Foreign Exchange Management Act, 1999 ('FEMA')

Residential Status, NRIs/ OCIs/
Resident Individuals/ Liberalised
Remittance Scheme/ Returning
Indians Facilities and Obligations

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Coverage

- Rules, Regulations, Master Directions, FAQs
- Residential Status under FEMA
- Investments by NRIs (Limited coverage other than FDI)
- NRI-Deposit Schemes-Account facilities
- NRI-Remittance facilities for NRIs
- Borrowing and lending facilities
- Resident Individuals-Acquisition of foreign security
- Foreign Currency Account by Residents in India
- Foreign Currency Accounts Outside India by Resident Individuals
- Resident Individuals-Remittances & Other forex facilities
- Resident but not permanently resident in India
- Liberalised Remittance Scheme -('LRS Scheme') Other than ODI
- Liberalised Remittance Scheme ('LRS Scheme') FEMA 120/ODI Structure
- Change of residential status- Resident to Non-resident
- Change of residential status- Non-Resident to Resident
- Immovable Properties in India & Abroad Not covered

Foreign Exchange Management Act, 1999 Rules Regulations Master Directions FAQs

Rules under FEMA

1.	FEM (Encashment of Draft, Cheque, Instrument and Payment of Interest) Rules, 2000
2.	FEM (Authentication of Documents) Rules, 2000
3.	FEM (Adjudication Proceedings and Appeals) Rules, 2000
4.	FEM (Current Account Transactions) Rules, 2000
5.	FEM (Compounding proceedings) Rules, 2000
6.	Appellate Tribunal for Foreign Exchange (Recruitment, Salary & Allowances & Other Conditions of Service of Chairperson & Members) Rules, 2000
7.	FEM (Non-Debt) Instruments Rules, 2019 Administered by the Reserve Bank. may interpret and issue such directions, circulars, instructions, clarifications, as it may deem necessary, for effective implementation of the provisions of these rules.

Regulations under FEMA

1.	FEMA 1/2000 - FEM (Permissible Capital Account Transactions)
	Regulations, 2000
	Permissible Capital Account Transactions + Liberalised Remittance Scheme
2.	FEMA 2/2000 - FEM (Issue of Security in India by a branch, office or
	Agency of a person resident outside India) Regulations, 2000
	Transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India
3.	FEMA 3(R)/2018 - FEM (Borrowing or Lending) Regulations, 2018
	Borrowing and lending between a person resident in India and a person resident outside India
4.	FEMA 4/2000 - FEM (Borrowing and Lending in Rupees) Regulations,
	2000 - Superseded by FEMA 3(R)/2018
	Any borrowing or lending in rupees in whatever form or by whatever name called
	between a person resident in India and a person resident outside India
5.	FEMA 5(R)/2016 - FEM (Deposit) Regulations, 2016
	Deposits between persons resident in India and persons resident outside India
6.	FEMA 6(R)/2015 - FEM (Export & Import of Currency) Regulations, 2015
	Export, import or holding of currency or currency notes
7.	FEMA 7(R)/2015 - FEM (Acquisition and Transfer of Immovable Property
	Outside India) Regulations, 2015
	Transfer of immovable property outside India, other than a lease not exceeding
	five years, by a person resident in India

Regulations under FEMA (25)

8,	FEMA 8/2000 - FEM (Guarantees) Regulations, 2000 Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred - (i)by a person resident in India and owed to a person resident outside India and (ii) by a person resident outside India
9.	FEMA 9(R)/2015 - FEM (Realisation, repatriation and surrender of foreign exchange) Regulations, 2015 Realisation, Repatriation and Surrender of Foreign Exchange
10.	FEMA 10(R)/2015 - FEM (Foreign currency accounts by a person resident in India) Regulations, 2015 Foreign Currency Accounts by a Person Resident in India
11.	FEMA 10A/2014 - FEM (Crystallization of <u>Inoperative Foreign Currency</u> Deposits) Regulations, 2014 Inoperative foreign currency deposits - inoperative for a period of 3 years
12.	FEMA 11(R)/2015 - FEM (Possession and retention of foreign currency) Regulation, 2015 Possession and retention of Foreign Currency
13.	FEMA 12(R)/2015 - FEM (Insurance) Regulations, 2015 Holding by a person resident in India of a general or life insurance policy issued by an insurer outside India
14.	FEMA 13(R)/2016 - FEM (Remittance of Assets) Regulations, 2016 Remittance outside India by a person whether resident in India or not, of assets in India
15.	FEMA <u>14(R)/2016</u> - FEM (Manner of Receipt & Payment) Regulations, 2016 Manner of Receipt and Payment
16.	FEMA <u>395/2019</u> - FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019

Regulations under FEMA (25)

17.	FEMA 21(R)/2018 - FEM (Acquisition and Transfer of Immovable Property in India)
	Regulations, 2018 - Superseded by NDI Rules 2019
	Acquisition or transfer of immovable property in India, other than a lease not
	exceeding five years, by a person resident outside India
18.	FEMA <u>22(R)/2016</u> - FEM (Establishment in India of a Branch Office or a Liaison
	Office or a Project Office or any Other Place of Business) Regulations, 2016
	Establishment in India of a Branch Office or a Liaison Office or a Project Office or
	any Other Place of Business
19.	FEMA <u>23(R)/2015</u> - FEM (Export of Goods and Services) Regulations, 2015
	Export of Goods and Services
20.	FEMA 25/2000 - FEM (Foreign Exchange Derivative Contracts) Regulations, 2000
	Foreign Exchange Derivative Contracts
21.	FEMA 120/2004 - FEM (Transfer or Issue of any Foreign Security) Regulations,
	2004 - ODI Regulations
	Transfer or issue of any Foreign Security
22.	FEMA 348/2015-Foreign Exchange Management (Regularization of assets held
	abroad by a person resident in India) Regulations, 2015
	Regularization of assets held abroad by a person resident in India - The Black
	Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
23.	FEMA 71/2002 - FEM (Offshore Banking Unit) Regulations, 2002
	Branch of a bank in India located in the Special Economic Zone
24.	FEMA 101/2003 - FEM (Withdrawal of General Permission to Overseas Corporate
	Bodies (OCBs)) Regulations, 2003
	Withdrawal of General Permission to OCBs
25.	FEMA 339/2015 - FEM (International Financial Services Centre) Regulations, 2015
	Financial institutions set up in International Financial Services Centres
26.	FEMA 396/2019 - FEM (Debt Instruments) Regulations, 2019

Master Directions

- Borrowing and Lending transactions in Indian Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin updated as on **01.01.2016** FED Master Direction No. 6/2015-16
- Compounding of Contraventions under FEMA, 1999 updated as on **04.01.2021** FED Master Direction No.4/2015-16
- Deposits and Accounts updated as on 09.01.2020 FED Master Direction No. 14/2015-16
- **Direct Investment Abroad** by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) updated as on **24.06.2021** FED Master Direction No.15/2015-16
- Immovable Property under Foreign Exchange Management Act, 1999 updated as on 11.04.2018 FED Master Direction No. 12/2015-16
- Liaison/ Branch/ Project Offices in India by Foreign Entities updated as on 18.05.2021 FED Master Direction No. 10/2015-16
- Export of Goods and Services updated as on 08.01.2021 FED Master Direction No.16/2015-16
- Export of Goods and Services Project Exports dated 14.01.2016 A.P. (DIR Series) Circular No.39 dated 14 January 2016
- External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers – updated as on 22.11.2018 - FED Master Direction No.5/2015-16
- Foreign Investment in India updated 08.03.2019 FED Master Direction No.11/2017-18
- Guarantees and Co-acceptances Master Circular dated 01.07.2015 DBR. No. Dir. BC.11/ 13.03.00/ 2015-16
- Import of Goods and Services updated as on 28.10.2020 FED Master Direction No.17/2016-17
- Insurance updated as on 17.11.2016 FED Master Direction No. 9/2015-16
- Liberalised Remittance Scheme (LRS) updated as on 20.06.2018 FED Master Direction No. 7/2015-16
- Miscellaneous updated as on 12.11.2018 FED Master Direction No.19/2015-16
- Money Changing Activities updated as on 29.03.2019 FED Master Direction No. 3/2015-16
- Other Remittance Facilities updated as on 06.11.2018 FED Master Direction No. 8/2015-16
- Remittance of Assets updated as on 28.04.2016 FED Master Direction No. 13/2015-16
- Reporting under Foreign Exchange Management Act, 1999 updated as on **08.06.2021 FED Master** Direction No.18/2015-16
- Risk Management and Inter-Bank Dealings updated as on 21.03.2017 FMRD Master Direction No. 1/2016-17 Opening and Maintenance of Rupee/Foreign Currency Vostro Accounts of Non-resident Exchange Houses updated as on 08.09.2020 FED Master Direction No. 2/2015-16

Frequently Asked questions (FAQs) by RBI

Accounts in India by Non-residents - 12.02.2020

- **Annual Return** on Foreign Liabilities and Assets (**FLA return**) under FEMA 1999 **18.06.2014**
- Asian Clearing Union 03.03.2021
- Compounding of Contraventions under FEMA, 1999 16.02.2021
- Exchange Earner's Foreign Currency (EEFC) Account 05.07.2016
- External Commercial Borrowings & Trade Credits (ECB) 29.05.2019
- Foreign Currency Accounts by Resident Individuals 01.08.2016
- Foreign Investments in India 07.05.2018
- Hedging of Price Risk in Commodities 04.07.2014
- Immovable Property 07.05.2018
- Liberalised Remittance Scheme (LRS) for Residents 13.02.2019
- Liaison / Branch / Project Offices of foreign entities in India 26.12.2016
- Miscellaneous Forex Facilities 01.08.2017
- Money Changing Activities 23.10.2019
- Remittance of Assets 02.09.2016
- Overseas Direct Investments 19.09.2019
- Special Non-Resident Rupee Accounts-19.11.2020
- Issuance of Rupee denominated bonds overseas 9.10.2017
- Remittances [Money Transfer Service Scheme (MTSS) and Rupee Drawing Arrangement (RDA)] - 18.01.2017
- Swap Window for attracting FCNR (B) Dollar funds 18.09.2013

Residential Status under FEMA

Residential Status under Foreign Exchange Management Act, 1999 ('FEMA')

A "person resident outside India" is also referred to as 'Non-Resident' from FEMA perspective.

Non-Resident Indian ('NRI') means an individual resident outside India who is citizen of India.

'Overseas Citizen of India' ('OCI') means an individual resident outside India who is not a citizen of India and who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955.

'Person of Indian Origin' ('PIO') means a person resident outside India who is not a citizen of India, and satisfying other prescribed conditions mentioned in the relevant Regulation for being eligible as a PIO.

PIO is no longer a separate category under certain FEMA Regulations [except under Foreign Exchange Management (Deposit) Regulations, 2016 and Foreign Exchange Management (Remittance of Assets) Regulations, 2016] and has been subsumed to say so as OCI. The existing Persons of Indian Origin (PIO) Cardholders are deemed to be Overseas Citizens of India (OCI) Cardholders. Vide Government of India's Gazette Notification No.25024/9/2014-F.I dated 09.01.2015; the PIO Scheme has been withdrawn. Vide Gazette Notification No.26011/01/2014-IC.I dated 09.01.2015, all PIO Cards issued till 09.01.2015 are deemed to be OCI Cards. Consequently, no PIO Card are issued w.e.f. 09.01.2015.

Residential Status under Foreign Exchange Management Act, 1999 ('FEMA')

'Person of Indian Origin (PIO)' means a person resident outside India who is a citizen of any country other than Bangladesh or Pakistan or such other country as may be specified by the Central Government, satisfying the following conditions:

- (a) Who was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or
- (b) Who belonged to a territory that became part of India after the 15th day of August, 1947; or
- (c) Who is a **child or a grandchild or a great grandchild** of a citizen of India or of a person referred to in clause (a) or (b); or
- (d) Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred to in clause (a) or (b) or (c).

Explanation: for the purpose of this sub-regulation, the expression 'Person of Indian Origin' includes an 'Overseas Citizen of India' cardholder within the meaning of section 7(A) of the Citizenship Act, 1955.

Citizenship of a foreign country has/ will have no bearing on the residential status of the Individual under FEMA. A person resident outside India on becoming citizen of a foreign country qualifies as an 'Overseas Citizen of India' ('OCI'). An OCI will have to obtain OCI Card to be eligible for the privileges as OCI [except under Foreign Exchange Management (Deposit) Regulations, 2016 and Foreign Exchange Management (Remittance of Assets) Regulations, 2016].

The Indian Citizenship Act, 1955, does not allow dual citizenship. OCI cannot be equated to Dual Citizenship. It is a statutory right and not a fundamental or constitutional right.

Section **7A** provides for registration of Overseas Citizen of India Cardholder by:

- (a) any person of full age and capacity, -
 - (i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after the commencement of the Constitution i.e. 26.01.1950; or
 - (ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution Citizenship Act, 1955; or
 - (iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or
 - (iv) who is a child or a grandchild or a great grandchild of such a citizen; or

- (b) a person, who is a minor child of a person mentioned in clause (a); or
- (c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or
- (d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section. For the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India.

OCI Cardholder shall have parity with <u>NRIs</u> in respect of all facilities available to them in economic, financial and educational fields except in matters relating to purchase or sale of immovable properties other than agricultural land or farm house or plantation property.

