OVERSEAS EDUCATION PAYMENTS IN INDIA: RULES, REGULATIONS AND CHALLENGES UNDER FEMA, 1999

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ABSTRACT

Every year, hundreds of thousands of Indian families move money across the border to pay for education. The legal character of that movement appears simple: the Foreign Exchange Management Act, 1999 ("FEMA") treats expenses for the education of a person's children, spouse and parents abroad as a current account transaction, which is, in principle, free from restriction. Yet the lived experience of remitting tuition fees is shaped by a dense stack of rules beneath the statute: the Current Account Transactions Rules, the Liberalised Remittance Scheme ("LRS") and its Master Direction, the operational discretion of Authorised Dealer banks, a tax-collection-at-source regime under income-tax law, anti-money-laundering obligations and a penal framework that can attach even to technical lapses. This article maps that architecture, traces how the law arrived at its present form, and examines the practical and doctrinal challenges that students and their families face, including documentation friction, tax cash-flow burdens, exchange-rate exposure, informal channels and fraud, and uncertainty over residential status. It argues that the regime is liberal in design but fragmented in delivery, and proposes calibrated reforms, namely a digitised student-remittance pathway, harmonised FEMA and tax data, regulated education intermediaries and graded compounding for technical lapses, that would preserve the regime's anti-evasion objectives while reducing the compliance burden on bona fide remitters. The article states the law as understood in October 2026.

Keywords: FEMA, 1999; overseas education; Liberalised Remittance Scheme; current account transactions; Authorised Dealers; tax collected at source; Reserve Bank of India.

I. INTRODUCTION

Education is now one of the most significant reasons Indian residents send foreign exchange out of the country. Data presented by the Ministry of External Affairs to Parliament during the Winter Session of 2025 indicated that more than eighteen lakh Indian students, counting both school-level and higher-education enrolment, were studying in 153 countries, and that the figure for higher education alone had risen from about 7.5 lakh in 2022 to 9.3 lakh in 2023 and 13.3 lakh in 2024.[1] The financial flow that accompanies this mobility is correspondingly large. Outward remittances under the LRS touched a record of about USD 31.73 billion in the financial year 2023-24 before easing to about USD 29.56 billion in 2024-25, a year in which remittances for studies abroad fell by roughly 18.77 per cent, a decline attributed in public reporting to tighter visa regimes in the United States, Canada and the United Kingdom and to a shift towards more affordable destinations.[2]

Behind these numbers lies a legal question that most families never consciously ask: under what authority, and subject to what conditions, may a resident of India lawfully pay a university in another country? The answer is not found in a single provision. It emerges from the interaction of a statute enacted in 1999, delegated legislation made by the Central Government, regulations and directions issued by the Reserve Bank of India ("RBI"), the compliance practices of the banks that act as Authorised Dealers, and a layer of income-tax provisions that, although not part of the foreign exchange statute, now determine much of the cost and timing of a remittance. A family that pays tuition through a bank transfer engages every one of these layers in a matter of minutes.

The regime is generally described as liberal, and in structure it is. FEMA was deliberately designed to replace a statute that treated foreign exchange as a scarce national asset to be rationed through permission with a statute that treats it as a resource to be managed.[3] Education-related expenses sit squarely on the freer side of that design. And yet practitioners, banks and students report recurring friction: documentation demands that vary from branch to branch, tax

[1]Ministry of External Affairs, Data on Indian Students Studying Abroad, tabled in Parliament, Winter Session 2025 (India). The year-wise figures are those reported in the press from the Ministry's data; readers should verify them against the Ministry's published parliamentary replies.

[2]Reserve Bank of India, Liberalised Remittance Scheme Data (FY 2023-24 and FY 2024-25), as reported in *Outward Remittances Under LRS Fall 6.85% to $29.56 Billion in FY25*, Bus. Standard (May 22, 2025) (India).

[3]Foreign Exchange Management Act, 1999, No. 42, Acts of Parliament, 1999, pmbl. (India) [hereinafter FEMA] (stating the objective of "facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India").

collected up front at rates that have been changed by several recent Finance Acts, exchange-rate exposure that the law does little to help families manage, a thriving informal sector of agents and payment intermediaries of uneven reliability, and penalties under FEMA that can reach three times the sum involved if a remittance is found to have breached the rules.

This article examines that gap between liberal design and practical delivery. Part II traces the conceptual move from the Foreign Exchange Regulation Act, 1973 ("FERA") to FEMA and shows why education payments are classified as current account transactions. Part III sets out the regulatory architecture in detail, covering the Current Account Transactions Rules, the LRS and its Master Direction, the role of Authorised Dealers, education loans, foreign currency accounts and the question of residential status. Part IV addresses the tax-collection-at-source overlay. Part V explains the enforcement framework and the remedies available. Part VI considers constitutional and policy dimensions. Part VII identifies the principal practical challenges. Part VIII offers a brief comparative perspective, Part IX proposes reforms, and Part X concludes.

The analysis is doctrinal. It relies on the statute, the rules, the RBI's Master Directions and circulars, the Income-tax Act provisions that now govern tax collected at source, and judicial authority on the constitutional and administrative-law questions that the regime raises. Because the rules in this field change frequently, often through the annual Finance Act, the discussion states the position as understood in October 2026 and flags points on which a remitter should confirm the current text before acting.

