

Liberalised Remittance Scheme ('LRS Scheme')

Other than ODI

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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.

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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.

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| - 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 |

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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

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- **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.
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- **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.

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- 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.

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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.

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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.

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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 sub-heads - 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).

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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.

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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.

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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.

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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.

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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.

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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**

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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.

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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.

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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.

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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 territory 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.