MHA notification dated 4th March, 2021: "Non-Resident Indian" shall have the same meaning as assigned to it in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2018 made by the Reserve Bank of India under the Foreign Exchange Management Act, 1999 (42 of 1999) and who fulfils the "Non-Resident Indian" status as per the Income Tax Act, 1961.

Resident is as defined u/s Sec 2(42) of the Income-tax Act, 1961. "Resident" means a person who is resident in India within the meaning of section 6.

In case of an individual, "person resident in India" means a person residing in India for more than 182 days during the course of the *preceding financial year* (April to March) 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.

In case of an individual, "person resident outside India" means a person who is not resident in India.

If one goes out of India or who stays outside India for circumstances/reasons mentioned in '(A)' above, he becomes Non-Resident under FEMA immediately. The period of stay in India in current financial year or in the preceding financial year has no bearing in such a case.

When a person resident in India **leaves India for a country** (other than Nepal or Bhutan) for taking up employment, or for carrying on business or vocation outside India or for any other purpose indicating his intention to stay outside India for an uncertain period, his existing account should be designated as a Non-Resident (Ordinary) account. Schedule 3 - [See Regulation 5(1) (iii)] - FEM (Deposit) Regulations, 2016.

On the same principle, if an individual return to India for circumstances/reasons mentioned in '(B)' above, he becomes Resident in India irrespective of his stay in India in current financial year or in the preceding financial year.

NRE accounts (also applies to NRO accounts) should be re-designated as resident accounts or the funds held in these accounts may be transferred to the RFC accounts (if the account holder is eligible for maintaining RFC account) at the option of the account holder, immediately upon the **return of the account holder to India** for taking up employment or for carrying on business or vocation or for any other purpose indicating intention to stay in India for an uncertain period.

For **limited purpose of acquiring immovable property in India** under FEMA, to be treated as a person Resident in India, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the preceding financial year – April to March) but has to also comply with the condition of the purpose/ intention of stay. The intention to stay has to be unambiguously established with supporting documentation including visa. Indian visa granted to him to clearly indicate the intention to stay in India for an uncertain period.

Press Release of Government of India, Ministry of Finance dated February 1, 2009 - Government's advice on acquiring land by persons residing outside India - "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 has to be unambiguously established with supporting documentation including visa".

Under **Income-tax Act**, presence/ stay in India is important for determination of residential status. It merely considers number of days of stay in India. Under FEMA, circumstances/reasons mentioned in '(A)' / '(B)' above are important. Under FEMA, it is the intention of 'going out of India or staying outside India' or 'coming to or staying in India' determines the residential status.

Under Income-tax Act, one is either a resident or a non-resident for the entire previous/financial year. One cannot be resident for a part of the year, and non-resident for rest of the year. Under FEMA, status is determined on the date when one applies the provisions of FEMA.

If NRI returns to stay in India for an 'uncertain period' he will become a person resident in India. The type of visa granted should clearly indicate the intention to stay in India for an uncertain period to determine his residential status under FEMA.

Employment involves: Proper employment contract with Appointment letter, Appropriate employment/work visa, Monthly salary credit in Bank account, Stay proof – Utility Bills, Clear Arrival & Departure stamps a must on passport.

Example 1:

A person has been a Non-resident of India for 10 years. In **November 2018, he comes to India on employment**. Will such a person be an Indian resident? If yes, from when?

When can he acquire immovable property in India as Resident in India?

From when NDI Rules for investments in India and Deposit Regulations not apply to him?

In FY 2017-18 (preceding financial year for 2018-19) he was in India for less than 182 days. First limb is not satisfied. Hence, he will continue to be a non-resident for FY 2018-19.

Will such a person be covered by clause (B) and be considered as an Indian resident? As we have seen, if a person does not get covered within the first limb, he cannot even go to that exception. Hence from Nov. 2018 to 31st March 2019 also the person continues to be a non-resident.

Going forward, in FY 2018-19 (preceding financial year for 2019-20) he was in India for less than 182 days. First limb is not satisfied. As we have seen, if a person does not get covered within the first limb, he cannot even go to that exception. Hence for FY 2019-20, he will continue to be a non-resident.

From 1st April 2020 the person will be a resident as in preceding year 2019-20, he would be in India for more than 182 days.

Continued......

This would mean that the person continues to be a non-resident from Nov 2018 till 31st March 2020 although he has come to India for employment.

Change of Resident Status of Account holder - From Non-resident to Resident - NRO accounts- Schedule 3 - [See Regulation 5(1) (iii)] - FEM (Deposit) Regulations, 2016:

NRO accounts may be re-designated as resident rupee accounts on the return to the account holder to India for taking up employment, or for carrying on business or vocation or for any other purpose indicating his intention to stay in India for an uncertain period. Where the account holder is only on a temporary visit to India, the account should continue to be treated as non-resident during such visit.

Re-designation of the existing bank account in India is the first formal recognition one gets as Resident or Non-Resident.

Example 2:

Mr. A is settled in Singapore for past three generations having family business. He has been frequently visiting India for 5-6 years for periods exceeding 182 days during one each of these years. His family is settled abroad but parents are in India all along. He is a Singaporean National of Indian origin. Earlier he was visiting India on tourist visa but now holds OCI card. He does not have any business activity in India but has NRE/FCNR deposits with the bank in India, and holds several investments in Mutual funds/ listed securities under portfolio investment scheme of Schedule III of NDI Rules. His claim is that since he does not have any intensions to return/settle down in India in the near future, he is NR in India.

Even though he satisfies 182 days condition of stay in India in preceding financial year, he would fall under the exception since he has no intention to permanently reside in India. However, this is a matter of fact & conduct. A bald statement that no intention to permanently reside is not enough if conduct demonstrates otherwise. If he has come for employment or doing business in India of for uncertain period, he is a resident.

Similarly, a person employed by a Group Based in Singapore/ China, wherein he frequently visits India to stay with his family residing in India for more than 182 days in India (Parents have been in India all along). He is Non-Resident under FEMA because he has not returned to India for taking up employment, or for carrying on business or vocation or for any other purpose indicating his intention to stay in India for an uncertain period.

FEMA (Non-Debt) Instruments Rules, 2019 'NDI Rules'

FEM (Debt Instruments) Regulations, 2019

Investments by NRIs

- 1. NRI for purchase of equity instruments under **Schedule I of NDI Rules FDI**
- 2. A NRI or an OCI may, on repatriation basis, purchase or sell equity instruments of a listed Indian company and other securities in the manner and subject to the terms and conditions prescribed in **Schedule III**.

Purchase or sale of units of domestic mutual funds: A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may without limit purchase or sell units of domestic mutual funds which invest more than 50 percent in equity.

Purchase or sale of shares in public sector enterprises: A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may, without limit purchase or sell shares in public sector enterprises **being disinvested** by the Central Government, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids.

Subscription to National Pension System: A NRI or an OCI may subscribe to the National Pension System governed and administered by Pension Fund Regulatory and Development Authority (PFRDA), provided such person is eligible to invest as per the provisions of the Pension Fund Regulatory and Development Authority Act. The annuity/ accumulated saving will be repatriable.

- 3. A NRI or an OCI may, **on non-repatriation basis**, purchase or sell **equity instruments** of an Indian **company** or other securities or contribute to the capital of a **LLP or a firm or proprietary concern**, in the manner and subject to the terms and conditions specified in **Schedule IV**.
- 4. Investment in a Limited Liability Partnership (LLP) on repatriation basis Schedule VI

Schedule IV 1/2

Purchase or sale of equity instruments or convertible notes or units or contribution to the capital of a LLP

- (a) A Non-resident Indian (**NRI**) or an Overseas Citizen of India (**OCI**), <u>including</u> a company, a trust and a partnership firm incorporated outside India and owned and controlled by NRIs or OCIs, may purchase or contribute, as the case may be, on non-repatriation basis the following, namely:
- (i) a equity instrument issued by a company without any limit either on the stock exchange or outside it;
- (ii) units issued by an investment vehicle without any limit, either on the stock exchange or outside it;
- (ii) The capital of a Limited Liability Partnership without any limit;
- (iv) convertible notes issued by a start-up company in accordance with these rules.
- (b) The investment detailed at paragraph (a) above shall be deemed to be domestic investment at par with the investment made by residents.
- Company, a trust and a partnership firm incorporated outside India ??:
 Can invest directly from abroad. Unlike NRIs they cannot open NRE/FCNR accounts. At best they can open NRO account. SNNR account cannot be opened.
 Current income is repatriable. Capital contribution will need RBI permission as US\$ 1 million is not allowed to them.
- Any **other capital instrument or security is not allowed**. Unless specifically allowed under Schedule V.
- Purchase or sale of units of domestic mutual funds
- A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may without limit purchase or sell units of domestic mutual funds on non-repatriation basis which invest more than 50% in equity.

Schedule IV 2/2

- Prohibition on purchase of equity instruments of certain companies.
- A NRI or an OCI including a company, a trust and a partnership firm incorporated outside India and owned and controlled by NRIs or OCIs, shall not make any investment, under this Schedule, in equity instruments or units of a Nidhi company or a company engaged in agricultural or plantation activities or real estate business or construction of farm houses or dealing in transfer of development rights.
- Explanation: Real estate business shall have the same meaning as specified in sub-paragraph (b) of paragraph (3) of Schedule 1.
- Investment in a firm or a proprietary concern.
- Contribution to capital of a firm or a proprietary concern.
- A NRI or an OCI may invest on a non-repatriation basis, by way of contribution to the capital of a firm or a proprietary concern in India provided such firm or proprietary concern is not engaged in any agricultural or plantation activity or print media or real estate business.
- No pricing / valuation guidelines apply.
- No reporting to RBI/ AD Bank
- Mode of Payment: Inward remittance from abroad through banking channels or out of funds held in NRE/FCNR(B)/NRO
- Sale/maturity proceeds (net of applicable taxes): credited only to the NRO account

Foreign Exchange Management (Debt Instruments) Regulations, 2019

Permission to Non-resident Indians (NRIs) or Overseas Citizens of India (OCIs) – Repatriation basis:

- (1) A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may, without limit, purchase the following instruments on repatriation basis,
 - a. Government dated securities (other than bearer securities) or treasury bills or units of domestic mutual funds or Exchange-Traded Funds (ETFs) which invest less than or equal to 50 percent in equity;
 - b. Bonds issued by a Public Sector Undertaking (PSU) in India;
 - c. Bonds issued by Infrastructure Debt Funds;
 - d. Listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 6 of these Regulations;
- (2) An NRI or an OCI may purchase on repatriation basis **debt instruments issued by banks**, **eligible for inclusion in regulatory capital**.
- (3) An NRI may subscribe to **National Pension System** governed and administered by Pension Fund Regulatory and Development Authority (PFRDA), provided such person is eligible to invest as per the provisions of the PFRDA Act. The **annuity/accumulated saving will be repatriable**:

Provided that NRI/OCIs may offer such instruments as permitted by the Reserve Bank from time to time as collateral to the recognized Stock Exchanges in India for their transactions in exchange traded derivative contracts.

Permission to Non-resident Indians (NRIs) or Overseas Citizens of India (OCIs) – Non-Repatriation basis:

- (1) An NRI or an OCI may, without limit, purchase on non-repatriation basis, dated Government securities (other than bearer securities), treasury bills, units of domestic mutual funds or Exchange-Traded Funds (ETFs) which invest less than or equal to 50 percent in equity, or National Plan/ Savings Certificates.
- (2) An NRI or an OCI may, without limit, purchase on non-repatriation basis, listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 6 of these Regulations.
- (3) An NRI or an OCI may, without limit, on non-repatriation basis subscribe to the chit funds authorised by the Registrar of **Chits** or an officer authorised by the State Government in this behalf.

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account Scheme [NRO Account]
Who can open an account	NRIs and PIOs (including Individual/entities Bangladesh shall requor of the Reserve Bank of the Reserve Ba	of Pakistan and uire prior approval	Any person resident outside India for putting through bonafide transactions in rupees. Individuals/ entities of Pakistan nationality/ origin and entities of Bangladesh origin require the prior approval of the Reserve Bank of India. A Citizen of Bangladesh/Pakistan belonging to minority communities in those countries i.e. Hindus, Sikhs, Buddhists, Jains, Parsis and Christians residing in India and who has been granted LTV or whose application for LTV is under consideration, can open only one NRO account with an AD bank subject to the conditions mentioned in Notification No. FEMA 5(R)/2016-RB dated April 01, 2016, as updated from time to time. Post Offices in India may maintain savings bank accounts in the names of persons resident outside India and allow operations on these accounts subject to the same terms and conditions as are applicable to NRO accounts maintained with an authorised dealer/authorised bank.