II. FROM FERA TO FEMA: THE CONCEPTUAL FOUNDATION

A. THE PHILOSOPHY OF SCARCITY UNDER FERA

To understand why education payments are treated as they are today, it helps to recall what they replaced. The Foreign Exchange Regulation Act, 1973 was enacted in an era of acute foreign exchange scarcity and a closed, planned economy.[4] Its premise was that foreign exchange belonged, in a real sense, to the nation and that every resident dealing in it required either a general permission or a specific licence. The statute was framed in terms of prohibitions, presumptions and wide powers of search, seizure and arrest, and breaches were

[4]Foreign Exchange Regulation Act, 1973, No. 46, Acts of Parliament, 1973 (India) (repealed by FEMA, § 49).

treated as criminal offences. For a family wishing to send money abroad for a child's education, the practical consequence was that the transaction depended on the discretion of the exchange control authorities, and that mistakes could carry consequences out of all proportion to their economic significance.

The balance-of-payments crisis of 1991 and the economic reforms that followed shifted the policy ground. India accepted the obligations of Article VIII of the Articles of Agreement of the International Monetary Fund in August 1994, which committed it to current account convertibility and to avoiding restrictions on payments for current international transactions. The logic of FERA, with its default of prohibition, was increasingly at odds with that commitment. Parliament enacted FEMA in 1999, and it came into force on 1 June 2000.

B. THE ARCHITECTURE OF FEMA: MANAGEMENT, NOT PROHIBITION

FEMA's preamble describes its objective as consolidating and amending the law relating to foreign exchange so as to facilitate external trade and payments and to promote the orderly development and maintenance of the foreign exchange market. The operative provisions reflect this shift in several ways.

First, FEMA does not criminalise ordinary dealing in foreign exchange. Section 3 provides that, save as provided in the Act or its rules and regulations, or with the general or special permission of the RBI, no person shall deal in or transfer foreign exchange or foreign security to any person who is not an authorised person.[5] The statute thus channels foreign exchange transactions through authorised persons, principally banks licensed by the RBI as Authorised Dealers ("ADs"), instead of requiring individual permissions for each transaction. Section 10 provides for the authorisation of such persons and, importantly, requires an authorised person to obtain from the customer such declarations and information as reasonably satisfy it that the transaction does not involve a contravention of the Act.[6] Section 11 empowers the RBI to issue directions to authorised persons, and contravention of such directions attracts penalty.[7]

Second, FEMA distinguishes between current account transactions and capital account transactions, and applies a different default to each. Section 5 provides that any person may

[5]FEMA, § 3.
[6]FEMA, § 10(5).
[7]FEMA, § 11.

sell or draw foreign exchange to or from an authorised person if the sale or drawal is a current account transaction, subject to reasonable restrictions that the Central Government may impose in public interest in consultation with the RBI.[8] Section 6, by contrast, permits capital account transactions only to the extent permitted by the RBI's regulations and the Central Government's rules.[9] The design is therefore a presumption of freedom for current account transactions, with restrictions as the exception, and the reverse for capital account transactions. This asymmetry is the key to understanding why the classification of a transaction matters: it determines which party bears the burden of justification.

Third, FEMA moves the enforcement model from criminal prosecution to civil adjudication. Contraventions are dealt with through penalties imposed after adjudication, with compounding available for many contraventions.[10] This shift in enforcement philosophy matters for students and families because the realistic exposure for a bona fide error is a civil penalty and not a prosecution, although, as Part V explains, the quantum of that penalty can still be substantial.

C. WHY EDUCATION IS A CURRENT ACCOUNT TRANSACTION

Section 2(j) of FEMA defines a "current account transaction" as a transaction other than a capital account transaction and, without prejudice to the generality of that definition, lists four categories. The fourth is expenses in connection with foreign travel, education and medical care of parents, spouse and children.[11] The legislature thus placed education expenses, by express enumeration, on the freer side of the current/capital divide.

Two interpretive observations follow. The first concerns the term "education", which the Act does not define. In practice the RBI's reporting framework treats payments for tuition fees, hostel charges and similar expenses as falling within a single purpose category for education abroad, and the Master Direction on the LRS speaks of studies abroad without limiting the head to tuition alone.[12] The better reading, consistent with the object of the provision, is that

[8]FEMA, § 5.

[9]FEMA, § 6.

[10]FEMA, §§ 13, 15, 16.

[11]FEMA, § 2(j)(iv). By contrast, § 2(e) defines a "capital account transaction" as one that alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India, or in India of persons resident outside India.

[12]Reserve Bank of India, Master Direction - Liberalised Remittance Scheme (LRS), FED Master Direction No. 7/2015-16 (Jan. 1, 2016) (updated Sept. 6, 2024) (India) [hereinafter LRS Master Direction]. The RBI's purpose code for such remittances covers travel for education, including fees and hostel expenses.

"education" extends to the ordinary costs of pursuing a course of study, which include fees, accommodation and reasonable living expenses.

The second observation concerns the persons named. Section 2(j)(iv) speaks of the education of "parents, spouse and children". It does not in terms include siblings, grandchildren, nieces or nephews. Read narrowly, a resident paying the fees of a younger sibling abroad would not be making a current account transaction of the kind listed in the clause. The tension dissolves in practice, however, because the definition is expressly non-exhaustive and because the LRS permits a resident individual to remit funds for any permitted current or capital account transaction, including gifts and the maintenance of relatives, within the annual limit. A sibling's education can therefore be funded as a gift or as a remittance for a permitted purpose under the Scheme. The point is not trivial: it shows that the practical force of the regime comes less from the statutory definition than from the RBI's schemes that operate beneath it.

