

## **Non Resident Indians (NRIs)/Persons of Indian Origin (PIOs)**

### **Who is a Non Resident Indian (NRI)?**

Non Resident Indian (NRI) means a person who has gone out of India or who stays outside India, in either case for or on taking up employment outside India, or for carrying on outside India a business or vocation outside India, or for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period. Simply, it means a person resident outside India who is a citizen of India or is a Person of Indian Origin. (As per Notification No. FEMA 5/2000-RB dated May 3, 2000).

### **Who is a Person of Indian Origin (PIO)?**

1. For the purposes of availing of the facilities of opening and maintenance of bank accounts and investments in shares/securities in India,

Person of Indian Origin means a citizen of any country other than Bangladesh or Pakistan :

- a) who at any time, held an Indian passport; or
- b) he/she or either of his/her parents or any of his /her grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955(57 of 1955) or
- c) the person is a spouse of an Indian citizen or a person referred to in clause (a) or (b) above.

2. For investments in immovable properties;

Person of Indian Origin means an individual (not being a citizen of Pakistan or Bangladesh or Afghanistan or Bhutan or Sri Lanka or Nepal or China or Iran):

- a) who at any time, held an Indian passport or
- b) who or either of whose father or whose grandfather was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).

### **What are the facilities available to the OCBs?**

Prior to 29.11.2001 and 16.9.2003, OCBs enjoyed the investment facilities available to NRIs . W.e.f 29.11.2001, OCBs have been prohibited from making investments under Portfolio Investment Scheme. OCBs have been de-recognized as a class of investor entity w.e.f. September, 16, 2003. However, OCBs which had prior to Sept, 16, 2003 availed of investment facilities under various schemes have general permission-

- To continue to hold their existing investments in shares/convertible debentures/securities of Indian companies. Indian companies can allot bonus shares accruing to the OCBs.
- To continue to hold shares /convertible debentures purchased under portfolio Investment Scheme till such time they are sold on recognized stock exchange;

- To transfer, by way of sale, the shares/convertible debentures held (other than held under the Portfolio Investment Scheme) on recognized stock exchange;
- To transfer, by way of gift /sale, the shares/ convertible debentures held (other than held under the Portfolio Investment Scheme) in favour of a non-resident Indian (NRI) only;
- To transfer, by way of gift/sale , the shares/convertible debentures held (other than held under the portfolio Investment Scheme) in favour of a resident ;To maintain existing NRE Term Deposit/Recurring Deposit/FCNR (B) Deposits till maturity;
- To continue to maintain NRO (Current) Account, OCBs not maintaining NRO (current) Account may open the same with ;the specific approval of RBI. OCBs which had prior to September 16, 2003 availed of investment facilities under various schemes are not permitted to make fresh investment in Indian companies after September 16, 2003. However, such of those which are incorporated in the host country and are not under adverse notice of RBI may be considered, for undertaking fresh investments, as incorporated non-resident entities by RBI/Government on case-by-case basis. OCBs which had prior to September 16, 2003 not availed of investment facilities under any of the schemes are permitted to make investment in India as per FDI policy of the Government of India as incorporated non-resident entities.

What are the various facilities available to NRIs?

NRIs are granted the following facilities:

1. Maintenance of bank accounts in India.
2. Investment in securities/shares of, and deposits with Indian firms/companies.
3. Investments in immovable properties in India.

## **BANK ACCOUNTS**

NRIs/PIOs are permitted to open bank accounts in India out of funds remitted from abroad, foreign exchange brought in from abroad or out of funds legitimately due to them in India, with Authorised Dealer.

Such accounts can be opened with banks specially authorised by the Reserve Bank in this behalf [Authorised Dealer (AD)].

There are three types of non-resident accounts:

## **RUPEE ACCOUNTS**

1) Non-Resident (External) Rupee Accounts (NRE Accounts) NRIs and PIOs, are eligible to open NRE Accounts. These are rupee denominated accounts. Accounts can be in the form of savings, current, recurring or fixed deposit accounts. Accounts can be opened by remittance of funds in free foreign exchange. Foreign exchange brought in legally, repatriable incomes of the account holder, etc. can be credited to the account. Joint operation with other NRIs/PIOs is permitted. Power of attorney can be granted to residents for operation of accounts for limited purposes.

The deposits can be used for all legitimate purposes. The balance in the account is freely repatriable. Interest lying to the credit of NRE accounts is exempt from tax in the hands of the NRI.

Funds held in NRE accounts may be freely transferred to Foreign Currency Non Resident (FCNR) accounts of the same account holder. Likewise, funds held in FCNR accounts may be transferred to NRE accounts of the same account holders.