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account Scheme [NRO Account]	
Joint account	May be held jointly in the names of two or more NRIs/ PIOs.		May be held jointly in the names of two or more NRIs/ PIOs.	
	NRIs/ PIOs can hold jointly with a resident relative on 'former or survivor ' basis (relative as defined in Companies Act, 2013). The resident relative can operate the account as a Power of Attorney holder during the life time of the NRI/ PIO account holder.		May be held jointly with residents on 'former or survivor' basis.	
Currency	Indian Rupees Any permitted currency i.e. a foreign currency which is freely convertible		Indian Rupees	
Type of	Savings, Current,	Term Deposit only	Savings, Current, Recurring, Fixed Deposit	
Account	Recurring, Fixed Deposit			
Period for	From one to three	For terms not less	As applicable to resident accounts .	
fixed	years , However, banks	than 1 year and		
deposits	are allowed to accept NRE deposits above three years from their Asset- Liability point of view.	not more than 5 years		

Particulars	(No Account) Non-Resident (No Account Scheme Sch	ign Currency n-Resident) ount (Banks) neme [FCNR) Account]	Non-Resident Ordinary Rupee Account <mark>Scheme</mark> [NRO Account]
Permissibl e Credits	Credits permitted to this ad inward remittance from our interest accruing on the accinterest on investment, transother NRE/ FCNR(B) account account or through investments were mad account or through inward etc. Current income like rent, pension, interest etc. will be as a permissible credit to the account. Care: Only those credits when not lost repatriable characters.	tside India, count, nsfer from ints, ments (if de from this remittance) dividend, e construed ne NRE	Inward remittances from outside India, legitimate dues in India and transfers from other NRO accounts are permissible credits to NRO account. Rupee gift/ loan made by a resident to a NRI/ PIO relative within the limits prescribed under the Liberalised Remittance Scheme may be credited to the latter's NRO account.

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account Scheme [NRO Account]
Permissible	Permissible debits are lo	ocal	The account can be debited for the purpose of
Debits	disbursements, remittar		local payments, transfers to other NRO
	transfer to other NRE/		accounts or remittance of current income
	accounts and investmen	nts in India etc.	abroad.
			Apart from these, balances in the NRO account cannot be repatriated abroad except by NRIs and PIOs up to USD 1 million , subject to conditions specified in Foreign Exchange Management (Remittance of Assets) Regulations, 2016.
			Funds can be transferred to NRE account within this USD 1 Million facility.
Repatriablity	Repatriablity Repatriable		Not repatriable except for all current income.
			Balances in an NRO account of NRIs/ PIOs are remittable up to USD 1 (one) million per financial year (April-March) along with their other eligible assets.
Taxability	Income earned in the ac from income tax.	counts is exempt	Taxable

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non- Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account <mark>Scheme</mark> [NRO Account]
Loans in India	AD can sanction loans in holder/ third parties we to usual margin requires be repatriated outside. India only for the purpose regulations. In case of loans sanction should be no direct or is consideration for the neagreeing to pledge his deresident individual/ firm facilities. In case of the loan sanct holder, it can be repaid deposits or through inward outside India through bases.	In India to the account without any limit, subject ments. These loans cannot India and can be used in oses specified in the need to a third party, there indirect foreign exchange on-resident depositor eposits to enable the n/ company to obtain such tioned to the account either by adjusting the ard remittances from anking channels or out of	The term "loan" shall include all types of fund based/ non-fund-based
	holder.	clude all types of fund	

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account Scheme [NRO Account]	
Loans outside	Authorised Dealers may	allow their	Not permitted	
India	branches/ corresponder	nts outside India to		
	grant loans to or in favo	ur of non-resident		
	depositor or to third p	arties at the		
	request of depositor for	bona fide purpose		
	against the security of fu	unds held in the		
	NRE/ FCNR (B) account	es in India, subject		
	to usual margin require	ments.		
	The term "loan" shall include all types of			
	fund based/ non-fund based facilities.			
Rate of Interest	As per guidelines issue	d by the Departmen	nt of Banking Regulations	
Operations by	Operations in the accou	nt in terms of	Operations in the account in terms of Power of	
Power of	Power of Attorney is res	tricted to	Attorney is restricted to withdrawals for	
Attorney in	in withdrawals for permissible local		permissible local payments in rupees,	
			remittance of current income to the account	
resident	holder himself through normal banking		holder outside India or remittance to the	
	channels.		account holder himself through normal	
			banking channels. While making remittances,	
			the limits and conditions of repatriability will	
			apply.	

Particulars	Non-Resident (External) Rupee Account Scheme [NRE Account]	Foreign Currency (Non- Resident) Account (Banks) Scheme [FCNR (B) Account]	Non-Resident Ordinary Rupee Account Scheme [NRO Account]
	NRE accounts	On change in residential	NRO accounts may be
residential	should be	status, FCNR (B) deposits	designated as resident
	designated as	may be allowed to continue	accounts on the return of
	resident accounts	till maturity at the	the account holder to
to resident	^^^^^^^^^^^^	if so desired by the account holder. Authorised dealers should convert the FCNR(B) deposits on maturity into resident rupee deposit accounts or RFC account (if the depositor is eligible to	India for any purpose indicating his intention to stay in India for an uncertain period. Likewise, when a resident Indian becomes a person resident outside India, his existing resident account should be designated as NRO account.

Notes:

Current income can be credited to NRO account. Current income can be repatriated without any limit. It is outside US\$ 1 million scheme.

Transfers between NRE and FCNR(B) accounts are permitted even from accounts of different account holder.

Transfers between NRO accounts is also permitted.

What are the accounts that a tourist visiting India can open?

Answer: An NRO (current/ savings) account can 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. The balance in the NRO account may be paid to the account holder at the time of his departure from India provided the account has been maintained for a period not exceeding six months and the account has not been credited with any local funds, other than interest accrued thereon.

Can an Indian company accept deposits from non-residents in compliance with section 160 of the Companies Act, 2013?

Answer: Yes, such acceptance of deposit and refunds, if required, will be covered under current account transactions and can be made freely without any restriction from FEMA perspective.

Acceptance of Deposits on Repatriation basis from NRI / PIO:

With effect **from 24th April, 2004**, a company or a body corporate cannot accept deposits from NRI/PIO on repatriation basis. However, if deposits were accepted prior to 24th April, 2004, they **can be renewed subject** to conditions mentioned in Schedule 6 of FEMA 5R.

Acceptance of Deposits on Non-Repatriation basis from NRI / PIO:

A company registered under Companies Act, 2013 or a body corporate, a proprietary concern or a firm in India may accept deposits from a non-resident Indian or a person of Indian origin on non-repatriation basis, subject to the terms and conditions mentioned in Schedule 7 to Foreign Exchange Management (Deposit) Regulations, 2016.

A proprietorship concern or a firm in India and a company incorporated in India (including a nonbanking finance company registered with Reserve Bank) may accept deposits on non-repatriation basis from NRIs or PIOs subject to the following conditions:

- (i) In the case of a company, the deposits may be accepted either under private arrangement or under a public deposit scheme.
- (ii) If the deposit accepting company is a non-banking finance company, it should be registered with the Reserve Bank and should have obtained the required credit rating as stipulated under the guidelines issued by Reserve Bank for such companies.
- (iii) The maturity period of deposit shall not exceed 3 years.

- (iv) If the deposit accepting company is a non-banking finance company the rate of interest payable on deposits shall be in conformity with the guidelines/ directions issued by Reserve Bank for such companies. In other cases the rate of interest payable on deposits shall not exceed the ceiling rate prescribed from time to time under the Companies (Acceptance of Deposit) Rules, 2014.
- (v) The amount of deposit shall be received by **debit to NRO account only**, provided that the amount of the deposit shall **not represent inward remittances or transfer of funds from NRE/ FCNR (B) accounts into the NRO account**.
- (vi) The proprietorship concern/ firm/ company accepting the deposit should comply with the provisions of any other law, rules, regulations or orders made by Government or any other competent authority, as are applicable to it in regard to acceptance of deposits.
- (vii) The proprietorship concern, firm or company accepting the deposit shall **not utilise** the amount of deposits for **relending** (not applicable to a Non-Banking Finance Company) or for undertaking **agricultural/ plantation activities or real estate business or for investing in any other concern or firm or company engaged in or proposing to engage in agricultural/ plantation activities or real estate business**.
- (viii) The amount of deposits accepted shall **not** be allowed to be **repatriated** outside India.

Special Non-Resident Rupee Account - SNRR account

Any person resident outside India, having a business interest in India, may open a Special Non-Resident Rupee Account (SNRR account) with an authorised dealer for the purpose of putting through bona fide transactions in rupees, not involving any violation of the provisions of the Act, rules and regulations made thereunder.

The business interest, apart from generic business interest, shall include the following INR transactions, namely:

- i. Investments made in India in accordance with Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 dated October 17, 2019 and Foreign Exchange Management (Debt Instruments) Regulations, 2019 notified vide Notification No. FEMA 396/2019-RB dated October 17, 2019, as applicable and as amended from time to time.
- ii. Import of goods and services in accordance with Section 5 of the Foreign Exchange Management Act 1999 (42 of 1999), read with Notification No. G.S.R. 381(E) dated May 3, 2000, viz., Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time;
- Export of goods and services in accordance with Section 7 of the Foreign Exchange Management Act 1999 (42 of 1999), read with Notification No. G.S.R. 381(E) dated May 3, 2000, viz. Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time, and further read with FEMA Notification No.23(R)/2015-RB dated January 12, 2016, as amended from time to time;

- iv. Trade credit transactions and lending under External Commercial Borrowings (ECB) framework in accordance with Foreign Exchange Management (Borrowing and Lending) Regulations, 2018, as amended from time to time; and
- v. Business related transactions outside International Financial Service Centre (IFSC) by IFSC units at GIFT city like administrative expenses in INR outside IFSC, INR amount from sale of scrap, Government incentives in INR, etc. The account will be maintained with a bank in India (outside IFSC).

The SNRR account shall carry the nomenclature of the specific business for which it is in operation and shall not earn any interest.

Indian bank may, at its discretion, maintain separate SNRR account for each category of transactions or a single SNRR Account for a person resident outside India engaged in multiple categories of transactions provided it is able to identify/segregate and account them category-wise.

The debits/ credits and the balances in the account shall be incidental and commensurate with the business operations of the account holder.

Authorised Dealers shall ensure that all the operations in the SNRR account are in accordance with the provisions of the Act, rules and regulations made thereunder.

The tenure of the SNRR account should be concurrent to the tenure of the contract/ period of operation/ the business of the account holder and in no case should exceed seven years. Approval of the Reserve Bank shall be obtained in cases requiring renewal. However, the restriction of seven years shall not be applicable to SNRR accounts opened by persons resident outside India for the purposes stated at sub-paragraphs (i) to (v) above.

The operations in the SNRR account shall not result in the account holder making available foreign exchange to any person resident in India against reimbursement in rupees or in any other manner.

The balances in the SNRR account shall be eligible for repatriation and transfers from any NRO account to the SNRR account are prohibited.

All transactions in the SNRR account will be subject to payment of applicable taxes in India.

SNRR account may be designated as resident rupee account on the account holder becoming a resident.

The amount due/ payable to non-resident nominee from the account of a deceased account holder, shall be credited to NRO/NRE account of the nominee with an authorised dealer/ authorised bank in India or by remittance through normal banking channels.

Opening of SNRR accounts by Pakistan and Bangladesh nationals and entities incorporated in Pakistan and Bangladesh requires prior approval of Reserve Bank.

Also refer FAQs on 'Special Non-Resident Rupee Accounts-19.11.2020' by RBI.

Crystallization of Inoperative Foreign Currency Deposits -

Authorised Dealer banks are required to crystallise, that is, convert the credit balances in any inoperative foreign currency denominated deposit into Indian Rupee, in the manner indicated below:

- (a) In case a **foreign currency denominated deposit with a fixed maturity** date remains **inoperative for a period of three years** from the date of maturity of the deposit, at the end of the third year, the authorised bank shall **convert the balances lying in the foreign currency denominated deposit into Indian Rupee** at the exchange rate prevailing as on that date. Thereafter, the depositor shall be entitled to claim either the said Indian Rupee proceeds and interest thereon, if any, or the foreign currency equivalent (calculated at the rate prevalent as on the date of payment) of the Indian Rupee proceeds of the original deposit and interest, if any, on such Indian Rupee proceeds.
- (b) In case of **foreign currency denominated deposit with no fixed maturity period**, if the deposit remains **inoperative for a period of three years** (debit of bank charges not to be reckoned as operation), the authorised bank shall, after giving a three month notice to the depositor at his last known address as available with it, convert the deposit from the foreign currency in which it is denominated to Indian Rupee at the end of the notice period at the prevailing exchange rate. Thereafter, the depositor shall be entitled to claim either the said Indian Rupee proceeds and interest thereon, if any, or the foreign currency equivalent (calculated at the rate prevalent as on the date of payment) of the Indian Rupee proceeds of the original deposit and interest, if any, on such Indian Rupee proceeds.

NRI-Remittance facilities for NRIs

NRI-Remittance facilities for NRIs

'Remittance of assets' means remittance outside India of funds in a deposit with a bank/ firm/ company, provident fund balance or superannuation benefits, amount of claim or maturity proceeds of insurance policy, sale proceeds of shares, securities, immovable property or any other asset held in India in accordance with the provisions of the Foreign Exchange Management Act, 1999 (FEMA) or rules/ regulations made under FEMA.

This limit, however, will not cover sale proceeds of assets held on repatriation basis like immovable properties, shares.

Current income credited to NRO account if fully repatriable without any limit (after payment of due income-tax in India).

Remittances by NRIs/ PIOs/OCIs:

ADs may allow NRIs/ PIOs/OCIs, on submission of documentary evidence, to remit up to USD one million, per financial year:

- (i) out of **balances** in their non-resident (ordinary) (NRO) accounts/ sale proceeds of assets/ assets acquired in India by way of inheritance/ legacy;
- (ii) in respect of assets acquired under a deed of settlement made by either of his/ her parents or a relative as defined in Companies Act, 2013. The settlement should take effect on the death of the settler;
- (iii) in case settlement is done without retaining any life interest in the property i.e. during the lifetime of the owner/ parent, it would tantamount to regular transfer by way of gift and the remittance of sale proceeds of such property would be guided by the extant instructions on remittance of balance in the NRO account.