III. THE REGULATORY ARCHITECTURE GOVERNING EDUCATION REMITTANCES

A. THE HIERARCHY OF NORMS

A remittance for education is governed by norms at four levels. At the top is the Act itself. Below it sit the rules made by the Central Government under section 46, which include the Foreign Exchange Management (Current Account Transactions) Rules, 2000.[13] Next come the regulations made by the RBI under section 47. At the operational level are the Master Directions and A.P. (DIR Series) Circulars issued to Authorised Dealers under section 11. The last category is the most frequently amended and the one that families and banks consult most often, yet it is also the category with the weakest claim to parliamentary scrutiny.

The legal force of these instruments deserves attention. A direction issued under section 11 is addressed in the first instance to the authorised person, and it is the bank that must comply with it. But section 13 attaches penalty to a person who "contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act", so a remitter who procures a transaction in breach of a direction may be exposed to penalty in his or her own

[13]FEMA, § 46; Foreign Exchange Management (Current Account Transactions) Rules, 2000 (India) [hereinafter Current Account Rules].

right.[14] The distinction between instruments addressed to banks and instruments binding on customers is therefore thinner in practice than it appears in theory.

B. THE CURRENT ACCOUNT TRANSACTIONS RULES

The Current Account Rules implement the power conferred by section 5 to impose reasonable restrictions on current account transactions. They organise restricted transactions into three schedules: transactions in respect of which drawal of foreign exchange is prohibited, transactions that require the prior approval of the Central Government, and transactions that are subject to quantitative limits or to the approval of the RBI.[15] Education expenses are not among the prohibited or Central Government-approval categories. Since the liberalisation of the Scheme, the drawal of foreign exchange for education has operated principally within the limit and the conditions prescribed under the LRS, rather than through case-by-case approval.

C. THE LIBERALISED REMITTANCE SCHEME

The LRS is the operative channel for most education remittances by individuals. It was introduced on 4 February 2004 by A.P. (DIR Series) Circular No. 64 as a scheme permitting resident individuals to remit up to USD 25,000 per financial year for permitted current or capital account transactions.[16] The limit has been revised several times and has stood at USD 250,000 per financial year since 2015.[17] The salient features relevant to education may be summarised as follows.

Eligibility. The Scheme is available to resident individuals, including minors, who remit through an Authorised Dealer. A minor's remittance must be countersigned by the natural guardian. Corporations, partnership firms, Hindu undivided families, trusts and similar entities are not eligible, which has consequences for employer-sponsored education, discussed below.

Permitted purposes. The limit applies to any permitted current or capital account transaction, or a combination of both. Studies abroad, maintenance of close relatives, medical treatment, travel, gifts and investments abroad fall within the same annual ceiling. The limit is therefore

[14]FEMA, § 13(1).
[15]Current Account Rules, rr. 3-5 & scheds. I-III.
[16]Reserve Bank of India, A.P. (DIR Series) Circular No. 64 (Feb. 4, 2004) (India).
[17]LRS Master Direction, *supra* note 12, pt. A, ¶ 1.

a pooled limit, and funds sent for one purpose reduce the headroom available for others.

Prohibited purposes. The Scheme excludes remittances that are prohibited under Schedule I of the Current Account Rules or restricted under Schedule II, remittances for margin or margin calls to overseas exchanges or counterparties, and remittances to countries or jurisdictions identified by the Financial Action Task Force as non-cooperative. These exclusions are not directed at education, but they illustrate that an education remittance can lose the protection of the Scheme if it is a cover for a prohibited transaction.

Education above the ceiling. The most important education-specific feature of the Scheme is the relaxation for large costs. Authorised Dealers may permit remittances exceeding USD 250,000 for studies abroad, without the prior approval of the RBI, on the basis of the estimate received from the institution abroad.[18] The estimate functions as the documentary anchor for the transaction. Because the total cost of a professional postgraduate programme at a leading institution in the United States, for instance, can exceed USD 250,000 when fees, accommodation and living costs are added across years, this relaxation is practically significant.

D. OPERATIONAL PROCEDURE AND THE ROLE OF AUTHORISED DEALERS

An education remittance under the Scheme proceeds through an AD Category-I bank, which is required to carry out know-your-customer checks, to obtain the permanent account number of the remitter, and to receive the prescribed application and declaration, commonly referred to as Form A2, in which the remitter states the purpose of the remittance and confirms that the transaction is within the Scheme.[19] The bank must also verify that the cumulative remittances of the individual in the financial year do not exceed the limit, a task that is performed on the basis of the individual's own declaration together with the bank's records and the permanent account number. Payment may be made to the overseas institution directly, to the account of the student abroad, or, within the limits of the Scheme, through card payments.

Section 10(5) of FEMA explains why banks approach these steps conservatively. The statute

[18]LRS Master Direction, *supra* note 12, pt. A (providing that AD Category-I banks may allow remittances exceeding USD 250,000 for education on the basis of an institutional estimate).

