

NRI Guide 2012

The essential facts/rules/regulations the
NRIs must know

2012



A Comprehensive Guide for Indians
residing outside India

Prakash Nair
Prakash@yourownadviser.com
www.yourownadviser.com

NRI GUIDE

(Ver 1.00)

(A Comprehensive Guide for Indians residing outside India)

Prepared by

Prakash Nair

Prakash@yourownadviser.com

www.yourownadviser.com

PREFACE

This NRI guide has been compiled with the help of information available in official website of various government departments like Reserve Bank of India, Income Tax Department, Government of Kerala and other reliable sources. I have taken adequate care to provide current and authentic information. This NRI Guide is intended to serve as a ready reference book to guide NRIs on various matters affecting their financial and other related subjects. This does not purport to be a legal document. So I am not sure that, any errors occurred while compiling this reference guide. In case of any variation between what has been stated in this NRI Guide and the relevant Act, Rules, Regulations, Policy Statements, Government Orders/Circulars etc., the latter shall prevail. Kindly note that, rules related to NRIs are subject to change. Errors and omissions are expected. Ver.2 of this NRI Guide will be published soon with more useful information.



Prakash Nair

Prakash @yourownadviser.com

www.yourownadviser.com

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Your suggestions, comments, criticism may send to Prakash@yourownadvier.com

In case I missed some important information or provided wrong information, please let me know

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In terms of the Foreign Exchange Management Act (FEMA), 1999 a person resident outside India means a person who is not resident in India.

1. **A Non Resident Indian (NRI)** - is a person resident outside India, who is a citizen of India or is a person of Indian origin.
2. **A Person of Indian Origin (PIO)** - is defined in Regulation 2 of FEMA Notification ibid as a citizen of any country other than Bangladesh or Pakistan, if (a) he at any time held Indian passport; or (b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or (c) the person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b).
3. **A Person of Indian Origin** - means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who (i) at any time, held an Indian Passport or (ii) who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).
4. **Types of accounts which can be maintained by an NRI / PIO in India**

If a person is NRI or PIO, she/he can, without the permission from the Reserve Bank, open, hold and maintain the different types of accounts given below with an Authorized Dealer in India, i.e., a bank authorized to deal in foreign exchange. NRO Savings accounts can also be maintained with the Post Offices in India. However, individuals/ entities of Bangladesh and Pakistan require the prior approval of the Reserve Bank.

4.a Non-Resident (Ordinary) Rupee Account (NRO Account)

NRO accounts may be opened / maintained in the form of current, savings, recurring or fixed deposit accounts.

- Savings Account - Normally maintained for crediting legitimate dues /earnings / income such as dividends, interest etc. The interest rates on NRO Savings deposits shall be at the rate applicable to domestic savings deposits. Currently the interest rate is 4.00 – 7 per cent. (varies banks to banks)
- NRO Term Deposits - Banks are free to determine the interest rates. (now banks are offering 8-9.5% interest depending the duration of the deposit)
- Account should be denominated in Indian Rupees.
- Permissible credits to NRO account are transfers from rupee accounts of non-resident banks, remittances received in permitted currency from outside India through normal banking channels, permitted currency tendered by account holder during his temporary visit to India, legitimate dues in India of the account holder like current income like rent, dividend, pension, interest, etc., sale proceeds of assets including immovable property acquired out of rupee/foreign currency funds or by way of legacy/ inheritance.
- Eligible debits such as all local payments in rupees including payments for investments as specified by the Reserve Bank and remittance outside India of current income like rent, dividend, pension, interest, etc., net of applicable taxes, of the account holder.
- NRI/PIO may remit from the balances held in NRO account an amount not exceeding USD one million per financial year, subject to payment of applicable taxes
- The limit of USD 1 million per financial year includes sale proceeds of immovable properties held by NRIs/PIO.
- The accounts may be held jointly with residents and / or with non-resident Indian.
- The NRO account holder may opt for nomination facility.

- NRO (current/savings) account can also be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India.
- Loans to non-resident account holders and to third parties may be granted in Rupees by Authorized Dealer / bank against the security of fixed deposits subject to certain terms and conditions.

4.b Non-Resident (External) Rupee Account (NRE Account)

- NRE account may be in the form of savings, current, recurring or fixed deposit accounts. Such accounts can be opened only by the non-resident himself and not through the holder of the power of attorney.
- Account will be maintained in Indian Rupees.
- Account can be opened with resident joint holder – subject to terms and conditions
- Balances held in the NRE account are freely repatriable.
- Accrued interest income and balances held in NRE accounts are exempt from Income tax and Wealth tax, respectively.
- Authorised dealers/authorised banks may at their discretion/commercial judgement allow for a period of not more than two weeks, overdrawing in NRE savings bank accounts, up to a limit of Rs.50,000 subject to the condition that such overdrawings together with the interest payable thereon are cleared/repaid within a period of two weeks, out of inward remittances through normal banking channels or by transfer of funds from other NRE/FCNR accounts.
- *Savings* - The interest rates on NRE Savings deposits shall be at the rate applicable to domestic savings deposits. Currently the interest rate above $\geq 4\%$ (varies from banks to bank)
- **Term deposits** – Banks are free to fix the term deposit interest rates. On 16th Decemer,2011 with a view to providing greater flexibility to banks in mobilizing non-resident deposits and also in view of the prevailing market conditions, RBI has decided to deregulate interest rates on Non-Resident (External) Rupee (NRE) Deposits and Ordinary Non-Resident (NRO) Accounts (the interest rates on term deposits under Ordinary Non-Resident (NRO) Accounts are already deregulated). Accordingly, banks are free to determine their interest rates on both savings deposits and term deposits of maturity of one year and above under Non-Resident (External) Rupee (NRE) Deposit accounts and savings deposits under Ordinary Non-Resident (NRO) Accounts with immediate effect. However, interest rates offered by banks on NRE and NRO deposits cannot be higher than those offered by them on comparable domestic rupee deposits. Now banks are competing each other to attract NRE deposits and offering annual interest in the range of 6.50 to 9.50%., earlier is was 3.25%. RBI direction is applicable for all Commercial and Scheduled Banks, Foreign Banks and Regional Rural Banks functioning in India with the license of RBI
- Permissible credits to NRE account are inward remittance to India in permitted currency, proceeds of account payee cheques, demand drafts / bankers' cheques, issued against encashment of foreign currency, where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category-I / Category-II, transfers from other NRE / FCNR accounts, interest accruing on the funds held in such accounts, interest on Government securities/dividends on units of mutual funds purchased by debit to the NRE/FCNR(B) account of the holder, certain types of refunds, etc.
- Eligible debits are local disbursements, transfer to other NRE / FCNR accounts of person eligible to open such accounts, remittance outside India, investments in shares / securities/commercial paper of an Indian company, etc.
- Loans up to Rs.100 lakh can be extended against security of funds held in NRE Account either to the depositors or third parties.

- Such accounts can be operated through power of attorney in favour of residents for limited purpose of withdrawal of local payments or remittances through normal banking channels to the account holder himself.

4.c Foreign Currency Non Resident (Bank) Account – FCNR (B) Account

- FCNR (B) accounts are only in the form of term deposits of 1 to 5 years
- All debits / credits permissible in respect of NRE accounts are permissible in FCNR (B) accounts also.
- Account can be in Pound Sterling, US Dollar, Japanese Yen, Euro, Canadian Dollar and Australian Dollar
- In case the depositor with any convertible currency other than designated currency desires to place a deposit in these accounts, authorised dealers may undertake with the depositor a fully covered swap in that currency against the desired designated currency. Such a swap may also be done between two designated currencies.
- Loans up to Rs.100 lakh can be extended against security of funds held in FCNR(B) deposit either to the depositors or third parties.
- The interest rates are stipulated by the Department of Banking Operations and Development, Reserve Bank of India.
- When an account holder becomes a person resident in India, deposits may be allowed to continue till maturity at the contracted rate of interest, if so desired by him.
- Terms and conditions as applicable to NRE accounts in respect of joint accounts, repatriation of funds, opening account during temporary visit, operation by power of attorney, loans/overdrafts against security of funds held in accounts, shall apply mutatis mutandis to FCNR (B).

5. Can an individual resident borrow money from his close relatives outside India?

Yes, an individual resident can borrow sum not exceeding USD 250,000 or its equivalent from his close relatives staying outside India, subject to the conditions that:

- i) the minimum maturity period of the loan is one year;
- ii) the loan is free of interest; and
- iii) the amount of loan is received by inward remittance in free foreign exchange through normal banking channels or by debit to the NRE/FCNR account of the NRI.

6. What are the other facilities available to NRIs/PIO?

6.a Investment facilities for NRIs

If, as a resident, you made some investments and redeemed them after becoming an NRI, these will be treated differently. For instance, NRIs cannot extend the tenure of their PPF account. Capital gains long-term or short-term will be applicable when you redeem/sell your past investments. If you sell shares that are listed on a recognized stock exchange in India after holding them for more than a year, you will not have to pay tax on the capital gain provided the securities transaction tax has been paid. If NRI wish to buy/sell shares on Indian Stock Market, they need to open a special account called PIS.. NRIs can open PIS account both repatriation (NRE) and non-repatriation basis. But capital gain tax will be deducted at source for all sell transactions (this TDS is not applicable for resident share trading account) They are not allowed to trade in ordinary resident share trading/depository account. NRIs are also not allowed to open Commodity Trading account. But they can buy commodities through ETFs (Exchange Traded Funds). NRIs are also allowed to invest in Tax Free Bonds.

6.b NRI may, without limit, purchase on repatriation basis:

- Government dated securities / Treasury bills
- Units of domestic mutual funds;
- Bonds issued by a public sector undertaking (PSU) in India.
- Non-convertible debentures of a company incorporated in India.
- Perpetual debt instruments and debt capital instruments issued by banks in India.
- Shares in Public Sector Enterprises being dis-invested by the Government of India, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids.
- Shares and convertible debentures of Indian companies under the FDI scheme (including automatic route & FIPB), subject to the terms and conditions specified in Schedule 1 to the FEMA Notification No. 20/2000- RB dated May 3, 2000, as amended from time to time.
- Shares and convertible debentures of Indian companies through stock exchange under Portfolio Investment Scheme, subject to the terms and conditions specified in Schedule 3 to the FEMA Notification No. 20/2000- RB dated May 3, 2000, as amended from time to time.

6.c NRI may, without limit, purchase on non-repatriation basis :

- Government dated securities / Treasury bills
- Units of domestic mutual funds
- Units of Money Market Mutual Funds
- National Plan/Savings Certificates
- Non-convertible debentures of a company incorporated in India
- Shares and convertible debentures of Indian companies through stock exchange under Portfolio Investment Scheme, subject to the terms and conditions specified in Schedules 3 and 4 to the FEMA Notification No. 20/2000- RB dated May 3, 2000, as amended from time to time.
- Exchange traded derivative contracts approved by the SEBI, from time to time, out of INR funds held in India on non-repatriable basis, subject to the limits prescribed by the SEBI.

7. NRIs are not permitted to invest in small savings or Public Provident Fund (PPF).

The following investments options are not available to NRIs

- a) PPF (Public Provident Fund)
- b) NSC (National Savings Certificate) – 5 years and 10 years
- c) Senior citizens savings account
- d) Tax saving infrastructure bonds under section 80CCF
- e) Post office time deposits are not available for NRIs.

However, if NRI had already invested in any of these investments when she/she was a Resident Indian, they can continue these investments till maturity. If they made deposit in any of the above mentioned investment options as a Non-Resident Indian, if the authorities comes to know about this, their money will be refunded without any interest or capital appreciation.

8 . Investment in immovable Property

- NRI / PIO / Foreign National who is a person resident in India (citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan would require prior approval of the Reserve Bank) may acquire immovable property in India other than agricultural land/ plantation property or a farm house out of repatriable and / or non-repatriable funds.
- The payment of purchase price, if any, should be made out of
 - (i) funds received in India through normal banking channels by way of inward remittance from any place outside India or
 - (ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank.

Note : No payment of purchase price for acquisition of immovable property shall be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically permitted as above.

- NRI may acquire any immovable property in India other than agricultural land / farm house plantation property, by way of gift from a person resident in India or from a person resident outside India who is a citizen of India or from a person of Indian origin resident outside India
- NRI may acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations or from a person resident in India
- An NRI may transfer any immovable property in India to a person resident in India.
- NRI may transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

In respect of such investments, NRIs are eligible to repatriate:

- The sale proceeds of immovable property in India if the property was acquired out of foreign exchange sources i.e. remitted through normal banking channels / by debit to NRE / FCNR (B) account.
- The amount to be repatriated should not exceed the amount paid for the property in foreign exchange received through normal banking channel or by debit to NRE account (foreign currency equivalent, as on the date of payment) or debit to FCNR (B) account.
- In the event of sale of immovable property, other than agricultural land / farm house / plantation property in India, by NRI / PIO, the repatriation of sale proceeds is restricted to not more than two residential properties subject to certain conditions.
- If the property was acquired out of Rupee sources, NRI or PIO may remit an amount up to USD one million per financial year out of the balances held in the NRO account (inclusive of sale proceeds of assets acquired by way of inheritance or settlement), for all the bonafide purposes to the satisfaction of the Authorized Dealer bank and subject to tax compliance.

- Refund of (a) application / earnest money / purchase consideration made by house-building agencies/seller on account of non-allotment of flats / plots and (b) cancellation of booking/deals for purchase of residential/commercial properties, together with interest, net of taxes, provided original payment is made out of NRE/FCNR (B) account/inward remittances.

9. Repayment of Housing Loan of NRI / PIOs by close relatives of the borrower in India

Housing Loan in rupees availed of by NRIs/ PIOs from ADs / Housing Financial Institutions in India, can be repaid by the close relatives in India of the borrower.

10. Facilities to returning NRIs/PIO

- Returning NRIs/PIO may continue to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India, if such currency, security or property was acquired, held or owned when resident outside India

10.1 Foreign Currency Account

- A person resident in India who has gone abroad for studies or who is on a visit to a foreign country may open, hold and maintain a Foreign Currency Account with a bank outside India during his stay outside India, provided that on his return to India, the balance in the account is repatriated to India. However, short visits to India by the student who has gone abroad for studies, before completion of his studies, shall not be treated as his return to India.
- A person resident in India who has gone out of India to participate in an exhibition/trade fair outside India may open, hold and maintain a Foreign Currency Account with a bank outside India for crediting the sale proceeds of goods on display in the exhibition/trade fair. However, the balance in the account is repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair.

10.2 Resident Foreign Currency Account

- Returning NRIs /PIOs may open, hold and maintain with an authorised dealer in India a Resident Foreign Currency (RFC) Account to transfer balances held in NRE/FCNR(B) accounts.
- Proceeds of assets held outside India at the time of return, can be credited to RFC account.
- The funds in RFC accounts are free from all restrictions regarding utilisation of foreign currency balances including any restriction on investment in any form outside India.
- RFC accounts can be maintained in the form of current or savings or term deposit accounts, where the account holder is an individual and in the form of current or term deposits in all other cases.

11 Tax Exemptions from Income Tax available for NRIs

Income from the following investments made by NRIs/PIOs out of convertible foreign exchange is totally exempt from tax:

- (a) Deposits in under mentioned bank accounts
 - (i) Non Resident External Rupee Account (NRE)
 - (ii) Foreign Currency Non Resident Account (FCNR)
- (b) Units of specified mutual funds, other specific securities, bonds and savings certificates (subject to conditions prescribed under the Income-tax laws and regulations).
- (c) Dividend declared by Indian company.
- (d) Long term capital gains arising from transfer of equity shares in a company and/or equity oriented schemes of Mutual Funds, which are subject to Securities Transaction Tax.

It should be noted that the tax exemptions relating to NRE bank deposits will cease immediately upon the NRI/PIO becoming a resident in India whereas the interest on FCNR bank deposits will continue to be tax free as long as the NRI maintains the status of Resident but Not Ordinarily Resident or until maturity,

12 Investments in Shares and Securities listed in Indian Stock Market

12.1 Portfolio Investment Scheme (PIS) for NRIs

Schedule 2 and 3 of the Notification No. FEMA 20/2000 RB contains provisions relating to Portfolio Investment by NRIs. OCBs are not allowed to make fresh investments in India under the Portfolio Investment Scheme vide Notification No. FEMA 46 dated 29th November 2001. Further, in September 2003, RBI has banned OCBs from investing in any manner in India. In fact, the category of OCB has been abolished. However, they can continue to hold and sell shares purchased before 29th November 2001. Portfolio investment is covered by general permission subject to following condition/provisions.

- (i) Investment is permitted on repatriation as well as non-repatriation basis.
- (ii) Purchases, sale of shares (Preference and Equity) and/or convertible debentures are covered.
- (iii) Purchase/sale is done through a registered broker of a recognized stock exchange.
- (iv) One bank branch must be designated by NRIs and all purchase/sale must be routed through that designated bank branch only.
- (v) All transactions of sales and purchase must be delivery based. Speculative transactions are not allowed.
- (vi) Mode of investment may be in any of the following ways:
 - (a) For investment on Repatriation basis
 - inward remittances through normal banking channels
 - out of FCNR/NRE account.
 - (b) For investment on non-repatriation basis
 - Besides the above two, investment can be made out of NRO account.
- (vii) Ceiling on Investment
 - (a) Per investor (Each NRI)
 - 5% of the paid-up value of shares of an Indian Company on both repatriation and nonrepatriation basis.
 - 5% of the value of each issue of convertible debenture of an Indian Company on both repatriation and non-repatriation basis.
 - (b) Per investee Company
 - (Total holding by all NRIs put together on both repatriable as well as non-repatriable basis.) 10% of paid-up value of shares of an Indian Company.

13. Other Tax Aspects related to NRIs

A person who is non-resident is liable to tax on that income only which is earned by him in India. Income is earned in India if

1. It is directly or indirectly received in India; or

2. It accrues in India or the law construes it as having accrued in India..

The following are some of the instances when the law construes and income to have accrued in India:

- 1) income from property if such property is situated in India;
- 2) income from any asset or source if such asset or source is in India;
- 3) income from salaries if the services are rendered in India. In such cases salary for rest period or leave period will be regarded as earned in India if it forms part of service contract,.
- 4) income from salaries payable by the Government to a citizen of India even though the services are rendered outside India;
- 5) income from dividend paid by an Indian company even if the same is paid outside India;
- 6) income by way of interest payable by Government or by any other person in certain circumstances ;
- 7) income by way of Royalty if payable by the Government or by any other person in certain circumstances;
- 8) income by way of fees for technical services if such fees is payable by the Government or by any other person in certain circumstances.
- 9) Income from business arising through any business connection in India (refer Chapter X of Income Tax Act);

Non-resident, having annual taxable income in India of more than Rs. 180,000/- (male below 60 years and a person above 60 years who earns more than 2.5 lakh should pay tax for financial year 2011-12), has to file a return of income in India. The return can be filed in the ITR applicable for this purpose. NRIs must also obtain Income tax PAN Number not only for filing Income Tax Returns, but PAN requires for so many other purposes also.

Income which is earned outside India by an NRI is not taxed in India. An NRI doesn't have to pay tax on the interest income in a non-resident external (NRE) account or foreign currency nonresident (FCNR) account, dividend received from Mutual Funds and share investments. Long term capital gain arising from sale of equity mutual fund schemes and share investments are also exempted from tax (minimum holding period for these assets 12 months). Short term capital gain will be added to their total income and tax needs to be paid at the applicable tax slab which the NRI belongs. Long Term capital gain on sale of bonds, mutual funds schemes other than equity will be taxed @ 20% with indexation and benefits and @ 10% without indexation benefits

14. Filing of Income Tax returns:

There is no need to file income tax return if NRI don't have any taxable income in India. However, if the income accruing in India through capital gains, rent, dividend or interest is beyond the threshold limit as mentioned earlier, the NRI will have to file tax returns. Also, NRIs needs to file tax returns, in case they wanted to get any tax refund from Income Tax Dept.

15. Paying Advance Tax Payment

NRIs are also liable to pay advance tax, in case their total tax liability for particular financial year exceeds Rs.10, 000. This amount needs to be paid in three installments

16. What is DTAA (Double Taxation Avoidance Agreements)?

Double Taxation Relief. The incidence of Double taxation occurs when an individual is required to pay tax more than one time for the same income he generated from a country different from his home country. Double taxation occurs mainly due to overlapping tax laws and regulations of the countries where an individual operates his business or employs. . Consistent with the practice adopted in most of the

countries in the world that have taken to levy tax on income / capital, India has adopted the system under which Income Tax on residents is imposed on the "total world income" i.e. income earned anywhere in the world. Whereas a tax payer's own country (referred to as home country) has a sovereign right to tax him, the source of income may be in some other country (referred to as host country) which country also claims a right to tax the income arising in that country. The result is that income arising to a resident out of India is subjected to tax in India as it is part of total world income and, also in host country which provides the source for that income.

India has entered into Avoidance of Double Taxation Agreement (DTAA) with 65 countries including countries like U.S.A., U.K., Japan, France, Germany, etc. The agreement provides relief from the double taxation in respect of incomes by providing exemption and also by providing credits for taxes paid in one of the countries. These treaties are based on the general principles laid down in the model draft of the Organization for Economic Cooperation and Development (OECD) with suitable modifications as agreed to by the other contracting countries. In case of countries with which India has double taxation avoidance agreements, the tax rates are determined by such agreements and vary between countries. Apart from providing ways and means to avoid double taxation of same income, the agreements generally provide for other matters of common interest of the two countries such as exchange of information, mutual assistance procedure for resolution of disputes and for mutual assistance in effecting recovery of taxes

Unilateral Relief

The Indian government provides relief from double taxation irrespective of whether there is a DTAA between India and the other country concerned, if

1. The person or company has been a resident of India in the previous year.
2. The same income must be accrued to and received by the tax payer outside India in the previous year.
3. The income should have been taxed in India and in another country with which there is no tax treaty.
4. The person or company has paid tax under the laws of the foreign country concerned

NRIs have to declare the income earned in India while filing tax returns in the foreign country too. If the latter has a Double Tax Avoidance Agreement (DTAA)(DTAA) with India, it will help you get tax credit for the taxes paid here."

17. NRI Tax-saving tips

NRIs can save on these taxes by investing in pension plans, life insurance policies and tax-saving mutual funds(ELSS – Equity Linked Savings Schemes). The repayment by an NRI towards principal amount of home loan is eligible for deduction up to 1 lakh, while the interest payment is also allowed as a deduction. NRIs can also buy a health insurance policy in India for themselves, their family and dependent parents , and claim deduction up to 35,000 for the annual premium paid.

Section 80C of Income Tax Act

17. a) Life Insurance and Retirement/Pension Plans – NRIs can buy retirement plan with or without life cover and also choose between a traditional plan (endowment, money-back) and a unit-linked plan depending upon your risk appetite. There is also a facility available with few insurers like LIC for NRIs to obtain insurance cover from their present country of residence where all formalities are completed in their present country of residence, subject to fulfillment of certain rules and restrictions on sum insured amounts and add-on riders. For more details please contact the Insurance Company or your Insurance Agent.

17.b) Investment in House property – Buying a house or flat in India availing of a home loan from Banks or Housing Finance Companies is a good investment/tax savings option for NRIs. The principal and interest payments made every year for a home loan availed in India are allowed as deductions subject to an overall limit of Rs 1 lakh per year on principal payments (under section 80C) and full interest payments made during the year (under section 24b) - in case of let-out property.

17. c) ELSS (Tax saving Equity Mutual Fund schemes) – ELSS are equity-oriented mutual fund schemes that directly invest in a diversified portfolio of shares in the Indian Stock Market. The tax savers can buy units of ELSS schemes directly from the respective Mutual Funds or can be purchased online, if they have enabled that facility with the Mutual Fund. There is lock-in-period of three years in the ELSS investments. These schemes are ideal for long-term tax-free savings

17.d. Section 80D - Health Insurance Premium

NRIs can buy health insurance policy in India for themselves, their family and also dependant parents and claim deduction for the premium paid up to Rs 35,000 per annum. Please note that, these deductions are available for a maximum amount of Rs 15,000 in case of non-senior citizens and Rs 20,000 for senior citizens.

17.e Deductions u/s 80

a) Deduction u/s 80G – Donations made to certain specified charitable institutions are only eligible to claim deduction under this section.

b) Deduction under 80E – for interest payment towards Educational loan taken from any bank/approved financial institution for higher studies (comprising full time as well as vocational studies pursued after passing senior secondary examinations studies) for self or any of immediate family members (children, spouse)

NRIs can put their money in tax-saving bonds too. Capital gains up to 50 lakh earned from selling a capital asset can be invested in bonds of NHAI or REC. Investment income foreign currency bonds, are subject to tax at 20% as against the maximum rate of 30%. NRIs can invest in such assets and benefit from the lower rate. Also, an NRI can avail of lower tax rates on interest income through beneficial treaty provisions.

Note : The overall limit of deductions available on section 80C, 80CCC is Rs 1 lakh per annum.

18. Bank Deposits and applicable tax

As per section 206AA introduced by Finance (No. 2) Act, 2009 wef 01.04.2010, every person who receives income on which TDS is deductible shall furnish his PAN, failing which TDS shall be deducted at the rate of 20%(as against 10% which is existing TDS rate) in case of Domestic deposits and 30.90% in case of NRO deposits. Interest Income from NRE deposit is fully exempted from income tax and also no TDS is applicable.

19. Other NRI Welfare Schemes

- a) Pravasi Identification Card (Kerala Government)
- b) Pravasi Pension Scheme of Kerala Government
- c) India Government recently announced a low cost pension and insurance schemes for pravasi Indians

20. NRIs and PAN (Permanent Account Number)

Though PAN number these days are mandatory for lot of financial and investment related transactions, but it does not mean that you have to pay tax If you have a PAN or you need to file Income Tax Return for the simple reason that, you have been allotted a Permanent Account Number (PAN) by the Income Tax Authorities. Basically, you need to pay tax or file Income Tax Return only if you earn or accrue taxable income in India or to get a tax refund if any tax amount is deducted from your income, but your total income is below the income limit prescribed as per the relevant rules and regulations of Income Tax Act, 1961.

Permanent Account Number (PAN) refers to a ten-digit alphanumeric number, issued in the form of a laminated card, by the Income Tax Department in India. It is a must to have a PAN number for all those who file their income tax returns, now it is mandatory to quote the PAN on Income Tax Returns plus so many other financial transactions.

Also, it is now compulsory to quote PAN in all documents pertaining to financial transactions notified from time to time by the Central Board of Direct Taxes, such as sale and purchase of immovable property or motor vehicle or payments in cash, of amounts exceeding a certain limit to hotels and restaurants, or in connection with travel to any foreign country. Likewise, PAN has to be mentioned for making a time deposit exceeding Rs. 50,000/- with a Bank or Post Office or for depositing cash of Rs. 50,000/- or more in a Bank.