In case the remittance is made in more than one instalment, the remittance of all instalments should be made through the same AD.

Where the remittance is to be made from the balances held in the NRO account, the Authorised Dealer should obtain **an undertaking** from the account holder stating that "the said remittance is sought to be made out of the remitter's balances held in the account arising from his/ her legitimate receivables in India and **not by borrowing from any other person or a transfer from any other NRO account** and if such is found to be the case, the account holder will render himself/ herself liable for penal action under FEMA."

Remittances by individuals not being NRIs/ PIOs/OCIs:

ADs may allow remittance of assets by a **foreign national** where:

- (i) the person has **retired from employment** in India;
- (ii) the person has inherited from a person referred to in section 6(5) of the Act;
- (iii) the person is a non-resident widow/ widower and has inherited assets from her/his deceased spouse who was an Indian national resident in India.

The remittance should **not exceed USD one million** per financial year.

This limit, however, will not cover sale proceeds of assets held on repatriation basis like immovable properties, shares.

In case the remittance is made in more than one instalment, the remittance of all instalments should be made through the same AD on submission of documentary evidence.

(iv) the remittance is in respect of balances held in a bank account by a foreign student who has completed his/ her studies, provided such balance represents proceeds of remittances received from abroad through normal banking channels or rupee proceeds of foreign exchange brought by such person and sold to an authorised dealer or out of stipend/ scholarship received from the Government or any organisation in India.

Remittance of assets requiring RBI approval

Prior approval of the Reserve Bank is necessary for remittance of assets where:

- a) Remittance is **in excess of USD 1,000,000** (US Dollar One million only) per financial year
 - (i) on account of legacy, bequest or inheritance to a citizen of foreign state, resident outside India;
 - (ii) by NRIs/ PIOs out of the balances held in NRO accounts/ sale proceeds of assets/ the assets acquired by way of inheritance/ legacy.
- b) **Hardship will be caused** to a person if remittance from India is not made to such a person.

Borrowing and lending facilities

NRI-Borrowing and lending facilities

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018: Borrowing from outside India in Foreign Exchange by a Person Resident in India:

An <u>individual resident in India</u> may borrow a sum **not exceeding USD 250,000** or its equivalent, or any other amount as decided by the Reserve Bank from time to time, **from his/her relatives outside India** subject to such terms and **conditions as specified** by the Reserve Bank from time to time in consultation with the Government of India.

Master Direction – Borrowing and Lending transactions in Indian Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin dated **January 1, 2016**:

Borrowing by resident individual: An individual resident in India may borrow a sum not exceeding US\$ 250,000/- or its equivalent from his close relative outside India, subject to the **conditions that**: a. the **minimum maturity** period of the loan is **one year**; b. the loan is **free of interest**; and c. 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 non-resident lender.

An <u>individual resident in India</u> studying abroad may raise loan outside India not exceeding USD 250,000 or its equivalent, or any other amount as decided by the Reserve Bank from time to time, for the purposes of payment of education fees abroad and maintenance subject to terms and conditions as specified by the Reserve Bank from time to time in consultation with the Government of India.

Borrowing in Indian Rupees by a Person Resident in India:

Any person resident in India accepting any deposit from, or making any deposit with, a person resident outside India, including loans/overdrafts against security of funds held in such accounts, should be in compliance with Foreign Exchange Management (**Deposit**) Regulations, 2016, notified vide Notification No. FEMA 5(R)/2016-RB dated April 1, 2016, as amended from time to time.

A person resident in India, not being a company incorporated in India, may borrow in Indian Rupees from an NRI/Relatives who are OCI Cardholders outside India, subject to such terms and conditions as specified by the Reserve Bank from time to time in consultation with the Government of India. The borrower should ensure that the borrowed funds are not used for restricted end uses.

Master Direction – Borrowing and Lending transactions in Indian Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin dated **January 1**, **2016**:

Borrowing in INR by persons other than companies in India: A person resident in India, not being a company incorporated in India, may borrow in INR from NRIs/PIOs after satisfying the following terms and conditions: i. Borrowing shall be only on a non-repatriation basis; The amount of loan should be received either by inward remittance from outside India or by debit to NRE/NRO/FCNR(B)/NRNR/NRSR account of the lender, maintained with an authorised dealer or an authorised bank in India; iii. Period of loan shall not exceed 3 years; iv. Rate of interest on the loan shall not be more than two per cent above Bank Rate prevailing on the date of availment of loan; v. Payment of interest and repayment of principal shall be made only to the NRO account of the lender.

ii.

"Restricted End Uses" shall mean end uses where borrowed funds cannot be deployed and shall include the following: a) In the business of chit fund or Nidhi Company; b) Investment in capital market including margin trading and derivatives; c) Agricultural or plantation activities; d) Real estate activity or construction of farm houses; and e) Trading in Transferrable Development Rights (TDR), where TDR shall have the meaning as assigned to it in the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2015.

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018.

Lending in Indian Rupees by a Person Resident in India:

<u>An Indian entity</u> may grant loan in Indian Rupees to its employee who is a NRI/OCI Cardholder in accordance with the Staff Welfare Scheme subject to such terms and conditions as prescribed by the Reserve Bank from time to time. The borrower should ensure that the borrowed funds are **not used for restricted end uses**.

A resident individual may grant Rupee loan to an NRI/OCI Cardholder relative within the overall limit under the Liberalised Remittance Scheme subject to such terms and conditions as prescribed by the Reserve Bank from time to time. The borrower should ensure that the borrowed funds are not used for restricted end uses. See next slide

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018.

Master Direction – Borrowing and Lending transactions in Indian Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin dated **January 1**, **2016**:

A resident individual may grant INR loan to a NRI relative by way of crossed cheque/electronic transfer subject to the following terms and conditions: i. The loan is free of interest and the minimum maturity of the loan is one year; ii. The loan amount should be within the overall limit under the Liberalised Remittance Scheme per financial year available for a resident individual, who shall ensure that the applicable limit is not breached; iii. The utilisation of loans shall meet the provisions given at 2.1.3.i above; iv. The loan amount shall not be remitted outside India but shall be credited to the NRO account of the borrower; v. Repayment of loan shall be made by way of inward remittances from outside India or by debit to the NRO/NRE/FCNR(B) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

"Restricted End Uses" shall mean end uses where borrowed funds cannot be deployed and shall include the following: a) In the business of chit fund or Nidhi Company; b) Investment in capital market including margin trading and derivatives; c) Agricultural or plantation activities; d) Real estate activity or construction of farm houses; and e) Trading in Transferrable Development Rights (TDR), where TDR shall have the meaning as assigned to it in the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2015

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 - FEMA 3(R):

Continuation of loan in the event of change in the residential status of the lender/borrower:

An authorised dealer/authorised bank, may allow continuance of loans granted to a resident individual who subsequently becomes a person resident outside India, subject to such terms and conditions as specified by the Reserve Bank from time to time.

In case a loan was **granted by a resident individual to another resident individual** and the **lender subsequently becomes a non-resident**, the repayment of the loan by the resident borrower should be made by credit to the NRO account or any other account of the lender maintained with a bank in India as specified by the Reserve Bank from time to time, at the option of the lender.

In case a **loan was granted by a NRI/OCI Cardholder to a person resident in India** in accordance with the provisions contained in these regulations and the **lender subsequently becomes a resident**, the repayment of the loan may be made to the designated account of the lender maintained with a bank in India as specified by the Reserve Bank from time to time, at the option of the lender.

A resident individual will be permitted to service loans taken overseas earlier as a person resident outside India subject to terms and conditions and limit as specified by the Reserve Bank from time to time.

Resident Individuals-Acquisition of foreign security

Resident Indian-Acquisition of foreign security

General permission has been granted to a person resident in India who is an individual -

- (a) to acquire foreign securities as a gift from any person resident outside India;
- (b) to acquire shares under **cashless** Employees Stock Option Programme (**ESOP**) issued by a company outside India, provided it does not involve any remittance from India;
- (c) to acquire shares by way of inheritance from a person whether resident in or outside India;
- (d) to purchase equity shares offered by a foreign company under its ESOP Schemes, if he is an employee, or, a director of an Indian office or branch of a foreign company, or, of a subsidiary in India of a foreign company, or, an Indian company in which foreign equity holding, either direct or through a holding company/Special Purpose Vehicle (SPV) irrespective of the percentage of the direct or indirect equity stake in the Indian company. AD Category I banks are permitted to allow remittances for purchase of shares by eligible persons under this provision irrespective of the method of operationalisation of the scheme i.e. where the shares under the scheme are offered directly by the issuing company or indirectly through a trust / a Special Purpose Vehicle (SPV) / step down subsidiary, provided (i) the shares under the ESOP Scheme are offered by the issuing company globally on a uniform basis, and (ii) an Annual Return is submitted by the Indian company to the Reserve Bank through the AD Category I bank giving details of remittances / beneficiaries, etc.

A person resident in India may transfer by way of sale the shares acquired as stated above provided that the proceeds thereof are repatriated immediately on receipt thereof and in any case not later than 90 days from the date of sale of such securities.

Foreign companies are permitted to repurchase the shares issued to residents in India under any ESOP Scheme provided (i) the shares were issued in accordance with the Rules / Regulations framed under Foreign Exchange Management Act, 1999, (ii) the shares are being repurchased in terms of the initial offer document, and (iii) an annual return is submitted through the AD Category – I bank giving details of remittances / beneficiaries, etc. (4) In all other cases, not covered by general or special permission, approval of the Reserve Bank is required to be obtained before acquisition of a foreign security.

General permission in certain cases **Residents are permitted to acquire a foreign security**, if it represents –

- (a) qualification shares for becoming a director of a company outside India to the extent prescribed as per the law of the host country where the company is located provided it does not exceed the limit prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition;
- (b) part / full consideration of **professional services rendered to the foreign company or in lieu of Director's remuneration**. The limit of acquiring such shares in terms of value is restricted to the overall ceiling prescribed for the resident individuals under the Liberalized Remittance Scheme (**LRS**) in force at the time of acquisition;
- (c) rights shares provided that the **rights shares** are being issued by virtue of holding shares in accordance with the provisions of law for the time being in force;
- (d) purchase of shares of a JV / WOS abroad of the Indian promoter company by the employees/directors of Indian promoter company which is engaged in the field of software where the consideration for purchase does not exceed the ceiling as stipulated by Reserve Bank from time to time; the shares so acquired do not exceed 5 per cent of the paid-up capital of the JV / WOS outside India; and after allotment of such shares, the percentage of shares held by the Indian promoter company, together with shares allotted to its employees is not less than the percentage of shares held by the Indian promoter company prior to such allotment; and
- (e) An Indian company in the knowledge based sector may allow its resident employees (including working directors) to purchase foreign securities under the ADR/GDR linked stock option schemes. The issue of employees' stock option by a listed company shall be governed by SEBI (Employees' Stock Option and Stock Purchase Scheme) Guidelines, 1999 and the issue of employees stock option by an unlisted company shall be governed by the guidelines issued by the Government of India for issue of ADR/GDR linked stock options. The consideration for the purchase should not exceed the ceiling as stipulated by the Reserve Bank from time to time.

Prior permission of the Reserve Bank for a Proprietary Concern in India to accept shares

A proprietary concern in India may apply to the Reserve Bank through the authorised dealer for permission to accept shares of a company outside India in lieu of fees due to it for professional services rendered to the said company. **Provided** that

- (a) the value of the shares accepted from each company outside India shall not exceed fifty per cent of the fees receivable by the Indian concern from that company and
- (a) the **Indian concern's shareholding** in any one company outside India by virtue of shares accepted as aforesaid shall **not exceed ten per cent** of the paidup capital of the company outside India, whose shares are accepted.

Foreign Currency Account by Residents in India

Foreign Currency Accounts in India of Residents

Particulars	Exchange Earners Foreign Currency (EEFC) Account	Resident Foreign Currency (Domestic) [RFC(D)] Account	Resident Foreign Currency (RFC) Account
Who can open the account	Exchange Earners	Individuals	Individuals - Returning Indians
Joint account	Jointly with eligible persons; or With resident relative(s) on former or survivor' basis. Relative as defined under Companies Act, 2013 (viz. members of HUF, spouse, parents, stepparents, son, stepson, daughter-in-law, daughter, son-in-law, brother/sister, stepbrother/ stepsister) Relative joint account holder cannot operate the account during the life time of the account holder		Same as EEFC
Type of Account	Current only	Current only	Current/ savings/ term deposits
Interest	Non-interest earning	Non-interest earning	Deregulated (As decided by the AD bank)

Particular s	Exchange Earners Foreign Currency (EEFC) Account	Resident Foreign Currency (Domestic) [RFC(D)] Account	Resident Foreign Currency (RFC) Account
Permitted Credits	 1) 100% of foreign exchange received on account of export transactions. 2) advance remittance received by an exporter towards export of goods or services 3) Repayment of loans given to foreign importers 4) Disinvestment proceeds on conversion of ADR/ GDR 	1) Foreign exchange received as payment/ service/ gift/ honorarium while on visit abroad or from a non-resident who is on a visit to India 2) Unspent amount of foreign exchange acquired from AD for travel abroad 3) Gift from close relative 4) Earning through export of goods/ services, royalty	1) Foreign exchange received by him as superannuation/ other monetary benefits from overseas employer 2) Foreign exchange
	The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments. Fund-based/ non-fund based credit facilities should not be	The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.	NA
	granted against the balances held in EEFC Accounts.		