2) Ordinary Non-Resident Rupee Accounts (NRO Accounts)

These are Rupee denominated non-repatriable accounts and can be in the form of savings, current, recurring or fixed deposits. These accounts can be opened jointly with residents in India. When an Indian National/PIO resident in India leaves for taking up employment, etc. outside the country, other than Nepal or Bhutan his bank account in India gets designated as NRO account.

The deposits can be used to make all legitimate payments in rupees. Interest income, from NRO accounts is taxable. Interest income, net of taxes is repatriable. Authorised Dealers may allow remittances up to US \$ 1 million, per financial

year, out of balances held in NRO account for any bonafide purpose. Power of Attorney can be granted to residents for operation of account for limited purposes.

## **FOREIGN CURRENCY ACCOUNTS**

3) Foreign Currency Non Resident (Banks) Accounts (FCNR (B) Accounts)

4) Further, the banks are prohibited from granting fresh loans or renewing existing loans in excess of Rupees 20 lakh against NR(E)RA deposits either to the depositors or third parties. However, if the loan is taken abroad against such deposit for end use abroad and not for the purpose of remitting back into India, the ceiling of Rs.20 lakh will not be applicable.

NRIs/PIOs are permitted to open FCNR (B) Accounts in Canadian Dollars and Australian dollars also besides the existing provision of maintaining such accounts in US dollars, Japanese Yen, Sterling Pounds, Euro. The account may be opened only in the form of term deposit for any of the three maturity periods viz; (a) one year and above but less than two years (ii) two years and above but less than three years and (iii) three years only.

Interest income is tax free in the hands of NRI until he maintains a non-resident status or a resident but not ordinarily resident status under the Indian tax laws.

FCNR(B) accounts can also be utilised for local disbursements including payment for exports from India, repatriation of funds abroad and for making investments in India, as per foreign investment guidelines.

## GENERAL PERMISSIONS

Reserve Bank has granted general permission to NRIs/PIOs, for undertaking direct investments in Indian companies, under the Automatic Route, purchase of shares under Portfolio Investment Scheme, investment in companies and proprietorship/partnership concerns on non-repatriation basis and for remittances of current income. NRIs/PIOs do not have to seek specific permission for approved activities under these schemes.

The Reserve Bank of India has now further simplified financial transactions by NRIs/PIOs by granting general permissions to:

1. To resident individuals, partnership/proprietorship concerns to avail of interest bearing rupee loans from NRIs/PIOs out of funds remitted by them from abroad or out of funds held in their bank accounts in India, on non-repatriation basis.
2. NRIs/PIOs to transfer by way of gift shares held by them in Indian companies and to transfer by way of gift immovable property held by them in India subject to compliance with other applicable rules/regulations including the provisions of Foreign Contribution Regulations Act, 1976 by the charitable trust/organisation concerned.
3. All domestic public/private sector mutual funds for issue of Units to NRIs/PIOs on both repatriation as well as non-repatriation basis.
4. NRIs/PIOs to place deposits with Indian firms, on non-repatriation basis and with Indian companies including Non-banking financial companies on non-repatriation basis out of domestic sources.
5. NRIs/PIOs for sale of shares acquired under direct investment Schemes on stock exchanges in India.
6. NRIs /PIOs for transfer of shares, by way of sale under private arrangement to another NRI or to a resident.

NRIs/PIOs have been granted General Permission to invest in Government Securities and Treasury Bills.

Taking into account the facilities that are already available, and the above new measures, NRIs/PIOs will not have to seek specific permission of the Reserve Bank for a whole variety of approved financial/investment transactions. This should considerably reduce paper work and time taken for undertaking such transactions.

After the above changes come into effect, the areas in which facilities available to NRIs/PIOs will be the same as available to domestic residents except relating to investment by NRIs/PIOs in real estate/agriculture and plantation business, Chit Funds,

Nidhis or Print Media. (Investment in print media prohibited by NRI / PIOs only if it is byway of capital contribution to a proprietary or partnership concern)

7. NRI employees of Indian companies can avail of Rupee loans from Authorised Dealer

Category 1 (AD Category 1) banks for acquiring shares of the companies under the

ESOP Scheme subject to certain conditions.

## **DIRECT INVESTMENT OPPORTUNITIES**

NRIs can invest in India as under:

1. Investment under Automatic Route with repatriation benefits
2. Investment with Government approval
3. Other investments with repatriation benefits
4. Investments upto 100% equity without repatriation benefits
5. Other investments by NRIs without repatriation benefits.