20.1 Advantages of Having a PAN

The following are some of the benefits of having a PAN card:

- PAN number acts as an Identity proof, showing your relation to India.
- Even if you don't file taxes returns in India, you should still have a pan card.
- Sale or purchase of immovable property valued at Rs 500,000 or more. If there are co-owners (buyer or seller), the PAN of both the owners will have to be mentioned. If a nominee holds the property, the PAN of the legal owner must be mentioned. The PAN should be disclosed in the document pertaining to purchase or sale of the property
- Sale or purchase of a motor vehicle requiring registration other than two-wheelers. This does not include vehicles running on fixed rails or special vehicles for use only in factories or in other enclosed premises or vehicles of less than four wheels with engine capacity of not more than 25 cc.
- A time deposit of more than Rs.50,000 with any banking company and deposit of more than Rs.50,000 with post-office savings bank. This requirement is not mandatory when investing in post-office National Savings Certificate or Kisan Vikas Patra, and the PAN will be required only if the time deposit exceeds Rs.50,000.
- Sale or purchase of securities including shares, bonds, debentures, derivatives, units of Mutual Funds and government securities.
- Cash payment of Rs.50,000 or more for purchase of bank drafts, pay orders or bankers cheques during any one day.

- Cash payment exceeding Rs.25,000 in connection with travel to any foreign country (fare or purchase of foreign currency).
- Payment to hotels and restaurants against bills exceeding Rs.25,000 at any one time.
- Opening a bank account.
- A cash deposit of Rs.50,000 or more with any bank during any one day.
- Payment of Rs.50,000 or more to a mutual fund for purchase of units or to a company for acquiring its shares or to a company/institution for acquiring its debentures/bonds or to RBI for acquiring bonds.
- As per the amendments in the income tax rules, , quoting PAN (Permanent Account Number) will be mandatory for any payment of Rs 5 lakh or more for purchase of bullion or jewellery.
- Tax will be deducted at 20% from your fixed deposit interest income for non-disclosure of your PAN. Whereas till now tax was deducted at 10% only from your fixed deposit interest income when interest earned on your deposit was more than Rs 10,000 in a year in case of Resident Indians
- Minor intending to open time deposit or bank account should quote the PAN of either father or mother or guardian in whose hands income is likely to be clubbed

21. Know-Your-Customer (KYC) requirements

The following are the KYC (Know-Your-Customer) norms related to Resident Indians, NRI and PIO Card Holders

With effect from 1st January, 2011, Know-Your-Customer (KYC) norms are mandatory for all retail investors, irrespective of the amount you are investing. In the past, retail investors who had invested less than Rs 50,000 had not been required to follow KYC guidelines. That has now changed.

How to become KYC Compliant

CDSL Ventures Limited (CVL), a wholly owned subsidiary of Central Depository Services (India) Limited (CDSL), has been appointed by the mutual fund industry, to do the KYC verification of the investors in India.

You will need to submit the following mandatory documents at a CVL Points of Service (POS) location:

- 1) Completed KYC application form
- 2) Address Proof (A utility bill, passport, letter from your employer or housing society, ration card, voter ID card, or drivers licence are all acceptable forms of residential proof.)
- 3) PAN Card

If you are submitting your KYC application in person you will need to have the original documents with you, as well as the copies to be processed. Originals will be returned to you after they are verified as accurate. If you are sending the document through a courier, documents need to be attested by a Notary Public, Gazetted Officer, or Manager of a scheduled commercial bank. As of now, there are no charges/fees for KYC verification.

Additional Information for NRIs and PIOs

Additional information for NRIs and PIOs (Person of Indian Origin) will be:

- 1) Certified True Copy of Passport
- 2) Certified True Copy of the overseas address
- 3) Permanent address
- 4) For PIO – A certified true copy of the PIO Card

All documents must be submitted in English and can be attested by the Consulate office or overseas branches of scheduled commercial banks registered in India.

How to be compliant if you live outside India

As mentioned above, you will need to get the soft copy of the KYC form that is made available on the website of all Mutual Funds, AMFI and Central Depository Services (India) Limited (CDSL) or any other agency appointed by Government from time to time. The same duly completed along with the necessary attested documents (see above list) can be submitted at the POS or mailed to your representative or distributor who can complete the KYC formalities.

Please note that, some recent changes in SEBI guidelines on Know Your Client (KYC) norms.

The changes aim to simplify the KYC process and make it uniform across various SEBI regulated intermediaries in the securities market viz. Stock Brokers, Depository Participants, Mutual Funds, Portfolio Managers, Venture Capital Funds, etc. These changes aim to eliminate duplication of KYC process across these intermediaries and will make investing more investor friendly.

For this purpose, KYC registration is being centralised through KYC Registration Agencies (KRA) registered with SEBI. Thus each investor has to undergo KYC process only once in the securities market and the details would be shared with other intermediaries.

Key changes in the KYC norms for mutual funds:

1. KYC Application Form - Enhancement have been made in the existing KYC application form to capture additional information from the investors.
2. In-Person Verification (IPV) – Under the new KYC compliance procedure, it is mandatory for all the intermediaries to carry out IPV of their clients. For mutual fund investors, the IPV can be carried out by the AMC personnel or the Registrar and Transfer Agents (RTA) or mutual fund distributors who have successfully completed the Know Your Distributor (KYD) procedure.

How does this regulation impact you?

1. In case you are an existing Mutual Fund investor and have completed the Mutual Fund KYC procedure prior to 01st January 2012 at any of the erstwhile Point of Services (POS):
 - a. You would be deemed to be KYC compliant for the purpose of MF investments.
 - b. No further action is required and you can continue to use the KYC acknowledgment issued to you by CVL for MF investments.
 - c. However for investments in securities market through any SEBI registered intermediary other than mutual funds, you will have to follow the new KYC procedure.
2. In case you are a New investor i.e. you have not completed the KYC procedure with any intermediaries:
 - a. The above mentioned revised KYC procedure is applicable
 - b. The KYC acknowledgment issued by the KRA can be used for mutual fund investments and other investments in the securities market.
1. In case you are a New Mutual Fund investor i.e. you have completed the KYC procedure with an intermediary other than a Mutual Fund prior to 01st January 2012:
 - a. The above mentioned revised KYC procedure is applicable and you would be required to complete the new KYC process through KRA for investing in mutual funds.

22. Impact of Direct Tax Code 2012 on NRIs

Nobody is sure about whether the DTC will be implemented w.e.f 1 April,2012. The Hon'ble Finance Minister has presented the Direct Tax Code Bill, 2010 ('DTC Bill') on August 30, 2010, which is proposed to be effective from April 1, 2012. The DTC Bill is likely to be presented before the Indian Parliament thereafter. Accordingly, it is currently unclear what effect the Direct Tax Code would have on the investors especially NRIs. This is just a proposal, may be implemented with modifications. The DTC might see another year's delay.

The following are some of the provisions in DTC negatively affecting the interest of NRIs

NRI can draw comfort from the fact that there are no changes in the manner of taxability or scope of income. But having said that one of the biggest blows in the DTC for an NRI is the removal of the "NOR" or the "Not Ordinarily Resident" Category. Under the existing Act, basis physical presence, a Resident is further classified as Resident and Resident Ordinary (ROR) and Not Ordinarily Resident (NOR). A person is said to be "not ordinarily resident" in India in any previous year if such person is an individual who has not been a resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more. The latter two differ in the scope of Income that is held taxable. The RORs are subject to tax in India on their worldwide income but the NORs/NRs are taxable in India only on their India sourced income. Now under DTC, every NRI visiting India for greater than 182 days in

a financial year would become a “Resident” by default, and he would be subject to taxes on his global income.

The concept of NOR has been replaced by providing exemption to the individual on the income which is sourced out of India. This exemption will be available from the financial year in which the NRI becomes a resident and the immediately succeeding financial year, if such individual was a non resident for nine years immediately preceding the financial year in which he becomes a resident. So typically, in case of a returning Indian who has been out of India for a long period of time, he may become liable for tax on his worldwide income (if he retains sources of income overseas) from 3rd or 4th year of coming to India.

Another change is in the DTAA claims. India has signed treaties with 74 different countries to avoid dual taxation on the income of a NRI who is paying taxes in the other country. This is called the Double Taxation Avoidance Agreement or DTAA, under which the NRI could enjoy the benefit of lower withholding of tax. While the current tax law, required the NRI to merely declare that he was a tax resident, under the DTC structure, he will need to submit a Tax residency certificate from the country of his residency. This makes claiming the benefit more stringent and cumbersome.

For the last few months financial advisors and ordinary investors have been worried about how savings and investment structure will have to be changed because of the Direct Tax Code. Once its implemented practically all the popular tax savings instruments tax savers are using for years become irrelevant.. For example, ELSS mutual funds, National Savings Certificates (NSC) and ULIPs will no longer be the easy and automatic options tax-savers that they are now. Tax-saving patterns will change drastically when the DTC comes into effect. Broadly, the DTC tends to higher limits and a much smaller menu from which tax-saving investments have to be chosen. Like this lot of changes are proposed in the forthcoming DTC.

23. How its useful for NRIs to use Power of Attorney (POA) in India

A power of attorney is a document in writing empowering a particular person to act for and in the name of a person executing it. In other words, a power of attorney (POA) is an authorization to act on someone else's behalf in a legal or business matter specified in the POA document. The person authorizing the other to act is the grantor/principal of the power and the one authorized to perform the act is the attorney/agent. It is a unilateral document signed and executed only by the grantor or principal. A power of attorney may be revoked at the instance of the grantor or due to his death or incapacity. A power of attorney is usually construed very strictly.

Special Power of Attorney - A power of attorney conferring on the agent the authority to act in a single transaction in the name of the principal is a Special Power of Attorney. eg authorization given for sale/registration of a particular property for specific period of time. A single act or transaction is meant to imply either a single act or acts so related to each other as to form one judicial transaction.

General Power Of Attorney - If the power of attorney authorises the agent to act generally or in more than one transaction in the name of a principal, it is a General Power of Attorney eg. Authorization given to deal on behalf all financial and other dealing of the principal without specifying any particular transaction.

Most of the NRIs (Non-Resident Indians) are facing lot of difficulties to carry out the important financial and other required transactions in India without his presence. He may have own properties (commercial/residential) in India which provides rental income, bank accounts which provides interest income, etc. must be reinvested and used accordingly when he is not in India. It is not easy for an NRI staying outside the border to invest his income in India, but now as a result of advancement of technology an NRI act do most of the financial transactions online. But most of the transactions, his presence is very much required. To avoid this situation, he can appoint a Power of Attorney (POA) to carry out his activities in India on behalf of him. It has its own merits and demerits.

The following are some of the examples

Real Estate

- a) To execute all contracts, deeds, bonds, mortgages, notes, checks, drafts, money orders,
- b) To manage, compromise, settle, and adjust all matters pertaining to real estate.
- c) To lease, collect rents, grant, bargain, sell, or borrow and mortgage

Signing Agreements, Contracts

- a) To enter into contact or sign agreements
- b) Perform any contract, agreement, writing, or thing
- c) To make, sign, execute, and deliver, acknowledge any contract, agreement,

Buy/Sell Stocks, Bonds and Securities

- a) To sell any and all shares of stocks, bonds, or other securities
- b) To make, execute, and deliver any assignment, or assignments, of any such shares of stock, bonds, or other securities.

Opening/ Operating Bank Accounts, Term Deposits, Mutual Funds etc.

- a) To add to or withdraw any amounts from any of my bank accounts, Certificates of Deposit, Money Market Accounts, etc.
- b) To make, execute, endorse, accept and deliver any and all cheques and drafts
- c) Execute or release such deeds of trust or other security agreements as may be necessary
- d) Deposit and withdraw funds Acquire and redeem certificates of deposit, in banks, savings and loan

Filing of Income Tax Returns, Insurance and other

- a) To file, sign all tax returns, insurance forms and any other documents
- b) To represent in all matters concerning the foregoing.

A power of attorney executed outside India has to be executed before and authenticated by a Notary Public and also consularised by the Indian Consulate present in the country of execution. In international law, consularisation is the act of authenticating any legal document by the consul office of the country in which it is to be used, by the consul signing and affixing a red ribbon to the document for it to be acceptable in the country of use.

In normal case the following documents are required for consulate POA attestation

Power of Attorney (Property Matters)

Requirements for attestation of Power of Attorney (Property Matters):

- a) Photocopy of inside cover pages and other relevant pages of the passport.
- b) Two recent Passport Size (35 mm x 45 mm) photographs.
- c) Original and one photocopy of the Power of Attorney to be signed before the Consular Officer of the Embassy.

Power of Attorney (other than Property Matters)

Requirements for attestation of Power of Attorney (other than Property Matters):-

- a) Photocopy of inside cover pages and other relevant pages of the passport.
- b) Original POA document to attest.

Please note that requirements varies from country to country

Power of Attorney can be revoked or would stand revoked if :

- Revoked by the principal himself
- The principal dies or becomes insane or becomes bankrupt or legally incompetent
- The business for which the agent was appointed is over
- Mutually agreed upon by the principal and agent
- The right under the power of attorney is renounced by the agent

Note : This article is prepared for the general information of the readers. Please contact your legal adviser or advocate for more information.

24. Home Loans for NRIs

Home loans for non-resident Indians are similar to those offered to resident Indians, but the time limit is for a shorter period. Compared to resident Indians, in most of the cases the loan amount will not exceed 70-85% percent of the entire cost of the property including cost of land or your repayment capacity whichever is lower. As the loans are offered to NRI's, the eligibility requirement for loans is also very stringent. As an NRI, you will be entitled to a loan of a maximum 36 times of your gross monthly earnings. Loans are available with both adjustable and fixed rate options. Repayment terms various up to a maximum of seven years, for professionals, the term can be extended up to 20 years. The method of repayment – Equated Monthly Installments (EMIs) directly debited from your NRO/NRE account.

Required documents for NRIs to apply for a housing loan

For Salaried Individuals

Photocopies of: Employment contract (if the contract is in a language other than English, an English translation of the same attested by the Embassy/Employer should be given)/Appointment letter/Offer letter.

Past occupational history.

Latest salary slip/certificate

Latest Labour card. Identity card issued by current employers

Visa stamped on the passport

One passport-sized photograph

Profile of the Company

Overseas Bank Account and NRE/NRO statement for the last six months

For Self-employed Individuals

Latest 3 years' audited P&L and B/S of the Company

Photocopy of Memorandum of Understanding

Photocopy of the trade/commercial licence

Profile of the Company

Overseas Bank Account and NRE/NRO statement for the last six months

Banks usually take more care when they are offering loans to NRI's for constructing or buying a home as they do not stay in India. More documents are wanted compared to those required of resident Indians. As an NRI, you will be asked for a copy of your passport and visa, a copy of the contract letter of the employer, the salary statement and bank details for the last 6 months. The salary statement should also include the date of joining, your name, details of the pay and your designation.

Third party guarantee for under construction property

Banks would obviously want more security for their loans when they are offering to the NRI's as they do not stay in India. The first mortgage should be in the name of the NRI and if the property is being constructed when the loan is sought for, then an additional security in the form of third party guarantee is required. The third party guarantee can be provided by either a resident of India or a fellow NRI. Even though these are the normal requirements, some finer details are bank specific.

If you want to take a loan abroad, you have to take it from a loan provider who has offices in the city where you plan to acquire property. Some banks also require that loan providers have offices in your city of residence as well as the city where you want to buy the property. Even if every bank has a specific

policy for offering home loans to NRI's, they usually require them to have an account with the lending bank and show deposits that are kept apart from the property mortgage.

You can also provide your driving license, and the property documents including the latest sale deed with previous chain links, payment plan, allotment letter as well as receipts for all properties undergoing construction. Many banks insist NRI's should have a close blood relative in India to take them on as co-applicants for the loan. Things have been made easy and many banks are willing to bend the rules if the NRI has a good track record and has proven financial capabilities in India or abroad which can be supported with valid documents

Note : the above guidelines is just for general information only. Home loan terms and conditions, rate of interest etc varies from bank to bank

25. NRI guide to deal with inherited property (shared article from ET)

Buying a property in India is a decision that most NRIs can take after weighing the pros and cons of various tax and regulatory implications. But getting a property as inheritance is often not a choice, especially for first generation NRIs or PIOs whose parents bequeath to them, property situated in India. In such cases, NRIs must know how to deal with such inheritances.

Can an NRI inherit property in India?

Yes, a Non Resident Indian (NRI), Person of Indian origin (PIO) or even a foreign national of non-Indian origin can inherit and hold property in India. This includes residential and commercial property, agricultural, plantation and farm land.

From whom can an NRI inherit property?

An NRI, PIO or foreign national as mentioned above can inherit property from:

- (a) a person resident in India
- (b) a person resident outside India

However, the person from whom the property is inherited should have acquired the same in accordance with the foreign exchange law in force or FEMA regulations, applicable at the time of acquisition of the property.

Is there tax payable in India at the time of inheriting the property?

No income tax is payable at the time of inheriting the property.

However, the property may be subject to wealth tax. According to the Wealth Tax Act, tax is payable if the net value (market value minus any loans taken to finance the assets) of the assets of an individual exceeds Rs 30 lakh.

Now, there are certain exceptions to the definition of 'assets'.

- i. Only one house

If you own only one residential house, you do not have to pay wealth tax. So after inheritance, if this is the only property that you own, you do not have to pay wealth tax on it.

The question arises as to whether this includes global properties. For instance, if an NRI owns a property in the US and inherits one in India, will he be subject to wealth tax on the property in India?

Parizad Sirwalla, Executive Director – Tax at KPMG explains, "For an Indian citizen who qualifies as a 'Resident but Not Ordinary Resident (NOR)' or 'Non-Resident (NR)' of India (as per the Income Tax Act 1961) as well as for a foreign national, wealth tax is applicable only on the specified assets located in India. Specified assets located outside India are subject to wealth tax only in the case of Indian citizens who qualify as 'Ordinary Resident (OR)' of India as per the IT Act.

In the instant case, if the NRI qualifies as 'NOR' or 'NR' of India, the US house property will not be considered as a specified asset for wealth tax. Further, the house property inherited or purchased in India

may be considered as exempt under Section 5 of the Wealth Tax Act provided that's the only house he owns in India.

The US house property will be considered as specified asset for wealth tax, only if this NRI (assuming Indian citizen) qualifies as 'Ordinary Resident' of India for the relevant financial year. In such case, as one residential house property is exempt for wealth-tax, either of the property (US or India) can be considered as exempt (as per Section 5 of the WT Act) and the balance will be taxable. "

ii. House given on rent for more than 300 days

If you have given the property on rent for more than 300 days during a financial year, you do not have to pay wealth tax.

If the net value of all your assets, including the inherited property exceeds Rs 30 lakh, wealth tax will be charged at 1% of the amount exceeding Rs 30 lakh.

Can an NRI rent inherited property? What are the various implications?

Yes, an NRI can rent inherited property. The implications are the same as those applicable for renting out purchased property.

Can an NRI sell inherited property?

An NRI can sell inherited property to a person resident in India, an NRI or a PIO. A PIO can sell property in India to a person resident in India or an NRI. In case a PIO wants to sell to another PIO, he will need to get prior approval from RBI.

An NRI holding agricultural land, plantation land or farm house may sell these properties only to a person resident in India and who is a citizen of India.

Can an NRI repatriate proceeds of inherited property?

Yes, general permission is available to NRIs and PIOs to repatriate the sale proceeds of property inherited from a person resident in India subject to the conditions mentioned below. If those conditions are fulfilled, the NRI need not seek permission from the RBI. However, if the property has been inherited by an NRI from a person resident outside India, then the NRI must seek specific permission from the RBI

Conditions for repatriation in case of property inherited from person resident in India:

(i) The amount of repatriation should not exceed USD 1 million per financial year

(ii) The NRI must produce documentary evidence in support of the inheritance and an undertaking and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes

Source: ET

26. NRI's guide to renting out property in India *(shared article from ET)*

Property is a favourite Indian asset class and one of the main reasons for this is its ability to generate regular cashflows through rent. In this column, we will look at the various aspects involved when an NRI rents out a property in India. The definition of NRI for the purposes of repatriation will be that of the FEMA and for the purposes of income tax will be that prescribed in the Income Tax Act.

Can NRIs earn rental income?

An NRI can rent out property that he owns in India. The rent proceeds can be credited to the NRE or NRO account. Rent proceeds received in these accounts can be freely repatriated. If you do not have an NRE or NRO account, the proceeds can also be directly remitted abroad but you would need an appropriate certificate from a chartered accountant certifying that all taxes have been duly paid.

Is rental income taxed in India?

Yes, since this income is earned in India, tax will be payable by the NRI in India. In fact, tax will be deducted at source by the payer of the rent. The payer of the rent, in this case, must obtain a TAN number and deduct TDS of 30 per cent from the rent amount. He must also provide a TDS certificate to the NRI.

"The onus of deducting tax is on the payer. So in case the payer does not deduct tax and the NRI too fails to declare the income and pay the tax, the income tax authorities can hold the payer responsible," explains Sandeep Shanbhag, Director, Wonderland Investments.

Having said that, if the tenant does not deduct tax at source, it is prudent to file your tax returns and pay the taxes thereof.

Is rental income taxed in the country of residence?

When you are an NRI, you are obviously a resident of another country for tax purposes. And in most cases, countries levy tax on residents on their global income. So it may happen that as per provisions of the Indian Income Tax laws, tax will be deducted at source on income earned in India, as is in the case of rent. But at the same time, that income will be subject to tax in your country of residence. In such cases, we need to refer to the Double Taxation Avoidance Agreements that India has entered into with various countries.

The India-US DTAA for instance provides that rent from immovable property will be taxed in the country in which the property is situated. So NRIs who are residents of US would have to pay tax on rental income in India. While they would still have to declare that income while filing their tax returns in the US, they would get a credit for taxes paid in India.

It is prudent to check the tax laws of the country that you are resident of or consult an expert in that country.

What is deemed rental income?

According to the Indian Income Tax Act, if a person (resident or NRI) owns more than one house property, only one of them will be deemed as self-occupied. There will be no income tax on a self-occupied property. The other one, whether you rent it out or not, will be deemed to be given on rent. If you have not given the second property on rent, you will have to calculate deemed rental income on the second property (based on certain valuations prescribed by the income tax rules) and pay the tax thereof.

Now, the Income Tax Act does not specify if either or both these properties must be situated only in India. Vikas Vasal, Executive Director of KPMG India explains, "At the time of drafting the Income Tax Act, one did not envisage a situation where an Indian would own properties overseas. But now, more and more Indians are settling abroad. So from the reading of the Act, the rule of 'more than one property' will apply to global properties."

What this means is that if you are an NRI and own only one property globally and that property is in India, you would not have to pay any income tax on the 'deemed rental income' in India.

However, let us say you are an NRI resident in USA. You own and live in a house in USA. You also own a house property in India. Even if you do not give the property in India on rent, you would have to pay income tax on deemed rent in India. The deemed rent is determined by certain valuation rules prescribed in the Income Tax Act.

Remember that even if you have inherited a property in India and that is not your only property, you would have to pay tax on deemed income.

Source: ET

27. SELLING YOUR PROPERTY ABROAD (Shared Article from ET)

"As a returning Indian, try to sell your overseas property while you are still a 'not ordinarily resident' (NOR) or 'non-resident' (NR). As a NOR or NR, if you sell any overseas assets and receive the sale proceeds outside India, you do not have to pay any taxes in India. If you need to buy a house in India out of the sale proceeds, you can first receive the sale proceeds in a foreign bank account and thereafter remit part or whole of the proceeds back to India without creating any Indian tax liability," says Amitabh Singh, tax partner, Ernst & Young.

Keep in mind that the sale of property at a profit will probably create tax liability in the country where the property is situated. In some countries, it creates sales tax and other liabilities as well.

"If you have become an Indian resident, selling the house liable for taxes both in the country where the property is situated as well as in India. The country where the property is situated will generally have the primary taxing rights ie, the right to collect the tax while India will have the obligation to provide a credit for taxes paid in the foreign country and collect only the balance tax, if any. The precise tax treatment will be guided by the domestic tax laws of India and the foreign country as well as the tax treaty between the two countries

For an Indian tax resident, long-terms capital gains from a property outside India will ordinarily be subject to tax that can be mitigated to some extent by claiming the credit for taxes, if any, paid overseas or by making investments in specified bonds or acquiring a residential property in India and holding such bonds or property for a specified period of time.

27.1 RENTAL INCOME EARNED ABROAD

While such rental income is taxable in India, returning Indians should note that the 'notional rental income' from more than one self-occupied property is also treated as taxable. This is because an exemption is allowed for only one self-occupied house property irrespective of where it is situated.

"A notional valuation would need to be made of the rent that the self-occupied property would have fetched and offered to tax in India. The saving grace is that the individual has the choice of selecting one among his several self-occupied properties for claiming the exemption, and he may, therefore, select the property that has the higher rental value as self-occupied," Agarwal says.

"Further, a deduction of 30% of the net rent (after deduction of tax levies by a local authority) is allowed. Also, the interest due on loans taken to finance the purchase or construction of the house is also allowed as deduction from the rental income."

27.2 INVESTMENTS ABROAD

"Dividends of interest from overseas investments will be taxable in India as ordinary income. Dividends from shares held in an Indian company are not taxable in the hands of the recipient. Generally, losses incurred from the sale of one investment can be set off against gains from sale of another investment subject to the setoff and carry-forward rules provided in the Income Tax Act," says Singh of Ernst & Young.

27.3 ONE-TIME FINANCIAL SETTLEMENT

If the financial settlement relates to the employment exercised overseas, it should not be taxed in India generally. But, if the individual is an Indian resident at the time of settlement, there is a possibility of the settlement being taxed in both countries. The double tax treaty will help mitigate double taxation depending on the effective rates of taxes in the two countries.

27.4 CAPITAL GAINS

Assets would either qualify as 'long-term capital assets' (if held for 36 months or more) or as 'short-term capital assets' (if held for less than 36 months). As an exception, shares held in a company qualify as long-term capital asset if held for 12 months. With long-term capital assets, the cost of purchasing or improving them are allowed to be indexed and the indexed cost is permitted to be reduced from the sale value. In the case of short-term capital assets, the costs cannot be indexed.

"The indexation benefit is meant to take into account the inflationary trends between the year of purchase and the year of sale. The costs incurred on the sale (such as brokerage charges) are allowed as deduction while calculating gains from the sale of both short-term and long-term assets," says Agarwal.