[19]LRS Master Direction, *supra* note 12, annex. 1 (Form A2). The Master Direction also requires the AD to certify that the remittance is not being made, directly or indirectly, by or to ineligible entities and that the conditions of the Scheme are satisfied.

requires an authorised person to satisfy itself that the transaction will not involve a contravention before it proceeds.[20] A bank that fails to do so is exposed to consequences under section 11(3) and to supervisory action by the RBI. The incentives are asymmetric: a bank that declines or delays a legitimate remittance faces little consequence, while one that processes an improper remittance faces significant regulatory risk. As Part VII shows, this asymmetry accounts for much of the friction that remitters experience.

The Master Direction also contemplates that remittances under the Scheme may be consolidated across members of a family, subject to each member complying individually with the conditions of the Scheme. This allows parents and a student, for example, to use their separate limits for a single large payment. It is an important flexibility, but it does not permit a person to use another's name as a conduit for funds that are not that person's own.

E. EDUCATION LOANS, SCHOLARSHIPS AND THIRD-PARTY FUNDING

Many students fund their studies through loans from Indian banks and financial institutions. In the usual structure, the lender disburses the loan in tranches, often directly to the institution abroad, against the institution's invoice or the student's fee schedule. From the standpoint of FEMA the remittance is still an outward remittance by a resident, and it is processed by the bank as an education remittance. The tax treatment, however, is distinct, as Part IV explains.

Scholarships and stipends paid by foreign institutions raise the converse question: they are inward receipts in foreign exchange and, being current account receipts, are ordinarily unrestricted. The more difficult case is third-party funding, such as sponsorship by an employer. Because corporates are not eligible under the LRS, an employer that wishes to pay an employee's tuition abroad cannot simply use the Scheme in its own name. The arrangement must be structured so that the remittance is made by an eligible resident individual, or through another permitted route, and in practice the bank's guidance should be obtained before the transaction is carried out.

F. FOREIGN CURRENCY ACCOUNTS AND SURPLUS FUNDS

The LRS permits a resident individual to open, hold and maintain a foreign currency account with a bank outside India for the purpose of making permitted remittances, without prior RBI

[20]FEMA, § 10(5).

approval.[21] For a student this is practically important, since it allows funds to be transferred to the student's own account abroad and used to meet fees, accommodation and living costs as they fall due. Two conditions bear emphasis. The funds must be used for the purposes permitted under the Scheme, and funds that remain unutilised must be dealt with in accordance with the prescribed surrender and repatriation requirements. A family that parks funds abroad for an indefinite period under the label of "education" invites scrutiny.

G. RESIDENTIAL STATUS: A PERSISTENT AMBIGUITY

The Scheme is available to "resident" individuals, which makes the definition of residence under FEMA relevant. Section 2(v) defines a person resident in India, in the case of an individual, as a person who has resided in India for more than 182 days during the preceding financial year, but excludes a person who has gone out of India, or who stays outside India, for or on taking up employment, for carrying on a business or vocation, or "for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period".[22]

A student who goes abroad for a fixed-duration course sits uneasily within this definition. On one view the student has gone abroad for a specific, time-bound purpose and does not intend to stay for an uncertain period, so continues to be resident. On another view, the practical possibility of post-study work, extended stay or permanent settlement may support the inference of an uncertain stay and of non-resident status. The statute does not resolve the point; the answer depends on facts and intention, and the position taken for FEMA purposes need not match the tax residency of the same individual under the Income-tax Act. The consequences are real. A student who is treated as non-resident for FEMA purposes may open different categories of bank accounts and be subject to different rules on receipts and repatriation, while a student who remains resident continues to rely on the family's LRS limit. In the absence of a clear rule, students and their banks make the determination case by case, and the result is variability.

[21]LRS Master Direction, *supra* note 12, pt. A (permitting resident individuals to open, hold and maintain foreign currency accounts abroad for purposes of the Scheme).

[22]FEMA, § 2(v).

IV. THE TAX OVERLAY: TAX COLLECTED AT SOURCE ON EDUCATION REMITTANCES

A. EVOLUTION OF THE REGIME

Although the tax is not a FEMA provision, it is now one of the most visible features of an outward remittance. Tax collected at source ("TCS") on remittances under the LRS was introduced by the Finance Act, 2020, with effect from 1 October 2020, through a new sub-section in section 206C of the Income-tax Act, 1961.[23] The original rate was 5 per cent on the amount remitted in excess of Rs. 7 lakh in a financial year, and 0.5 per cent for remittances funded by an education loan from a specified financial institution. The Finance Act, 2023 raised the general rate to 20 per cent from 1 October 2023 for most purposes while retaining lower rates for education and medical treatment. The Finance Act, 2025 raised the threshold from Rs. 7 lakh to Rs. 10 lakh and removed TCS altogether on education remittances funded by a loan from a specified financial institution.

The Finance Act, 2026 made the most recent change. From 1 April 2026, the rate on remittances for education and medical treatment above the threshold was reduced from 5 per cent to 2 per cent, and the rate on overseas tour packages was reduced to a flat 2 per cent without a threshold.[24] Since 1 April 2026, the provisions of the Income-tax Act, 1961 have been replaced by the Income-tax Act, 2025, under which the collection of tax on LRS remittances is found in section 394.[25]

B. THE PRESENT POSITION

The present position as to education remittances may be set out as follows.

[23]Income-tax Act, 1961, No. 43, Acts of Parliament, 1961, § 206C(1G) (India) (as inserted by the Finance Act, 2020).