### **1 AUTOMATIC ROUTE OF RBI WITH REPATRIATION BENEFITS**

NRIs can invest in shares/convertible debentures of Indian companies under the Automatic Route without obtaining Government or RBI permission except for a few sectors where FIPB permission is necessary, or where the investment can be made only upto a certain percentage of paid up capital. For full details of the Automatic Route, investors may see the website of Department of Industrial Policy & Promotion (<http://dipp.nic.in>)

### **2 INVESTMENT WITH GOVERNMENT APPROVAL**

Investments not eligible under the Automatic Route, are considered by the Foreign Investment Promotion Board (FIPB), a high Powered inter-ministerial body under the chairmanship of Secretary, Department of Economic Affairs, subject to sectoral limits/norms. These investments also enjoy full repatriation benefits.

### **3 OTHER INVESTMENTS WITH REPATRIATION BENEFITS**

1. Investment in units of domestic mutual funds
2. Investment in bonds issued by public sector undertakings
3. Purchase of shares of public sector enterprises being disinvested by GOI.
4. Investment in government dated securities (other than bearer securities) or Treasury Bills NRIs are permitted to invest in the securities with repatriation benefits.
5. Investment in Non-Convertible Debentures by way of public issue in listed company

### **4 INVESTMENT UPTO 100% EQUITY WITHOUT REPATRIATION BENEFITS**

1. Capital contribution to any proprietary or partnership concern - NRIs can invest by way of capital contribution in any proprietary or partnership concern in India provided the firm or the proprietary concern is not engaged in any agricultural/plantation activities or real estate business or print media on non-repatriation basis subject to certain conditions.
2. New issues of shares/debentures of Indians companies - NRIs have been granted general permission to subscribe to the shares/convertible debentures of an Indian company on non-repatriation basis, and general permission is also available to an Indian company to issue shares or convertible debentures by way of new/rights/bonus issue to NRIs on non-repatriation basis provided that the investee company is not a chit fund or a Nidhi company or is not engaged in agricultural/plantation activities or real estate business (real estate business excludes business of township, construction of residential /commercial premises, roads, bridges etc.) or construction of farm houses or dealing in Transfer of Development Rights.

### **5 OTHER INVESTMENTS BY NRIs WITHOUT REPATRIATION BENEFITS**

- (i) Investment in Non Convertible Debentures
- (ii) Money Market Mutual Funds
- (iii) Deposits with companies
- (iv) Commercial Papers

(v) Investment in Non-Convertible Debentures by way of public issue in listed company

## **PORTFOLIO INVESTMENT (PI)**

NRIs are permitted to make portfolio investment in shares/debentures (convertible and non-convertible) of Indian companies (except print media sector), with or without repatriation benefit provided the purchase is made through a stock exchange and also through designated branch of an authorised dealer. NRIs are required to designate only one branch authorised by Reserve Bank for this purpose.

### **GENERAL CONDITIONS FOR PURCHASE WITH REPATRIATION OR NON-REPATRIATION RIGHTS**

- Investments in equity shares and convertible debentures is permitted subject to an overall ceiling of (a) 5 per cent of the total paid-up equity capital/paid-up value of each series of convertible debentures of the company concerned; for individual NRIs (b) 10 per cent of the total paid-up equity capital/paid-up value of each series of the convertible debentures issued by the company concerned for all NRIs taken together both on repatriation and on non-repatriation basis.
- The purchase of shares and debentures under the scheme is required to be made at the ruling market price.
- Indian companies listed on recognised stock exchanges in India are however permitted to allow NRIs to acquire shares/debentures up to 24% instead of the 10% limit after a resolution in General Body and necessary information to RBI.

### **INVESTMENT ON NON-REPATRIATION BASIS**

NRIs intending to invest on non-repatriation basis should submit the application to a designated branch of an Authorised Dealer (AD). The AD will grant general permission to purchase shares/debentures to NRI subject to the condition that the payment for such investment is received through inward remittance or from the investor NRE/FCNR/NRO Account.

Securities acquired by NRIs under PI scheme on a non-repatriation basis can be sold without any permission on the floor of a stock exchange.

Dividend and interest income is fully repatriable.

### **INVESTMENT ON REPATRIATION BASIS**

NRIs intending to invest with repatriation benefits should submit the application to the designated branch of AD. The AD will grant to NRI permission for purchase of shares/debentures subject to the conditions that -

- The payment is received through an inward remittance in foreign exchange or by debit to the investor NRE/FCNR account.
- Investment made by any single NRI investor in equity/preference shares and convertible debentures of any listed Indian company does not exceed 5% of its total paid-up equity or preference capital or 5% of the total paid-up value of each series of convertible debentures issued by it.
- NRIs take delivery of the shares/convertible debentures purchased and give delivery of the shares/convertible debentures sold under the Scheme.