India tax laws allow tax exemptions if the sale proceeds or the gains from the sale are re-invested in specific assets. "For example, an exemption can be claimed in respect of gains from the sale of a house property where the gain is re-invested in the purchase or construction of another house property, subject to certain conditions and timelines," says Agarwal of KPMG. Income received in foreign currency should be converted into Indian rupees at the rates provided by the SBI as on the specified date. The specified date differs depending on the type of income earned.

Juggling finances in one country is bad enough; having to do it in two can be baffling. When it comes to filing taxes, NRIs find themselves in this unenviable position. The income tax rules that apply to NRIs are different from those that are valid for residents. "Certain incomes resulting from remittances and investments in the home country are either exempt or taxed at concessional rates," says Rajesh Srinivasan, leader, global employer services, Deloitte India

Source ET

28. Tax implications for Non Resident Indians (NRIs) returning to India (*shared article from ET*)

While I was hearing about America's victory over Osama, my phone rang and to my surprise, it was my college friend Vasanth, who has been working in US for the past five years

After our initial discussion about our family, work-life balance, Osama, among others, he mentioned that he is planning to return to India to explore new avenues here. Basically, he wanted to know, what implication his Non Resident Indian (NRI) status would have on his tax liability in India. I explained him the following points after he promised me to get some chocolates from US!

Under Indian tax provisions, NRI is an individual who is an Indian citizen or person of Indian Origin who is not a resident in India.

The residential status in India is determined based on the physical presence of an Individual in India during the tax year, which is from April 1 to March 31. An Individual is considered as a Non-Resident for a particular tax year, if he is physically present in India for less than 60 days in that tax year.

However, when a citizen of India or a person of Indian origin who is outside India visits India in any year, he would be regarded as Non-Resident if his total stay is less than 182 days in the relevant tax year. Person of Indian origin means an Individual who is born in undivided India. Even if either of parents/grandparents of an Individual were born in undivided India, he would be regarded as person of Indian origin.

A Resident Individual can qualify as Not Ordinarily Resident (NOR) for a particular year based on his stay details in the past years (i.e, he should be a non-resident in India in nine out of the ten years preceding the previous years or should have stayed for less than 730 days in seven years preceding the previous years).

Taxability in India is dependent on whether an individual qualifies as a Resident, NOR or Non-Resident.

A Resident is taxable on his global income, while a NOR or Non-Resident is taxable on the income earned or received in India. In the present case, Vasanth is employed with a company in US. He resigns from his present employment and takes up a new employment in India.

If Vasanth qualifies as Non-Resident or Not-Ordinarily Resident in India in the relevant tax year, then he need not offer his US employment Income to tax in India. If he qualifies as Resident in India, his global income would be taxable in India and he has to offer his US employment income also to tax in India, subject to the relief available under the double taxation avoidance agreement.

There are some special provisions under Indian tax laws wherein NRIs can opt for special tax rates (instead of progressive slab rates applicable in India) for specific investment incomes or capital gains from foreign exchange assets (eg: Shares in Indian company purchased in convertible foreign exchange). Further, the interest earned by NRI on his NRE, FCNR or RFC account is tax free subject to certain conditions.

It should be noted that the NRI benefits are available to a person till the time he qualifies to be a Non-Resident in India. A person may lose his NRI status in the same year when he returns to India or within two to three years from the date of arrival to India depending on the number of days of stay in India as explained above.

Separately, under wealth tax law, wealth tax is payable at the rate of 1% for the net wealth in excess of Rs 30 lakhs. However, assets located outside India owned by NRI shall not come under wealth tax bracket. Further, a NRI returning to India for good can claim wealth tax exemption for the assets brought

by him to India or assets acquired by such money up to seven years commencing from the year in which such person returned to India subject to fulfillment of other conditions.

It is also important to keep in mind the upcoming Direct Tax Code (DTC). There is a proposal under DTC to remove concept of 'NOR' (though similar exemptions have been given separately to residents who meet the conditions prescribed for qualifying as NOR under existing provisions).

Further, an Indian Citizen or Person of Indian origin who is outside India visits India in any year, would be regarded as Resident, even if he stays in India for less than 182 days, but 60 days or more in the relevant tax year and 365 days or more in preceding four tax years, (the extended stay benefit of 181 days shall be removed under DTC).

Under DTC, a person may qualify as Resident on account of removal of NOR concept (whereas he would have become NOR under existing provisions), which would bring assets situated outside India under the ambit of wealth tax. DTC also proposes to levy wealth tax on net wealth in excess of Rs 1 crore as compared to 30 lakhs of existing provisions.

When Vasanth thanked me for briefing him on the above, I could make out that he was quite happy to understand the specific tax provisions governing NRI's which he could have otherwise overlooked.

Under Indian tax provisions, the residential status in India is based on the physical presence of the person in India during the tax year and if the person is not physically present in India for more than 60 days then he is considered to be Non-Resident of India (NRI). The tax year is calculated from April 1 to March 31. However, when a citizen of India or a person of Indian origin who is outside India visits India in any year, he would be regarded as Non-Resident if his total stay is less than 182 days in the relevant tax year.

The individual can also file his existence as Not Ordinarily Resident (NOR) which will be based on his stay in India in the past years. But the glitch in NOR is he/she should be a non-resident in India in nine out of the ten years preceding the previous years. Taxability is completely dependent on whether an individual qualifies as a Resident, NOR or Non-Resident. A Nor or Non-resident is taxed on the income he earns in India.

An NRI can reap his tax benefits until he claims that he is a Non-Resident, but once he/she pronounces his residential status he will avail no benefits and will be considered as a full time resident of India and will have to follow the regular tax format. There are some special provisions under Indian tax laws wherein NRIs can opt for special tax rates for specific investment incomes or capital gains from foreign exchange assets (eg: Shares in Indian company purchased in convertible foreign exchange).

Of course NRI's do not come empty handed, they will be carrying some wealth tag behind them. But they don't have to panic, as assets located outside India owned by NRI's shall not come under wealth tax bracket. NRI's are also allowed to file exemption for the assets brought by them to India or assets acquired by such money. Up to seven years from the day of they return to India, they are exempted for their assets

Source: ET

29. NRIs investment in Mutual Funds Schemes

Investments by NRIs in Mutual Funds can be made on a repatriable or on a non-repatriable basis, as preferred by the investor.

Repatriable Basis

To invest on a repatriable basis, you must have an NRE Bank Account in India. The Reserve Bank of India (RBI) has granted a general permission to Mutual Funds to offer mutual fund schemes on repatriation basis, subject to the following conditions:

1. The mutual fund should comply with the terms and conditions stipulated by SEBI.
2. The amount representing investment should be received by inward remittance through normal banking channels, or by debit to an NRE account of the non-resident investor.
3. The net amount representing the dividend / interest and maturity proceeds of units may be emitted through normal banking channels or credited to NRE/ account of the investor, as desired by him subject to payment of applicable tax.

Non-Repatriable Basis

The Reserve Bank of India (RBI) has granted a general permission to Mutual Funds to offer mutual fund schemes on non-repatriation basis, subject to the following conditions:

1. Funds for investment should be provided by debit to NRO account of the NRI investor. Alternatively, funds may be invested by inward remittance or by debit to NRE Account.
2. The current income in the form of dividends is allowed to be repatriated.

As an NRI one does not need any specific approval from the RBI for investing or redeeming from Mutual Funds. Only OCBs and FIIs require prior approvals before investing in Mutual Funds. There are no investment restrictions on NRIs for investing in mutual funds. RBI does not restrict investment in mutual funds either on repatriable or non-repatriable basis.

Although SEBI regulations allow Mutual Funds to offer guaranteed returns subject to the Fund meeting certain conditions, most Mutual Funds in India do not provide a guaranteed return on their schemes. In such cases, the sponsor, the AMC, or any other person, guarantees a minimum level of return and makes good the difference if the actual returns are less than the guaranteed minimum. The name of the guarantor and the manner in which the guarantee shall be met must be disclosed in the offer document by the Mutual Fund. Investment in mutual funds is not guaranteed by the Government of India, the Reserve Bank of India or any other government body.

If the investment is made on a repatriation basis, the net income or capital gains (after tax) arising out of investment are eligible for repatriation subject to regulatory guidelines in force at the time of repatriation. If the investment is made on a non-repatriation basis, only the net income, that is, dividend, arising out of investment is eligible for repatriation.

If the investment is made on a repatriation basis, the net income or capital gains (after tax) arising out of investment is eligible for repatriation subject to regulatory guidelines in force at the time of the repatriation. If the investment is made on a non-repatriation basis, only the net income, that is, dividend, arising out of investment is eligible for repatriation.

NRIs can redeem their units by signing on the tear-off portion of the account statement & sending it to any of the AMC or your personal MF investment advisor through post or by sending a letter requesting redemption with the signatures and the amount to be redeemed. The redemption request would be

processed at the applicable NAV based price. The redemption proceeds will be sent directly to the bank branch where NRE/NRO account depending upon whether repatriable or non-repatriable account within three business days. The redemption proceeds will be net of tax deduction at source on the profits.

Tax Liability

Under Section 2(42A) of the Income Tax Act, units of the Scheme held as a capital asset, for a period of More than twelve months immediately preceding the date of transfer, will be treated as a long term capital asset for the computation of capital gains thus attracting long term capital gains tax rate. Tax at source is deducted, if you redeem units within a period of twelve months from the investments (short gain capital gain). In all other cases it would be treated as a short-term capital asset and would attract short-term capital gains tax rate. Hence depending on the period of investments, long term or short capital gains and tax thereon is applicable on redemption. Though there is currently no long-term capital gain tax liability for redemptions from equity schemes, there is a liability at the time of redeeming from the debt schemes.

As per Section 10(35) of the Income Tax Act, 1961, income received from mutual fund units specified under Section 10(23D) is exempt from income tax in India and the mutual funds are subject to deduction of distribution tax in debt oriented schemes. Hence all dividends are tax-free in the hands of non-resident investors and no TDS is applicable on the same.

Wealth Tax - Units issued to FIIs/NRIs will not be treated as assets as defined under section 2(ea) of the Wealth-Tax Act, 1957 and hence will not be liable to wealth tax.

FAQ

- Can an NRI fax a request followed by the original documents?
Redemption original documents - Units cannot be redeemed or allotted on the basis of fax applications. A request that lacks a valid signature cannot be processed due to legal restrictions. Those who are having online account can redeem units online
- Can a Power of Attorney (POA) invest on behalf of the NRI investor?
Yes, Unlike banks where a POA holder cannot open an account on behalf of the NRI/FIIs, in a mutual fund the POA has the authority to invest on behalf of the investor and sign documents for initial and additional purchases as well as redemptions. While applying for purchase of units the POA holder needs to submit the original POA or a copy duly notarized should be submitted. The Power of attorney should contain the signature of both the first holder and the POA holder. Only when the POA is registered does the POA holder have the right to transact on behalf of the NRI/FII investor. His signature will be verified for processing any transaction/request.
- Is nomination by NRIs allowed in Mutual Funds?
Yes, It is allowed only for Individuals/HUFs.
- Can a resident Indian have an NRI as nominee?
Yes, The same rules apply for nominees to resident Indian accounts. An NRI can be a nominee to an account which is in the name of a resident Indian.

- Will the fund accept an NRI application with an overseas bank account detail? No.

You need PAN and also you need to complete the KYC (Know your client) formalities before investing in mutual funds schemes in India. Please note that, investments in Mutual Funds are subject to market risk. Please take advice from your Financial Adviser before investing in mutual fund schemes

30. Pravasi Pension Scheme for Non-Resident Keralites

There are a large number of people who are living outside India. Among them a good percentage belong to lower or middle income group. This large group of middle-lower income group face many fundamental problems during their life in the Gulf and when they return to their homeland. The saving habits and rehabilitation facilities available to them are also not very promising. Similarly a good percentage of keralites are living outside kerala and within India for their being. These Non-Resident Keralites (NRKs) are also facing similar circumstances as the NRIs. Realizing such circumstances, Kerala State came forward with an unique initiative, first of its kind in the country, to setup a welfare fund to provide welfare schemes to NRIs and NRKs. Kerala Non-Resident Keralites Welfare Board came in to existence as per government Kerala Non-Resident Keralites Welfare Fund Act -2008. More than fifty thousand NRIs and NRKs in together are members of the welfare fund. Current NRIs and NRKs , NRIs returned to India if having at least two years of NRI status can avail membership in this welfare fund. The Board organized many welfare schemes such as pension schemes, family pension schemes, medical aid, death assistance etc.

The Act envisages the formation of the Welfare Fund through contribution from the registered members @ of Rs. 300/- per month as contribution from each Non Resident Keralite (abroad). Every Non Resident Keralite (abroad) member when returned and settled down permanently in the State has to pay Rs. 100 only. Non Resident Keralites (India) member has to pay Rs. 100 as contribution per month. Every deemed member shall contribute Rs. 50 per month.

Benefits to Member

Pension to members and deemed members who had completed 60 years of age and had remitted contribution for not less than five years

Family pension on the death of a member or a deemed member who had remitted contribution for not less than five years.

Financial assistance on the death of a member due to illness or accident.

Financial assistance for medical treatment of the members affected with serious illnesses

Financial assistance for marriage of women members and daughters of the members and for maternity benefit to women members.

Financial assistance or loans or advances to members for the construction of dwelling houses or for the purchase of land and building or for the purchase of land or for the maintenance of house.

Financial assistance for education including higher education to the children of members.

Self employment assistance to reputed persons

Financial assistance to members incapacitated to attend work due to permanent physical disability

Financial assistance investment in any company or firm or co-operative society or institution constituted under the Act.

In case you need further information please visit

<http://www.pravasiwelfarefund.org/index.php/>

For downloading application form, please click the following link

<http://www.pravasiwelfarefund.org/index.php/application-forms>

31. Pravasi Identity Card

The government of Kerala has instructed NORKA-ROOTS to issue photo identity cards for the non-resident Keralites working for a minimum of 6 months in a foreign country. The ID Card will be issued to all the NRK's working abroad across the globe. The ID Card will be used as a base material for long-term policy formulation of Government. This is for the first time that a state government is implementing such a major scheme for its people.

The NRK who are either residing or working abroad atleast 6 months and have completed 18 years of age are eligible for applying the card. The validity of the card is of 3 years. NRK's can apply for the ID Cards by submitting their application form duly verified and attested by the peoples representative, concerned embassies or the gazetted officers of Government of Kerala. Copies of the relevant pages of passport and visa are to be enclosed along with the application. The registration fee is only Rs. 200/- per person.

The New India Insurance Company will provide insurance coverage to the card holders. The coverage is given for accidental death, permanent or total and partial disability of the card holder. A unique master policy number is depicted in each card. NRK Identity Card Cells have been constituted in Thiruvananthapuram, Kochi and Kozhikode districts for receiving the applications of the NRKs. The districts are classified into three zones and the districts pertaining to each zone as detailed below can submit their applications in the three regional centers of NORKA-ROOTS

Northern Zone – Kasargod, Kannur, Kozhikode, Malapuram, Wynad Middle Zone – Thrussur, Ernakulam, Palakkad, Kottayam, Alappuzha, Idukki Southern Zone – Pathanamthitta, Kollam, Thiruvananthapuram

The applicants pertaining to the Northern Zone has to submit their application forms in the Kozhikode, Regional Office of NORKA-ROOTS, Middle zone in the Ernakulam office and the applicants pertaining to the Southern Zone can submit their application in the Head Office of NORKA-ROOTS

The address and phone number of the ID Cells of NORKA-ROOTS are detailed below.

Norka- Roots Regional Office
Certificate Authentication Centre
Lotus Villa, Sasthamangalam
Thiruvananthapuram
Phone: 0471- 2317950, 2317951
e_mail: idcelltvm@norkaroots.net

Norka- Roots Regional Office
Certificate Authentication Centre
Door No. 41/1313- B,
V.M Complex, C.P.Ummer Road
Ernakulam
Phone: 0484 2371830, 2371810
e_mail: idcellekm@norkaroots.net

*Norka Roots Regional Office
Certificate Authentication Centre
2nd Floor, Zamorine Squire
Link Road, Kozhikkode
Phone: 0495- 2304882, 2304885
e_mail: idcellclt@norkaroots.net*

32. Portfolio Investment Scheme (PIS) for NRIs

Reserve Bank of India (RBI) permits an NRI to invest in Indian Share Market through Portfolio Investment Scheme (PIS) Account. The NRI investor must obtain permission from the RBI before investing in Indian capital market. Normally this permission is obtained through a designated schedule commercial bank where the NRI investor has the NRE/NRO account. This permission allows NRIs to invest in shares of Indian companies, in secondary market, under repatriation or non-repatriation basis in respect of shares or convertible debentures sold or purchased through a registered stock broker on a recognized stock exchange. Any other modes of acquiring shares are not covered under this scheme ie, shares purchased through IPOs, as resident individuals, bonus shares etc.

NRIs have to designate a branch of an Authorized Dealer (Bank) for routing the transactions relating to purchase and sale of shares/ convertible debentures under PIS, and route all such transactions only through the branch so designated. The NRI has to sign an agreement with an approved share broker to open the share trading account/depository account. The share broker will buy/sell shares on behalf of the NRIs as per the agreed terms and all the reports related to the buy/sell of shares and securities will be provided to the investor either manually or electronically, the mode opted by the NRIs. In case the investor opted for online trading, the investors are given a login ID and password to access their web site to do the buy/sell transactions, cash transfer, verify the portfolio positions, transactions details etc.

In short the following accounts are opened on behalf of the NRI investor

- 1) NRE/NRO Account with any branches of a commercial Bank
- 2) PIS account with the designated branches of the same bank
- 3) Depository account with Share broker
- 4) Share Trading account with a Share Broker

The investor has to open a NRE account if he requires his investments to be repatriated and an NRO account if he does not want the repatriation facility. The broker will help the investor to open the NRE/NRO/PIS account.

Capital Gains (profits)

Capital gains realized from shares that are held for more than one year is treated as long term capital gains and are tax free. Gains realized within a period of less than one year will attract short term capital gains at the applicable rate (presently @ 15% Plus Surcharge) which will be deducted at source by Bank. Tax is calculated and deducted for each transaction separately. In other words, the gains made in one transaction cannot be set off against the loss made in another. In case you are not liable to pay tax in a particular financial year, you can file your tax return and get the tax refund from the Income Tax Authorities.

Dividend Income

As per the present Income Tax rules, the dividend received from equity shares are exempted from income tax, so its fully tax-free in the hands of the investor.

NRIs needs to complete the following applications for opening the PIS and Share Trading Accounts

1. Agreement with Broker
2. Trading Account application
3. Depository Account opening form
4. KYC Application
5. PAN Application (if not already held by the investor)

6. PIS Application form

Documents required:

1. Six passport size colour photograph of the NRI
2. Copy of PAN card
3. Copy of passport with Visa page
4. Overseas Address proof
5. Indian Address proof
6. Bank Statement
7. One Canceled Cheque Leaf

33. NRI CAN NOW HOLD BANK ACCOUNTS IN ANY CURRENCY

NRIs can now hold bank accounts in any currency

The Reserve Bank today said Indians who have non-resident accounts in the country can now hold them in any currency which is fully convertible.

The move is likely to help NRIs/Persons of India Origin as it will give them more options in the holding of accounts, and lessen the risk from fluctuations in major currencies.

Earlier, FCNR(B) account holders were allowed to hold accounts in only certain currencies such as the Pound Sterling, US dollar, Japanese yen, euro, Canadian dollar and Australian dollar. It has been decided that Authorised Dealer banks in India may be permitted to accept Foreign Currency (Non- Resident) Account (Banks) deposits in any permitted currency. It may be noted that \"Permitted currency for this purpose would mean a foreign currency which is freely convertible,\" RBI said in a notification.

The Committee to Review the Facilities for Individuals under Foreign Exchange Management Act, 1999 in its Report has recommended that FCNR(B) accounts may be permitted to be opened in any freely convertible currency, RBI said.

RBI also said that any citizen who was earlier residing in a foreign country can own or transfer property or other assets in that nation if it was acquired during the time of his residence there. a person resident in India is free to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India,\" RBI said. In a clarification issued by it regarding repatriation of income and sale proceeds of assets held abroad by NRIs who have returned to India permanently, RBI said an investor can retain and reinvest the income earned on investments made under the Liberalised Remittance Scheme.

The apex bank said that clarifications are as per relevant sections of the Foreign Exchange Management Act of 1999.

Source : Economic Times (20/10/2011)

34. Non-Resident Indian (NRI) Pensioners:

The NRI Pensioners should open an ordinary non-resident bank account in any scheduled bank in India and execute a power of attorney in favour of the bank as required. They should also submit life certificate and nationality certificate as prescribed to enable the credit of pension amount due to them in to their accounts.

35. Savings Bank account maintained by residents in India – non-resident close relative allowed as jointholder A.P. (DIR Series) Circular No.12 dated September 15, 2011

RBI has permitted individuals resident in India to include non-resident close relative(s) ('relative' as defined in section 6 of the Companies Act, 1956) as a joint holder(s) in their resident bank accounts on 'former or survivor' basis. However, non-resident Indian close relatives shall not be eligible to operate the account during the life time of the resident account holder.

36. Account Scheme (NRE)/ Foreign Currency (Non-Resident) Account (Banks) Scheme (FCNR(B)) accounts jointly with Indian resident close relative –liberalization A.P. (DIR Series) Circular No.13 dated September 15, 2011

RBI has permitted NRI as defined in Foreign Exchange Management (Deposit) Regulations, 2000 to open NRE / FCNR(B) account with their resident close relative ('relative' as defined in section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.

37. Foreign Investments in India – increase in limit for transfer of security by way of gift A.P. (DIR Series) Circular No.14 dated September 15, 2011

In terms of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, as amended a person resident in India is permitted to transfer any security, by way of gift, to a person resident outside India, with prior approval of the RBI subject to specified conditions. One of the conditions specified is that the value of security to be transferred by the donor/ transferor, together with any security transferred to any person residing outside India as gift in the calendar year should not exceed the rupee equivalent of USD 25,000. This limit has now been enhanced to USD 50,000 per financial year.

38. Gift in Rupees by Resident Individuals to NRI close relatives
A.P. (DIR Series) Circular No.17 dated September 16, 2011

RBI has permitted a resident individual to make a rupee gift to a NRI/PIO who is a close relative of the resident individual ('relative' as defined in Section 6 of the Companies Act, 1956) by way of crossed cheque / electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) account of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 200,000 per financial year as permitted under the Liberalised Remittance Scheme (LRS) for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances under the LRS during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

39. Meeting of Medical expenses of NRIs close relatives by Resident Individuals
A.P. (DIR Series) Circular No.20 dated September 16, 2011

RBI has clarified that where the medical expenses in respect of NRI close relative ('relative' as defined in Section 6 of the Companies Act, 1956) are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may be covered under the term "services related thereto" under Regulation 2(i) of Notification No. FEMA 16 /2000- RB dated May 3, 2000 issued in pursuance of the provisions of section 3 of the Foreign Exchange Management Act, 1999.

40. FEMA – Repayment of loans of Non-resident close relatives by residents

IT has been decided that where an authorised dealer in India has granted loan to a non-resident Indian in accordance with Regulation 7 of the Notification No. FEMA 4/2000-RB, *ibid*, such loans may also be repaid by resident close relative (relative as defined in Section 6 of the Companies Act, 1956), of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

RBI/2011-12/183
A.P. (DIR Series) Circular No. 19, Dated- September 16, 2011

Repayment of loans of Non-resident close relatives by residents

Attention of the AD banks is invited to Regulation 8 (d) of the FEMA Notification No.4/2000- RB dated May 3, 2000 viz. Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000, as amended from time to time, in terms of which the housing loan provided to a non-resident Indian or a person of Indian origin resident outside India by an authorised dealer or a housing finance institution in India approved by the National Housing Bank for acquisition of a residential accommodation in India, may be repaid by any relative of the borrower in India by crediting the borrower's loan account through the bank account of such relative (relative as defined in section 6 of the Companies Act, 1956). Thus, repayment of loan by close relative in respect of loan in rupees availed by NRI is restricted to housing loan only.

2. The Committee to review the facilities for individuals under the Foreign Exchange Management Act (FEMA), 1999 has in its Report recommended that resident individuals may be granted general permission to repay loans availed of from banks in Rupees in India by their NRI close relatives as defined under Section 6 of the Companies Act.

3. The extant provision has now been reviewed and it has been decided that where an authorised dealer in India has granted loan to a non-resident Indian in accordance with Regulation 7 of the Notification No. FEMA 4/2000-RB, *ibid*, such loans may also be repaid by resident close relative (relative as defined in Section 6 of the Companies Act, 1956), of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

4. The necessary amendments to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 are being issued separately.

5. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Meena Hemchandra)
Chief General Manager In-Charge

41. MASTER CIRCULAR ON ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY IN INDIA BY NRIs/PIOs/FOREIGN NATIONALS OF NON-INDIAN ORIGIN

MASTER CIRCULAR NO. 4/2011-12, DATED 1-7-2011

Acquisition and transfer of immovable property in India by NRIs/PIOs/Foreign Nationals of Non-Indian Origin is regulated in terms of sub-sections (3), (4) and (5) of section 6 of the Foreign Exchange Management Act, 1999 read with Notification No. FEMA 21/2000-RB, dated May 3, 2000. The regulatory framework and instructions issued by the Reserve Bank in this regard have been compiled in this Master Circular. The list of underlying circulars/notifications is furnished in Appendix.

2. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2012 and be replaced by an updated Master Circular on the subject.

1. Introduction

The Foreign Exchange Management Act, 1999 (FEMA) empowers the Reserve Bank to frame regulations to prohibit, restrict or regulate the acquisition or transfer of immovable property in India by certain persons residents outside India. The regulations governing acquisition and transfer of immovable property in India is notified under Notification FEMA No.21/2000-RB of May 3, 2000, as amended from time to time.

2. Acquisition and Transfer of Immovable Property in India

A Non-Resident Indian (NRI)¹

(i) Purchase of immovable property

A NRI can acquire by way of purchase any immovable property (other than agricultural land/ plantation property/farm house) in India.

(ii) Transfer of immovable property

A NRI may transfer any immovable property in India to a person resident in India. He may transfer any immovable property (other than agricultural land or plantation property or farm house) to an Indian Citizen resident outside India or a PIO resident outside India.

(iii) Payment for Acquisition of Immovable Property

NRIs can make payment for acquisition of immovable property (other than agricultural land/plantation property/farm house) out of:

a. Funds received in India through normal banking channels by way of inward remittance from any place outside India or by debit to his NRE/FCNR(B)/NRO account.

b. Such payments cannot be made either by traveller's cheque or by foreign currency notes or by other mode except those specifically mentioned above.

(iv) A NRI who has purchased residential/commercial property under general permission is not required to file any documents with the Reserve Bank.