[24]Finance Act, 2026 (India); see Union Budget 2026-27, Speech of the Finance Minister (Feb. 1, 2026) (proposing the reduction of the rate for education and medical purposes under the LRS from 5 per cent to 2 per cent).

[25]Income-tax Act, 2025, § 394 (India). Readers should confirm sub-section references against the current text of the Act and any rules made under it.

Table 1: TCS on LRS remittances from 1 April 2026

Purpose of remittance	Rate	Threshold (per remitter, per financial year)
Education funded by a loan from a specified financial institution	Nil	Not applicable
Education, self-funded	2%	On the amount exceeding Rs. 10 lakh
Medical treatment	2%	On the amount exceeding Rs. 10 lakh
Other purposes (gifts, maintenance, investments and similar)	20%	On the amount exceeding Rs. 10 lakh
Overseas tour packages	2%	None; applies from the first rupee

Two features of the structure warrant comment. First, the threshold of Rs. 10 lakh is not a separate allowance for education. It is a single threshold per remitter per financial year, applied to the aggregate of the remitter's LRS remittances, so a family that sends money for several purposes must keep track of the cumulative amount. Second, the rate depends on the purpose declared. The declaration of purpose, which the remitter gives in Form A2, therefore has tax as well as FEMA consequences, and an incorrect declaration can expose the remitter to both.

A simple example illustrates the arithmetic. Suppose a parent remits Rs. 40 lakh in a financial year to meet a child's tuition at a foreign university, and the funds are the parent's own. The tax collected would be 2 per cent of the excess over Rs. 10 lakh, that is, 2 per cent of Rs. 30 lakh, or Rs. 60,000. Had the same payment been funded by a loan from a specified financial institution, no tax would have been collected at all.

C. NATURE OF THE COLLECTION

TCS is not an additional tax on education. It is an advance collection of tax that is creditable against the remitter's tax liability for the year, and any excess can be claimed as a refund when the return of income is filed. The burden is therefore one of cash flow and compliance, not of

final tax cost. Even so, the burden is real for a family that does not otherwise have a tax liability against which the credit can be used and that must wait for a refund, and the practical need to track the credit through the tax administration's systems is a source of difficulty for those unfamiliar with them.

The rate structure also has distributive implications. Because the loan-funded route attracts no tax while the self-funded route attracts 2 per cent above the threshold, the regime implicitly favours borrowing over the use of savings. Whether this is a deliberate policy of encouraging formal credit for education, or an incidental consequence of the way the provisions were built, is not stated in the Finance Acts, but the effect is to reduce the up-front tax cost of the loan route.

V. CONTRAVENTION, ENFORCEMENT AND REMEDIES

A. THE CIVIL NATURE OF FEMA LIABILITY

A remitter who contravenes FEMA, or any rule, regulation, direction or order made under it, is liable, on adjudication, to a penalty of up to three times the sum involved where that sum is quantifiable, or up to Rs. 2 lakh where it is not, with a further penalty of up to Rs. 5,000 per day for continuing contraventions.[26] Section 14 provides for enforcement of a penalty order, which may in the last resort extend to civil imprisonment.[27]

A penalty of up to three times the sum involved is not trivial when applied to education payments, where the sums are often large. A family that remits Rs. 50 lakh in breach of the Scheme is, on paper, exposed to a penalty of up to Rs. 1.5 crore. In practice, the amount depends on the facts, the conduct of the remitter and the adjudicating authority's assessment. But the scale of the statutory ceiling explains why banks treat compliance with such seriousness.

B. ADJUDICATION, APPEAL AND COMPOUNDING

Contraventions are adjudicated by officers authorised under section 16, a function in practice exercised by officers of the Directorate of Enforcement. An aggrieved person may appeal to the Special Director (Appeals) under section 17, then to the Appellate Tribunal under section

[26]FEMA, § 13(1). The Act also permits confiscation of the currency, security or property involved in a contravention. FEMA, § 13(2).

[27]FEMA, § 14.

19, and finally to the High Court on a question of law under section 35.[28]

Compounding under section 15 is the more important route for ordinary remitters. A person who has contravened a provision may apply to the RBI to compound the contravention, and the RBI's Master Direction on compounding sets out the procedure and the manner of computing the amount payable.[29] The framework is intended for technical and bona fide lapses. It is not available, as a matter of policy, for contraventions that are suspected to involve money laundering, terror financing or threats to national security, which are referred to the Directorate of Enforcement. For a family that has, for example, exceeded the annual limit inadvertently, or that has remitted funds without the required declaration, compounding offers an efficient means of regularisation.

C. RELATED EXPOSURE UNDER OTHER STATUTES

A contravention of FEMA is not the only legal risk associated with an improper remittance. Section 4 of FEMA prohibits a resident from acquiring, holding or owning foreign exchange, foreign security or immovable property outside India except as the Act permits, and section 37A, inserted by the Finance Act, 2015, empowers the authorities to seize assets in India of equivalent value where a person holds such assets abroad in contravention of section 4.[30] An improper remittance that results in unreported foreign assets may therefore attract not only a FEMA penalty but also seizure of equivalent assets in India. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 imposes separate tax and penalty consequences for undisclosed foreign income and assets,[31] and the Prevention of Money-laundering Act, 2002 may be engaged where funds routed abroad are the proceeds of crime.[32] None of these concerns affects a family that remits its own, taxed funds through proper channels with accurate declarations. They are significant, however, for those who attempt to use education as a rationale for moving undeclared money out of the country.