Foreign Currency Accounts Outside India by Resident Individuals

Person resident in India gone abroad for studies

A person resident in India who has gone abroad for studies may open a foreign currency account with a bank outside India during his stay abroad. All credits to the account from India should be made in accordance with FEMA and the rules and regulations made thereunder. On the student's return to India **after completion of studies**, the account will be deemed to have been opened under the **Liberalised Remittance Scheme**.

Person resident in India who is on a visit to a foreign country

A person resident in India who is on a visit to a foreign country may open a foreign currency account with a bank outside India during his stay abroad. The balance in the account should be **repatriated to India on return of the account holder to India**.

Under the Liberalized Remittance Scheme

A resident individual can open a foreign currency account with a bank outside India for the purpose of sending remittances under the Liberalized Remittance Scheme.

For remitting/ receiving their entire salary

The following persons for remitting/ receiving their entire salary payable to them in India:

- a. A foreign citizen resident in India, who is an employee of a foreign company and is on deputation to the office/ branch/ subsidiary/ joint venture/ group company in India;
- b. An Indian citizen who is an employee of a foreign company and is on deputation to the office/ branch/ subsidiary/ joint venture/ group company in India; and
- c. A foreign citizen who is a resident in India and is employed with an Indian company.

Can a resident continue to maintain an account outside India which was opened by him when he was a non resident?

Answer: A person resident in India may maintain a foreign currency account outside India if he had opened it when he was resident outside India or inherited it from a person resident outside India.

What is the status of the account held outside India on the demise of the account holder?

Answer: A resident nominee of an account held outside India has to close the account and bring back the proceeds to India through banking channels

Resident Individuals -Remittances & Other forex facilities

RI-Remittances & Other forex facilities

- **Meeting of Medical expenses of NRI close relatives** by Resident Individuals
- Resident extending **local hospitality to a non-resident**: A person resident in India is free to make any payment in Indian Rupees towards meeting expenses, on account of boarding, lodging and services related thereto or travel to and from and within India, of a person resident outside India, who is on a visit to India.

A company or resident in India may make payment in rupees to its **non-whole time director who is resident outside India and is on a visit to India** for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirement of any law, rules, regulations, directions applicable for making such payments are duly complied with.

Period of surrender of foreign exchange:

- (i) In case the foreign exchange purchased for a specific purpose is not utilized for that purpose, it could be utilized for any other eligible purpose for which drawal of foreign exchange is permitted under the relevant Rules / Regulation.
- (ii) General permission is available to any resident individual to surrender received / realised / unspent / unused foreign exchange to an Authorised Person within a period of 180 days from the date of receipt / realisation / purchase / acquisition / date of return of the traveller, as the case may be.

Note: Where a person approaches an Authorised Person for surrender of unspent/unutilized foreign exchange after the prescribed period of 180 days, Authorised Person should not refuse to purchase the foreign exchange merely on the ground that the prescribed period has expired.

- (iii) The liberalised uniform time limit of 180 days is applicable **only to resident individuals** and in areas **other than export of goods and services**.
- Should foreign coins be surrendered to an Authorised Dealer on return from abroad?

The residents can hold foreign coins without any limit.

- Unspent foreign exchange:

A returning traveller is permitted to retain with him, foreign currency, travellers' cheques and currency notes up to an aggregate amount of US\$ 2000 and foreign coins without any ceiling beyond 180 days. Foreign exchange so retained, can be utilized by the traveller for his subsequent visit abroad.

How much foreign currency can be carried in cash for travel abroad?

Travellers going to all countries other than (a) and (b) below are allowed to purchase foreign currency notes / coins only up to US\$ 3000 per visit. Balance amount can be carried in the form of store value cards, travellers cheque or banker's draft.

Exceptions to this are:

- (a) travellers proceeding to **Iraq and Libya** who can draw foreign exchange in the form of foreign currency notes and coins not exceeding US\$ 5000 or its equivalent per visit;
- (b) travellers proceeding to the Islamic Republic of **Iran, Russian Federation** and other Republics of Commonwealth of Independent States who can draw entire foreign exchange (up¬to USD 250,000) in the form of foreign currency notes or coins.

For travellers proceeding for **Haj/ Umrah pilgrimage**, full amount of entitlement (US\$ 250,000) in cash or up to the cash limit as specified by the Haj Committee of India, may be released by the ADs and FFMCs.

How much Indian currency can be brought in while coming into India?

A **resident of India**, who has gone out of India on a **temporary visit** may bring into India at the time of his return from any place outside India (other than Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding **Rs.25,000**. A person may bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes, in denomination not exceeding Rs.100.

Any person **resident outside India**, not being a citizen of Pakistan and Bangladesh and also not a traveller coming from and going to Pakistan and Bangladesh, and visiting India may bring into India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding **Rs. 25,000** while entering only through an airport.

Any person resident in India who had gone to Pakistan and/or Bangladesh on a temporary visit, may bring into India at the time of his return, currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 10,000 per person.

- How much foreign exchange can be brought in while visiting India?

A person coming into India from abroad can bring with him foreign exchange without any limit. However, if the aggregate value of the foreign exchange in the form of currency notes, bank notes or travellers cheques brought in exceeds **US\$ 10,000** or its equivalent and/or the value of foreign currency alone exceeds **US\$ 5,000** or its equivalent, it should be declared to the Customs Authorities at the Airport in the **Currency Declaration Form** (CDF), on arrival in India.

- How many days in advance one can buy foreign exchange for travel abroad?

Permissible foreign exchange can be drawn 180 days in advance by an individual, resident in India.

- Can one pay by cash full rupee equivalent of foreign exchange being purchased for travel abroad?

Foreign exchange for travel abroad can be purchased from an authorized person against rupee payment in cash below Rs.50,000¬. However, if the sale of foreign exchange is for the amount equivalent to **Rs 50,000**¬ and above, the entire payment should be made by way of a crossed cheque/ banker's cheque/ pay order/ demand draft/ debit card / credit card / prepaid card only.

- Is there any time-frame for a traveller who has returned to India to surrender foreign exchange?

On return from a foreign trip, travellers are required to surrender unspent foreign exchange held in the form of currency notes and travellers cheques within 180 days of return. However, they are free to retain foreign exchange up to US\$ 2,000, in the form of foreign currency notes or TCs for future use or credit to their Resident Foreign Currency (Domestic) [RFC (Domestic)] Accounts.

- Can residents purchase air tickets in India for their travel not touching India?

Residents may book their tickets in India for their visit to any third country. For instance, residents can book their tickets for travel from London to New York, through domestic/foreign airlines in India. However, the same (air tickets) would be a part of the traveller's overall LRS entitlement of USD 250,000.

- Who is permitted to hold International Credit Card (ICC) and International Debit Card (IDC) for undertaking foreign exchange transactions?

Banks authorised to deal in foreign exchange are permitted to issue International Debit Cards (IDCs) which can be used **by a resident individual** for drawing **cash or making payment to a merchant establishment overseas during his visit abroad**.

IDCs can be used only for **permissible current account transactions** and the usage of IDCs shall be within the **LRS limit**. AD banks can also issue Store Value Card/Charge Card/Smart Card to residents traveling on private/business visit abroad which can be used for making payments at overseas merchant establishments and also for drawing cash from ATM terminals. No prior permission from Reserve Bank is required for issue of such cards. However, the use of such cards is limited to permissible current account transactions and subject to the LRS limit.

Resident individuals maintaining a foreign currency account with an Authorised Dealer in India or a bank abroad, as permissible under extant Foreign Exchange Regulations, are free to obtain International Credit Cards (ICCs) issued by overseas banks and other reputed agencies.

The charges incurred against the card either in India or abroad, can be **met out of funds held in such foreign currency account/s of the card holder or through remittances**, if any, from India only through a bank where the cardholder has a current or savings account.

The remittance for this purpose, should also be made directly to the card¬ issuing agency abroad, and not to a third party. It is also clarified that the applicable credit limit will be the limit fixed by the card issuing banks.

There is no monetary ceiling fixed by the RBI for remittances, if any, under this facility.

The LRS limit shall not apply to the use of ICC for making payment by a person towards meeting expenses while such person is on a visit outside India.

Use of ICCs/ IDCs can be made for travel abroad in connection with various purposes and for making personal payments like subscription to foreign journals, internet subscription, etc. However, use of ICCs/IDCs is NOT permitted for prohibited transactions indicated in Schedule 1 of FEM (CAT) Amendment Rules 2015 such as purchase of lottery tickets, banned magazines etc. Use of these instruments for payment in foreign exchange in Nepal and Bhutan is not permitted.

A resident but not permanently resident in India means a person is resident of India. Enjoys following facilities:

(1) Explanation to Schedule III of Current Account Transactions Rules:

A person who is resident but not permanently resident in India and—

- a) is a citizen of a foreign State other than Pakistan; or
- b) is a citizen of India, who is on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company,

may make remittance up to his net salary (after deduction of taxes, contribution to provident fund and other deductions).

Explanation: For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident:

(2) FEM (Remittance of Assets) Regulation, 2016:

An entity in India may remit the amount being its contribution towards the provident fund/ superannuation/ pension fund in respect of the expatriate staff in its employment who are resident in India but not permanently resident therein.

Explanation: For the purpose of this Regulation, (a) 'expatriate staff' means a person whose provident/superannuation/pension fund is maintained outside India by his principal employer outside India;

(b) 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

(3) Regulation 4 of FEM (Possession and Retention of Foreign Currency) Regulations, 2015:

A person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act.

Retention by a **person resident in India** of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US\$ 2000 or its equivalent in aggregate.

Explanation: for the purpose of this clause, 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

(4) Regulation 4b Of FEMA 120:

A person resident in India when not permanently resident in India, may purchase a foreign security from out of his foreign currency resources outside India.

Explanation: For the purpose of this clause, 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

(5) Master Direction – Insurance: Foreign Exchange Regulations relating to Life Insurance from insurers in India

Policies denominated in foreign currency or rupees may be issued to foreign nationals not permanently resident in India provided the premium is paid out of foreign currency funds or from their income earned in India or repatriable superannuation/ pension fund in India.

'Not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

Indian Students Studying Abroad

A.P. (DIR Series) Circular No. 45 dated December 8, 2003

- ➤ While taking up studies, students may have to take up job or seek scholarships to supplement their income. As a result, their stay gets prolonged than what is intended while leaving India.
- ➤ They are not dependent for a dominant part of their expenses on remittances from their households in India. Hence, their stay will be for more than 182 days and intention will also be to stay outside India for uncertain period. Thus, they can be treated as Non Resident Indians (NRI).

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Regulation 5(F)(6) of FEMA Notification No. 10R

- ➤ Indian students studying abroad may open, hold and maintain foreign currency account with bank outside India during their stay outside India.
- ➤ On return to India, after completion of studies, such an account will be deemed to have been opened under the Liberalized Remittance Scheme.

Dos

LRS Scheme is available only to individual (including minors) 'Resident in India' under FEMA.

LRS declaration form for minor must be countersigned by the minor's natural guardian.

Current limit is equivalent of **US\$ 250,000 in a financial year (April to March)** for any permitted current or capital account transaction or a combination of both.

The remittances can be made in any freely convertible foreign currency.

There is no restriction on the frequency of remittances that can be made in a financial year.

Any person resident in India may take outside India (other than to Nepal and Bhutan) currency notes up to Rs. 25,000 per person (this will not be counted as part of LRS limit).

LRS limit shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter.

LRS limit shall not apply to the use of International Credit Card for making payment by a person towards meeting expenses while such person is on a visit outside India.

Other than ODI

Permitted capital account transactions (All capital account transactions that are not specifically permitted, are prohibited):

- Acquisition and holding shares of both listed and unlisted overseas company or debt instruments
- Portfolio investment Although the term portfolio investment is not explicitly defined, the following can be treated as guiding principle to identify what could be a portfolio investment. The following principles should not be seen in isolation but in conjunction with the other guiding principles to identify whether the investment is portfolio or ODI.
- Not subscribing to the Memorandum of Association of the overseas entity.
- Shall not have undertaken any other financial commitments in the overseas entity. For e.g. investment in OCPS, loan, guarantee, etc.
- The shares should be acquired in an existing entity. The overseas entity should not be incorporated by the investor.
- It should not be a wholly owned company.
- The Indian entity should not have held a majority % stake in the overseas entity. Should be a Passive investor and not an active investor i.e. the portfolio investor should not be managing the affairs of the company.
- Generally, the portfolio investment should be in a listed entity.