NRIs can freely sell securities acquired by them with repatriation benefits, without any permission, through a stock exchange. Dividend and interest income is also fully repatriable.

#### **INVESTMENT IN THE UNITS OF DOMESTIC MUTUAL FUNDS ON NON-REPATRIATION/REPATRIATION BASIS**

Same procedure as indicated in paragraphs for Investment on Non-Repatriation Basis and Repatriation Basis above is applicable. However, approvals already granted for portfolio investment in shares/debentures of Indian companies will also be valid for purchase of units of domestic mutual funds.

#### **INVESTMENT IN PRINT MEDIA SECTOR**

The following FDI participation (including NRI/PIO) in Indian entities publishing News Papers and periodicals is permitted:

- (i) FDI up to 100% subject to FIPB approval in publishing of scientific magazines, scientific journals/periodicals.
- (ii) FDI up to 26% in publishing News Papers and Periodicals dealing in News and Current Affairs subject to verification of antecedents of foreign investor, keeping editorial and management control in the hands of resident Indians and ensuring against dispersal of Indian equity.

## INVESTMENT IN REAL ESTATE

1. All persons, whether resident in India or outside India, who are citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan, require prior permission of Reserve Bank for acquiring or transferring any immovable property in India.
2. A person resident outside India, who has been permitted by Reserve Bank to establish a branch, or office, or place of business in India (excluding a Liaison Office), has general permission of Reserve Bank to acquire immovable property in India, which is necessary for, or incidental to, the activity. However, in such cases a declaration, in prescribed form (IPI), is required to be filed with the Reserve Bank, within 90 days of the acquisition of immovable property.
3. An Indian citizen resident outside India does not require any permission to acquire any immovable property in India other than agricultural/plantation property or a farm house.
4. An Indian citizen resident outside India does not require any permission to transfer any immovable property, to a citizen of India who is resident in India.
5. An Indian citizen resident outside India does not require any permission to transfer any immovable property other than agricultural or plantation property or farm house, to a person who:-  
a) is a citizen of India resident outside India, or b) is a person of Indian origin resident outside India
6. A person of Indian origin resident outside India does not require any permission to acquire any immovable property other than agricultural land/farm house/plantation property in India by purchase, from out of funds: i) received in India by way of inward remittance through banking channel from any place outside India, or ii) held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank under the Act.
7. A person of Indian origin resident outside India does not require any permission to acquire any immovable property in India other than agricultural land/farm house/plantation property by way of gift from a person resident in India or from a person resident outside India who is a citizen of India or from a person of India origin resident outside India.
8. A person of Indian origin resident outside India does not require any permission to acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations or from a person resident in India.
9. A person of Indian origin resident outside India does not require any permission to transfer any immovable property in India other than agricultural land/farm house/plantation property, by way of sale to a person resident in India.

10. A person of Indian origin resident outside India does not require any permission to transfer agricultural land/farm house/plantation property in India, by way of gift or sale to a person resident in India who is a citizen of India.

11. A person of Indian origin resident outside India does not require any permission to transfer residential or commercial property in India by way of gift to a person resident in India or to person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

12. Repatriation outside India, including credit to RFC, NRE or FCNR account, of sale proceeds of any immovable property situated in India, requires prior permission of the Reserve Bank except in circumstances stated in paragraph 13 below.

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

(i) the immovable property was acquired by the seller in accordance with the provisions of the Exchange Control Rules/Regulations/Law in force at the time of acquisition, or the provisions of the Regulations framed under the Foreign Exchange Management Act, 1999;

(ii) the amount to be repatriated does not exceed a) the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of funds held in foreign currency non-resident account or b) the foreign currency equivalent, as on the date of payment, of the amount paid where such payment was made from the funds held in non-resident external account for acquisition of the property; and

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

(iv) The lock-in period of 10 years for remittance of sale proceeds of immovable property has been dispensed with.

14. All requests for acquisition of agricultural land/plantation/property/farm house by any person resident outside India or foreign nationals may be made to the Chief General Manager, Reserve Bank of India, Central Office, Foreign Exchange Department, Foreign Investment Division , Mumbai 400 001.

15. The NRIs/PIOs can freely rent out their immovable property in India without seeking any permission from the Reserve Bank. The rental income being a current account transaction is freely repatriable outside India.

Notes:

For the purposes of transactions, i.e., transfer, sale, purchase, etc., dealing with immovable property in India, a person of Indian origin is defined as under: an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan),

i) who at any time, held Indian passport; or

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

Source: INVESTMENT PROMOTION & INFRASTRUCTURE DEVELOPMENT CELL DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION  
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