberation.
- e) Avoid unilateral communication with any party.
- f) Ensure all documents & communication received from any party is communicated to other party.

### VIII) Termination, Removal & substitution of arbitral tribunal
- a) When arbitrator leaves voluntarily.
- b) When all parties involved in arbitration agree that arbitrator should be removed.
- c) Operation of law. 
  - Arbitrator unable to continue.
- d) When arbitration process ends.
- e) When the court decides that arbitrator should be removed.

## Conclision

### I) Definition
- An arbitral award is similar to a judgment given by a court of law. It is given by arbitral tribunal as a decision on various issues in a matter which parties had placed before arbitral tribunal.

### IV) Requirements of an arbitral award
- a) Must be a decision by majority.
- b) Must be made in writing, signed & dated.
- c) Must be reasoned.
- d) Must not be vague.
- e) Should be capable of being performed.
- f) Must not be illegal (against public policy).

### V) Challenging an Award
- a) Under Section 13 – challenge of bias against arbitral tribunal.
- b) Under Section 16 – overstepping of jurisdiction by arbitral tribunal.
- c) Under Section 34 – specific grounds for reviewing an award.

### III) Conciliation in India
- a) Number of Concillator.
- b) Appointment of Concillators.
- c) Procedure of Conciliation.
- d) Bar on judicial or arbitral proceedings.

### IV) Settlement Agreement
- a) Initial steps.
- b) Agreement.
- c) Enforcement.

### V) Settlement Agreement
- a) Final Award.
- b) Interim Award.
- c) Settlement Award.
- d) Additional Award.
- e) The first set of grounds includes:
  - a) Party is under some incapacity.
  - b) Invalid arbitration agreement.
  - c) Party is not given proper notice about appointment of arbitrator or arbitral proceedings.

### VI) Confidentiality
- a) Both conciliator & parties are required to keep all matter relating to proceedings & settlement agreement confidential.
# Requirement of an Arbitral Award (Chart 5.3)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Details</th>
</tr>
</thead>
</table>
| Must be a Decision by the Majority | Made Through Majority Submitted to the arbitral Tribunal for Adjudication.  
  1. Writing and Having the signature of Majority members of the arbitral tribunal.  
  2. Two Conditions are fulfilled not agree with the contents of the Award.  
  3. Majority of the arbitrators to Sign.  
  4. of Equal Importance helps determining Various Timelines. |
| Must be made in Writing, Sined and Dated | 1. Failure to state reasons would make the award invalid.  
  2. Arbitrator had applied their Minds to the Matter.  
  3. In others Words, the Decision would not be an arbitrary decision.  
  4. agreed that no Reasons need be given for the award. |
| Must be Reasoned             | 1. Both certain and Clearly note which party has to do what parity has and finally what relief has been awarded to parties.  
  2. Must not be tentative vagueness should be avoided at all cost. |
| Must Not Be Vague            | The award should be capable of being performed. An unenforceable award would be set aside. |
| Should Be Capable of Being Performed | 1. It is Violation of the public policy Would be set aside.  
  2. If it is Contrary to substantive provisions of Law |
| Must Not Be Illegal (against Public Policy) | 1. Legal  
  2. Illegal |
**REQUIREMENT OF A VALID ARBITRATION AGREEMENT (Chart 5.4)**

<table>
<thead>
<tr>
<th>Writing</th>
<th>Clarity of Consent</th>
<th>Define Legal Relationship</th>
<th>Final &amp; Binding</th>
<th>Specific Words</th>
<th>Dispute</th>
<th>Arbitrability</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is however no requirement for the same to be in writing in one document.</td>
<td>1. The intention to go to arbitration must be clear in other words there must be consensus ad idem. 2. The Words used should disclose a determination and obligation.</td>
<td>1. Borrowed from the UNCITRAL Model law does not define this term. 2. Dispute that arises from a legal relationship can be submitted to arbitration unless it is expressly or impliedly barred by a statute.</td>
<td>Parties must agree that the determination of their substantive rights by the neutral third Person.</td>
<td>Arbitration ‘or’ Arbitrator ‘will not make it an arbitration agreement.</td>
<td>Future Dispute/difference in connection with some Contemplated affairs that is proposed be submitted to arbitration.</td>
<td>The Dispute Proposed to be Submitted to arbitration must be arbitrable.</td>
<td>Contained in a Contract i.e. in one set of Documents no Signature is required. Enclosure or Exchange of Pleadings.</td>
</tr>
</tbody>
</table>

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- **Writing:**
  - There is however no requirement for the same to be in writing in one document.

- **Clarity of Consent:**
  1. The intention to go to arbitration must be clear in other words there must be consensus ad idem.
  2. The Words used should disclose a determination and obligation.

- **Define Legal Relationship:**
  1. Borrowed from the UNCITRAL Model law does not define this term.
  2. Dispute that arises from a legal relationship can be submitted to arbitration unless it is expressly or impliedly barred by a statute.

- **Final & Binding:**
  - Parties must agree that the determination of their substantive rights by the neutral third Person.

- **Specific Words:**
  - Arbitration ‘or’ Arbitrator ‘will not make it an arbitration agreement.

- **Dispute:**
  - Future Dispute/difference in connection with some Contemplated affairs that is proposed be submitted to arbitration.

- **Arbitrability:**
  - The Dispute Proposed to be Submitted to arbitration must be arbitrable.

- **Signature:**
  - Contained in a Contract i.e. in one set of Documents no Signature is required. Enclosure or Exchange of Pleadings.
FEATURES OF ARBITRATION (Chart 5.5)

1. Happens with the Consent of parties.
2. Clearly states that in case disputes parties will be proceed to arbitration instead of going to the court.

1. Similar to judge of the court.
2. Required to be Neutral Impartial

Legal System will Supervise arbitration

Arbitration gives the Parties Choice of applicable Laws, To Choose kind of Procedure etc..

No appeal Possible Against arbitral awards

What happens in arbitration remains Private.

Decision by Arbitrator.

More Simpler
43 AIR of NOV-18 EXAM
Under One Roof With Team SPC