- Acquisition of qualification shares of an overseas company for holding the post of Director
- Acquisition of shares of a foreign company towards professional services rendered <u>or</u> in lieu of Director's remuneration
- Investment in units of Mutual Funds, Venture Capital Funds
- Unrated debt securities
- Promissory notes
- Setting up Wholly Owned Subsidiaries and Joint Ventures outside India for bonafide business is permitted subject to the terms & conditions stipulated under regulation 20A of FEMA 120 (ODI Regulation) read with Schedule V
- Extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 2013

LRS Scheme includes/subsumes remittances for current account transactions):

- For **private visits abroad**, other than to Nepal and Bhutan **irrespective of the number of visits** undertaken during the financial year.
- All **tour related expenses** including cost of rail/road/water transportation; cost of Euro Rail; passes/tickets, etc. outside India; and overseas hotel/lodging expenses. The **tour operator** can collect this amount either in Indian rupees or in foreign currency from the resident traveller.
- **Gift** to a person residing outside India
- As **donation** to an organization outside India
- A person going abroad for employment
- A person wanting to emigrate up to the amount prescribed by the country of **emigration** or US\$ 250,000.
- Remittance of any amount of foreign exchange outside India in excess of this limit may be allowed only towards meeting incidental expenses in the country of immigration and not for earning points or credits to become eligible for immigration by way of overseas investments in government bonds; land; commercial enterprise; etc.
- **Maintenance of close relatives** ['relative' as defined in Section 2(77) of the Companies Act, 2013] abroad

- **Business visits** visits by individuals in connection with attending of an international conference, seminar, specialised training, apprentice training, etc., are treated as business visits irrespective of the number of visits undertaken during the year.
- However, if an employee is being deputed by a company and the expenses are borne by the company, then such expenses shall be treated as residual current account transactions and may be permitted by the AD bank, without any limit, subject to verifying the bonafides of the transaction.
- **Medical treatment abroad** US\$ 2,50,000 or its equivalent per financial year without insisting on any estimate from a hospital/doctor.
- **For amount exceeding the above limit**, Authorised Dealers may release foreign exchange under general permission based on the estimate from the doctor in India or hospital/ doctor abroad.
- A person who has fallen sick after proceeding abroad may also be released foreign exchange by an Authorised Dealer (without seeking prior approval of the Reserve Bank of India) for medical treatment outside India.
- In addition to the above, an amount up to US\$ 250,000 per financial year is allowed to a person for accompanying as attendant to a patient going abroad for medical treatment/check-up.

- Facilities available to **students for pursuing their studies abroad** US\$ 2,50,000 or its equivalent to resident individuals for studies abroad without insisting on any estimate from the foreign University.
- However, AD Category I bank and AD Category II may allow **remittances** (without seeking prior approval of the Reserve Bank of India) **exceeding US\$ 2,50,000** based on the estimate received from the institution abroad.

The amount remitted by an individual remitter for the purpose of education whether through own funds or through borrowed funds by way of education loan will be counted against the LRS entitlement of the remitter.

- Purchasing **objects of art** subject to the provisions of other applicable laws such as the extant Foreign Trade Policy of the Government of India (must be brought/ imported to India, and not kept abroad)
- Any other current account transaction which is not covered under the definition of current account in FEMA 1999.

Mandatory to provide Permanent Account Number (**PAN**) allotted under Income-tax Act.

Remittances under LRS Scheme can be consolidated in respect of family members.

Clubbing is permitted by other family members for capital account transactions such as opening a **bank account/investment/purchase of property** if they are the co-owners/co-partners of the overseas bank account/ investment/ property – **proportionate to their remittance/contribution**.

Source of funds for making the remittance must belong to the remitter. Remittance out of borrowed funds is not permitted.

If family members also wish to remit funds, the resident person who has the funds, should gift the same to the family members. Thus, family members will have their own funds. Then the family members can make remittance under LRS Scheme. Gift can be given between family members in Indian Currency, and not in Foreign currency.

Opening of foreign currency account abroad with a bank is permitted.

The foreign currency accounts will be used for putting through all transactions connected with or arising from remittances eligible under LRS Scheme.

Remittances can be sent to the account of the beneficiary directly from India, rather than routing the transaction thru overseas foreign currency account. This is also preferred by RBI as the appropriate remittance code is captured for statistical / reporting purposes.

A person resident in India who has gone abroad **for studies** may open, hold and maintain a Foreign Currency Account with a bank outside India during his stay outside India. On his return to India, after completion of studies, such an account will be deemed to have been opened under the Liberalised Remittance Scheme.

The remitter must mention the purpose while sending money abroad under LRS. Without any specific purpose remittance shall not be allowed.

Purchase of immovable property abroad is permitted.

Immovable property can be leased, sold, and income from lease and sale can be retained outside India. Funds retained can be reinvested in another immovable property or any other permitted asset/ investment.

Individual **cannot borrow overseas in India or overseas** to fund acquisition of immovable property – directly in individual name or in the name of the overseas company which has underlying immovable property.

Remittances under LRS for investments in immovable properties abroad is permitted (i) which is acquired **under instalment basis**, where commitment is within LRS limit in a financial year, (ii) under construction property and the possession will be given only after full payments are made, and (iii) till such time full payment is made, it is only refundable advance. Payment in instalments for completed property for which possession is taken, is not allowed, as this will mean future capital commitment beyond LRS limit and borrowings overseas from the Seller (or any other person connected with sale) which is not permitted.

Taking an immovable property outside India on **lease not exceeding five years** - payment for house rental payments is permitted.

Overseas bank account opened under LRS cannot be used for making remittances for ODI investment.

(i) Extending loans.

(ii) Loans in Indian Rupees to Non-resident Indians (**NRIs**) who are relatives as defined in Section 2(77) of Companies Act, 2013 is permitted (subject to prescribed conditions).

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 (FEMA 3-R) doesn't permit a person resident in India to lend in foreign exchange to a person resident in or outside India and/or permit a person resident in India to lend in rupees to, a person resident outside India.

In the prescribed purpose codes while reporting transactions under LRS, loan to NRI close relatives is covered under code S0011. Other overseas loans are not so covered.

Outward Remittances under the LRS is reported in monthly **RBI Bulletin** under subheads - Deposit, Purchase of immovable property, Investment in equity/debt, Gift, Donations, Travel, Maintenance of close relatives, Medical Treatment, Studies Abroad, and Others. Loan is not a reportable head.

In terms of the extant LRS guidelines, resident individual cannot extend loan in foreign currency (outside India) to Non- resident Indian/PIO close relatives (relative as defined in Companies Act, 2013).

The position has been clarified in terms of para 17 of the Master Direction on LRS, in terms of which rupee loans can be given by a resident to non-resident relative (in terms of Regulation 8 B of FEMA for meeting the borrower's personal requirements or for his own business purposes in India.

Further, lending by a resident to an NRI relative outside India in foreign currency is not envisaged in terms of FEMA 3 - Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000.

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 – Regulation 7.B(iii) –

A resident individual may grant **Rupee loan to a NRI/OCI Cardholder** relative within the overall limit under the Liberalised Remittance Scheme subject to such terms and conditions as prescribed by the Reserve Bank from time to time. The borrower should ensure that the borrowed funds are not used for restricted end uses.

Also refer Regulation 5.B - Lending in Foreign Exchange by a Person Resident in India – "Eligible resident entity may extend foreign currency denominated ECL to a borrower outside India in accordance with the provisions contained in Schedule III". Individuals lending in Foreign Exchange under LRS are not covered.

Rupee gift is permitted to a Non-resident Indian (NRI)/ Person of Indian Origin (PIO)/ OCI Cardholder close relative ['relative' as defined in Section 2(77) of the Companies Act, 2013] by way of crossed cheque/ electronic transfer. Credited to the Non-Resident (Ordinary) Rupee Account (NRO) account.

Under LRS scheme – restricted to **overall monetary limit of US\$ 250,000** each financial year (April to March).

Under LRS, gift can be made to a trust outside India with NR beneficiaries only. **Gift cannot be made to Resident via a trust outside India**. Donee Resident has to bring back the money into India.

The individual will have to designate a branch of **an AD** through which all the **capital account remittances** under LRS Scheme will be made.

Health insurance policy issued by an Insurer Outside India - Take or continue to hold a health insurance policy issued by an insurer outside India provided aggregate remittance including amount of premium does not exceed limit prescribed under LRS Scheme. Self LRS funds should be used and not of family members.

Funds remitted under LRS can be **retained**, **reinvest the income earned** on the investments. Not required to repatriate the funds or income generated out of investments made under LRS Scheme. Not required to repatriate the accrued interest/dividend on deposits/ investments abroad, over and above the principal amount.

If the **LLP/Firm** incurs/sponsors the education expense of its partners who are pursuing higher studies for the benefit of the LLP/Firm, then the same shall be outside the LRS limit of the individual partners and would instead be deemed as residual current account transaction undertaken by the LLP/Firm without any limits.

No credit other than LRS funds and sale proceeds or income earned thereon are permitted in overseas foreign currency account designated for LRS remittances from India.

Salary earned abroad, income from foreign assets/ investments other than LRS are not permitted to be credited to LRS account.

A person resident in India 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. Regulation 5(F)(7) of Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015.

LRS foreign currency account should **not be mixed with foreign currency accounts** opened and maintained by an individual when he was resident outside India (NRI), or Foreign Currency Account with a bank outside India during his stay outside India.

There should be no debit or credit entries from one LRS foreign currency account of **one individual to LRS** foreign currency account of another individual.

A resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.

Master Directions on LRS - Para 4

Regulation 5(F)(6) of FEM (Foreign Currency Accounts By a Person Resident In India) Regulations, 2015: A person resident in India who has gone **abroad for studies** may open, hold and maintain a Foreign Currency Account with a bank outside India during his stay outside India. **Provided further** that on his return to India, after completion of studies, such an account will deemed to have been opened under the Liberalised Remittance Scheme.

Whether persons resident in India can remit funds under LRS to repay loans availed when he was an NRI?

Ans: No. Repayment of loan is a capital account transaction and is not a permitted capital account transaction under LRS.

There can **no borrowings directly or indirectly against LRS investments/ funds either in India or overseas** - to fund investment/ property, or against charge on those assets.

Property so acquired cannot be mortgaged abroad for housing loan. Similarly, loan taken overseas cannot be served/ paid out of rental income.

An individual Resident in India is **not permitted to create any liabilities** (contingent or otherwise) outside India in relation to making / acquiring any investment under LRS.

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LRS Scheme is not available to corporates, partnership firms, HUF, trusts, etc.

A resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad.

Cannot open foreign currency accounts in India under LRS.

Gift of moveable property and immovable property is not permitted under LRS.

Remittances under LRS for investments in immovable properties abroad which is acquired under instalment basis, where commitment exceeds LRS limit in a financial year.

Individual **cannot borrow overseas in India or overseas** to fund acquisition of immovable property – directly in individual name or in the name of the overseas company which has underlying immovable property.

Remittances under LRS for investments in immovable properties abroad is permitted (i) which is acquired under instalment basis, where commitment is within LRS limit in a financial year, (ii) under construction property and the possession will be given only after full payments are made, and (iii) till such time full payment is made, it is only refundable advance. Payment in instalments for completed property for which possession is taken, is not allowed, as this will mean future capital commitment beyond LRS limit and borrowings overseas from the Seller (or any other person connected with sale) which is not permitted.

Other than ODI

Not permitted:

- Not for earning points or credits to become eligible for immigration by way of overseas investments in government bonds; land; commercial enterprise; etc.
- Remittance out of lottery winnings
- Remittance of income from racing/riding, etc., or any other hobby
- Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.
- Payment of commission on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies
- Payment related to 'Call Back Services' of telephones
- Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market
- Remittance for trading in foreign exchange abroad

Banks should not extend any kind of credit facilities to resident individuals to facilitate capital account remittances.

Individual cannot borrow overseas to fund acquisition of immovable property – directly in individual name or in the name of the overseas company which has underlying immovable property.

Any proceeds of the investments out of LRS funds which is brought back into the country cannot be remitted back abroad except within the annual limit of US\$ 2,50,000 per financial year.

LRS Scheme is not available for capital account remittances to countries identified by Financial Action Task Force (FATF) as non-co-operative countries and territories as available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank (Democratic People's Republic of Korea & Iran).

Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks is also not permitted.

There are no restrictions towards remittances for current account transactions to Mauritius and Pakistan.

LRS funds (including accumulated funds lying overseas) cannot be invested back in India under FDI or any other mode of investment in India – directly or indirectly.

An individual Resident in India is not permitted to create any liabilities (contingent or otherwise) outside India in relation to making / acquiring any investment under LRS.

Any financial product where margins (investing in derivatives like futures and options and making payments towards margins or margin calls to overseas exchanges irrespective of whether the underlier is stock, foreign exchange or commodity) are involved are not permitted

Life insurance policy issued by an Insurer Outside India - A person resident in India cannot pay premium for life insurance policy issued by an insurer outside India under the LRS Scheme.

Extending loan to any entity abroad established under Indian Foreign Exchange Management (Transfer or issue of foreign security) Regulations, 2004 (FEMA 120) with participation from an Indian Entity – for which UIN has been allotted.

Lending in foreign exchange by a resident individual to a non-resident entity from the bank accounts held outside India otherwise than in accordance with the provisions of Foreign Exchange Management (Transfer or issue of foreign security) Regulations, 2004 (FEMA 120) was in contravention of regulation 5(1) of Notification No. FEMA.3/2000-RB dated May 03, 2000.

Assets like Gold, Artefacts, Paintings, Jewellery, Bank Currency Notes etc. acquired from LRS funds must be brought/imported to India.

A resident individual can also acquire property and other assets overseas under LRS.

These are covered under permissible capital account transactions under LRS. Miscellaneous forex facilities-FAQ 16

Outward remittance in someone else Individual account Resident in India is not permitted.

In a sole proprietorship business, there is no legal distinction between the individual / owner and as such the owner of the business can remit US\$ up to the permissible limit under LRS. If a sole proprietorship firm intends to remit the money under LRS by debiting its current account, then the eligibility of the proprietor in his individual capacity has to be reckoned. Hence, if an individual in his own capacity remits US\$ 250,000 in a financial year under LRS, he cannot remit another US\$ 250,000 in the capacity of owner of the sole proprietorship business as there is no legal distinction.