[28]FEMA, §§ 16, 17, 19, 35. The Appellate Tribunal's functions have been reorganised by legislative amendment; the current forum should be confirmed against the latest text of section 18 and the notifications under it.

[29]FEMA, § 15; Reserve Bank of India, Master Direction - Compounding of Contraventions under FEMA, 1999, FED Master Direction No. 04/2025-26 (Apr. 22, 2025) (India).

[30]FEMA, §§ 4, 37A.

[31]Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, No. 22, Acts of Parliament, 2015 (India).

[32]Prevention of Money-laundering Act, 2002, No. 15, Acts of Parliament, 2003 (India).

D. REMEDIES AGAINST THE BANK

A remitter whose grievance is with the bank, for example an unexplained refusal, an undue delay or an excessive charge, has recourse to the bank's internal grievance mechanism and, thereafter, to the RBI's Integrated Ombudsman Scheme, 2021, which covers deficiency in banking services.[33] The Scheme does not allow the Ombudsman to relax the substantive requirements of FEMA, but it offers a forum where delay and arbitrary refusal can be examined.

VI. CONSTITUTIONAL AND POLICY DIMENSIONS

A. A RIGHT TO PURSUE EDUCATION ABROAD?

No reported decision of the Supreme Court has directly tested the constitutionality of the limits on education remittances. The question nonetheless can be framed by reference to settled principles. In *Maneka Gandhi v. Union of India*, the Supreme Court held that the right to travel abroad is part of the personal liberty protected by Article 21 and that any restriction must be backed by a procedure that is just, fair and reasonable.[34] The Court has also recognised the importance of education, holding in *Unni Krishnan v. State of Andhra Pradesh* that the right to education flows from the right to life, at least for children up to the age of fourteen, and thereafter subject to the limits of the State's economic capacity.[35]

These authorities do not establish a right to foreign exchange for study abroad. Foreign exchange is a resource whose management is a legitimate concern of macro-economic policy, and section 5 of FEMA itself authorises reasonable restrictions on current account transactions in the public interest. The authorities do, however, supply the standard against which the regime's restrictions would be judged: they must be reasonable, proportionate to the object, and administered through a fair procedure. An annual limit of USD 250,000, supplemented by a relaxation for institutionally-supported higher costs, sits comfortably within that standard. The more difficult questions concern administration, such as whether the documentation demanded by banks is proportionate and whether the system provides an effective remedy for

[33]Reserve Bank of India, Reserve Bank - Integrated Ombudsman Scheme, 2021 (India).
[34]*Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).
[35]*Unni Krishnan J.P. v. State of Andhra Pradesh*, (1993) 1 S.C.C. 645 (India).

arbitrary delay.

B. DELEGATED LEGISLATION AND LEGAL CERTAINTY

A second set of concerns relates to the instruments through which the regime is operated. The core limits and conditions of the LRS are set out in a scheme and a Master Direction rather than in the Act or the Rules, and they can be, and have been, amended by circular. This allows the RBI to respond quickly to changes in the external sector, but it raises questions of legal certainty. Remitters, who are often first-time users, are required to comply with norms that exist in documents they may never read, and that may be amended between the date on which a student is admitted and the date on which the fee falls due.

The problem is accentuated by the interaction of FEMA instruments with tax provisions that change annually. The rate of TCS applicable to a remittance is the rate in force at the time of collection, not the rate in force on the date of admission, the date of the fee invoice or the date on which a loan was sanctioned. A family that plans a payment on the basis of the rate in the previous year's budget may find the position altered by the time the transaction is carried out. This is not a defect in the law in the sense of illegality, but it is a defect in its predictability.

VII. CHALLENGES IN PRACTICE

A. A FRAGMENTED RULEBOOK

The most basic challenge is the fragmentation of the sources that govern a remittance. A student and a parent must consult, directly or through the bank, the statute, the Rules, the Master Direction on the LRS, the Master Direction on reporting, the tax provisions governing TCS, the know-your-customer norms and the bank's own policies, and each of these has been amended repeatedly. No single document states the current position in a form designed for the person who is actually making the payment. The RBI's Master Direction is addressed to authorised persons and is written in the register of a regulator talking to regulated entities; it is not an instruction manual for a family. The result is that remitters depend on intermediaries, whether banks or education consultants, to interpret the rules for them.

B. DOCUMENTATION FRICTION AND AUTHORISED DEALER DISCRETION

The second challenge is the variation in documentation demands. The Master Direction

identifies the application and declaration, the permanent account number and the institution's estimate as the central requirements, but banks regularly ask for additional documents, such as proof of the source of funds, relationship proofs between the remitter and the student, and evidence of the student's enrolment in a particular form. Some of these requests have a legitimate basis in the bank's obligations under the Prevention of Money-laundering Act and the know-your-customer regime. Others reflect a defensive attitude created by the asymmetry noted in Part III.D, in which the bank bears the risk of an improper remittance but little of the cost of delay. Because fee deadlines, visa timelines and enrolment dates are fixed, a delay of a few days can have disproportionate consequences for the student. The law imposes no maximum turnaround time on a bank's decision on an education remittance, and the grievance mechanism, though available, is not designed to work at the speed that a pending admission may require.