B Person of Indian Origin (PIO)²

(i) Purchase of immovable property

A PIO can acquire by way of purchase any immovable property (other than agricultural land/plantation property/farm house) in India.

(ii) Gift/Inheritance of immovable property

(a) A PIO may acquire any immovable property (other than agricultural land/plantation property/farm house) in India by way of gift from a person resident in India or a NRI or a PIO.

(b) A PIO may acquire any immovable property in India by way of inheritance from a person resident in India or a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force or FEMA regulations, at the time of acquisition of the property.

(iii) Transfer of immovable property

A PIO can transfer any immovable property in India (other than agricultural land/farm house/plantation property) by way of sale to a person resident in India. He may transfer agricultural land/farm house/plantation property in India, by way of gift or sale to a person resident in India, who is a citizen of India. He may also transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India, who is a citizen of India or to a Person of Indian Origin resident outside India.

(iv) Payment for Acquisition of Immovable Property in India

A PIO can make payment for acquisition of immovable property in India (other than agricultural land/farm house/plantation property):

a. By way of purchase out of funds received by inward remittance through normal banking channels or by debit to his NRE/FCNR(B)/NRO account.

b. Such payments cannot be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically mentioned above.

(v) A PIO who has purchased residential/commercial property under the general permission, is not required to file any documents with the Reserve Bank.

3. Acquisition of immovable Property by Foreign Embassies/Diplomats/Consulate Generals

In terms of Regulation 5A of the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000, Foreign Embassy/Diplomat/Consulate General, may purchase/sell immovable property (other than agricultural land/plantation property/farm house) in India provided—

(i) Clearance from the Government of India, Ministry of External Affairs is obtained for such purchase/sale, and

(ii) The consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through the normal banking channels.

4. Acquisition of immovable property by person resident outside India for carrying on a permitted activity

A person resident outside India who has established a Branch, Office or other place of business, excluding a Liaison Office, for carrying on in India any activity in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 may—

(a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity, provided that all applicable laws, rules, regulations or directions for the time being in force are duly complied with; and the person files with the Reserve Bank a declaration in the form IPI (Annex 2), not later than ninety days from the date of such acquisition; and

(b) transfer by way of mortgage to an Authorised Dealer as a security for any borrowing, the immovable property acquired in pursuance of clause (a) above.

5. Repatriation of sale proceeds of immovable property

(A) Immovable property acquired by way of purchase

(a) A person referred to in sub-section (5) of section 6 of the Foreign Exchange Management Act³, or his successor shall not, except with the prior permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section.

(b) In the event of sale of immovable property other than agricultural land/farm house/plantation property in India by a person resident outside India who is a citizen of India or a person of Indian origin, the Authorised Dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

(i) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations;

(ii) the amount to be repatriated does not exceed:

the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels, or

the amount paid out of funds held in Foreign Currency Non-Resident Account, or

the foreign currency equivalent (as on the date of payment) of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property; and

(iii) in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

(B) Immovable property acquired by way of inheritance/legacy/out of Rupee funds

A Non-Resident Indian (NRI)/Person of Indian Origin (PIO) may remit an amount, not exceeding US \$ 1,000,000 (US Dollar One million only) per financial year out of the balances held in NRO accounts/sale proceeds of assets by way of purchase/the assets in India acquired by him by way of

inheritance/legacy/out of Rupee funds. This is subject to production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, and a tax clearance/no objection certificate from the Income Tax Authority for the remittance. Remittances exceeding US \$ 1,000,000 (US Dollar One million only) in any financial year requires prior permission of the Reserve Bank.

In cases of deed of settlement made by either of his parents or a close relative (as defined in section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler, the original deed of settlement and a tax clearance/No objection certificate from the Income-Tax Authority should be produced for the remittance.

Where the remittance as above is made in more than one instalment, the remittance of all such instalments shall be made through the same Authorised Dealer.

6. Refund of purchase consideration

Refund of application/earnest money/purchase consideration made by the house building agencies/seller on account of non-allotment of flat/plot/cancellation of bookings/deals for purchase of residential/commercial property, together with interest, if any (net of income tax payable thereon) may be allowed by the Authorised Dealers by way of credit to NRE/FCNR (B) account, provided the original payment was made out of NRE/FCNR (B) account of the account holder or remittance from outside India through normal banking channels and the Authorised Dealer is satisfied about the *bona fides* of the transaction.

7. Prior permission to the citizens of certain countries for acquisition or transfer of immovable property in India

A citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan, whether resident in India or outside India, cannot acquire or transfer immovable property in India, without the prior permission of the Reserve Bank. This restriction is not applicable where the immovable property is taken on lease for a period not exceeding five years.

8. Purchase of Immovable Property in India by a Foreign National of Non-Indian Origin resident outside India

(i) Foreign nationals of non-Indian origin resident outside India are not permitted to acquire any immovable property in India unless such property is acquired by way of inheritance from a person who was resident in India. However, they can acquire or transfer immovable property in India, on lease, not exceeding five years without the prior permission of the Reserve Bank.

(ii) Foreign Nationals of non-Indian origin, other than a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan, can acquire immovable property in India on becoming resident in India in terms of section 2(v) of the Foreign Exchange Management Act, 1999. In this connection, he has to satisfy the condition of period of stay. The type of visa granted should clearly indicate the intention to stay in India for an uncertain period to determine his residential status in terms of section 2(v) of FEMA, 1999. (Press Release dated February 1, 2009 issued by Government of India is enclosed as Annex 1).

(iii) Foreign nationals of non-Indian origin who have acquired immovable property in India by way of inheritance with the specific approval of the Reserve Bank or have purchased the immovable property with the specific approval of the Reserve Bank cannot transfer such property without the prior permission of the Reserve Bank.

ANNEX 1

PRESS RELEASE OF GOVERNMENT OF INDIA

Government's advice on acquiring land by persons residing outside India

Government of India has advised State Governments to be extra vigilant in matters of acquisition and transfer of immovable property in India by a person resident outside India and satisfy themselves about the eligibility under FEMA before registering a sale or purchase of immovable property in India. The enquiries may include both the intending buyers and sellers. The relevant travel documents and the nature of visa may also be verified before registering such sale/purchase. Government has further advised all including concerned authorities in the State Governments that wherever appropriate, the authorities may consider reviewing registration of sale/purchase already made to determine their compliance with legal requirements. Further, persons acquiring immovable property have to fulfil the requirements, if any, prescribed by the State authorities.

A foreign company which has established a Branch Office or other place of business in India under the provisions of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 (FEMA 22/2000-RB dated the 3rd May, 2000) can acquire immovable property in India which is necessary for or incidental to carrying on such activity, subject to the conditions stipulated in Regulation 5 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 (Notification No. 21/2000-RB, dated the 3rd May, 2000).

Apart from above, a foreign national who is residing in India for more than 182 days during the course of the preceding financial year for taking up employment or carrying on business/vocation or for any other purpose indicating his intention to stay for an uncertain period can acquire immovable property in India as he would be a 'person resident in India' as per section 2(v) of FEMA, 1999. To be treated as a person resident in India under FEMA, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the course of preceding financial year) but also his purpose of stay as well as the type of Indian visa granted to him to clearly indicate the intention to stay in India for an uncertain period. In this regard, to be eligible, the intention to stay has to be unambiguously established with supporting documentation including visa.

As per the provisions contained in Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 (Notification No. 21/2000-RB dated the 3rd May, 2000), an Indian citizen resident outside India and a Person of Indian Origin resident outside India may acquire immovable property in India other than agricultural land, plantation or a farm house. It has come to the notice of the Central Government that foreign nationals are buying immovable property illegally in some parts of the country, particularly in Goa, which has raised concerns. Many organisations and social groups have also made representations to the Central Government expressing their serious concerns in this regard. It has also been observed that foreign nationals coming to India and staying beyond 182 days on a tourist or other visa meant for a certain period are illegally acquiring immovable property in India in violation of the extant rules and regulations under FEMA.

ANNEX 2

FORM IPI

(See Regulation 5)

Declaration of immovable property acquired in India by a person resident outside India

Instructions:

The declaration should be completed in duplicate and submitted directly to the Chief General Manager, Foreign Exchange Department, (Foreign Investment Division), Reserve Bank of India, Central Office, Mumbai – 400001 within 90 days from the date of acquisition of the immovable property.

Documentation:

Certified copies of letter of approval from Reserve Bank obtained under section 6(6) of FEMA, 1999 (42 of 1999).

1		Full name and address of the acquirer who has acquired the immovable property		
2	(a)	Description of immovable property	(a)	
	(b)	Details of its exact location stating the name of the state, town and municipal/survey number, etc.	(b)	
3	(a)	Purpose for which the immovable property has been acquired	(a)	
	(b)	Number and date of Reserve Bank's permission, if any	(b)	
4		Date of acquisition of the immovable property		
5	(a)	How the immovable property was acquired <i>i.e.</i> whether by way of purchase or lease	(a)	
	(b)	Name, citizenship and address of the seller/lessor	(b)	
	(c)	Amount of purchase price and sources of funds	(c)	

I/We hereby declare that-

(a) the particulars given above are true and correct to the best of my/our knowledge and belief;

(b) no portion of the said property has been leased/rented to, or is otherwise being allowed to be used by, any other party.

Encls:

(Signature of Authorised official)

Stamp

Place : Name:

Date : Designation:

APPENDIX

LIST OF NOTIFICATIONS/A.P.(DIR SERIES) CIRCULARS WHICH HAVE BEEN CONSOLIDATED IN THIS MASTER CIRCULAR

Sl. No.	Notification/Circular	Date
1.	FEMA 21/2000-RB	May 3, 2000
2.	FEMA 62/2002-RB	May 13, 2002
3.	FEMA 65/2002-RB	June 29, 2002
4.	FEMA 64/2002-RB	June 29, 2002
5.	FEMA 93/2003-RB	June 9, 2003
6.	FEMA 146/2006-RB	February 10, 2006
7.	FEMA 200/2009-RB	October 5, 2009
1.	A.P. (DIR Series) Circular No. 1	July 2, 2002
2.	A.P. (DIR Series) Circular No. 5	July 15, 2002
3.	A.P. (DIR Series) Circular No. 19	September 12, 2002
4.	A.P. (DIR Series) Circular No. 35	November 1, 2002
5.	A.P. (DIR Series) Circular No. 46	November 12, 2002
6.	A.P. (DIR Series) Circular No. 27	September 28, 2002
7.	A.P. (DIR Series) Circular No. 56	November 26, 2002
8.	A.P. (DIR Series) Circular No. 67	January 13, 2003
9.	A.P. (DIR Series) Circular No. 19	September 23, 2003
10.	A.P. (DIR Series) Circular No. 5	August 16, 2006
11.	A.P. (DIR Series) Circular No. 25	January 13, 2010

1. Non-Resident Indian (NRI) is a citizen of India resident outside India.

2. A 'Person of Indian Origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who

(i) at any time, held an Indian Passport or

(ii) who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).

3. A person resident outside India may hold, own transfer or invest in Indian currency, security or **immovable property** situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India

42. Foreign Exchange Management Act

Restriction for NRI's for opening an account in PPF scheme,
post office saving bank and purchase National Saving Certificates.

July 25, 2003

PUBLIC PROVIDENT FUND (AMENDMENT) SCHEME, 2003

Notification No. G.S.R. 585(E), dated 25-7-2003

In exercise of the powers conferred by sub-section (4) Section 3 of the Public Provident Fund Act, 1968 (23 of 1968), the Central Government hereby makes the following further amendment to the Public Provident Fund Scheme, 1968, namely :—

1. (1) This Scheme may be called the Public Provident Fund (Amendment) Scheme, 2003.
(2) It shall come into force on the date of its publication in the Official Gazette.
2. In the Public Provident Fund Scheme, 1968, in paragraph 3, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(3) Non-Resident Indians (NRIs) are not eligible to open an account under the Public Provident Fund Scheme:

Provided that if a resident who subsequently becomes NRI during the currency of maturity period prescribed under Public Provident Fund Scheme, may continue to subscribe to the Fund till its maturity on a non-repatriation basis.”

Post Office Savings Bank General (Amendment) Rules, 2003

Notification No. G.S.R. 586(E), dated 25-7-2003

In exercise of the powers conferred by section 15 of the Government Savings Banks Act, 1873 (5 of 1873), the Central Government hereby makes the following rules further to amend the Post Office Savings Bank General Rules, 1981, namely :—

1. (1) These rules may be called the Post Office Savings Bank General (Amendment) Rules, 2003.
(2) They shall come into force on the date of their publication in Official Gazette.

2. In the Post Office Savings Bank General Rules, 1981, —

- (i) rule 3 shall be re-numbered as sub-rule (1);
- (ii) after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:—

“(2) Non-Resident Indians (NRIs) are not eligible to open an account in a Post Office Savings Bank:

Provided that if a resident who opened an account in any Post Office Savings Bank, subsequently becomes Non-Resident Indian during the currency of maturity period, may continue such account till its maturity on a Non-Repatriation Basis”.

National Savings Certificates (VIII Issue) (Third Amendment) Rules, 2003

Notification No. G.S.R. 591(E), dated 25-7-2003

In exercise of the powers conferred by section 12 of the Government Savings Certificates Act, 1959 (46 of 1959), the Central Government hereby makes the following rules further to amend the National Savings Certificates (VIII Issue) Rules, 1989, namely :—

1. (1) These rules may be called the National Savings Certificates (VIII Issue) (Third Amendment) Rules, 2003.

(2) They shall come into force on the date of their publication in Official Gazette.

2. In the National Savings Certificates (VIII Issue) Rules, 1989, in rule 4, after sub-rule (2), the following sub-rule shall be inserted, namely :—

“(3) Non-Resident Indians (NRIs) are not eligible to purchase the National Savings Certificates :

Provided that if a resident who subsequently becomes NRI during the currency of maturity period, shall be allowed to avail the benefits of the certificates on maturity on a non-repatriation basis.”

Kisan Vikas Patra (Second Amendment) Rules, 2003

Notification No. G.S.R. 592(E), dated 25-7-2003

In exercise of the powers conferred by section 12 of the Government Savings Certificates Act, 1959 (46 of 1959), the Central Government hereby makes the following rules further to amend the Kisan Vikas Patra Rules, 1988, namely :—

1. (1) These rules may be called the Kisan Vikas Patra (Second Amendment) Rules, 2003.

(2) They shall come into force on the date of their publication in Official Gazette.

2. In the Kisan Vikas Patra Rules, 1988, in rule 6, after sub-rule (2), the following sub-rule shall be inserted, namely :—

“(3) Non-Resident Indians (NRIs) are not eligible to purchase the Kisan Vikas Patras :

Provided that if a resident who subsequently becomes NRI during the

43. Person of Indian Origin Card (PIO Card)

The Person of Indian Origin Card (PIO CARD) was launched by the Government of India in 1999. The PIO card was intended to make it easier for foreign nationals of Indian origin to enter India with ease and avoid the process of applying for visas every time they wanted to visit. With effect from 15th September 2002, the Government of India has announced a new PIO Card Scheme.

PIO Card holders are entitled to a number of benefits.

PIO Card Benefits

- No visa required for visiting India as long as a person has a valid PIO Card.
- No separate "Student Visa" or "Employment Visa" required for admissions in Colleges/Institutions or for taking up employment respectively.
- A PIO Card holder will be exempt from the requirement of registration if his stay on any single visit in India does not exceed 180 days. In the event of continuous stay in India of the PIO Card holder exceeding 180 days, PIO card holders will have to get themselves registered within 30 days of the expiry of 180 days with the concerned Foreigners Regional Registration Officer / Foreigners Registration Officer.
- Parity with non-resident Indians in respect of facilities available to the latter in economic, financial and educational field.
- Acquisition, holding, transfer and disposal of immovable properties in India except agricultural immovable properties in India accept agricultural/plantation properties.
- Facilities available to children of NRIs for getting admission to educational institutions in India including medical colleges, engineering colleges, Institute of Technology, Institute of Management, etc. under the general categories.
- Facilities available under the various housing scheme of LIC, State Government and other Government Agencies.
- Special counters at the immigration check posts for speedy clearance.
- All future benefits that would be extended to NRIs would also be available to the PIO Card holders

Eligibility for PIO Card

Persons of Indian origin who hold foreign passports of a country other than Pakistan, Bangladesh, Afghanistan, Nepal, Bhutan, China, Sri Lanka are eligible for PIO Card if:

1. They had at any time before acquiring foreign citizenship held an Indian passport.
2. She/he or either of his/her parents or grandparents or great grandparents was born in India or permanent resident in India provided neither was at any time a citizen of Pakistan, Bangladesh, Afghanistan, Nepal, Bhutan, China, Sri Lanka.
3. She/he is a spouse of a citizen of India or a person of Indian origin covered under 1 & 2 above.

You may be ineligible to apply for a PIO card if you, your spouse, parents, grandparents or great grandparents have ever held citizenship of Afghanistan, Bangladesh, Bhutan, China, Iran, Nepal, Pakistan or Sri Lanka.

PIO or OCI

The PIO card was introduced long before OCI was announced. As it stands today get a PIO card does not make sense when OCI is a lifetime visa compared to 15 years for PIO card holders

44. MASTER CIRCULAR ON FOREIGN INVESTMENT IN INDIA

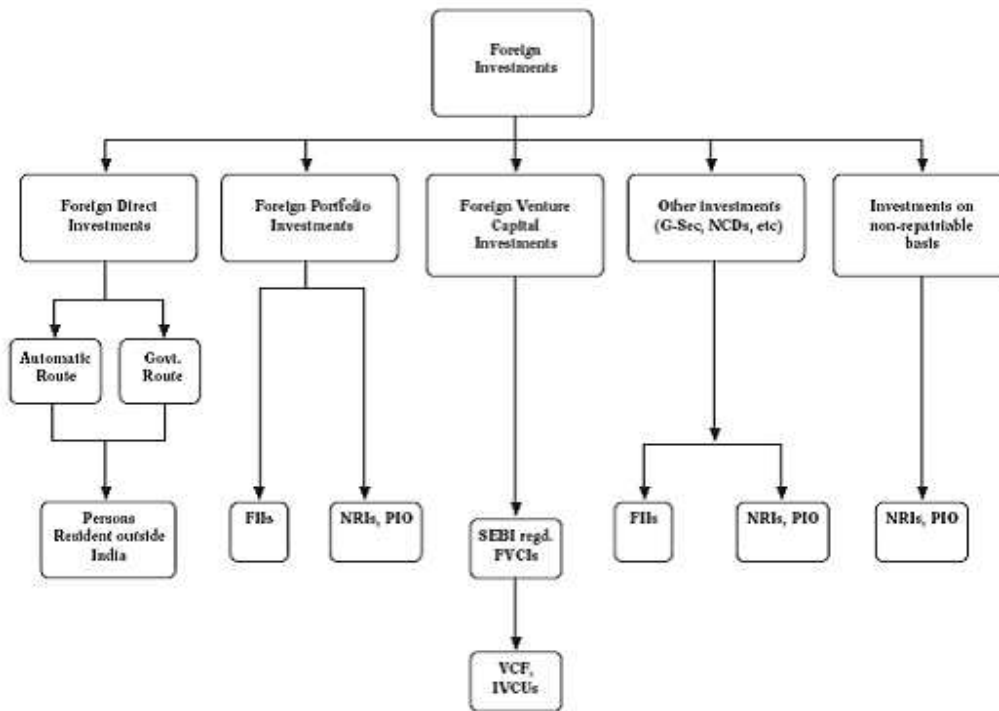
MASTER CIRCULAR NO. 15/2011-12, Dated 1-7-2011

Foreign investment in India is governed by sub-section (3) of section 6 of the Foreign Exchange Management Act, 1999 read with Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time. The regulatory framework and instructions issued by the Reserve Bank have been complied in this Master Circular. The list of underlying circulars/notifications is furnished in Appendix. In addition to the above, this Master Circular also covers the area of '**Investment in capital of partnership firms or proprietary concern**' which is regulated in terms of section 2(h) and section 47 of Foreign Exchange Management Act, 1999, read with Notification No. FEMA 24/2000-RB dated May 3, 2000.

2. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2012 and be replaced by an updated Master Circular on the subject.

PART I

FOREIGN INVESTMENTS IN INDIA—SCHEMATIC REPRESENTATION:



SECTION I

FOREIGN DIRECT INVESTMENT

1. Foreign Direct Investment in India

Foreign Direct Investment (FDI) in India is :

- undertaken in accordance with the FDI Policy which is formulated and announced by the Government of India. The Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India issues a "Consolidated FDI Policy Circular" on a half yearly basis on March 31 and September 30 of each year (since 2010) elaborating the policy and the process in respect of FDI in India. The latest "Consolidated FDI Policy Circular" dated March 31, 2011 is available in public domain and can be downloaded from the website of Ministry of Commerce and Industry, Department of Industrial Policy and Promotion -

http://dipp.nic.in/Fdi_Circular/FDI_Circular_012011_31March2011.pdf.

- governed by the provisions of the Foreign Exchange Management Act (FEMA), 1999. FEMA Regulations which prescribe amongst other things the mode of investments i.e. issue or acquisition of shares/convertible debentures and preference shares, manner of receipt of funds, pricing guidelines and reporting of the investments to the Reserve Bank. The Reserve Bank has issued Notification No. FEMA 20/2000-RB dated May 3, 2000 which contains the Regulations in this regard. This Notification has been amended from time to time.

2. Entry routes for investments in India

Under the Foreign Direct Investments (FDI) Schemes, investments can be made in shares, mandatorily and fully convertible debentures and mandatorily and fully preference shares¹ of an Indian company by non-residents through two routes:

- Automatic Route:** Under the Automatic Route, the foreign investor or the Indian company does not require any approval from the Reserve Bank or Government of India for the investment.
- Government Route:** Under the Government Route, the foreign investor or the Indian company should obtain prior approval of the Government of India, Ministry of Finance, Foreign Investment Promotion Board (FIPB) for the investment.

3. Eligibility for Investment in India

(i) A person resident outside India² (other than a citizen of Pakistan) or an entity incorporated outside India, (other than an entity incorporated in Pakistan) can invest in India, subject to the FDI Policy of the Government of India. A person who is a citizen of Bangladesh or an entity incorporated in Bangladesh can invest in India under the FDI Scheme, with the prior approval of the FIPB.

(ii) NRIs, resident in Nepal and Bhutan as well as citizens of Nepal and Bhutan are permitted to invest in shares and convertible debentures of Indian companies under FDI Scheme on repatriation basis, subject to the condition that the amount of consideration for such investment shall be paid only by way of inward remittance in **free foreign exchange** through normal banking channels.

(iii) Overseas Corporate Bodies (OCBs) have been de-recognised as a class of investors in India with effect from September 16, 2003. Erstwhile OCBs which are incorporated outside India and are not under adverse notice of the Reserve Bank can make fresh investments under the FDI Scheme as incorporated

non-resident entities, with the prior approval of the Government of India, if the investment is through the Government Route; and with the prior approval of the Reserve Bank, if the investment is through the Automatic Route. However, before making any fresh FDI under the FDI scheme an erstwhile OCB should through their AD bank take a one time certification from RBI that it is not in the adverse list being maintained with the Reserve Bank of India

ADs should also ensure that OCBs do not maintain any account other than NRO current account in line with the instructions as per A.P. (DIR Series) Circular No. 14 dated September 16, 2003. Further, this NRO account should not be used for any fresh investments in India. Any fresh request for opening of NRO current account for liquidating previous investment held on non-repatriation basis should be forwarded by the AD bank to Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai. However, ADs should not close other category of accounts (NRE/FCNR/NRO) for OCBs which are in the adverse list of the Reserve Bank of India. These accounts are to be maintained by the respective AD banks in the frozen status.

4. Type of instruments

(i) Indian companies can issue equity shares, fully and mandatorily convertible debentures and fully and mandatorily convertible preference shares subject to the pricing guidelines/valuation norms and reporting requirements amongst other requirements as prescribed under FEMA Regulations.

(ii) issue of other types of preference shares such as, non-convertible, optionally convertible or partially convertible, have to be in accordance with the guidelines applicable for External Commercial Borrowings (ECBs).

(iii) As far as debentures are concerned, only those which are fully and mandatorily convertible into equity, within a specified time would be reckoned as part of equity under the FDI Policy.

5. Pricing guidelines³

□ **Fresh issue of shares:** Price of fresh shares issued to persons resident outside India under the FDI Scheme, shall be :

- on the basis of SEBI guidelines in case of listed companies.
- not less than fair value of shares determined by a SEBI registered Merchant Banker or a Chartered Accountant as per the Discounted Free Cash Flow Method (DCF) in case of unlisted companies.

The above pricing guidelines are also applicable for issue of shares against payment of lump sum technical know how fee/royalty or conversion of ECB into equity or capitalization of pre-incorporation expenses/import payables (with prior approval of Government).

- **Preferential allotment:** In case of issue of shares on preferential allotment, the issue price shall not be less than the price as applicable to transfer of shares from resident to non-resident.
- **Issue of shares by SEZs against import of capital goods:** In this case, the share valuation has to be done by a Committee consisting of Development Commissioner and the appropriate Customs officials.
- **Right Shares:** The price of shares offered on rights basis by the Indian company to non-resident shareholders shall be;

(i) In the case of shares of a company **listed** on a recognised stock exchange in India, at a price as determined by the company.

(ii) In the case of shares of a company **not listed** on a recognised stock exchange in India, at a price which is not less than the price at which the offer on right basis is made to the resident shareholders.

□ **Acquisition⁴/transfer of existing shares (private arrangement).** The acquisition of existing shares from Resident to Non-resident (*i.e.* to incorporated non-resident entity other than erstwhile OCB, foreign national, NRI, FII) would be at a:

(a) negotiated price for shares of companies listed on a recognized stock exchange in India which shall not be less than the price at which the preferential allotment of shares can be made under the SEBI guidelines, as applicable, provided the same is determined for such duration as specified therein, preceding the relevant date, which shall be the date of purchase or sale of shares. The price per share arrived at should be certified by a SEBI registered Category I Merchant Banker or a Chartered Accountant.

(b) negotiated price for shares of companies which are not listed on a recognized stock exchange in India which shall not be less than the fair value to be determined by a SEBI registered Merchant Banker or a Chartered Accountant as per the Discounted Free Cash Flow (DCF) method.

Further, transfer of existing shares by Non-resident (*i.e.* by incorporated non-resident entity, erstwhile OCB, foreign national, NRI, FII) to Resident shall not be more than the minimum price at which the transfer of shares can be made from a resident to a non-resident as given above.

□ The pricing of shares/convertible debentures/preference shares should be decided/determined upfront at the time of issue of the instruments. The price for the convertible instruments can also be a determined based on the conversion formula which has to be determined/fixed upfront, however the price at the time of conversion should not be less than the fair value worked out, at the time of issuance of these instruments, in accordance with the extant FEMA regulations.