ICICI Bank Declaration:

The remittance is NOT for investment / purchase of Bitcoin/ Cryptocurrencies/ Virtual Currencies (such as Ethereum, Ripple, Litecoin, Dash, Peercoin, Dogecoin, Primecoin, Chinacoin, Ven, Bitcoin or any other virtual currency/cryptocurrency/bitcoin).

The remittance is NOT for investment in units of mutual funds/ shares or any other capital instrument of a company dealing in Bitcoins/ Cryptocurrency/ Virtual Currencies.

The source of funds for the proposed Remittance is NOT proceeds from redemption of investment in Cryptocurrency / Bitcoins / Virtual Currencies and also end use of.

TCS on LRS:

1. TCS shall be applicable on aggregate forex transactions (for remittance out of India) under LRS exceeding INR 7 lakhs in a financial year (effective from October 01, 2020). For calculation of threshold limits, LRS remittances made for financial year will be taken into account.

For instance, if the total foreign exchange facility availed under LRS in a financial year is INR 10,00,000, TCS at 5% will be applicable on INR 3,00,000 (INR 10,00,000 - INR 7,00,000) and tax collected will be INR 15,000.

TCS shall not be collected on remittances made by resident individual to NRO account as gift/loan.

2. For remittances towards pursuing education paid through a loan obtained from any Financial Institution, rate of TCS shall be 0.5% on the amount exceeding INR 7 lakh. Necessary documentation shall be required to confirm that the amount remitted is obtained out of a loan from a financial institution.

"Financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf.

3. For remittances to Foreign Tour Operators through the Bank, 5% TCS of the total amount remitted shall be applicable and the amount remitted will not be subsumed under the threshold limit of INR 7 Lakhs mentioned above.

"Overseas tour programme package" means any tour package which offers visit to a country or countries or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

- 4. No GST will be applicable on the tax collected. However, GST will be applicable on the currency conversion & remittance service charges.
- 5. In case the transaction is rejected due to any reason, the tax deducted shall not be refunded and the customer will need to claim tax credit while filing their tax returns.

Liberalised Remittance Scheme ('LRS Scheme') ODI Structure

Under FEMA 120/ODI Regulations

By Resident Individuals - Setting up Wholly Owned Subsidiaries and Joint Ventures outside

India for bonafide business is permitted subject to the terms & conditions stipulated under

Regulation 20A of FEMA 120 (ODI Regulation) read with Schedule V

Setting up Wholly Owned Subsidiaries and Joint Ventures outside India for **bonafide business** is permitted subject to the terms & conditions stipulated under regulation 20A of FEMA 120 (ODI Regulation) read with Schedule V

- Other than Portfolio investment

Overseas bank account opened under LRS cannot be used for making remittances for ODI investment.

Not permitted - Extending loan to any entity abroad established under Indian Foreign Exchange Management (Transfer or issue of foreign security) Regulations, 2004 (FEMA 120) with participation from an Indian Entity – for which UIN has been allotted.

Lending in foreign exchange by a resident individual to a non-resident entity from the bank accounts held outside India otherwise than in accordance with the provisions of Foreign Exchange Management (Transfer or issue of foreign security) Regulations, 2004 (FEMA 120) was in contravention of regulation 5(1) of Notification No. FEMA.3/2000-RB dated May 03, 2000.

Under FEMA 120/ODI Regulations

Setting up Wholly Owned Subsidiaries and Joint Ventures outside India for bonafide business is permitted subject to the terms & conditions stipulated under regulation 20A of FEMA 120 (ODI Regulation) – Schedule V.

Investment in **immovable property under LRS-ODI structure is not permitted**. **Standalone Buying** & Selling or Buying & then leasing/ letting out of **property to earn rental income** by overseas WoS/JV is **not considered as a bona-fide business activity**. Overseas WoS/JV acquiring immovable property would be non-operational activities, which will not qualify as bonafide activity from India FEMA perspective. For any contravention, RBI orders winding up, bringing back funds and compounding.

Holding an immovable property as **Investment Property with no commensurate business** activities to justify such property will not satisfy the test of bonafide activity from India FEMA perspective.

The acquisition cost/ holding of should, in any case, be commensurate with the business activities actually carried by overseas WoS/JV.

Can an Indian Party/ Resident Indian acquire shares of a foreign entity without upfront payment or on deferred payment basis?

Ans: No, FEMA 120 do not permit acquisition of foreign shares without payment or on deferred payment basis.

Under FEMA 120/ODI Regulations

A resident individual (single or in association with another resident individual or with an 'Indian Party') may make overseas direct investment in the **equity shares and compulsorily convertible preference shares** of a Joint Venture (JV) or Wholly Owned Subsidiary (WOS) outside India.

Prohibited which is engaged in the real estate business or banking business or in the business of financial services activity.

JV or WOS abroad shall be engaged in bona fide business activity.

Resident individual shall not be on the **Reserve Bank's Exporters Caution List** or List of **defaulters to the banking system** or **under investigation** by any investigation/enforcement agency or regulatory body.

At the time of investments, the permissible ceiling shall be within Liberalised Remittance Scheme. The investment made out of the balances held in EEFC/RFC account shall also be restricted to the limit prescribed under LRS.

An **operating entity only and no step-down subsidiary** is allowed to be acquired or set up by the JV or WOS.

Valuation: (i) where the investment is more than **USD 5** (**five**) **million**, by a Category I Merchant Banker Registered with Securities and Exchange Board of India (SEBI), or an Investment Banker/Merchant Banker outside India registered with the appropriate regulatory authority in the host country; and (ii) in all other cases, by a Chartered Accountant or a Certified Public Accountant.

Under FEMA 120/ODI Regulations

Financial commitment only "Direct investment outside India" means investment by way of contribution to the capital or subscription to the Memorandum of Association of a foreign entity or by way of purchase of existing shares of a foreign entity either by market purchase or private placement or through stock exchange, but **does not include portfolio investment**.

Prohibited: preference shares, loans, guarantee, performance guarantee, bank guarantee/standby letter of credit, amount of fund/ non fund-based credit facility availed by creation of charge (pledge / mortgage / hypothecation) on the movable / immovable property or other financial assets of the Indian party / its group companies.

Post Investment Changes:

Any alteration in shareholding pattern of the JV or WOS reported to AD Bank within 30 days including reporting in the Annual Performance Report as required to be submitted in terms of Regulation 15 - receive share certificates or any other document as an evidence of investment in the foreign entity to the satisfaction of the Reserve Bank within six months, repatriate to India, all dues receivable from the foreign entity, like dividend, royalty, technical fees etc., within 60 days of its falling due,

Disinvestment:

- 1. Disinvest (partially or fully) by way of transfer/sale or by way of liquidation/merger of the JV or WOS.
- 2. Allowed after one year from the date of making first remittance for setting up or acquiring the JV or WOS abroad.
- 3. The **disinvestment proceeds** shall be repatriated to India immediately and in any case not later than **60 days** from the date of disinvestment and the same may be reported to the designated AD.
- 4. No write off shall be allowed in case of disinvestments by the resident individuals of

Under FEMA 120/ODI Regulations

Reporting Requirements:

Submits duly completed **Part I of the Form ODI** to AD Bank within 30 days of making the remittance.

The investment, as made by a resident individual, shall be reported by the designated authorised dealer to the Reserve Bank in Form ODI Parts I and II, as prescribed by the Reserve Bank from time to time, within 30 days of making the remittance.

The obligations as required in terms of Regulation 15 shall also apply to the resident individuals who have set up or acquired a JV or WOS under the provisions of this Schedule.

The disinvestment by the resident individual may be reported by the designated AD to the Reserve Bank in Part IV of Form ODI, as prescribed by the Reserve Bank from time to time, within 30 days of receipt of disinvestment proceeds.

Can overseas JV/WoS/SDS make portfolio investment outside India?

Ans: The diversification of the activities through SDS should be for Overseas Direct Investment and not for portfolio investment. Portfolio investment is enabled under Regulation 6B for listed Indian company. Portfolio investment by **ineligible** Indian entity done directly or indirectly through JV/WoS/SDS is contravention of extant FEMA guidelines.

Under FEMA 120/ODI Regulations

LRS-ODI

FCo was incorporated by Indian Party/Resident Individual under ODI Regulation but **no remittance has been made**.

Equity shares have been subscribed. Share Certificates issued for full value.

Remittance is pending for more than one year now.

FCo is showing it as receivable form / loan to shareholder.

FCo has commenced business operations.

Amount paid-up against share capital credited out of dividend distribution later without remittance from India.

ODI form not yet filed.

Subscriber shares must be allotted in cash against remittance from India via banking channel. Option to allot against services/ payables etc. if covered under regulations 6 read with 11 of FEMA 120 may be done subsequently. Subscriber shares cannot be issued against cash deposited abroad (other than banking channel).

Like we do in India - Subscribers to Memorandum.

Physical Share Certificates will be required but the share certificates must not be issued/ dated prior to remittance date from India. FEMA do not permit acquisition of foreign shares without payment or on deferred payment basis.

FAQs No. 63: Can an Indian Party/ Resident Indian acquire shares of a foreign entity without upfront payment or on deferred payment basis?

Ans: No, FEMA 120 do not permit acquisition of foreign shares without payment or on deferred payment basis.

Change of residential status under FEMA of an Individual from 'Person Resident in India'/ 'Resident' to 'Non-resident'

S. No.	Institution / Authority		Steps taken/ Intimation	
1.	Bank /	Savings bank /	It is the first formal recognition one gets as	
	Authorised	Term deposit /	Non-Resident.	
	Dealer	Current account	Re-designate the existing resident savings bank	
			account as Non-resident Ordinary ('NRO') Account	
			- as per prescribed procedure by respective bank.	
			New banking accounts viz. Non-Resident	
			External (NRE)/ Foreign Currency Bank [FCNR	
			(B) Account, can also be opened.	
			Any balances held in Exchange Earner's Foreign	
			Currency (EEFC) account of the Resident may be	
			credited to NRE/ FCNR (B) Accounts, at the	
			option/ request of the account holder.	
			Any balances held in Resident Foreign Currency	
			(Domestic) Account may be credited to NRE/	
			FCNR (B) Account, at the option/ request of the	
			account holder.	
	Change of R	Change of Resident Status of Account holder - From Resident to Non-resident:		
	When a pers	son resident in Indi	a leaves India for a country (other than Nepal or	
			ent, or for carrying on business or vocation outside	
			indicating his intention to stay outside India for an	
	A		account should be designated as a Non-Resident	
	(Ordinary) account. Schedule 3 - [See Regulation 5(1) (iii)] - FEM (Dep			
	Regulations,	2016.	110	

S. No.	Institution / Authority		Steps taken/ Intimation
2.	Income Tax Department	PAN	File 'Form for changes in PAN data' for amending overseas residential address/residential status
3.	Company/ MCA	Continuation as a Director	File Form No. DIR-6 with MCA for Intimation of change in particulars of Director for overseas residential address/residential status Change designation from Managing Director/ Whole-time Director to Director to avoid getting covered under the category as taking up employment in India or carrying on in India a business or vocation in India. This will depend upon facts of each case.
4.	Company	Holding shares/securities in physical form	Inform change in status: (i) Nationality (ii) Foreign address (iii) Date of becoming Non-Resident (iv) Number of shares/securities held (v) Name and branch of the bank where the NRO bank account is maintained, giving bank account number details etc.

S. No.	Institution / Authority		Steps taken/ Intimation
5.	Depository Participant	Holding shares in Demat form	Inform change in status (as per prescribed procedure):
			 A new Demat account in the non-resident status may have to be opened. Securities will be transferred from the resident Demat account to non-resident Demat account on closure of existing resident Demat account.
			NRE (PIS) Account may be opened for transactions under the Portfolio Investment Scheme for purchase/ sale of Capital Instruments of listed Indian companies on recognised stock exchanges in India on repatriation basis – Schedule III of NDI Rules.
6.	LLP/Partner ship Firm	Continuation as a Partner	Inform change in status.
	_		Change designation from Designated Partner/ Working Partner to Partner to avoid getting
			covered under the category as carrying on in India a business or vocation in India.

S. No.	Institution /		Steps taken/ Intimation
7.	Authority Companies/LLPs /Partnership Firm/ Proprietorship firm/ Authorised Dealer/ Authorised Bank	Placing of Deposits/ Loan/ Advances	Inform change in status Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 - FEMA 3(R): An authorised dealer /authorised bank, may allow continuance of loans granted to a resident individual who subsequently becomes a person resident outside India, subject to such terms and conditions as specified by the Reserve Bank from time to time. In case a loan was granted by a resident individual to another resident individual and the lender subsequently becomes a non-resident, the repayment of the loan by the resident borrower should be made by credit to the NRO account or any other account of the lender maintained with a bank in India as specified by the Reserve Bank from time to time, at the option of the lender

S. No.	Institution /		Steps taken/ Intimation
	Authority		
8.	Trust	As Trustee/	Inform change in status to the Trust/Trustees.
		Beneficiary	A person domicile abroad is not a proper person to be
			appointed as a Trustee (section 60 of the Indian Trust Act,
			1882). Sections 6 to 18 of the Succession Act, 1925 lays
			down as to what is meant by domicile.
			All bank accounts, investments in shares/ securities/ units
			of mutual funds etc. where the name of Trustee appears as
			Resident will need to be changed to Non-Resident status.
			There may be implications on Non-Resident Trustee
			becoming a Trustee in Indian Trust.
			Under section 73 of the Indian Trust Act, 1882, whenever
			any person appointed a trustee is for a continuous
			period of six months absent from India, or leaves India
			for the purpose of residing abroad, a new trustee may be
			appointed in his place by (a) the person nominated for that
			purpose by the instrument of trust (if any), or (b) if there be
			no such person, or no such person able and willing to act,
			the author of the trust if he be alive and competent to
			contract, or the surviving or continuing trustees or trustee
			for the time being, or legal representative of the last
			surviving and continuing trustee, or (with the consent of the
			Court) the retiring trustees, if they all retire simultaneously,
			or (with the like consent) the last retiring trustee. Every
			such appointment shall be by writing under the hand of the
			person making it.