C. CASH-FLOW BURDEN OF TAX COLLECTED AT SOURCE

The third challenge is the cash-flow effect of TCS. The reduction in rate to 2 per cent and the removal of TCS on loan-funded education have mitigated the problem, but the tax continues to be collected upfront from self-funded families on the amount above the threshold. For a family remitting Rs. 60 lakh, the TCS would be Rs. 1 lakh, which must be paid at the time of remittance and recovered later through the credit mechanism. For a family with no other tax liability against which to set the credit, the amount is locked up until a refund is processed. The problem is compounded by information asymmetry: families frequently do not appreciate that TCS is a creditable advance and not a final cost, and they may not know that the credit must be claimed in the return of income. The position is worse where the remitter is a parent who does not ordinarily file returns, or whose return is filed through an adviser who is not told about the remittance.

D. EXCHANGE-RATE EXPOSURE AND THE COST OF TRANSFER

The fourth challenge is the economic cost of converting rupees into foreign currency. FEMA does not regulate the exchange rate at which a bank sells foreign exchange to a customer, and the rate that a family receives includes the bank's spread and any transfer charges. Fee payments are typically fixed in foreign currency, so any depreciation of the rupee between the date of budgeting and the date of payment increases the rupee cost of the same education. The rupee depreciated by about 2.4 per cent during 2024-25, a movement that, in public reporting

on LRS flows, was identified as one of the factors affecting remittance volumes. The law offers limited tools to individuals for managing this exposure. Hedging facilities for residents are available but are governed by conditions linked to underlying exposures and are not widely used by individuals, who are not generally familiar with them. A family that must fund a multi-year programme thus bears a significant and largely unhedged currency risk.

E. INFORMAL CHANNELS, INTERMEDIARIES AND FRAUD

The fifth challenge is the proliferation of unregulated intermediaries. A large number of education consultants and agents advise students on admission, visas and funding, and some offer to arrange payments. Section 3 of FEMA requires that foreign exchange dealings be conducted through authorised persons, and an arrangement under which funds are paid to an agent in India for onward payment abroad, outside the banking system, is a contravention. Beyond the legal risk, there is a risk of fraud. Reports of students arriving abroad with forged admission documents, of payments made to non-existent institutions and of agents who retain fees, appear regularly, and the 2023 episode in which a large number of Indian students in Canada faced removal proceedings because of admission letters obtained through an agent was widely reported. These intermediaries are not subject to a registration or licensing regime specific to education consultancy. The remedies available to a defrauded family lie in the general law of contract, the Consumer Protection Act, 2019 and the criminal law, which are slow and are of limited help to a student whose enrolment or visa has already been lost.[36]

The risk is also regulatory. A family that uses an intermediary who routes funds through accounts of unrelated persons may unwittingly participate in an arrangement that infringes FEMA or the Prevention of Money-laundering Act, and the family's innocent intent will not automatically shield it from inquiry. The use of fintech payment platforms to transfer fees directly to institutions has improved the position, but only if the platform operates under a valid authorisation. The RBI's framework for cross-border payment aggregators, issued in 2023, is intended to bring such platforms within a regulated perimeter, and a remitter should ascertain that the platform or bank being used is authorised.[37]

[36]Consumer Protection Act, 2019, No. 35, Acts of Parliament, 2019 (India).

[37]Reserve Bank of India, Guidelines on Regulation of Payment Aggregator - Cross Border (PA-CB) (Oct. 31, 2023) (India).

F. DISPROPORTION BETWEEN TECHNICAL LAPSES AND PENAL EXPOSURE

The sixth challenge is the gap between the severity of the statutory penalty and the character of the lapses that typically occur. Most contraventions in the education context are inadvertent: a remittance above the annual limit by a family that has not tracked its cumulative remittances, an inaccurate purpose declaration, or the use of a third party's account for convenience. The statutory ceiling of three times the sum involved applies, in form, to these cases as it does to deliberate evasion. Compounding mitigates the harshness, but the process takes time, requires professional assistance and carries a cost. There is no formal safe harbour for small, technical lapses by bona fide remitters, and no graded scale that distinguishes between a clerical error and a deliberate scheme. The absence of such a scale increases the incentive for banks to be cautious, which feeds back into the friction described above.

G. RESIDENCE, REPATRIATION AND THE STUDENT'S OWN EARNINGS

The seventh challenge concerns the student's own financial life abroad. Many students earn income through part-time work or assistantships, and some wish to remit funds to India or to use their earnings to meet their own costs. The rules on receipts and repatriation vary with the student's residential status and the nature of the funds, and the ambiguity noted in Part III.G makes it difficult for a student to know which rules apply. Similarly, when a student completes the course and returns to India, the treatment of unspent balances, foreign currency accounts and any assets acquired abroad depends on the rules for returning residents. The matter is compounded by the disclosure requirements of the tax laws regarding foreign assets, which apply independently of FEMA. These are matters on which students seldom receive guidance at the time of departure.

VIII. A COMPARATIVE GLANCE

A comparison with other jurisdictions is instructive, although the differences in context caution against over-reading it. China, which maintains an annual per-person quota on the purchase of foreign exchange, is reported to treat documented education expenses with greater flexibility than other categories of personal demand, in recognition of the fact that tuition and living costs are fixed by third parties and cannot be deferred. Nigeria's experience during periods of foreign exchange scarcity, when students abroad were reported to have faced difficulty in obtaining foreign currency to pay fees, shows the cost to families of a regime in which access to foreign

exchange for education depends on market conditions and administrative discretion.