6. Mode of Payment

An Indian company issuing shares/convertible debentures under FDI Scheme to a person resident outside India shall receive the amount of consideration required to be paid for such shares/convertible debentures by:

(i) inward remittance through normal banking channels.

(ii) debit to NRE/FCNR account of a person concerned maintained with an AD category I bank.

(iii) conversion of royalty/lump sum/technical know how fee due for payment or conversion of ECB, shall be treated as consideration for issue of shares.

(iv) conversion of import payables/pre-incorporation expenses/share swap can be treated as consideration for issue of shares with the approval of FIPB.

(v) debit to non-interest bearing Escrow account⁵ in Indian Rupees in India which is opened with the approval from AD Category – I bank and is maintained with the AD Category I bank on behalf of residents and non-residents towards payment of share purchase consideration.

If the shares or convertible debentures are not issued within 180 days from the date of receipt of the inward remittance or date of debit to NRE/FCNR(B)/Escrow account the amount of consideration shall be refunded. Further, the Reserve Bank may on an application made to it and for sufficient reasons permit an Indian Company to refund/allot shares for the amount of consideration received towards issue of security if such amount is outstanding beyond the period of 180 days from the date of receipt.

7. Foreign Investment limits, Prohibited Sectors and investment in MSEs

(a) Foreign Investment Limits

The details of the entry route applicable and the maximum permissible foreign investment/sectoral cap in an Indian Company is determined by the sector in which it is operating. The details of the entry route applicable along with the sectoral cap for foreign investment in various sectors are given in Annex 1.

(b) Investments in Micro and Small Enterprise (MSE)

A company which is reckoned as Micro and Small Enterprise (MSE) (earlier Small Scale Industrial Unit) in terms of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, including an Export Oriented Unit or a Unit in Free Trade Zone or in Export Processing Zone or in a Software Technology Park or in an Electronic Hardware Technology Park, and which is not engaged in any activity/sector mentioned in Annex 2 may issue shares or convertible debentures to a person resident outside India (other than a resident of Pakistan and to a resident of Bangladesh under approval route), subject to the prescribed limits as per FDI Policy, in accordance with the Entry Routes and the provision of Foreign Direct Investment Policy, as notified by the Ministry of Commerce & Industry, Government of India, from time to time.

Any Industrial undertaking, with or without FDI, which is not an MSE, having an industrial license under the provisions of the Industries (Development & Regulation) Act, 1951 for manufacturing items reserved for the MSE sector may issue shares to persons resident outside India (other than a resident/entity of Pakistan and to a resident/entity of Bangladesh with prior approval FIPB), to the extent of 24 per cent of its paid-up capital or sectoral cap whichever is lower. Issue of shares in excess of 24 per cent of paid-up capital shall require prior approval of the FIPB of the Government of India and shall be in compliance with the terms and conditions of such approval.

(c) Prohibition on foreign investment in India

(i) **Foreign investment in any form** is prohibited in a company or a partnership firm or a proprietary concern or any entity, whether incorporated or not (such as, Trusts) which is engaged or proposes to engage in the following activities⁶ :

- (a) Business of chit fund, or
- (b) Nidhi company, or
- (c) Agricultural or plantation activities, or
- (d) Real estate business, or construction of farm houses, or
- (e) Trading in Transferable Development Rights (TDRs).

(ii) It is clarified that "real estate business" means dealing in land and immovable property with a view to earning profit or earning income therefrom and does not include development of townships, construction of residential/commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships.

It is further clarified that partnership firms/proprietorship concerns having investments as per FEMA regulations are not allowed to engage in print media sector.

(iii) In addition to the above, **Foreign investment in the form of FDI** is also prohibited in certain sectors such as (Annex-2)⁷:

- (a) Retail Trading (except single brand product retailing),
- (b) Atomic Energy,
- (c) Lottery Business including Government/private lottery, online lotteries, etc.,
- (d) Gambling and Betting including casinos, etc.,
- (e) Business of chit fund,
- (f) Nidhi company,
- (g) Trading in Transferable Development Rights(TDRs),
- (h) Activities/sectors not opened to private sector investment,
- (i) Agriculture (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisciculture and cultivation of vegetables, mushrooms, etc. under controlled conditions and services related to agro and allied sectors) and Plantations (other than Tea Plantations),
- (j) Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.

Note:

1. Besides foreign investment in any form, foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also completely prohibited for Lottery Business and Gambling and Betting activities.

2. Foreign investment in Trusts other than investment by SEBI registered FVCIs in domestic VCF under Schedule 6 to FEMA Notification No. 20 is not permitted.

8. Modes of Investment under Foreign Direct Investment Scheme.

Foreign Direct Investment in India can be done through following modes:

8.A. Issuance of fresh shares by the company

An Indian company may issue fresh shares/convertible debentures under the FDI Scheme to a person resident outside India (who is eligible for investment in India) subject to compliance with the extant FDI policy and the FEMA Regulation.

8.B Acquisition by way of transfer of existing shares by person resident outside India

8 B.I Foreign investors can also invest in Indian companies by purchasing/acquiring existing shares from Indian shareholders or from other non-resident shareholders. General permission has been granted to non-residents/NRIs for acquisition of shares by way of transfer in the following manner:

a. **Non Resident to Non-Resident (Sale/Gift):** A person resident outside India (other than NRI and OCB) may transfer by way of sale or gift, the shares or convertible debentures to any person resident outside India (including NRIs).

b. **NRI to NRI (Sale/Gift):** NRIs may transfer by way of sale or gift the shares or convertible debentures held by them to another NRI.

c. **Non Resident to Resident :**

a. **Gift:** A person resident outside India can transfer any security to a person resident in India by way of gift.

b. **Sale:** General permission is also available for transfer of shares/convertible debentures, by way of sale under private arrangement by a person resident outside India to a person resident in India, subject to the pricing, reporting and other guidelines as given in Annex – 3.

d. **Resident to Non-resident (Sale):** A person resident in India can transfer by way of sale, shares/convertible debentures (including transfer of subscriber's shares), of an Indian company in sectors other than financial services sector (*i.e.* Banks, NBFC, Insurance, Asset Reconstruction Companies (ARCs), Credit Information Companies(CICs), infrastructure companies in the securities market *viz.* Stock Exchanges, Clearing Corporations, and Depositories, Commodity Exchanges, etc.) under private arrangement to a person resident outside India, subject to the pricing, reporting and other guidelines given in Annex – 3. However, this general permission is not available in case of transfer of shares/debentures by gift from a Resident to a Non-Resident/Non-Resident Indian.

e. **Non-resident on the Stock Exchange:** A person resident outside India can sell the shares and convertible debentures of an Indian company on a recognized Stock Exchange in India through a stock broker registered with stock exchange or a merchant banker registered with SEBI.

f. The above general permission also covers transfer by a resident to a non-resident of shares/convertible debentures of an Indian company, engaged in an activity earlier covered under the Government Route but now falling under Automatic Route of the Reserve Bank, as well as transfer of shares by a non-resident to an Indian company under buyback and/or capital reduction scheme of the company. However, this general permission is not available for transfer of shares transactions indicated at Para 8.B.II and for all the transactions as indicated above which are not meeting the pricing guidelines.

g. AD Category – I banks have been given general permission to open and maintain non-interest bearing Escrow account in Indian Rupees in India on behalf of residents and non-residents, towards payment of share purchase consideration and/or provide Escrow facilities for keeping securities to facilitate FDI transactions. It has also been decided to permit SEBI authorised Depository Participant, to open and maintain, without approval of the Reserve Bank, Escrow account for securities as stated in para 9 (b).

h. The reporting guidelines are given in Section V of the Master Circular.

8.B.II Prior permission of the Reserve Bank in certain cases for acquisition/transfer of security

(i) The following instances of transfer of shares or convertible debentures from residents to non-residents by way of sale requires Reserve Bank approval:

(a) Transfer of shares or convertible debentures of an Indian company engaged in financial services sector (*i.e.* Banks, NBFCs, ARCs, CICs, Insurance, Infrastructure companies in the securities market such as, Stock Exchanges, Clearing Corporations, and Depositories, Commodity Exchanges, etc.).

(b) Transactions which attract the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(c) The activity of the Indian company whose securities are being transferred falls outside the automatic route and the approval of the FIPB has been obtained for the said transfer.

(d) The transfer is to take place at a price which falls outside the pricing guidelines specified by the Reserve Bank from time to time.

(e) Transfer of shares or convertible debentures where the non-resident acquirer proposes deferment of payment of the amount of consideration, prior approval of the Reserve Bank is required. Further, in case approval is granted for the transaction, the same should be reported in Form FC-TRS to the AD Category – I bank, within 60 days from the date of receipt of the full and final amount of consideration.

(ii) The following instances of transfer of shares from residents to non-residents by way of sale or otherwise requires Government approval followed by permission from the Reserve Bank:

(a) Transfer of shares of companies engaged in sectors falling under the Government Route.

(b) Transfer of shares resulting in foreign investments in the Indian company, breaching the sectoral cap applicable.

(iii) A person resident in India, who intends to transfer any security, by way of gift to a person resident outside India, has to obtain prior approval from the Reserve Bank⁸. While forwarding the application to the Reserve Bank for approval for transfer of shares by way of gift, the documents mentioned in Annex-4 should be enclosed. The Reserve Bank considers the following factors while processing such applications:

(a) The proposed transferee is eligible to hold such security under Schedules 1, 4 and 5 of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

(b) The gift does not exceed 5 per cent of the paid-up capital of the Indian company/each series of debentures/each mutual fund scheme.

(c) The applicable sectoral cap limit in the Indian company is not breached.

(d) The transferor (donor) and the proposed transferee (donee) are close relatives as defined in Section 6 of the Companies Act, 1956, as amended from time to time. The current list is reproduced in Annex-5.

(e) The value of security to be transferred together with any security already transferred by the transferor, as gift, to any person residing outside India does not exceed the rupee equivalent of USD 25,000 **during a calendar year**.

(f) Such other conditions as stipulated by the Reserve Bank in public interest from time to time.

(iv) Transfer of shares from NRI to NR or NR to NRI requires the prior approval of the Reserve Bank of India.

8.C. Issue of Rights/Bonus shares

An Indian company may issue Rights/Bonus shares to existing non-resident shareholders, subject to adherence to sectoral cap, reporting requirements, etc. Further, such issue of bonus/rights shares have to

be in accordance with other laws/statutes like the Companies Act, 1956, SEBI (Issue of Capital and Disclosure Requirements), Regulations 2009, etc.

□ **Issue of Right shares to OCBs:** OCBs have been de-recognised as a class of investors with effect from September 16, 2003. Therefore, companies desiring to issue rights share to such erstwhile OCBs will have to take specific prior permission from the Reserve Bank⁹. As such, entitlement of rights share is not automatically available to OCBs. However, bonus shares can be issued to erstwhile OCBs (which are not in the adverse list of the Reserve Bank of India) without prior approval of the Reserve Bank, provided that the OCB is not in the adverse list of RBI.

□ **Additional allocation of rights share by residents to non-residents :** Existing non-resident shareholders are allowed to apply for issue of additional shares/convertible debentures/preference shares over and above their rights share entitlements. The investee company can allot the additional rights shares out of unsubscribed portion, subject to the condition that the overall issue of shares to non-residents in the total paid-up capital of the company does not exceed the sectoral cap.

8.D. Issue of shares under Employees Stock Option Scheme (ESOPs)

An Indian Company may issue shares under ESOPs to its employees or employees of its joint venture or wholly owned subsidiary abroad who are resident outside India, other than to the citizens of Pakistan. Citizens of Bangladesh can invest with the prior approval of the FIPB. The face value of the shares to be allotted under the scheme to the non-resident employees should not exceed 5 per cent of the paid-up capital of the issuing company. Shares under ESOPs can be issued directly or through a Trust subject to the condition that the scheme has been drawn in terms of the relevant regulations issued by the SEBI.

8.E Conversion of ECB/Lump sum Fee/Royalty/Import of capital goods by SEZs in to Equity/Import payables/Pre-incorporation expenses

(i) Indian companies have been granted general permission for *conversion of External Commercial Borrowings (ECB) into shares/convertible debentures*, subject to the following conditions and reporting requirements:

(a) The activity of the company is covered under the Automatic Route for FDI or the company has obtained Government's approval for foreign equity in the company;

(b) The foreign equity after conversion of ECB into equity is within the sectoral cap, if any;

(c) Pricing of shares is determined as per SEBI regulations for listed company or DCF method for unlisted company;

(d) Compliance with the requirements prescribed under any other statute and regulation in force;

(e) The conversion facility is available for ECBs availed under the Automatic or Approval Route and is applicable to ECBs, due for payment or not, as well as secured/unsecured loans availed from non-resident collaborators.

(ii) General permission is also available *for issue of shares/preference shares against lump sum technical know-how fee, royalty*, under automatic route or SIA/FIPB route, subject to pricing guidelines of RBI/SEBI and compliance with applicable tax laws.

(iii) *Units in Special Economic Zones (SEZs) are permitted to issue equity shares to non-residents against import of capital goods* subject to the valuation done by a Committee consisting of Development Commissioner and the appropriate Customs officials.

(iv) *Issue of equity shares against Import of capital goods/machinery/equipment (including second hand machinery)*, is allowed under the Government route, subject to the compliance with the following conditions:

(a) The import of capital goods, machineries, etc., made by a resident in India, is in accordance with the Export/Import Policy issued by the Government of India as notified by the Directorate General of Foreign Trade (DGFT) and the regulations issued under the Foreign Exchange Management Act (FEMA), 1999 relating to imports issued by the Reserve Bank;

(b) There is an independent valuation of the capital goods/machineries/equipments (including second-hand machineries) by a third party entity, preferably by an independent valuer from the country of import along with production of copies of documents/certificates issued by the customs authorities towards assessment of the fair-value of such imports;

(c) The application should clearly indicate the beneficial ownership and identity of the importer company as well as the overseas entity; and

(d) All such conversions of import payables for capital goods into FDI should be completed within 180 days from the date of shipment of goods.

(v) *Issue of equity shares against Pre-operative/pre-incorporation expenses (including payment of rent etc.)* is allowed under the Government route, subject to compliance with the following conditions :

(a) Submission of FIRC for remittance of funds by the overseas promoters for the expenditure incurred.

(b) Verification and certification of the pre-incorporation/pre-operative expenses by the statutory auditor.

(c) Payments being made directly by the foreign investor to the company. Payments made through third parties citing the absence of a bank account or similar such reasons will not be allowed.

(d) The capitalization should be completed within the stipulated period of 180 days permitted for retention of advance against equity under the extant FDI policy.

(vi) Issue of shares to a non-resident against shares swap¹⁰ *i.e.*, in lieu for the consideration which has to be paid for shares acquired in the overseas company, can be done with the approval of FIPB.

(vii) The reporting guidelines are given in Section V of the Master Circular.

8.F. Issue of shares by Indian Companies under ADR/GDR

Depository Receipts (DRs) are negotiable securities issued outside India by a Depository bank, on behalf of an Indian company, which represent the local Rupee denominated equity shares of the company held as deposit by a Custodian bank in India. DRs are traded on Stock Exchanges in the US, Singapore, Luxembourg, London, etc. DRs listed and traded in the US markets are known as American Depository Receipts (ADRs) and those listed and traded elsewhere are known as Global Depository Receipts (GDRs). In the Indian context, DRs are treated as FDI.

(i) Indian companies can raise foreign currency resources abroad through the issue of ADRs/GDRs, in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Government of India thereunder from time to time.

(ii) A company can issue ADRs/GDRs, if it is eligible to issue shares to person resident outside India under the FDI Scheme. However, an Indian listed company, which is not eligible to raise funds from the Indian Capital Market including a company which has been restrained from accessing the securities market by the Securities and Exchange Board of India (SEBI) will not be eligible to issue ADRs/GDRs.

(iii) Unlisted companies, which have not yet accessed the ADR/GDR route for raising capital in the international market, would require prior or simultaneous listing in the domestic market, while seeking to issue such overseas instruments. Unlisted companies, which have already issued ADRs/GDRs in the international market, have to list in the domestic market on making profit or within three years of such issue of ADRs/GDRs, whichever is earlier.

(iv) ADRs/GDRs are issued on the basis of the ratio worked out by the Indian company in consultation with the Lead Manager to the issue. The proceeds so raised have to be kept abroad till actually required in India. Pending repatriation or utilisation of the proceeds, the Indian company can invest the funds in:-

(a) Deposits with or Certificate of Deposit or other instruments offered by banks who have been rated by Standard and Poor, Fitch, IBCA or Moody's, etc. and such rating not being less than the rating stipulated by the Reserve Bank from time to time for the purpose;

(b) Deposits with branch/es of Indian Authorised Dealers outside India; and

(c) Treasury bills and other monetary instruments with a maturity or unexpired maturity of one year or less.

(v) There are no end-use restrictions except for a ban on deployment/investment of such funds in real estate or the stock market. There is no monetary limit up to which an Indian company can raise ADRs/GDRs.

(vi) The ADR/GDR proceeds can be utilised for first stage acquisition of shares in the disinvestment process of Public Sector Undertakings/Enterprises and also in the mandatory second stage offer to the public in view of their strategic importance.

(vii) Voting rights on shares issued under the Scheme shall be as per the provisions of Companies Act, 1956 and in a manner in which restrictions on voting rights imposed on ADR/GDR issues shall be consistent with the Company Law provisions. Voting rights in the case of banking companies will continue to be in terms of the provisions of the Banking Regulation Act, 1949 and the instructions issued by the Reserve Bank¹¹ from time to time, as applicable to all shareholders exercising voting rights.

(viii) Erstwhile OCBs which are not eligible to invest in India and entities prohibited to buy/sell or deal in securities by SEBI will not be eligible to subscribe to ADRs/GDRs issued by Indian companies.

(ix) The pricing of ADR/GDR issues including sponsored ADRs/GDRs should be made at a price determined under the provisions of the Scheme of issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Government of India and directions issued by the Reserve Bank, from time to time.

(x) **Two-way Fungibility Scheme:** A limited two-way Fungibility scheme has been put in place by the Government of India for ADRs/GDRs. Under this Scheme, a stock broker in India, registered with SEBI, can purchase shares of an Indian company from the market for conversion into ADRs/GDRs based on instructions received from overseas investors. Re-issuance of ADRs/GDRs would be permitted to the extent of ADRs/GDRs which have been redeemed into underlying shares and sold in the Indian market.

(xi) **Sponsored ADR/GDR issue** : An Indian company can also sponsor an issue of ADR/GDR. Under this mechanism, the company offers its resident shareholders a choice to submit their shares back to the company so that on the basis of such shares, ADRs/GDRs can be issued abroad. The proceeds of the ADR/GDR issue is remitted back to India and distributed among the resident investors who had offered their Rupee denominated shares for conversion. These proceeds can be kept in Resident Foreign Currency (Domestic) accounts in India by the resident shareholders who have tendered such shares for conversion into ADRs/GDRs.

(xii) **The reporting guidelines for ADR/GDR are given in Section V of the Master Circular.**

9. Foreign Currency Account and Escrow Account

(a) Indian companies which are eligible to issue shares to persons resident outside India under the FDI Scheme will be allowed to retain the share subscription amount in a Foreign Currency Account for *bona fide* business purpose only with the prior approval of the Reserve Bank.

(b) AD Category – I banks have been given general permission to open and maintain non-interest bearing Escrow account in Indian Rupees in India on behalf of residents and non-residents, towards payment of share purchase consideration and/or provide Escrow facilities for keeping securities to facilitate FDI transactions. It has also been decided to permit SEBI authorised Depository Participant, to open and maintain, without approval of the Reserve Bank, Escrow account for securities. The Escrow account would also be subject to the terms and conditions as stipulated in A.P. (DIR Series) Circular No. 58 dated May 2, 2011. Further, the Escrow account would be maintained with AD Category I bank or SEBI Authorised Depository Participant (in case of securities account). These facilities will be applicable to both, issue of fresh shares to the non-residents as well as transfer of shares to the non-residents as well as transfer of shares from/to the non-residents.

10. Acquisition of shares under Scheme of Merger/Amalgamation

Mergers and amalgamations of companies in India are usually governed by an order issued by a competent Court on the basis of the Scheme submitted by the companies undergoing merger/amalgamation. Once the scheme of merger or amalgamation of two or more Indian companies has been approved by a Court in India, the transferee company or new company is allowed to issue shares to the shareholders of the transferor company resident outside India, subject to the conditions that :

(i) the percentage of shareholding of persons resident outside India in the transferee or new company does not exceed the sectoral cap, and

(ii) the transferor company or the transferee or the new company is not engaged in activities which are prohibited under the FDI policy (refer para 7(c)).

11. Remittance of sale proceeds

AD Category – I bank can allow the remittance of sale proceeds of a security (net of applicable taxes) to the seller of shares resident outside India, provided the security has been held on repatriation basis, the sale of security has been made in accordance with the prescribed guidelines and NOC/tax clearance certificate from the Income Tax Department has been produced.

12. Remittance on winding up/liquidation of Companies

AD Category – I banks have been allowed to remit winding up proceeds of companies in India, which are under liquidation, subject to payment of applicable taxes. Liquidation may be subject to any order issued

by the court winding up the company or the official liquidator in case of voluntary winding up under the provisions of the Companies Act, 1956. AD Category – I banks shall allow the remittance provided the applicant submits:

- (i) No objection or Tax clearance certificate from Income Tax Department for the remittance.
- (ii) Auditor's certificate confirming that all liabilities in India have been either fully paid or adequately provided for.
- (iii) Auditor's certificate to the effect that the winding up is in accordance with the provisions of the Companies Act, 1956.
- (iv) In case of winding up otherwise than by a court, an auditor's certificate to the effect that there is no legal proceedings pending in any court in India against the applicant or the company under liquidation and there is no legal impediment in permitting the remittance.

13. Pledge of Shares

(a) A person being a promoter of a company registered in India (borrowing company), which has raised external commercial borrowings, may pledge the shares of the borrowing company or that of its associate resident companies for the purpose of securing the ECB raised by the borrowing company, provided that a no objection for the same is obtained from a bank which is an authorised dealer. The authorized dealer, shall issue the no objection for such a pledge after having satisfied itself that the external commercial borrowing is in line with the extant FEMA regulations for ECBs and that :

- (i) the loan agreement has been signed by both the lender and the borrower,
- (ii) there exists a security clause in the Loan Agreement requiring the borrower to create charge on financial securities, and
- (iii) the borrower has obtained Loan Registration Number (LRN) from the Reserve Bank:

And the said pledge would be subject to the following conditions :

- (i) the period of such pledge shall be co-terminus with the maturity of the underlying ECB;
- (ii) in case of invocation of pledge, transfer shall be in accordance with the extant FDI Policy and directions issued by the Reserve Bank;
- (iii) the Statutory Auditor has certified that the borrowing company will utilized/has utilized the proceeds of the ECB for the permitted end use/s only.

(b) Non-resident holding shares of an Indian company, can pledge these shares in favour of the AD bank in India to secure credit facilities being extended to the resident investee company for *bona fide* business purpose, subject to the following conditions:

- (a) in case of invocation of pledge, transfer of shares should be in accordance with the FDI policy in vogue at the time of creation of pledge;
- (b) submission of a declaration/annual certificate from the statutory auditor of the investee company that the loan proceeds will be/have been utilized for the declared purpose;

(c) the Indian company has to follow the relevant SEBI disclosure norms; and

(d) pledge of shares in favour of the lender (bank) would be subject to Section 19 of the Banking Regulation Act, 1949.

(c) Non-resident holding shares of an Indian company, can pledge these shares in favour of **an overseas bank** to secure the credit facilities being extended to the non-resident investor/non-resident promoter of the Indian company or its overseas group company, subject to the following :

(a) loan is availed of only from an overseas bank;

(b) loan is utilized for genuine business purposes overseas and not for any investments either directly or indirectly in India;

(c) overseas investment should not result in any capital inflow into India;

(d) in case of invocation of pledge, transfer should be in accordance with the FDI policy in vogue at the time of creation of pledge; and

(e) submission of a declaration/annual certificate from a Chartered Accountant/Certified Public Accountant of the non-resident borrower that the loan proceeds will be/have been utilized for the declared purpose.

SECTION II

FOREIGN INVESTMENTS UNDER PORTFOLIO INVESTMENT SCHEME (PIS)

1. Entities

(i) **Foreign Institutional Investors** (FIIs) registered with SEBI are eligible to purchase shares and convertible debentures issued by Indian companies under the Portfolio Investment Scheme (PIS).

(ii) **NRIs** are eligible to purchase shares and convertible debentures issued by Indian companies under PIS, if they have been permitted by the designated branch of any AD Category – I bank (which has been authorised by the Reserve Bank to administer the PIS).

(iii) **SEBI approved sub accounts of FIIs**(sub accounts) have general permission to invest under the PIS.

(iv) OCBs are not permitted to invest under the PIS with effect from November 29, 2001, in India. Further, the OCBs which have already made investments under the PIS are allowed to continue holding such shares/convertible debentures till such time these are sold on the stock exchange.

2. Investment in listed Indian companies

A. FIIs

(a) **An Individual FII/SEBI approved sub-accounts** of FIIs can invest up to a maximum of 10 per cent of the total paid-up capital or 10 per cent of the paid-up value of each series of convertible debentures issued by the Indian company. The 10 per cent limit would include shares held by SEBI registered FII/SEBI approved sub-accounts of FII under the PIS (by way of purchases made through a registered

broker on a recognized stock exchange in India or by way of offer/private placement) as well as shares acquired by SEBI registered FII under the FDI scheme.

(b) **Total holdings of all FIIs/SEBI approved sub-accounts of FIIs** put together shall not exceed 24 per cent of the paid-up capital or paid-up value of each series of convertible debentures. This limit of 24 per cent can be increased to the sectoral cap/statutory limit, as applicable to the Indian company concerned, by passing a resolution of its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior approval from the Reserve Bank.

B. NRIs

(a) NRIs are allowed to invest in shares of listed Indian companies in recognised Stock Exchanges under the PIS.

(b) NRIs can invest through designated ADs, on repatriation and non-repatriation basis under PIS route up to 5 per cent of the paid-up capital/paid-up value of each series of debentures of listed Indian companies.

(c) The aggregate paid-up value of shares/convertible debentures purchased by all NRIs cannot exceed 10 per cent of the paid-up capital of the company/paid-up value of each series of debentures of the company. The aggregate ceiling of 10 per cent can be raised to 24 per cent by passing a resolution of its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior approval from the Reserve Bank.

C. Prohibition on investments by FIIs and NRIs

FIIs are not permitted to invest in the capital of an Asset Reconstruction Company.