Institution / Authority		Steps taken/ Intimation
HUF	Karta of HUF	Inform change in status
Mutual Funds/ Government securities	Holds any Units/ Bonds etc.	Inform change in status
PPF Account	Continue to subscribe to PPF account till its maturity on Non-Repatriation Basis	NRIs cannot open a fresh PPF account.
Insurance Company	Holding any Insurance Policies	Refer FEM (Insurance) Regulations, 2015, & Master Directions on Insurance read with Memorandum of Foreign Exchange Management Regulations relating to General/Health Insurance (GIM) and Life Insurance (LIM)
GST Department, etc.	If individual is registered as self/as proprietorship concern	Inform change in status
Aadhaar Card	, , ,	Get the status amended
Arms Licence		Get the status amended
Liquor Licence		Get the status amended
Foreign assets & liabilities	Reporting in ITR filed in India	Only by a person Resident in India, and Not by person 'not ordinarily resident' or a 'non-resident' as defined under the Income-tax Act, 1961. Status under FEMA is not relevant.
	Authority HUF Mutual Funds/ Government securities PPF Account Insurance Company GST Department, etc. Aadhaar Card Arms Licence Liquor Licence Foreign assets &	HUF Karta of HUF Mutual Funds/ Government securities PPF Account Continue to subscribe to PPF account till its maturity on Non-Repatriation Basis Insurance Company GST Department, etc. Aadhaar Card Arms Licence Liquor Licence Foreign assets & Reporting in ITR filed in India

S. No.	Institution /		Steps taken/ Intimation	
	Authority			
	Reporting in ITR filed in India:			
	- A. Details of F	oreign Bank A	ccounts held (including any beneficial interest) at any	
	time during th	e previous year		
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~		erest in any Entity held (including any beneficial	
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	ne previous year	
	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	immovable Pring the previous	operty held (including any beneficial interest) at	
	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	ital Asset held (including any beneficial interest) at	
	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	ng the previous	1000000000000000000000000000000000000	
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~		nich you have <b>signing authority</b> held (including any	
			ne during the previous year and which has not been	
	included in A	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	ie daring the previous year and which has not seen	
			under the laws of a country outside India, in which	
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	ustee, beneficiary or settlor		
	•	G. Details of any other income derived from any source outside India which is		
	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA	~~~ ~ ~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	F above and, (ii) income under the head business or	
	profession			
	Refer latest ITR fo	orm and CBDT	instructions.	
18	Indian currency,	Section 6(5)	A person resident outside India may hold, own,	
	Indian security	of FEMA	transfer or invest in Indian currency, security or any	
	or any	1999	immovable property situated in India if such	
	immovable		currency, security or property was acquired, held or	
	property situated		owned by such person when he was resident in	
	in India		India <u>or</u> inherited from a person who was resident in India.	

Change of residential status under FEMA of an individual from 'Non-resident to 'Resident'

S. No.	Institution / Authority		Steps taken/ Intimation
1.	Bank/Auth	NRO/NRE/	It is the first formal recognition one gets as
	orised	FCNR(B)	Resident. In addition to immigration entry on
	Dealer	Accounts	passport.
			Re-designate NRO Account to Resident Rupee Account - as per prescribed procedure by respective bank.
			Option to convert existing Non-Resident External (NRE) account to either Resident rupee account, or to Resident Foreign Currency (RFC) account.
			Foreign Currency Bank [FCNR (B)] Term Deposits till maturity at the contracted rate and on maturity the same may be converted to Resident Foreign Currency (RFC) Account or to Resident rupee account - as per prescribed procedure in each case.

S. No.	Institution / Steps taken/ Intimation Authority
	Impact of change of resident status - From Non-Resident to Resident - of the NRE
	account, FCNR(B) account and NRO account holder - Foreign Exchange
	Management (Deposit) Regulations, 2016:
	NRE accounts:
	NRE accounts should be re-designated as resident accounts or the funds held in these
	accounts may be transferred to the RFC accounts (if the account holder is eligible for
	maintaining RFC account) at the option of the account holder, immediately upon the
	return of the account holder to India for taking up employment or for carrying on business or vocation or for any other purpose indicating intention to stay in India for an
	uncertain period.
	Where the account holder is only on a short visit to India, the account may continue to be treated as NRE account even during his stay in India.
	FCNR(B) deposits:
	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.
	However, except the provisions relating to rate of interest and reserve requirements as applicable to FCNR(B) deposits, for all other purposes such deposits shall be treated as
	resident deposits from the date of return of the account holder to India. Authorised
	dealers should convert the FCNR(B) deposits on maturity into resident rupee deposit
	accounts or RFC account (if the depositor is eligible to open RFC account), at the option
	of the account holder and interest on the new deposit (rupee account or RFC account)
	shall be payable at the relevant rates applicable for such deposits.

S. No.	Institution /		Steps taken/ Intimation	
	Authority			
	NRO account			
			ted as resident rupee accounts on the return to the	
			king up employment, or for carrying on business or	
			ose indicating his intention to stay in India for an	
			ount holder is only on a temporary visit to India, the ated as non-resident during such visit.	
	RFC Account	t facilitate returning	y NRIs/PIOs:	
			open, hold and maintain with an authorised dealer in	
	India a Resi	ident Foreign Curr	ency (RFC) Account to transfer balances held in	
	NRE/FCNR(B) accounts.		
	Describe of a	anata hald antaida	India at the time of natural can be anadited to DEC	
	Proceeds of assets held outside India at the time of return, can be credited to R account.			
			ree from all restrictions regarding utilisation of foreign	
	currency bala	inces including any re	estriction on investment in any form outside India.	
	RFC accounts can be maintained in the form of current or savings or term deposits, where the account holder is an individual, and in the form of current or tedeposits in all other cases.			
	RFC accounts are permitted to be held jointly with the resident close relative(s) as de in the Companies Act, 1956 as joint holder(s) in their RFC bank account on 'form survivor basis'. However, such resident Indian close relative, now being made eligible become joint account holder shall not be eligible to operate the account during the		int holder(s) in their RFC bank account on ' former or sident Indian close relative, now being made eligible to	
		sident account holde	~~~~~~~~~~~~~~ ~ ~~~~~~ ~ ~~~~~~~ ~ ~~~~~~	

S. No.	Institution / Authority		Steps taken/ Intimation
2.	Income Tax Department	PAN	File 'Form for changes in PAN data' for amending residential address/residential status
3.	Company/ MCA	Continuation as a Director	File Form No. DIR-6 with MCA for Intimation of change in particulars of Director for residential address/residential status
4.	Company	Holding shares/securities in physical form	Inform change in status: (i) Nationality (ii) Indian address (iii) Date of returning/ entering India (iv) Number of shares/securities held and their face value (v) Name and branch of the bank where the bank account is maintained, giving bank account number etc.
5.	Depository Participant	Holding shares in Demat form	Inform change in status (as per prescribed procedure): A new Demat account in the resident status may have to be opened, Securities will be transferred from the NRI Demat account to resident account on closure of the NRI Demat account – as per prescribed procedure. NRI Demat account under the Portfolio Investment Scheme will be discontinued, and shares/ units/ securities transferred to the domestic depository account. NRE account designated as an NRE (PIS) Account to the pre-designated as domestic rupee account.

S. No.	Institution /		Steps taken/ Intimation
	Authority		
6.	LLP/Firm	Continuation as a	Inform change in status
		Partner/Designated	
		Partner/ Working Partner	
7.	Companies/	Placing of Deposits/ Loan/	Inform change in status
	LLPs/Partne	Advances	
	rship Firm/		Foreign Exchange Management (Borrowing
	Proprietorshi		and Lending) Regulations, 2018 - FEMA
	p firm/		3(R):
	Authorised		
	Dealer/		In case a loan was granted by a NRI/OCI
	Authorised		Cardholder to a person resident in India in
	Bank		accordance with the provisions contained in
			these regulations and the lender
			subsequently becomes a resident, the
			repayment of the loan may be made to the
			designated account of the lender maintained
			with a bank in India as specified by the
			Reserve Bank from time to time, at the
			option of the lender
			A resident individual will be permitted to
			service loans taken overseas earlier as a
			person resident outside India subject to
			terms and conditions and limit as specified
	A AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA		by the Reserve Bank from time to time.

S. No.	Institution / Authority		Steps taken/ Intimation
8.	Trust	Trustee/ Beneficiary	Inform change in status to the Trust/Trustees.
			All bank accounts, investments in share/ securities/ units of mutual funds etc. where the name of Trustee appears as Non-Resident will need to be changed to
			Resident.
9.	HUF	Karta of HUF	Inform change in status
10.	Mutual Funds/	Holds any Units/	Inform change in status
	Government securities	Bonds etc.	
11.	PPF Account	Continue to subscribe	Inform change in status
		to PPF account	Can open new PPF account if does not
			have one.
12.	Insurance	Holding Insurance	Refer FEM (Insurance) Regulations, 2015, &
	Company	Policy	Master Directions on Insurance read with
			Memorandum of Foreign Exchange
			Management Regulations relating to
			General/Health Insurance (GIM) and Life
10	COT	TC: 1: : 1 1 :	Insurance (LIM)
13.	GST	If individual is	Inform change in status
	Department,	registered as self/as	123
	etc.	proprietorship concern	

S. No.	Institution /		Steps taken/ Intimation		
	Authority				
14.	Aadhaar Card		Get the status amended		
15.	Arms Licence		Get the status amended		
16.	Liquor Licence		Get the status amended		
17.	Foreign assets &	Reporting in ITR	Only by a person Resident in India, and not by		
	liabilities	filed in India	person 'not ordinarily resident' or a 'non-resident'		
			as defined under the Income-tax Act, 1961.		
			Status under FEMA is not relevant.		
	Reporting in ITR filed in India:				
	- A. Details of Foreign Bank Accounts held (including any beneficial interest) at any				
	time during the previous year				
	B. Details of Financial Interest in any Entity held (including any beneficial interest)				
	at any time during the previous year				
	- C. Details of Immovable Property held (including any beneficial interest) at any time during the previous year				
	D. Details of any other Capital Asset held (including any beneficial interest) at any time during the previous year				
	 E. Details of account(s) in which you have signing authority held (including any beneficial interest) at any time during the previous year and which has not been included in A to D above F. Details of trusts created under the laws of a country outside India, in which you are a trustee, beneficiary or settlor 				
			erived from any source outside India which is not		
	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	(i) items A to F ab	ove and, (ii) income under the head business or		
	profession				
	Refer latest ITR form and CBDT instructions.				

S. No.	Institution /		Steps taken/ Intimation			
	Authority		<u> </u>			
18.	Indian	Section 6(4) of	A person resident in India may hold, own,			
	currency,	FEMA 1999 read	transfer or invest in foreign currency, foreign			
	Indian security	with RBI/2013-	security or any immovable property situated			
	or any	14/440 / A.P.	outside India if such currency, security or			
	immovable	(DIR Series)	property was acquired, held or owned by such			
	property	Circular No. 90	person when he was resident outside India <u>or</u>			
	situated	January 9, 2014	inherited from a person who was resident			
	outside India		outside India.			
	Master Direction - Miscellaneous - Updated as on November 12, 2018:					
	Repatriation of income and sale proceeds of assets held abroad by NRIs who					
	have returned to India for permanent settlement and repatriation of income					
	and sale proceeds of assets acquired abroad through remittances under					
	Liberalised Remittance Scheme - Clarification					
	(a) in terms of sub-section 4 of Section (6) of FEMA, a person resident in India					
	free to hold, own, transfer or <b>invest</b> 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.					

S. No.	Institution /	Steps taken/ Intimation			
	Authority (b) Sub-section <b>4 of Section (6) of FEMA</b> covers the following transactions:				
	i. Foreign currency accounts opened and maintained by such a person when was resident outside India;				
	ii. Income earned through employment or business or vocation outside India taken up or commenced while such person was resident outside India, or from investments made while such person was resident outside India, or from gift or inheritance received while such a person was resident outside India;				
	iii. Foreign exchange including any income arising therefrom, and conversion replacement or accrual to the same, held outside India by a person resident in Inacquired by way of inheritance from a person resident outside India.				
	iv. A person resident in India may <b>freely utilise all their eligible assets</b> abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments or <b>to make any fresh investments abroad</b> without approval of Reserve Bank, provided the cost of such investments and/ or any subsequent payments received therefore are met exclusively out of funds forming part of eligible assets held by them and the transaction is not in contravention to extant FEMA provisions.				
	(b) an investor can retain and reinvest the income earned on investments made under the <b>Liberalised Remittance Scheme</b> .				

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#### Thank You

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