Two lessons can be drawn. First, a number of exchange-control systems recognise education as a purpose that merits distinct treatment because it is time-bound, documented and difficult to defer. India's LRS reflects the same recognition through the institutional-estimate relaxation, but it could go further. Second, the experience of jurisdictions in which access to foreign exchange for education has become uncertain demonstrates that a stable, predictable and transparent regime has value in itself. India's regime is more liberal than many, and the objective of reform should be to make that liberalism reliable in operation and not to dilute it.

IX. REFORM AGENDA

The following proposals are directed at the gap identified in this article between the liberal design of the regime and the experience of those who use it. They are intended to preserve the anti-evasion objectives of FEMA while reducing friction for bona fide remitters.

A digitised student-remittance pathway. The RBI could specify a standardised, digital pathway for education remittances in which the essential documents, comprising the admission letter or confirmation of enrolment, the institution's fee schedule or estimate, the remitter's permanent account number and, where applicable, the loan sanction, are verified once and re-used for subsequent payments over the duration of the course. Under such a model the bank would perform the verification on the first payment and rely on it for later payments, subject to periodic updates. This would reduce repeated document requests and shorten turnaround times.

Prescribed turnaround times and a uniform checklist. The RBI should consider specifying a short outer limit for decisions on education remittances and a uniform checklist of the documents that an Authorised Dealer may demand without recording reasons for requiring more. This would not remove the bank's discretion in cases of genuine suspicion, but it would require that departures from the standard be explained, which would reduce the incidence of defensive over-documentation.

Harmonising FEMA and tax data. A substantial part of the compliance burden arises from the need to reconcile information across systems. The purpose declaration in Form A2, the TCS collected by the bank and the credit reflected in the remitter's tax account could be integrated so that TCS credit is reflected automatically and visibly, and so that remitters receive a

consolidated statement of their cumulative LRS remittances in the financial year. Such a statement would also help families to track the pooled limit and the Rs. 10 lakh tax threshold.

Access to hedging. The RBI could examine whether it is appropriate to offer simpler hedging facilities to individuals who have a documented foreign-currency liability to an institution abroad, such as a fee schedule, so that families can fix the rupee cost of a programme at the outset. The risks to be managed are the risk of speculation and the risk of mis-selling, which can be addressed through the standard devices of suitability, documentation and limits tied to the underlying liability.

Regulation of education intermediaries. The unregulated status of education consultants is a significant source of loss. The Government should consider a registration and code-of-conduct regime for overseas education consultants, requiring disclosure of commissions and relationships with institutions, prohibiting the handling of student funds outside the banking system, and providing a complaints mechanism. Such a regime could be introduced through the powers available under consumer protection law or through dedicated legislation, and it should be coordinated with the Ministry of External Affairs and the relevant education authorities.

Graded compounding for technical lapses. The RBI's compounding framework could include an expedited, fixed-fee track for small and technical contraventions in education remittances, where the sum is modest, the remitter has acted in good faith, the funds are accounted for and the remittance was made through an Authorised Dealer. The existing framework, which requires an application and a computation in each case, is proportionate for serious contraventions but is cumbersome for minor ones.

Plain-language guidance. The RBI, in coordination with the Ministry of External Affairs and educational institutions, should publish a single, regularly updated guide for students and parents, set out in plain language, that explains the LRS, the permitted purposes, the documentation required, the tax collection and the consequences of non-compliance. The RBI's practice of issuing Frequently Asked Questions on the LRS is a step in this direction, but a guide aimed specifically at education remittances would be more useful to the people who need it.

Review of the ceiling and the threshold in real terms. The annual limit of USD 250,000 has

stood since 2015. The institutional-estimate relaxation addresses the highest-cost programmes, but the Government and the RBI should periodically review whether the ceiling and the tax threshold continue to be set at levels that reflect the current cost of education abroad and the movement in the rupee, instead of leaving them unchanged until the pressure for adjustment becomes acute.

X. CONCLUSION

FEMA places education abroad on the freer side of the line between current and capital account transactions, and the regulatory instruments built on it, in particular the LRS and its institutional-estimate relaxation, translate that placement into a workable channel for the families who use it. In design the regime is liberal and, by international standards, generous. Its difficulties lie in delivery. The rulebook is spread across statute, rules, directions and tax provisions that change frequently. Authorised Dealers, facing asymmetric incentives, tend towards defensive documentation. The tax overlay, although now milder than it was, still imposes a cash-flow burden on self-funded families. Exchange-rate risk is borne almost entirely by the household, intermediaries operate largely without regulation, and the penal exposure for even technical lapses remains severe on paper.

None of these difficulties calls for a retreat from the liberalism of the regime. They call instead for attention to the mechanics through which the law reaches the people to whom it applies. A digitised pathway, harmonised data, clear timelines, regulated intermediaries and a proportionate response to technical lapses would reduce the cost of compliance without weakening the safeguards that FEMA exists to provide. The student who pays a tuition fee abroad is not engaged in a transaction that the law seeks to discourage; the law's own definition treats it as an ordinary current account expense. The test of the regime is whether it can treat that student, in practice, as the statute treats the student on paper.