Both FIIs and NRIs are not allowed to invest in any company which is engaged or proposes to engage in the following activities:

- (i) Business of chit fund, or
- (ii) Nidhi company, or
- (iii) Agricultural or plantation activities, or
- (iv) Real estate business* or construction of farm houses, or
- (v) Trading in Transferable Development Rights (TDRs).

3. Accounts with AD Category – I banks

A. FIIs

FIIs/sub-accounts can open a non-interest bearing Foreign Currency Account and/or a **single non-interest bearing** Special Non-Resident Rupee Account (SNRR A/c) with an AD Category – I bank, for the purpose of investment under the PIS. They can transfer sums from the Foreign Currency Account to the **single SNRR A/c** for making genuine investments in securities in terms of the SEBI (FII) Regulations, 1995, as amended from time to time. The sums may be transferred from Foreign Currency Account to SNRR A/c at the prevailing market rate and the AD Category – I bank may transfer repatriable proceeds (after payment of tax) from the SNRR A/c to the Foreign Currency account. The SNRR A/c may

be credited with the sale proceeds of shares/debentures, dated Government securities, Treasury Bills, etc. Such credits are allowed, subject to the condition that the AD Category – I bank should obtain confirmation from the investee company/FII concerned that tax at source, wherever necessary, has been deducted from the gross amount of dividend/interest payable/approved income to the share/debenture/Government securities holder at the applicable rate, in accordance with the Income Tax Act. The SNRR A/c may be debited for purchase of shares/debentures, dated Government securities, Treasury Bills, etc., and for payment of fees to applicant FIIs' local Chartered Accountant/Tax Consultant where such fees constitute an integral part of their investment process.

B. NRIs

NRIs can approach the designated branch of any AD Category – I bank (which has been authorised by the Reserve Bank to administer the PIS) for permission to open a single designated account (NRE/NRO account) under the PIS for routing investments.

Payment for purchase of shares and/or debentures on **repatriation basis** has to be made by way of inward remittance of foreign exchange through normal banking channels or out of funds held in NRE/FCNR(B) account maintained in India. If the shares are purchased on **non-repatriation basis**, the NRIs can also utilise their funds in NRO account in addition to the above.

4. Exchange Traded Derivative Contracts

A. FIIs

SEBI registered FIIs are allowed to trade in all exchange traded derivative contracts¹² approved by RBI/SEBI on recognised Stock Exchanges in India subject to the position limits and margin requirements as prescribed by RBI/SEBI from time to time as well as the stipulations regarding collateral securities as directed by the Reserve Bank from time to time.

The SEBI registered FII/sub-account may open a separate account under their SNRR A/c through which all receipts and payments pertaining to trading/investment in exchange traded derivative contracts will be made (including initial margin and mark to market settlement, transaction charges, brokerage, etc.).

Further, transfer of funds between the SNRR A/c and the separate account maintained for the purpose of trading in exchange traded derivative contracts can be freely made.

However, repatriation of the Rupee amount will be made only through their SNRR A/c subject to payment of relevant taxes. The AD Category – I banks have to keep proper records of the above mentioned separate account and submit them to the Reserve Bank as and when required.

B. NRIs

NRIs are allowed to invest in Exchange Traded Derivative Contracts approved by SEBI from time to time out of Rupee funds held in India on non-repatriation basis, subject to the limits prescribed by SEBI. Such investments will not be eligible for repatriation benefits.

5. Collateral for FIIs

(a) Derivative Segment: FIIs are allowed to offer foreign sovereign securities with AAA rating as collateral to the recognised Stock Exchanges in India in addition to the cash for their transactions in derivatives segment of the market. SEBI approved clearing corporations of stock exchanges and their

clearing members are allowed to undertake the following transactions subject to the guidelines issued from time to time by SEBI in this regard:

- a. to open and maintain demat accounts with foreign depositories and to acquire, hold, pledge and transfer the foreign sovereign securities, offered as collateral by FIIs;
- b. to remit the proceeds arising from corporate action, if any, on such foreign sovereign securities; and
- c. to liquidate such foreign sovereign securities, if the need arises.

Clearing Corporations have to report, on a monthly basis, the balances of foreign sovereign securities, held by them as non-cash collaterals of their clearing members to the Reserve Bank¹³. The report should be submitted by the 10th of the following month to which it relates.

(b) Equity Segment:

The above guidelines are also applicable to the equity segment. Further, Domestic Government Securities (subject to the overall limits specified by the SEBI from time to time; the current limit being **USD 10 billion**) also can be kept as collateral to the recognised Stock Exchanges in India in addition to the cash for their transactions in cash segment of the market. However, cross-margining of Government Securities (placed as margins by the FIIs for their transactions in the cash segment of the market) shall not be allowed between the cash and the derivative segments of the market.

Custodian banks are allowed to issue Irrevocable Payment Commitments (IPCs) in favour of Stock Exchanges/Clearing Corporations of the Stock Exchanges, on behalf of their FII clients for purchase of shares under the PIS. Issue of IPCs should be in accordance with the Reserve Bank regulations on banks' exposure to the capital market issued by the Reserve Bank from time to time and instructions issued *vide* DBOD Circular no. DBOD.Dir.BC. 46/13.03.00/2010-11 dated September 30, 2010.

6. Short Selling by FIIs

A. FIIs

FIIs registered with SEBI and SEBI approved sub-accounts of FIIs are permitted to short sell, lend and borrow equity shares of Indian companies. Short selling, lending and borrowing of equity shares of Indian companies shall be subject to such conditions as may be prescribed by the Reserve Bank and the SEBI/other regulatory agencies from time to time. The permission is subject to the following conditions:

- (a) Short selling of equity shares by FIIs shall not be permitted for equity shares of Indian companies which are in the ban list and/or caution list of the Reserve Bank.
- (b) Borrowing of equity shares by FIIs shall only be for the purpose of delivery into short sales.
- (c) The margin/collateral shall be maintained by FIIs only in the form of cash. No interest shall be paid to the FII on such margin/collateral.

B. NRIs

The NRI investor has to take delivery of the shares purchased and give delivery of shares sold. Short Selling is not permitted.

7. Private placement with FIIs

SEBI registered FIIs have been permitted to purchase shares/convertible debentures of an Indian company through offer/private placement, subject to total FII investment viz. PIS & FDI (private placement/offer) being within the individual FII/sub-account investment limit 10 per cent and all FIIs/sub-accounts put together – 24 per cent of the paid-up capital of the Indian company or to the sectoral limits, as applicable. Indian company is permitted to issue such shares provided that:

(a) in the case of public offer, the price of shares to be issued is not less than the price at which shares are issued to residents; and

(b) in the case of issue by private placement, the issue price should be determined as per the pricing guidelines stipulated under the FDI scheme.

8. Transfer of shares acquired under PIS under private arrangement

Shares purchased by NRIs and FIIs on the stock exchange under PIS cannot be transferred by way of sale under private arrangement or by way of gift to a person resident in India or outside India without prior approval of the Reserve Bank. However, NRIs can transfer shares acquired under PIS to their relatives as defined in section 6 of Companies Act, 1956 or to a charitable trust duly registered under the laws in India.

9. Monitoring of investment position by RBI and AD banks

The Reserve Bank monitors the investment position of FIIs/NRIs in listed Indian companies, reported by Custodian/designated AD banks, on a daily basis, in Forms LEC (FII) and LEC (NRI). However, the respective designated bank (NRIs)/Custodian bank (FIIs) should monitor:

- the individual limit of NRI/FII to ensure that it does not breach the prescribed limits.
- that the trades are not undertaken in the prohibited sectors when the same is reported to them.
- that all trades are reported to them by monitoring the transactions in the designated account.

The onus of reporting of FII and NRI transactions lies on the designated custodian/AD bank, depository participant as well as the FII/NRI making these investments.

10. Caution List

When the total holdings of FIIs/NRIs under the PIS reach the limit of 2 per cent below the sectoral cap, the Reserve Bank will issue a notice to all designated AD Category – I banks cautioning that any further purchases of shares of the particular Indian company by FIIs/NRIs will require prior approval of the Reserve Bank. The Reserve Bank gives case-by-case approvals to FIIs/NRIs for purchase of shares of companies included in the Caution List. This is done on a first-come-first-served basis.

11. Ban List

Once the shareholding by FIIs/NRIs reaches the overall ceiling/sectoral cap/statutory limit, the Reserve Bank places the company in the Ban List. Once a company is placed in the Ban List, no FII/NRI can purchase the shares of the company under the PIS.

SECTION – III

FOREIGN VENTURE CAPITAL INVESTMENTS

Investments by Foreign Venture Capital Investor

(i) A SEBI registered Foreign Venture Capital Investor (FVCI) with specific approval from the Reserve Bank can invest in Indian Venture Capital Undertaking (IVCU) or Indian Venture Capital Fund (IVCF) or in a scheme floated by such IVCFs subject to the condition that the domestic VCF is registered with SEBI. These investments by SEBI registered FVCI, would be subject to the respective SEBI regulations and FEMA regulations and sector specific caps of FDI.

An IVCU is defined as a company incorporated in India whose shares are not listed on a recognized stock exchange in India and which is not engaged in an activity under the negative list specified by SEBI. A VCF is defined as a fund established in the form of a trust, a company including a body corporate and registered under the Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996 which has a dedicated pool of capital raised in a manner specified under the said Regulations and which invests in Venture Capital Undertakings in accordance with the said Regulations.

(ii) FVCIs can purchase equity/equity linked instruments/debt/debt instruments, debentures of an IVCU or of a VCF through initial public offer or private placement in units of schemes/funds set up by a VCF. At the time of granting approval, the Reserve Bank permits the FVCI to open a non-interest bearing Foreign Currency Account and/or a non-interest bearing Special Non-Resident Rupee Account with a designated branch of an AD Category – I bank, subject to certain terms and conditions.

(iii) The purchase/sale of shares, debentures and units can be at a price that is mutually acceptable to the buyer and the seller. A SEBI registered FVCI can only acquire securities (as given in (ii), above by way of public offer or private placement by the issuer of such securities and not by way of private arrangement with a third party.

(iv) AD Category – I banks can offer forward cover to FVCIs to the extent of total inward remittance. In case the FVCI has made any remittance by liquidating some investments, original cost of the investments has to be deducted from the eligible cover to arrive at the actual cover that can be offered.

(v) The investments made by FVCI under the Schedule I of Notification No. FEMA 20/2000- RB dated May 3, 2000 as amended from time to time would be governed by the norms as stated therein.

SECTION – IV

OTHER FOREIGN INVESTMENTS

1. Purchase of other securities by NRIs

(i) On non-repatriation basis

(a) NRIs can purchase shares/convertible debentures issued by an Indian company on non-repatriation basis without any limit. Amount of consideration for such purchase shall be paid by way of inward remittance through normal banking channels from abroad or out of funds held in NRE/FCNR(B)/NRO account maintained with the AD Category – I bank.

(b) NRI can also, without any limit, purchase on non-repatriation basis dated Government securities, treasury bills, units of domestic mutual funds, units of Money Market Mutual Funds. Government of India has notified that NRIs are not permitted to make Investments in Small Savings Schemes including PPF. In case of investment on non-repatriation basis, the sale proceeds shall be credited to NRO account. The amount invested under the scheme and the capital appreciation thereon will not be allowed to be repatriated abroad.

NRI can also invest in non-convertible debentures both on repatriation basis and on non-repatriation basis, which has been issued by an Indian Company subject to the other terms and conditions stated under Notification No. FEMA 4/2000-RB dated May 3,2000 (as amended from time to time).

(ii) On repatriation basis

An NRI can purchase on repatriation basis, without limit, Government dated securities (other than bearer securities) or treasury bills or units of domestic mutual funds; bonds issued by a public sector undertaking (PSU) in India and shares in Public Sector Enterprises being disinvested by the Government of India, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids.

2. Indian Depository Receipts (IDR)

Indian Depository Receipts (IDRs) can be issued by non-resident companies in India subject to and under the terms and conditions of Companies (Issue of Depository Receipts) Rules, 2004 and subsequent amendment made thereto and the SEBI (DIP) Guidelines, 2000, as amended from time to time. These IDRs can be issued in India through Domestic Depository to residents in India as well as SEBI registered FIIs and NRIs. In case of raising of funds through issuances of IDRs by financial/banking companies having presence in India, either through a branch or subsidiary, the approval of the sectoral regulator(s) should be obtained before the issuance of IDRs.

(a) The FEMA Regulations shall not be applicable to persons resident in India as defined under section 2(v) of FEMA,1999, for investing in IDRs and subsequent transfer arising out of transaction on a recognized stock exchange in India.

(b) Foreign Institutional Investors (FIIs) including SEBI approved sub-accounts of the FIIs, registered with SEBI and Non-Resident Indians (NRIs) may invest, purchase, hold and transfer IDRs of eligible companies resident outside India and issued in the Indian capital market, subject to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 notified *vide* Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time. Further, NRIs are allowed to invest in the IDRs out of funds held in their NRE/FCNR(B) account, maintained with an Authorised Dealer/Authorised bank.

(c) Automatic fungibility of IDRs is not permitted.

(d) IDRs shall not be redeemable into underlying equity shares before the expiry of one year period from the date of issue of the IDRs.

(e) At the time of redemption/conversion of IDRs into underlying shares, the Indian holders (persons resident in India) of IDRs shall comply with the provisions of the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified *vide* Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time. Accordingly, the following guidelines shall be followed, on redemption of IDRs:

i. Listed Indian companies may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulations 6B and 7 of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.

ii. Indian Mutual Funds, registered with SEBI may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulation 6C of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.

iii. Other persons resident in India including resident individuals are allowed to hold the underlying shares only for the purpose of sale within a period of 30 days from the date of conversion of the IDRs into underlying shares.

iv. The FEMA provisions shall not apply to the holding of the underlying shares, on redemption of IDRs by the FIIs including SEBI approved sub-accounts of the FIIs and NRIs.

(f) The proceeds of the issue of IDRs shall be immediately repatriated outside India by the eligible companies issuing such IDRs. The IDRs issued should be denominated in Indian Rupees.

3. Purchase of other securities by FIIs

FIIs can buy on repatriation basis dated Government securities/treasury bills, listed non-convertible debentures/bonds, commercial papers issued by Indian companies and units of domestic mutual funds, Security receipts issued by Asset Reconstruction Companies and Perpetual Debt Instruments eligible for inclusion in as Tier I capital (as defined by DBOD, RBI) and Debt capital instruments as upper Tier II Capital (as defined by DBOD, RBI) issued by banks in India to augment their capital either directly from the issuer of such securities or through a registered stock broker on a recognized stock exchange in India subject to the following terms and conditions:

(a) The total holding by a single FII in each tranche of scheme of Security Receipts shall not exceed 10% of the issue and total holdings of all FIIs put together shall not exceed 49% of the paid up value of each tranche of scheme/issue of Security Receipts issued by the ARCs. Further, sub-account of FIIs are not allowed to invest in the Security Receipts issued by ARCs.

(b) The total holding by a single FII/sub-account in each issue of Perpetual Debt Instruments (Tier I) shall not exceed 10% of the issue and total holdings of all FIIs/sub-account put together shall not exceed 49% of the paid up value of each issue of Perpetual Debt Instruments.

(c) Purchase of debt instruments including Upper Tier II instruments by FIIs are subject to limits notified by SEBI and the Reserve Bank from time to time. The present limit for investment in Corporate Debt Instruments like non-convertible debentures/bonds by FIIs is USD 40 billion¹⁴, which constitutes of the:

□ limit of USD 25 billion for investment in such non-convertible debentures/bonds issued by listed and unlisted companies in the infrastructure sector (as defined in the ECB guidelines), with a residual maturity of 5 years and a minimum lock in period of 3 years.

□ limit of USD 15 billion for investment in permissible listed corporate debt instruments without any locking period and residual maturity restrictions.

(d) The present limit of investment by SEBI registered FIIs in Government Securities is USD 10 billion which constitutes of :

□ limit of USD 5 billion for Government Securities with the residual maturity of 5 years.

□ limit of USD 5 billion for Government securities without any residual maturity restrictions.

4. Investment by Multilateral Development Banks (MDBs)

A Multilateral Development Bank (MDB) which is specifically permitted by the Government of India to float rupee bonds in India can purchase Government dated securities.

5. Foreign Investment in Tier I and Tier II instruments issued by banks in India

(i) FIIs registered with SEBI and NRIs have been permitted to subscribe to the Perpetual Debt instruments (eligible for inclusion as Tier I capital) and Debt Capital instruments (eligible for inclusion as upper Tier II capital), issued by banks in India and denominated in Indian Rupees, subject to the following conditions:

a. Investment by all FIIs in Rupee denominated Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 49 per cent of each issue, and investment by individual FII should not exceed the limit of 10 per cent of each issue.

b. Investments by all NRIs in Rupee denominated Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 24 per cent of each issue and investments by a single NRI should not exceed 5 per cent of each issue.

c. Investment by FIIs in Rupee denominated Debt Capital instruments (Tier II) shall be within the limits stipulated by SEBI for FII investment in corporate debt instruments.

d. Investment by NRIs in Rupee denominated Debt Capital instruments (Tier II) shall be in accordance with the extant policy for investment by NRIs in other debt instruments.

(ii) The issuing banks are required to ensure compliance with the conditions stipulated above at the time of issue. They are also required to comply with the guidelines issued by the Department of Banking Operations and Development (DBOD), Reserve Bank of India, from time to time.

(iii) The issue-wise details of the amount raised as Perpetual Debt Instruments qualifying for Tier I capital by the bank from FIIs/NRIs are required to be reported in the prescribed format within 30 days of the issue to the Reserve Bank¹⁵.

(iv) Investment by FIIs in Rupee denominated Upper Tier II Instruments raised in Indian Rupees will be within the limit prescribed by SEBI for investment in corporate debt instruments. However, investment by FIIs in these instruments will be subject to a separate ceiling of USD 500 million.

(v) The details of the secondary market sales/purchases by FIIs and the NRIs in these instruments on the floor of the stock exchange are to be reported by the custodians and designated banks respectively, to the Reserve Bank through the soft copy of the Forms LEC (FII) and LEC (NRI).

SECTION – V

REPORTING GUIDELINES FOR FOREIGN INVESTMENTS IN INDIA AS PER SECTIONS I AND II

1. Reporting of FDI¹⁶ for fresh issuance of shares

(i) Reporting of inflow

(a) The actual inflows on account of such issuance of shares shall be reported by the AD branch in the R-returns in the normal course.

(b) An Indian company receiving investment from outside India for issuing shares/convertible debentures/preference shares under the FDI Scheme, should report the details of the amount of consideration to the Regional Office concerned of the Reserve Bank through its AD Category I bank, not later than 30 days from the date of receipt in the Advance Reporting Form enclosed in Annex-6. Non-compliance with the above provision would be reckoned as a contravention under FEMA, 1999 and could attract penal provisions.

The Form can also be downloaded from the Reserve Bank's website
<http://www.rbi.org.in/Scripts/BSViewFemaForms.aspx>.

(c) Indian companies are required to report the details of the receipt of the amount of consideration for issue of shares/convertible debentures, through an AD Category – I bank, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report (enclosed as Annex-7) on the non-resident investor from the overseas bank remitting the amount. The report would be acknowledged by the Regional Office concerned, which will allot a Unique Identification Number (UIN) for the amount reported.

(ii) Time frame within which shares have to be issued

The equity instruments should be issued within 180 days from the date of receipt of the inward remittance or by debit to the NRE/FCNR (B) account of the non-resident investor. In case, the equity instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR (B) account, the amount of consideration so received should be refunded immediately to the non-resident investor by outward remittance through normal banking channels or by credit to the NRE/FCNR (B) account, as the case may be. Non-compliance with the above provision would be reckoned as a contravention under FEMA and could attract penal provisions. In exceptional cases, refund/allotment of shares for the amount of consideration outstanding beyond a period of 180 days from the date of receipt may be considered by the Reserve Bank, on the merits of the case.

(iii) Reporting of issue of shares

(a) After issue of shares (including bonus and shares issued on rights basis and shares issued on conversion of stock option under ESOP scheme)/convertible debentures/convertible preference shares, the Indian company has to file Form FC-GPR, enclosed in Annex – 8, through its AD Category I bank, not later than 30 days from the date of issue of shares. The Form can also be downloaded from the Reserve Bank's website http://www.rbi.org.in/Scripts/BS_ViewFemaForms.aspx. Non-compliance with the above provision would be reckoned as a contravention under FEMA and could attract penal provisions.

(b) Part A of Form FC-GPR has to be duly filled up and signed by Managing Director/Director/Secretary of the Company and submitted to the Authorised Dealer of the company, who will forward it to the concerned Regional Office of the Reserve Bank. The following documents have to be submitted along with Part A:

(i) A certificate from the Company Secretary of the company certifying that :

(a) all the requirements of the Companies Act, 1956 have been complied with;

(b) terms and conditions of the Government's approval, if any, have been complied with;

(c) the company is eligible to issue shares under these Regulations; and

(d) the company has all original certificates issued by AD banks in India evidencing receipt of amount of consideration.

(ii) A certificate from SEBI registered Merchant Banker or Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

(c) The report of receipt of consideration as well as Form FC-GPR have to be submitted by the AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company is situated.

(d) Issue of bonus/rights shares or shares on conversion of stock options issued under ESOP to persons resident outside India directly or on amalgamation/merger with an existing Indian company, as well as issue of shares on conversion of ECB/royalty/lump sum technical know-how fee/import of capital goods by units in SEZs has to be reported in Form FC-GPR.

2. Reporting of FDI for Transfer of shares route

(i) The actual inflows and outflows on account of such transfer of shares shall be reported by the AD branch in the R-returns in the normal course.

(ii) Reporting of transfer of shares between residents and non-residents and *vice-versa* is to be made in Form FC-TRS (enclosed in Annex – 9-i). The Form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor/transferee, resident in India.

(iii) The sale consideration in respect of equity instruments purchased by a person resident outside India, remitted into India through normal banking channels, shall be subjected to a KYC check (Annex 9-ii) by the remittance receiving AD Category – I bank at the time of receipt of funds. In case, the remittance receiving AD Category – I bank is different from the AD Category – I bank handling the transfer transaction, the KYC check should be carried out by the remittance receiving bank and the **KYC report be submitted by the customer to the AD Category – I bank carrying out the transaction along with the Form FC-TRS.**

(iv) The AD bank should scrutinise the transactions and on being satisfied about the transactions should certify the form FC-TRS as being in order.

(v) The AD bank branch should submit two copies of the Form FC-TRS received from their constituents/customers together with the statement of inflows/outflows on account of remittances received/made in connection with transfer of shares, by way of sale, to IBD/FED/or the nodal office designated for the purpose by the bank in the enclosed proforma (which is to be prepared in MS-Excel

format). The IBD/FED or the nodal office of the bank will consolidate reporting in respect of all the transactions reported by their branches into two statements inflow and outflow statement. These statements (inflow and outflow) should be forwarded on a monthly basis to Foreign Exchange Department, Reserve Bank, Foreign Investment Division, Central Office, Mumbai in soft copy (in MS-Excel) by e-mail to fdidata@rbi.org.in. The bank should maintain the FC-TRS forms with it and should not forward the same to the Reserve Bank of India.

(vi) The transferee/his duly appointed agent should approach the investee company to record the transfer in their books along with the certificate in the Form FC-TRS from the AD branch that the remittances have been received by the transferor/payment has been made by the transferee. On receipt of the certificate from the AD, the company may record the transfer in its books.

(vi) On receipt of statements from the AD bank, the Reserve Bank may call for such additional details or give such directions as required from the transferor/transferee or their agents, if need be.

3. Reporting of conversion of ECB into equity

Details of issue of shares against conversion of ECB has to be reported to the Regional Office concerned of the Reserve Bank, as indicated below:

a. In case of **full conversion** of ECB into equity, the company shall report the conversion in Form FC-GPR to the Regional Office concerned of the Reserve Bank as well as in Form ECB-2 to the Department of Statistics and Information Management (DSIM), Reserve Bank of India, Bandra-Kurla Complex, Mumbai – 400 051, within seven working days from the close of month to which it relates. The words “ECB wholly converted to equity” shall be clearly indicated on top of the Form ECB-2. Once reported, filing of Form ECB-2 in the subsequent months is not necessary.

b. In case of **partial conversion** of ECB, the company shall report the converted portion in Form FC-GPR to the Regional Office concerned as well as in Form ECB-2 clearly differentiating the converted portion from the non-converted portion. The words “ECB partially converted to equity” shall be indicated on top of the Form ECB-2. In the subsequent months, the outstanding balance of ECB shall be reported in Form ECB-2 to DSIM.

c. The SEZ unit issuing equity as mentioned in para (iii) above, should report the particulars of the shares issued in the Form FC-GPR.

4. Reporting of ESOPs for allotment of equity shares

The issuing company is required to report the details of issuance of ESOPs to its employees to the Regional Office concerned of the Reserve Bank, in plain paper reporting, within 30 days from the date of issue of ESOPs. Further, at the time of conversion of options into shares the Indian company has to ensure reporting to the Regional Office concerned of the Reserve Bank in form FC-GPR, within 30 days of allotment of such shares. However, provision with regard to advance reporting would not be applicable for such issuances.

5. Reporting of ADR/GDR Issues

The Indian company issuing ADRs/GDRs has to furnish to the Reserve Bank, full details of such issue in the Form enclosed in Annex -10, within 30 days from the date of closing of the issue. The company should also furnish a quarterly return in the Form enclosed in Annex – 11, to the Reserve Bank within 15 days of the close of the calendar quarter. The quarterly return has to be submitted till the entire amount raised through ADR/GDR mechanism is either repatriated to India or utilized abroad as per the extant Reserve Bank guidelines.

6. Reporting of FII investments under PIS scheme

(i) **FII reporting:** The AD Category – I banks have to ensure that the FIIs registered with SEBI who are purchasing various securities (except derivative and IDRs) by debit to the Special Non-Resident Rupee Account should report all such transactions details (except derivative and IDRs) in the Form LEC (FII) to Foreign Exchange Department, Reserve Bank of India, Central Office by uploading the same to the ORFS web site (<https://secweb.rbi.org.in/ORFSMainWeb/Login.jsp>). It would be the banks responsibility to ensure that the data submitted to RBI is reconciled by periodically taking a FII holding report for their bank.

(iii) The Indian company which has issued shares to FIIs under the FDI Scheme (for which the payment has been received directly into company's account) and the Portfolio Investment Scheme (for which the payment has been received from FIIs' account maintained with an AD Category – I bank in India) should report these figures separately under item No. 5 of Form FC-GPR (Annex – 🤖 (Post-issue pattern of shareholding) so that the details could be suitably reconciled for statistical/monitoring purposes.

7. Reporting of NRI investments under PIS scheme

The link office of the designated branch of an AD Category – I bank shall furnish to the Reserve Bank¹⁷, a report on a daily basis on PIS transactions undertaken by it, on behalf of NRIs. This report can be furnished on a floppy to the Reserve Bank and also uploaded directly on the OFRS web site (<https://secweb.rbi.org.in/ORFSMainWeb/Login.jsp>). It would be the banks responsibility to ensure that the data submitted to RBI is reconciled by periodically taking a NRI holding report for their bank.

PART II

INVESTMENT IN PARTNERSHIP FIRM/PROPRIETARY CONCERN

1. Investment in Partnership Firm/Proprietary Concern

A Non-Resident Indian¹⁸ (NRI) or a Person of Indian Origin¹⁹ (PIO) resident outside India can invest by way of contribution to the capital of a firm or a proprietary concern in India on non-repatriation basis provided:

- i.* Amount is invested by inward remittance or out of NRE/FCNR(B)/NRO account maintained with Authorised Dealers/Authorised banks.
- ii.* The firm or proprietary concern is not engaged in any agricultural/plantation or real estate business (*i.e.* dealing in land and immovable property with a view to earning profit or earning income therefrom) or print media sector.
- iii.* Amount invested shall not be eligible for repatriation outside India.

2. Investments with repatriation benefits

NRIs/PIO may seek prior permission of Reserve Bank²⁰ for investment in sole proprietorship concerns/partnership firms with repatriation benefits. The application will be decided in consultation with the Government of India.

3. Investment by non-residents other than NRIs/PIO

A person resident outside India other than NRIs/PIO may make an application and seek prior approval of Reserve Bank²¹, for making investment by way of contribution to the capital of a firm or a proprietorship concern or any association of persons in India. The application will be decided in consultation with the Government of India.

4. Restictions

An NRI or PIO is not allowed to invest in a firm or proprietorship concern engaged in any agricultural/plantation activity or real estate business (*i.e.* dealing in land and immovable property with a view to earning profit or earning income therefrom) or engaged in Print Media.

ANNEX – 1

[PART I, Section I, para 7(a)]

SECTOR – SPECIFIC POLICY FOR FOREIGN INVESTMENT

In the following sectors/activities, FDI up to the limit indicated below is allowed subject to other conditions as indicated. In Sectors/Activities not listed below, FDI is permitted up to 100 per cent on the automatic route subject to sectoral rules/regulations applicable.

Sr. No.	Sector/Activity	FDI Cap/ Equity	Entry Route	Other conditions
I	AGRICULTURE			
1.	Floriculture, Horticulture, Development and production of Seeds and planting material, Animal Husbandry, Pisciculture, Aquaculture, Cultivation of Vegetables & Mushrooms under controlled conditions and services related to agro and allied sectors.	100%	Automatic	—
	NB: Besides the above, FDI is not allowed in any other agricultural sector/activity			
2.	Tea Sector , including tea plantation	100%	FIPB	Subject to divestment of 26% equity in favour of Indian partner/Indian public within 5 years and prior approval of State Government concerned in case of any change in future land use.
	NB: Besides the above, FDI is not allowed in any other			

	plantation sector/activity			
	INDUSTRY MINING			
3.	Mining covering exploration and mining of diamonds & precious stones; gold, silver and minerals.	100%	Automatic	Subject to Mines & Minerals (Development & Regulation) Act, 1957 (www.mines.nic.in)
4.	Coal & Lignite mining for captive consumption by power projects, and iron & steel, cement production and other eligible activities permitted under the Coal Mines (Nationalisation) Act, 1973.	100%	Automatic	Subject to provisions of Coal Mines (Nationalisation) Act, 1973.(www.coal.nic.in)
5.	Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities.	100%	FIPB	Subject to sectoral regulations and the Mines and Minerals (Development and Regulation) Act, 1957 and the following conditions -
	NB: FDI will not be allowed in mining of “prescribed substances” listed in Government of India Notification No. S.O. 61(E) dated 18.1.2006 issued by the Department of Atomic Energy.			<i>i.</i> value addition facilities are set up within India along with transfer of technology;
				<i>ii.</i> disposal of tailings during the mineral separation shall be carried out in accordance with Regulations framed by the Atomic Energy Regulatory Board such as Atomic Energy (Radiation Protection) Rules, 2004 and the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987.
	MANUFACTURING			
6.	Alcohol-Distillation & Brewing	100%	Automatic	Subject to license by appropriate authority.
7.	Coffee & Rubber processing & warehousing	100%	Automatic	—
8.	Defence production	26%	FIPB	Subject to licensing under Industries (Development & Regulation) Act, 1951 and guidelines on FDI in

				production of arms and ammunition.
9.	Hazardous chemicals, viz., hydrocyanic acid and its derivatives; phosgene and its derivatives; and isocyanates and diisocyanates of hydrocarbon.	100%	Automatic	Subject to industrial license under the Industries (Development & Regulation) Act, 1951 and other sectoral Regulations.
10.	Industrial explosives - Manufacture	100%	Automatic	Subject to industrial license under the Industries (Development & Regulation) Act, 1951 and Regulations under Explosives Act, 1898
11.	Drugs and Pharmaceuticals including those involving use of recombinant DNA technology	100%	Automatic	—
POWER				
12.	Power including generation (except Atomic energy); transmission, distribution and Power trading.	100%	Automatic	Subject to provisions of the Electricity Act, 2003 (www.powermin.nic.in)
FDI is not permitted for generation, transmission and distribution of electricity produced in atomic power plant/atomic energy since private investment in this sector/activity is prohibited and is reserved for public sector.				
SERVICES				
CIVIL AVIATION SECTOR				
13.	Airports-			
a.	Greenfield projects	100%	Automatic	Subject to sectoral Regulations notified by Ministry of Civil Aviation (www.civilaviation.nic.in)
b.	Existing projects	100%	FIPB beyond 74%	Subject to sectoral Regulations notified by Ministry of Civil Aviation (www.civilaviation.nic.in)
14.	Air Transport Services including Domestic Scheduled Passenger Airlines; Non-Schedules Airlines; Chartered Airlines; Cargo Airlines; Helicopter and Seaplane Services			
a.	Scheduled Air Transport Services/Domestic Scheduled Passenger Airline	49% – FDI; 100% – for NRIs investment	Automatic	Subject to no direct or indirect participation by foreign airlines and Sectoral Regulations. (www.civilaviation.nic.in)

				in)
b.	Non-Scheduled Air Transport Service/Non-Scheduled airlines, Chartered airlines, and Cargo airlines	74%- FDI 100%- for NRIs investment	Automatic	Subject to no direct or indirect participation by foreign airlines in Non-Scheduled and Chartered airlines. Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines. Also subject to sectoral Regulations. (www.civilaviation.nic.in)
c.	Helicopter Services/Seaplane services requiring DGCA approval	100%	Automatic	Foreign airlines are allowed to participate in the equity of companies operating Helicopter and seaplane airlines. Also subject to sectoral Regulations. (www.civilaviation.nic.in)
15.	Other services under Civil Aviation Sector			
a.	Ground Handling Services	74%- FDI 100%- for NRIs investment	Automatic	Subject to sectoral Regulations and security clearance.
b.	Maintenance and Repair organizations; flying training institutes; and technical training institutions	100%	Automatic	—
16.	Asset Reconstruction Companies	49% (only FDI)	FIPB	Investment by FIIs are not permitted in the equity capital of ARC. However, FII registered with SEBI can invest in Security Receipts issued by ARCs registered with Reserve Bank of India. FIIs can invest upto 49% of each tranche of scheme of SRs subject to the condition that investment by a single FII in each tranche of SRs shall not exceed 10% of the issue.
				Where any individual investment exceeds 10% of the equity, provisions of Section

				3(3)(f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 should be complied with. Sub-accounts of FIIs are not allowed to invest in the Security Receipts of ARCs. (www.finmin.nic.in)
17.	Banking -	74%	Automatic	Subject to guidelines for setting up branches/subsidiaries of foreign banks issued by RBI. (www.rbi.org.in)
(a)	Private sector	(FDI+FII) Within this limit, FII investment not to exceed 49%		
(b)	Banking – Public sector	20%		FDI and PI in nationalized banks are subject to the overall statutory limits of 20% as provided under Section 3(2D) of the Banking Companies (Acquisition and Transfer of Undertaking) Acts, 1970/80. The same ceiling would also apply in respect of such investments in State Bank of India and its Associate banks.
		(FDI + FII)		
18.	Broadcasting			
a.	FM Radio	FDI +FII investment up to 20%	FIPB	Subject to guidelines notified by Ministry of Information & Broadcasting. (www.mib.nic.in)
b.	Cable network	49% (FDI+FII)	FIPB	Subject to Cable Television Network Rules (1994), notified by Ministry of Information & Broadcasting. (www.mib.nic.in)
c.	Direct-To-Home	49% (FDI+FII). Within this limit, FDI component not to exceed 20%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. (www.mib.nic.in)
d.	Setting up hardware facilities such as up-linking, HUB, etc.	49% (FDI+FII)	FIPB	Subject to Up-linking Policy notified by Ministry of Information &

				Broadcasting. (www.mib.nic.in)
e.	Up-linking a News & Current Affairs TV Channel	26% (FDI+FII)	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. (www.mib.nic.in)
f.	Up-linking a Non-news & Current Affairs TV Channel	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. (www.mib.nic.in)
19.	Commodity Exchanges	49% (FDI+FII) FDI – 26% FII – 23%	FIPB	FII purchases shall be restricted to secondary market only. Subject to regulations specified by concerned Regulators.
20.	Development of townships, Housing, Built up infrastructure and Construction Development Projects (which would include but not be restricted to housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure)	100%	Automatic	Subject to conditions vide para 5.23 of Consolidated FDI policy of Government of India including: a. Minimum capitalization of US\$ 10 million for wholly owned subsidiaries and US\$ 5 million for joint venture. The funds would have to be brought within six months of commencement of business of the company. b. Minimum area to be developed under each project- 10 hectares in case of development of serviced housing plots; and built-up area of 50,000 sq. mts. in case of construction development project; and any of the above in case of a combination project. c. Original Investment cannot be repatriated before a period of three years from the completion of the minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of Government
	NB: FDI is not allowed in Real Estate Business			

				through the FIPB.
				d. At least 50% of the project must be developed within the period of five years from the date of obtaining all statutory clearances. The investor/investee company would not be permitted to sell undeveloped plots. For the purpose of these guidelines, "undeveloped plots" would mean where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under the prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the local body/service agency before he would be allowed to dispose of services housing plots.
				[Note : The above conditions are not applicable for
				1: For investment by NRIs,
				2: For investment in SEZs, Hotels & Hospitals.
21.	Courier services for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898.	100%	FIPB	Subject to existing laws and exclusion of activity relating to distribution of letters, which is exclusively reserved for the State. (www.indiapost.gov.in)
22.	Infrastructure companies in securities markets namely, Stock Exchanges, Depositories and Clearing Corporations	49% (FDI+FII) FDI - 26% FII - 23%	FIPB	FII purchases shall be restricted to secondary market. Subject to regulations specified by concerned Regulators.
23.	Credit Information	49%	FIPB (&	FII purchases shall be

	Companies(CIC)	(FDI+FII) Within this limit, FII investment not to exceed 24%	regulatory clearance from RBI)	restricted to secondary market. Foreign Investment in CIC will be subject to Credit Information Companies (Regulation) Act, 2005. Subject to regulations specified by concerned Regulators.
24.	Industrial Parks both setting up and in established Industrial Parks	100%	Automatic	Conditions in para 5.23 of Consolidated FDI policy of Government of India applicable for construction development projects would not apply provided the Industrial Parks meet with the under-mentioned conditions- <i>i.</i> it would comprise of a minimum of 10 units and no single unit shall occupy more than 50% of the allocable area and ; <i>ii.</i> the minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.
25.	Insurance	26%	Automatic	Subject to licensing by the Insurance Regulatory & Development Authority (www.irda.nic.in)
26.	Investing companies in infrastructure/ services sector (except telecom sector)	100%	FIPB	Where there is a prescribed cap for foreign investment, only the direct investment will be considered for the prescribed cap and foreign investment in an investing company will not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49% and the management of the investing company

				is with the Indian owners.
27.	Non-Banking Finance Companies			
(i)	Merchant banking	100%	Automatic	Subject to:
(ii)	Underwriting			a. Minimum capitalization norms for fund based NBFCs - US\$ 0.5 million to be brought upfront for FDI up to 51%; US\$ 5 million to be brought upfront for FDI above 51% and up to 75%; and US\$ 50 million out of which US\$ 7.5 million to be brought upfront and the balance in 24 months, for FDI beyond 75% and up to 100%.
(iii)	Portfolio Management Services			
(iv)	Investment Advisory Services			
(v)	Financial Consultancy			
(vi)	Stock Broking			
(vii)	Asset Management			b. Minimum capitalization norms for non-fund based NBFC activities - US\$ 0.5 million, subject to the condition that such company would not be allowed to set up any subsidiary for any other activity nor it can participate in the equity of NBFC holding/operating company. Non-fund based activities would include Investment Advisory Services, Financial Consultancy, Forex Broking, Money Changing Business and Credit Rating Agencies.
(viii)	Venture Capital			
(ix)	Custodial Services			
(x)	Factoring			
(xi)	Credit Rating Agencies			
(xii)	Leasing & Finance			
(xiii)	Housing Finance			
(xiv)	Forex Broking			
(xv)	*Credit card Business			
(xvi)	Money changing business			
(xvii)	Micro credit			c. Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities subject to bringing in US\$ 50 million without any restriction on number of operating subsidiaries without bringing additional capital.
(xviii)	Rural credit			d. Joint venture

				operating NBFCs that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities subject to the subsidiaries also complying with the applicable minimum capital inflow.
				e. Compliance with the guidelines of the RBI.
*Credit card business includes issuance, sales, marketing and design of various payment products such as credit cards, debit cards, stored value cards, smart card, value added cards, etc.				
28. Petroleum & Natural Gas sector				
a.	Refining	49% in case of PSUs. 100% in case of private companies	FIPB (in case of PSUs) Automatic (in case of private companies)	Subject to Sectoral policy and no divestment or dilution of domestic equity in the existing PSUs. (www.petroleum.nic.in)
b.	Other than refining and including market study and formulation; investment/financing; setting up infrastructure for marketing in Petroleum & Natural Gas sector.	100%	Automatic	Subject to sectoral Regulations issued by Ministry of Petroleum & Natural Gas. (www.petroleum.nic.in)
29. Print Media				
a.	Publishing of newspaper and periodicals dealing with news and current affairs	26%	FIPB	Subject to guidelines notified by Ministry of Information & Broadcasting. (www.mib.nic.in)
b.	Publishing of scientific magazines/specialty journals/periodicals	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. (www.mib.nic.in)
30. Telecommunications				
a.	Basic and cellular, Unified Access Services, National/International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications	74% (Including FDI, FII, NRI, FCCBs, ADRs, GDRs, convertible preference shares, and proportionate foreign equity	Automatic up to 49%. FIPB beyond 49%.	Subject to guidelines vide para 5.38 of Consolidated FDI policy of Government of India.

	Services (GMPCS) and other value added telecom services	in Indian promoters/ Investing Company)		
b.	ISP with gateways, radio-paging, end-to-end bandwidth.	74%	Automatic up to 49%. FIPB beyond 49%.	Subject to licensing and security requirements notified by the Department of Telecommunications. (www.dotindia.com)
c.	(a) ISP without gateway; (b) Infrastructure provider providing dark fibre, right of way, duct space, tower (Category I); (c) electronic mail and voice mail.	100%	Automatic up to 49%. FIPB beyond 49%.	Subject to the condition that such companies shall divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world. Also subject to licensing and security requirements, where required. (www.dotindia.com)
d.	Manufacture of telecom equipments	100%	Automatic	Subject to sectoral requirements. (www.dotindia.com)
31.	Trading			
a.	Wholesale/cash & carry trading	100%	Automatic	
b.	Trading for Exports	100%	Automatic	
c.	Trading of items sourced from small scale sector	100%	FIPB	
d.	Test marketing of such items for which a company has approval for manufacture	100%	FIPB	Subject to the condition that the test marketing approval will be for a period of two years and investment in setting up manufacturing facilities commences simultaneously with test marketing.
e.	Single Brand Product retailing	51%	FIPB	Subject to para 5.39.3 of Consolidated FDI policy of Government of India
32.	Satellites - Establishment and operation	74%	FIPB	Subject to sectoral guidelines issued by Department of Space/ISRO. (www.isro.org)
33.	Special Economic Zones and Free Trade Warehousing Zones covering setting up of	100%	Automatic	Subject to Special Economic Zones Act, 2005 and the Foreign Trade Policy.

	these Zones and setting up units in the Zones			(www.sezindia.nic.in)
34	Venture Capital Fund and Venture Capital Undertaking	-	Automatic	SEBI registered FVCI are allowed to invest in domestic venture capital undertakings and domestic venture capital funds through the automatic route subject to the SEBI regulations and sector specific caps on FDI.

Note : All the above sector/activities are governed by the respective Press Notes/Releases issued by the issued by the Government of India from time to time

ANNEX - 2

[PART I, SECTION I, PARA 7(c)(iii)]

(A) All Activities/Sectors would require prior approval of the Government of India for FDI in accordance with the FDI policy issued by Government of India from time to time.

(B) Sectors prohibited for FDI

- I. Retail Trading (except single brand product retailing)
- II. Atomic Energy
- III. Lottery Business including Government/private lottery, online lotteries etc.
- IV. Gambling and Betting including casinos etc.
- V. Business of chit fund
- VI. Nidhi Company
- VII. Trading in Transferable Development Rights (TDRs)
- VIII. Activities/sector not opened to private sector investment
- IX. Agriculture (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisciculture and cultivation of vegetables, mushrooms etc. under controlled conditions and services related to agro and allied sectors) and Plantations (Other than Tea Plantations)
- X. Real estate business, or construction of farm houses.
- XI. Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco or of tobacco substitutes.

Note:

1. Besides foreign investment in any form, foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also completely prohibited for Lottery Business and Gambling and Betting activities.

2. Foreign investment in Trusts other than investment by SEBI registered FVCIs in domestic VCF is not permitted.

ANNEX – 3

[PART I, SECTION I, PARA 8(b)]

Terms and conditions for Transfer of Shares/Convertible Debentures, by way of Sale, from a Person Resident in India to a Person Resident Outside India and from a Person Resident Outside India to a Person Resident in India

1.1 In order to address the concerns relating to pricing, documentation, payment/receipt and remittance in respect of the shares/convertible debentures of an Indian company, in all sectors, transferred by way of sale, the parties involved in the transaction shall comply with the guidelines set out below.

1.2 Parties involved in the transaction are (a) seller (resident/non-resident), (b) buyer (resident/non-resident), (c) duly authorized agent/s of the seller and/or buyer, (d) Authorised Dealer bank (AD) branch and (e) Indian company, for recording the transfer of ownership in its books.

2. Responsibilities/Obligations of the parties

All the parties involved in the transaction would have the responsibility to ensure that the relevant regulations under FEMA are complied with and consequent on transfer of shares, the relevant individual limit/sectoral caps/foreign equity participation ceilings as fixed by Government are not breached. Settlement of transactions will be subject to payment of applicable taxes, if any.

3. Method of payment and remittance/credit of sale proceeds

3.1 The sale consideration in respect of the shares purchased by a person resident outside India shall be remitted to India through normal banking channels. In case the buyer is a NRI, the payment may be made by way of debit to his NRE/FCNR (B) accounts. However, if the shares are acquired on non-repatriation basis by NRI, the consideration shall be remitted to India through normal banking channel or paid out of funds held in NRE/FCNR (B)/NRO accounts.

3.2. The sale proceeds of shares (net of taxes) sold by a person resident outside India may be remitted outside India. In case of FII, the sale proceeds may be credited to its special Non-Resident Rupee Account. In case of NRI, if the shares sold were held on repatriation basis, the sale proceeds (net of taxes) may be credited to his NRE/FCNR(B) accounts and if the shares sold were held on non repatriation basis, the sale proceeds may be credited to his NRO account subject to payment of taxes.

3.3 The sale proceeds of shares (net of taxes) sold by an OCB may be remitted outside India directly if the shares were held on repatriation basis and if the shares sold were held on non-repatriation basis, the sale proceeds may be credited to its NRO (Current) Account subject to payment of taxes, except in the case of OCBs whose accounts have been blocked by Reserve Bank.

4. Documentation

Besides obtaining a declaration in the enclosed Form FC-TRS (in quadruplicate), the AD branch should arrange to obtain and keep on record the following documents:

4.1 For sale of shares by a person resident in India

i. Consent Letter duly signed by the seller and buyer or their duly appointed agent indicating the details of transfer *i.e.* number of shares to be transferred, the name of the investee company whose shares are being transferred and the price at which shares are being transferred. In case there is no formal Sale Agreement, letters exchanged to this effect may be kept on record.

ii. Where Consent Letter has been signed by their duly appointed agent, the Power of Attorney Document executed by the seller/buyer authorizing the agent to purchase/sell shares.

iii. The shareholding pattern of the investee company after the acquisition of shares by a person resident outside India showing equity participation of residents and non-residents category-wise (*i.e.* NRIs/OCBs/foreign nationals/incorporated non-resident entities/FIIs) and its percentage of paid up capital obtained by the seller/buyer or their duly appointed agent from the company, where the sectoral cap/limits have been prescribed.

iv. Certificate indicating fair value of shares from a Chartered Accountant.

v. Copy of Broker's note if sale is made on Stock Exchange.

vi. Undertaking from the buyer to the effect that he is eligible to acquire shares/convertible debentures under FDI policy and the existing sectoral limits and Pricing Guidelines have been complied with.

vii. Undertaking from the FII/sub account to the effect that the individual FII/Sub account ceiling as prescribed by SEBI has not been breached.

4.2 For sale of shares by a person resident outside India

i. Consent Letter duly signed by the seller and buyer or their duly appointed agent indicating the details of transfer *i.e.* number of shares to be transferred, the name of the investee company whose shares are being transferred and the price at which shares are being transferred.

ii. Where the Consent Letter has been signed by their duly appointed agent the Power of Attorney Document authorizing the agent to purchase/sell shares by the seller/buyer. In case there is no formal Sale Agreement, letters exchanged to this effect may be kept on record.

iii. If the sellers are NRIs/OCBs, the copies of RBI approvals evidencing the shares held by them on repatriation/non-repatriation basis. The sale proceeds shall be credited to NRE/NRO account, as applicable.

iv. Certificate indicating fair value of shares from a Chartered Accountant.

v. No Objection/Tax Clearance Certificate from Income Tax authority/Chartered Accountant.

vi. Undertaking from the buyer to the effect that the Pricing Guidelines have been adhered to.

Shares/convertible debentures of Indian companies purchased under Portfolio Investment Scheme by NRIs, OCBs cannot be transferred, by way of sale under private arrangement.

Compliance is also to be ensured of the pricing and the reporting guidelines as stated under para 5 (Section I) and para 2 (Section V) respectively.

ANNEX- 4

[PART I, SECTION I, PARA 8 (b) II (iii)]

Documents to be submitted by a person resident in India for transfer of shares to a person resident outside India by way of gift

- i.* Name and address of the transferor (donor) and the transferee (donee).
- ii.* Relationship between the transferor and the transferee.
- iii.* Reasons for making the gift.
- iv.* In case of Government dated securities and treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such security.
- v.* In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.
- vi.* In case of shares and convertible debentures, a certificate from a Chartered Accountant on the value of such securities according to the guidelines issued by Securities & Exchange Board of India or DCF method for listed companies and unlisted companies, respectively.
- vii.* Certificate from the concerned Indian company certifying that the proposed transfer of shares/convertible debentures by way of gift from resident to the non-resident shall not breach the applicable sectoral cap/FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5 per cent of the paid up capital of the company.²²
- viii.* An undertaking from the resident transferor that the value of security to be transferred together with any security already transferred by the transferor, as gift, to any person residing outside India does not exceed the rupee equivalent of USD 25,000 **during a calendar year**.

ANNEX – 5

(PART I, SECTION I, PARA 8 (b) II (iii))

Definition of “relative” as given in Section 6 of Companies Act, 1956.

A person shall be deemed to be a relative of another, if, and only if:

- (a) they are members of a Hindu undivided family ; or
- (b) they are husband and wife ; or
- (c) the one is related to the other in the manner indicated in Schedule IA (as under)
 1. Father.
 2. Mother (including step-mother).
 3. Son (including stepson).

4. Son's wife.
5. Daughter (including step-daughter).
6. Father's father.
7. Father's mother.
8. Mother's mother.
9. Mother's father.
10. Son's son.
11. Son's son's wife.
12. Son's daughter.
13. Son's daughter's husband.
14. Daughter's husband.
15. Daughter's son.
16. Daughter's son's wife.
17. Daughter's daughter.
18. Daughter's daughter's husband.
19. Brother (including step-brother).
20. Brother's wife.
21. Sister (including step-sister).
22. Sister's husband.

ANNEX – 6

[PART I, SECTION V, PARA 1 (i)]

Report by the Indian company receiving amount of consideration for issue of shares/Convertible debentures under the FDI Scheme

(To be filed by the company through its Authorised Dealer Category – I bank, with the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the company making the declaration is situated, not later than 30 days from the date of receipt of the amount of consideration, as specified in para 9 (I) (A) of Schedule I to Notification No. FEMA 20/2000- RB dated May 3, 2000)

Permanent Account Number (PAN) of the investee company given by the IT Department				
No.	Particulars	(In Block Letters)		
1.	Name of the Indian company			
	Address of the Registered Office			
	Fax			
	Telephone			
	e-mail			
2	Details of the foreign investor/collaborator			
	Name			
	Address			
	Country			
3.	Date of receipt of funds			
4.	Amount	<table border="1"> <tr> <td>In foreign currency</td> <td>In Indian Rupees</td> </tr> </table>	In foreign currency	In Indian Rupees
In foreign currency	In Indian Rupees			
5.	Whether investment is under Automatic Route or Approval Route	Automatic Route/Approval Route		
	If Approval Route, give details (ref. No. of approval and date)			
6.	Name of the AD through whom the remittance is received			
7.	Address of the AD			

A copy of the FIRC evidencing the receipt of consideration for issue of shares/convertible debentures as above is enclosed.

(Authorised signatory of the investee company)	(Authorised signatory of the AD)
(Stamp)	(Stamp)

FOR USE OF THE RESERVE BANK ONLY:

**Unique Identification
Number for the
remittance received:**

ANNEX – 7

[PART I, SECTION V, PARA 1(I)]

Know Your Customer (KYC) Form in respect of the non-resident investor

Registered Name of the Remitter/Investor (Name, if the investor is an Individual)	
Registration Number (Unique Identification Number* in case remitter is an Individual)	
Registered Address (Permanent Address if remitter Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the remitter	

* Passport No., Social Security No. or any Unique No. certifying the *bona fides* of the remitter as prevalent in the remitter's country

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official
of the AD bank receiving the remittance)

Date :

Place:

Stamp :

ANNEX – 8

[PART I, SECTION V, PARA 1 (iii)]

FC-GPR

PART – A

(To be filed by the company through its Authorised Dealer Category – I bank with the Regional Office of the RBI under whose jurisdiction the Registered Office of the company making the declaration is situated as and when shares/convertible debentures are issued to the foreign investor, along with the documents mentioned in item No. 4 of the undertaking enclosed to this Form)

Permanent Account Number (PAN) of the investee company given by the IT Department		
Date of issue of shares/convertible debentures		
No.	Particulars	(In Block Letters)
1.	Name	
	Address of the Registered Office	
	State	
	Registration No. given by Registrar of Companies	
	Whether existing company or new company (strike off whichever is not applicable)	Existing company/New company
	If existing company, give registration number allotted by RBI for FDI, if any	
	Telephone	
	Fax	
	e-mail	
2.	Description of the main business activity	
	NIC Code	
	Location of the project and NIC code for the district where the project is located	
	Percentage of FDI allowed as per FDI policy	
	State whether FDI is allowed under Automatic Route or Approval Route (strike out whichever is not applicable)	Automatic Route/Approval Route
3	Details of the foreign investor/collaborator*.	
	Name	
	Address	
	Country	

Constitution/Nature of the investing Entity		
[Specify whether		
1. Individual		
2. Company		
3. FII		
4. FVCI		
5. Foreign Trust		
6. Private Equity Fund		
7. Pension/Provident Fund		
8. Sovereign Wealth Fund (SWF) ²³		
9. Partnership/Proprietorship Firm		
10. Financial Institution		
11. NRIs/PIO		
12. Others (please specify)]		
Date of incorporation		
4	Particulars of Shares/Convertible Debentures Issued	
(a)	Nature and date of issue	
	Nature of issue	Date of issue
		Number of shares/ convertible debentures
01	IPO/FPO	
02	Preferential allotment/private placement	
03	Rights	
04	Bonus	
05	Conversion of ECB	
06	Conversion of royalty (including lump sum payments)	
07	Conversion against import of capital goods by units in SEZ	
08	ESOPs	
09	Share Swap	
10	Others (please specify)	
	Total	
(b)	Type of security issued	
	No.	Nature of security
	Number	Maturity
	Face value	Premium
	Issue Price per share	Amount of inflow*
01	Equity	
02	Compulsorily Convertible Debentures	
03	Compulsorily Convertible Preference shares	
04	Others (please specify)	
	Total	

(i) In case the issue price is greater than the face value please give break up of the premium received.

(ii) * In case the issue is against conversion of ECB or royalty or against import of capital goods by units in SEZ, a Chartered Accountant's Certificate certifying the amount outstanding on the date of conversion

(c)	Break up of premium	Amount
	Control Premium	
	Non competition fee	
	Others@	
	Total	
@ please specify the nature		
(d)	Total inflow (in Rupees) on account of issue of shares/convertible debentures to non-residents (including premium, if any) vide	
	(i) Remittance through AD:	
	(ii) Debit to NRE/FCNR A/c with Bank _____	
	(iii) Others (please specify)	
	Date of reporting of (i) and (ii) above to RBI under Para 9(1) A of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.	
(e)	Disclosure of fair value of shares issued**	
	We are a listed company and the market value of a share as on date of the issue is*	
	We are an un-listed company and the fair value of a share is*	

** before issue of shares

*(Please indicate as applicable)

5. Post issue pattern of shareholding

Investor category	Equity			Compulsorily convertible Preference Shares/Debtentures		
	No. of share	Amount (Face Value) Rs.	%	No. of shares	Amount (Face Value) Rs.	%
(a) Non-Resident						
01 Individuals						
02 Companies						
03 FIIs						
04 FVCIs						
05 Foreign Trusts						
06 Private Equity Funds						
07 Pension/Provident Funds						

	08	Sovereign Wealth Funds						
	09	Partnership/Proprietorship Firms						
	10	Financial Institutions						
	11	NRIs/PIO						
	12	Others (please specify)						
		Sub Total						
(b)		Resident						
		Total						

DECLARATION TO BE FILED BY THE AUTHORISED REPRESENTATIVE OF THE INDIAN COMPANY:

(Delete whichever is not applicable and authenticate)

We hereby declare that:

1. We comply with the procedure for issue of shares/convertible debentures as laid down under the FDI scheme as indicated in Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time.

2. The investment is within the sectoral cap/statutory ceiling permissible under the Automatic Route of RBI and we fulfil all the conditions laid down for investments under the Automatic Route namely (strike off whichever is not applicable).

(a) Foreign entity/entities—(other than individuals), to whom we have issued shares have existing joint venture or technology transfer or trade mark agreement in India in the same field and Conditions stipulated at Para 4.2 of Consolidated FDI policy Circular of Government of India have been complied with.

OR

Foreign entity/entities—(other than individuals), to whom we have issued shares do not have any existing joint venture or technology transfer or trade mark agreement in India in the same field.

For the purpose of the 'same' field, 4 digit NIC 1987 code would be relevant.

(b) We are not an Industrial Undertaking manufacturing items reserved for small sector.

OR

We are an Industrial Undertaking manufacturing items reserved for small sector and the investment limit of 24 % of paid-up capital has been observed/requisite approvals have been obtained.

(c) Shares issued on rights basis to non-residents are in conformity with Regulation 6 of the RBI Notification No FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time.

OR

Shares issued are bonus.

(* To be signed by Managing Director/Director/Secretary of the Company)

**CERTIFICATE TO BE FILED BY THE COMPANY SECRETARY²⁴ OF THE INDIAN COMPANY
ACCEPTING THE INVESTMENT:**

(As per Para 9(1)(B)(i) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000)

In respect of the abovementioned details, we certify the following :

1. All the requirements of the Companies Act, 1956 have been complied with.
2. Terms and conditions of the Government approval, if any, have been complied with.
3. The company is eligible to issue shares/convertible debentures under these Regulations.
4. The company has all original certificates issued by AD Category – I banks in India, evidencing receipt of amount of consideration in accordance with paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

Name & Signature of the Company Secretary)

(Seal)

FOR USE OF THE RESERVE BANK ONLY:

Registration Number for the FC-GPR:																				
Unique Identification Number allotted to the Company																				
at the time of reporting receipt of remittance	R																			

NNEX – 9-I

[PART I, SECTION V, PARA 2]

Form FC-TRS	
Declaration regarding transfer of shares/compulsorily and mandatorily convertible preference shares (CMCPS)/debentures by way of sale from resident to non-resident/non-resident to resident	
(to be submitted to the designated AD branch in quadruplicate within 60 days from the date of receipt of funds)	
The following documents are enclosed	
<i>For sale of shares/compulsorily and mandatorily convertible preference shares/debentures by a person resident in India</i>	
<ul style="list-style-type: none"> <i>i. Consent Letter duly signed by the seller and buyer or their duly appointed agent and in the latter case the Power of Attorney Document.</i> <i>ii. The shareholding pattern of the investee company after the acquisition of shares by a person resident outside India.</i> <i>iii. Certificate indicating fair value of shares from a Chartered Accountant.</i> <i>iv. Copy of Broker's note if sale is made on Stock Exchange.</i> <i>v. Declaration from the buyer to the effect that he is eligible to acquire shares/compulsorily and mandatorily convertible preference shares/debentures under FDI policy and the existing sectoral limits and Pricing Guidelines have been complied with.</i> <i>vi. Declaration from the FII/sub-account to the effect that the individual FII/Sub-account ceiling as prescribed has not been breached.</i> 	
<i>Additional documents in respect of sale of shares/compulsorily and mandatorily convertible preference shares/debentures by a person resident outside India</i>	
<i>vii. If the sellers are NRIs/OCBs, the copies of RBI approvals, if applicable, evidencing the shares held by them on repatriation/non-repatriation basis.</i>	
<i>viii. No Objection/Tax Clearance Certificate from Income Tax Authority/Chartered Account.</i>	
1	Name of the company
	Address (including e-mail, telephone Number, Fax No.)
	Activity
	NIC Code No.
2	Whether FDI is allowed under Automatic route
	Sectoral Cap under FDI Policy
3	Nature of transaction
	Transfer from resident to non-resident/
	(Strike out whichever is not applicable)
	Transfer from non-resident to resident
4	Name of the buyer
	Constitution/Nature of the investing Entity
	Specify whether
	1. Individual
	2. Company

	3. FII				
	4. FVCI				
	5. Foreign Trust				
	6. Private Equity Fund				
	7. Pension/Provident Fund				
	8. Sovereign Wealth Fund (SWF#)				
	9. Partnership/Proprietorship firm				
	10. Financial Institution				
	11. NRIs/PIOs				
	12. Others				
	Date and Place of Incorporation				
	Address of the buyer (including e-mail, telephone number. Fax No.)				
5	Name of the seller				
	Constitution/Nature of the disinvesting entity				
	Specify whether				
	1. Individual				
	2. Company				
	3. FII				
	4. FVCI				
	5. Foreign Trust				
	6. Private Equity Fund				
	7. Pension/Provident Fund				
	8. Sovereign Wealth Fund (SWF#)				
	9. Partnership/Proprietorship firm				
	10. Financial Institution				
	11. NRIs/PIOs				
	12. Others				
	Date and Place of Incorporation				
	Address of the seller (including e-mail, telephone Number Fax No.)				
6	Particulars of earlier Reserve Bank/FIPB approvals				
7	Details regarding shares/compulsorily and mandatorily convertible preference shares (CMCPS)/debentures to be transferred				
	<i>Date of the transaction</i>	<i>Number of shares CMCPS/ debentures</i>	<i>Face value in Rs. transfer** in Rs.</i>	<i>Negotiated Price for the</i>	<i>Amount of consideration in Rs.</i>
8	Foreign Investments in the company			<i>No. of shares</i>	<i>Percentage</i>
			Before the transfer		
			After the transfer		
9	Where the shares/CMCPS/debentures are listed on Stock Exchange				
	<i>Name of the Stock exchange</i>				
	<i>Price Quoted on the Stock exchange</i>				

	Where the shares/CMCPS/debentures are Unlisted	
	<i>Price as per Valuation guidelines*</i>	
	<i>Price as per Chartered Accountants</i>	
	<i>** Valuation report (CA Certificate to be attached)</i>	

Declaration by the transferor/transferee

I/We hereby declare that :

i. The particulars given above are true and correct to the best of my/our knowledge and belief.

ii. I/We, was/were holding the shares compulsorily and mandatorily convertible preference shares/debentures as per FDI Policy under FERA/FEMA Regulations on repatriation/non-repatriation basis.

iii. I/We, am/are eligible to acquire the shares compulsorily and mandatorily convertible preference shares/debentures of the company in terms of the FDI Policy. It is not a transfer relating to shares compulsorily and mandatorily convertible preference shares/debentures of a company engaged in financial services sector or a sector where general permission is not available.

iv. The Sectoral limit under the FDI Policy and the pricing guidelines have been adhered to.

Signature of the Declarant or his duly authorised agent

Date:

Note:

In respect of the transfer of shares/compulsorily and mandatorily convertible preference shares/compulsorily and mandatorily convertible debentures from resident to non-resident the declaration has to be signed by the non-resident buyer, and in respect of the transfer of shares/compulsorily and mandatorily convertible preference shares/compulsorily and mandatorily convertible debentures from non-resident to resident the declaration has to be signed by the non-resident seller.

Certificate by the AD Branch

It is certified that the application is complete in all respects.
The receipt/payment for the transaction are in accordance with FEMA Regulations/Reserve Bank guidelines.

Signature

Name and Designation of the Officer

Date: Name of the AD Branch

AD Branch Code

AD Branch Code

ANNEX 9-II

[PART I, SECTION V, PARA 2]

Know Your Customer (KYC) Form in respect of the non-resident investor	Registered Name of the Remitter/Investor (Name, if the investor is an Individual)
Registration Number (Unique Identification Number* in case remitter is an Individual)	
Registered Address (Permanent Address if remitter Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the remitter	

*Passport No., Social Security No. or any Unique No. certifying the *bona fides* of the remitter as prevalent in the remitter's country.

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official of the AD bank receiving the remittance)

Date:

Place:

Stamp

ANNEX 10

[PART I, SECTION V, PARA 5]

Form DR

[Refer to paragraph 4(2) of Schedule 1]

Return to be filed by an Indian Company who has arranged issue of GDR/ADR

Instructions : The Form should be completed and submitted to the Reserve Bank of India, Foreign Investment Division, Central Office, Mumbai.

1. Name of the Company
2. Address of Registered Office
3. Address for Correspondence
4. Existing Business (please give the NIC Code of the activity in which the company is predominantly engaged)
5. Details of the purpose for which GDRs/ADRs have been raised. If funds are deployed for overseas investment, details thereof

6. Name and address of the Depository abroad
7. Name and address of the Lead Manager/Investment/Merchant Banker
8. Name and address of the Sub-Managers to the issue
9. Name and address of the Indian Custodians
10. Details of FIPB approval (please quote the relevant NIC Code if the GDRs/ADRs are being issued under the Automatic Route)
11. Whether any overall sectoral cap for foreign investment is applicable. If yes, please give details
12. Details of the Equity Capital

	<u>Before Issue</u>	<u>After Issue</u>
(a) Authorised Capital		
(b) Issued and Paid-up Capital		
(i) Held by persons Resident in India		
(ii) Held by foreign investors other than FIIs/NRIs/PIOs/OCBs (a list of foreign investors holding more than 10 per cent of the paid-up capital and number of shares held by each of them should be furnished)		
(iii) Held by NRIs/PIOs/OCBs		
(iv) Held by FIIs		
Total Equity held by non-residents		
(c) Percentage of equity held by non-residents to total paid-up capital		
13. Whether issue was on private placement basis. If yes, please give details of the investors and GDRs/ADRs issued to each of them
14. Number of GDRs/ADRs issued
15. Ratio of GDRs/ADRs to underlying shares
16. Issue Related Expenses
 - (a) Fee paid/payable to Merchant Bankers/Lead Manager
 - (i) Amount (in US\$)
 - (ii) Amount as percentage to the total issue
 - (b) Other expenses
17. Whether funds are kept abroad. If yes, name and address of the bank

18. Details of the listing arrangement

Name of Stock Exchange

Date of commencement of trading

19. The date on which GDRs/ADRs issue was launched

20. Amount raised (in US \$)

21. Amount repatriated (in US \$)

Certified that all the conditions laid down by Government of India and Reserve Bank of India have been complied with.

Sd/-
Chartered Accountant

Sd/-
Authorised Signatory of
the Company

ANNEX 11

[PART I, SECTION I, PARA 29]

Form DR – Quarterly

[Refer to paragraph 4(3) of Schedule 1]

Quarterly Return

(To be submitted to the Reserve Bank of India, Foreign Investment Division, Central Office, Mumbai)

1. Name of the Company
2. Address
3. GDR/ADR issue launched on
4. Total No. of GDRs/ADRs issued
5. Total amount raised
6. Total interest earned till end of quarter
7. Issue expenses and commission etc.
8. Amount repatriated
9. Balance kept abroad – Details
 - (i) Banks Deposits
 - (ii) Treasury Bills
 - (iii) Others (please specify)
10. No. of GDRs/ADRs still outstanding
11. Company's share price at the end of the quarter
12. GDRs/ADRs price quoted on overseas stock exchange as at the end of the quarter

Certified that the funds raised through GDRs/ADRs have not been invested in stock market or real estate.

Sd/-
Chartered Accountant

Sd/-
Authorised Signatory of
the Company

ANNEX 12

APPENDIX

List of Important Circulars/Notifications which have been consolidated in the Master Circular on Foreign Investments/Acquisition of Immovable property in India/Establishment of Branch, Liaison and Project Offices in India and investments in proprietary/partnership firms

Notifications

Sl.No.	Notification	Date
1.	No. FEMA 32/2000-RB	December 26, 2000
2.	No. FEMA 35/2001-RB	February 16, 2001
3.	No. FEMA 41/2001-RB	March 2, 2001
4.	No. FEMA 45/2001-RB	September 20, 2001
5.	No. FEMA 46/2001-RB	November 29, 2001
6.	No. FEMA 50/2002-RB	February 20, 2002
7.	No. FEMA 55/2002-RB	March 7, 2002
8.	No. FEMA 76/2002-RB	November 12, 2002
9.	No. FEMA 85/2003-RB	January 17, 2003
10.	No. FEMA 94/2003-RB	June 18, 2003
11.	No. FEMA 100/2003-RB	October 3, 2003
12.	No. FEMA 101/2003-RB	October 3, 2003
13.	No. FEMA 106/2003-RB	October 27, 2003
14.	No. FEMA 108/2003-RB	January 1, 2004
15.	No. FEMA 111/2004-RB	March 6, 2004
16.	No.FEMA 118/2004-RB	June 29, 2004
17.	No.FEMA 122/2004-RB	August 30, 2004
18.	No.FEMA 125/2004-RB	November 27, 2004
19.	No.FEMA 130/2005-RB	March 17, 2005
20.	No.FEMA 131/2005-RB	March 17, 2005
21.	No.FEMA 138/2005-RB	July 22, 2005
22.	No. FEMA 136/2005-RB	July 19, 2005
23.	No. FEMA 137/2005- RB	July 22, 2005
24.	No.FEMA 138/2005-RB	July 22, 2005
25.	No. FEMA 149/2006-RB	June 9, 2006
26.	No. FEMA 153/2006-RB	May 31, 2007
27.	No. FEMA 167/2007-RB	October 23, 2007
28.	No. FEMA 170/2007-RB	November 13, 2007
29.	No. FEMA 179/2008-RB	August 22, 2008
30.	No. FEMA 202/2009-RB	November 10, 2009
31.	No. FEMA 205/2010-RB	April 7, 2010

Circulars

Sl. No.	Circular No.	Date
1.	A.P.DIR(Series) Circular No.14	September 26, 2000
2.	A.P.DIR(Series) Circular No.24	January 6, 2001
3.	A.P.DIR(Series) Circular No.26	February 22, 2001
4.	A.P.DIR(Series) Circular No.32	April 28, 2001
5.	A.P.DIR(Series) Circular No.13	November 29, 2001
6.	A.P.DIR(Series) Circular No.21	February 13, 2002
7.	A.P.DIR(Series) Circular No.29	March 11, 2002
8.	A.P.DIR(Series) Circular No.45	November 12, 2002
9.	A.P.DIR(Series) Circular No.52	November 23, 2002
10.	A.P.DIR(Series) Circular No.68	January 13, 2003
11.	A.P.DIR(Series) Circular No.69	January 13, 2003
12.	A.P.DIR(Series) Circular No.75	February 3, 2003
13.	A.P.DIR(Series) Circular No.88	March 27, 2003
14.	A.P.DIR(Series) Circular No.101	May 5, 2003
15.	A.P.DIR(Series) Circular No.10	August 20, 2003
16.	A.P.DIR(Series) Circular No.13	September 1, 2003
17.	A.P.DIR(Series) Circular No.14	September 16, 2003
18.	A.P.DIR(Series) Circular No.28	October 17, 2003
19.	A.P.DIR(Series) Circular No.35	November 14, 2003
20.	A.P.DIR(Series) Circular No.38	December 3, 2003
21.	A.P.DIR(Series) Circular No.39	December 3, 2003
22.	A.P.DIR(Series) Circular No.43	December 8, 2003
23.	A.P.DIR(Series) Circular No.44	December 8, 2003
24.	AP DIR (Series) Circular No.53	December 17, 2003
25.	A.P.DIR(Series) Circular No.54	December 20, 2003
26.	A.P.DIR(Series) Circular No.63	February 3, 2004
27.	A.P.DIR(Series) Circular No.67	February 6, 2004
28.	A.P.DIR(Series) Circular No.89	April 24, 2004
29.	A.P.DIR(Series) Circular No.11	September 13, 2004
30.	A.P.DIR(Series) Circular No.13	October 1, 2004
31.	A.P.DIR(Series) Circular No.15	October 1, 2004
32.	A.P.DIR(Series) Circular No.16	October 4, 2004
33.	A.P. DIR(Series) Circular No. 04	July 29, 2005
34.	A.P. DIR(Series) Circular No. 06	August 11, 2005
35.	A.P. DIR(Series) Circular No. 07	August 17, 2005
36.	A.P. DIR (Series) Circular No. 08	August 25, 2005
37.	A. P. DIR (Series) Circular No. 10	August 30, 2005
38.	A.P. DIR (Series) Circular No. 11	September 05, 2005
39.	A.P. DIR (Series) Circular No.16	November 11, 2005
40.	A.P. DIR (Series) Circular No. 24	January 25, 2006
41.	A.P. DIR (Series) Circular No. 4	July 28, 2006
42.	A.P. DIR (Series) Circular No. 12	November 16, 2006
43.	A.P. DIR (Series) Circular No. 25	December 22, 2006

44.	A.P. DIR (Series) Circular No. 32	February 8, 2007
45.	A.P. DIR (Series) Circular No. 40	April 20, 2007
46.	A.P. DIR (Series) Circular No. 62	May 24, 2007
47.	A.P. DIR (Series) Circular No. 65	May 31, 2007
48.	A.P. DIR (Series) Circular No. 73	June 8, 2007
49.	A.P. DIR (Series) Circular No. 74	June 8, 2007
50.	A.P. DIR (Series) Circular No. 2	July 19, 2007
51.	A.P. DIR (Series) Circular No. 20	December 14, 2007
52.	A.P. DIR (Series) Circular No. 22	December 19, 2007
53.	A.P. DIR (Series) Circular No. 23	December 31, 2007
54.	A.P. DIR (Series) Circular No. 40	April 28, 2008
55.	A.P. DIR (Series) Circular No. 41	April 28, 2008
56.	A.P. DIR (Series) Circular No. 44	May 30, 2008
57.	A.P. DIR (Series) Circular No. 25	October 17, 2008
58.	A.P. DIR (Series) Circular No. 63	April 22, 2009
59.	A.P. DIR (Series) Circular No. 5	July 22, 2009
60.	A.P. DIR (Series) Circular No. 47	April 12, 2010
61.	A.P. DIR (Series) Circular No. 49	May 4, 2010
62.	A.P. DIR (Series) Circular No. 13	September 14, 2010
63.	A.P. DIR (Series) Circular No. 45	March 15, 2011
64.	A.P. DIR (Series) Circular No. 54	April 29, 2011
65.	A.P. DIR (Series) Circular No. 55	April 29, 2011
66.	A.P. DIR (Series) Circular No. 57	May 2, 2011
67.	A.P. DIR (Series) Circular No. 58	May 2, 2011
68.	A.P. DIR (Series) Circular No. 74	June 30, 2011

□□

1. "Shares" mentioned in this **Master Circular** means equity shares, "preference shares" means fully and mandatorily convertible preference shares and "convertible debentures" means fully and mandatorily convertible debentures [cf. A. P. (DIR Series) Circular Nos. 73 & 74 dated June 8, 2007].

2. "Person resident in India" means—[As per FEMA Sec 2(v)]

(i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include—

(A) 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) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) 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;

- (ii) any person or body corporate registered or incorporated in India,
- (iii) an office, branch or agency in India owned or controlled by a person resident outside India,
- (iv) an office, branch or agency outside India owned or controlled by a person resident in India;

□ "person resident outside India" means a person who is not resident in India; [As per FEMA Sec 2(w)].

3. As per Notification No. FEMA 205/2010- RB dated April 7,2010.

4. A.P.(DIR Series) Circular No. 49 dated May 4, 2010.

5. Issued vide AP DIR Series Circular No 58 dated May 2, 2011, wherein Escrow account can also be used for received for amount of consideration and also for keeping securities to facilitate FDI transactions subject to the terms and conditions as given in the Circular. The account has to be maintained with the Authorized Dealer Category – I bank or an SEBI authorised Depository Participant. The guidelines in the circular are applicable for issue of fresh shares as well as for transfer of existing shares.

6. As per Notification no. FEMA 1/2000-RB dated May 3, 2000.

7. As per Notification no. FEMA 20/2000-RB dated May 3, 2000.

8. Addressed to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, 11th floor, Fort, Mumbai 400 001 along with the documents prescribed in Annex-4.

9. Applications to be addressed to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai.

10. Regulation issued under Notification No. FEMA 120.

11. As per DBOD Circular No. DBOD.No.PSBD.7269/16.13.100/2006-07 dated February 5, 2007 bank raising fund through ADR/GDR mechanism, should give an undertaking to the Reserve Bank that they would not take cognizance to voting by the depository, should the depository vote in contravention of its agreement with the bank.

* "Real estate business" does not include construction of housing/commercial premises, educational institutions, recreational facilities, city and regional level infrastructure, townships.

12. As per Notification no FMD.MSRG.No.39/02.04.003/2009-10 dated August 28,2008 FIIs registered with SEBI may purchase/sell Interest Rate Futures subject to the condition that total gross long position does not exceed their individual permissible limit for investment in Government securities and the total gross short position, for the purpose of hedging only, does not exceed their long position in the Government securities and in the Interest Rate Futures at any point of time.

13. Addressed to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai.

14. AP Dir Series Circular No. 55 dated April 29, 2011

15. Addressed to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Foreign Investment Division, Central Office, Central Office Building, Mumbai 400 001.

16. In terms of AP Dir Series Circular No. 45 dated March 15, 2011 submission of Part B of form FC-GPR has been discontinued. Indian companies are now required to submit an Annual return for Foreign Assets and Liabilities.

17. Addressed to the Chief General Manager- in-Charge, Foreign Exchange Department, Reserve Bank of India, Foreign Investment Division, Central Office, Central Office Building, Mumbai 400 001.

18. 'Non-Resident Indian (NRI)' means a person resident outside India who is a citizen of India or is a person of Indian origin;

19. 'Person of Indian Origin' means a citizen of any country other than Bangladesh or Pakistan or Sri Lanka, if

(a) he at any time held Indian passport; or

(b) he or either of his parents or any of his grand-parents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or

(c) the person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b);

20. Addressed to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai

21. Addressed to the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai

22. AP (DIR Series) Circular No. 08 dated August 25, 2005

* If there is more than one foreign investor/collaborator, separate Annex may be included for items 3 and 4 of the Form.

23. SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

24. If the company doesn't have a full time Company Secretary, a certificate from a practicing Company Secretary may be submitted.

SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

THANK YOU

You comments, suggestions and criticism please send to Prakash@yourownadviser.com