



TAXPERT
PROFESSIONALS

INVESTMENT GUIDE TO NON RESIDENTS

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

In terms of Regulation 2 of FEMA Notification No.13 dated May 3, 2000, Non-Resident Indian (NRI) means a person resident outside India who is a citizen of India. Person of Indian Origin (PIO) means a citizen of any country other than Bangladesh or Pakistan who had (a) at any time held Indian passport or (b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 or (c) the person is a spouse of an Indian citizen or a person referred to in (a) or (b).

Types of Accounts - NRI / PIO in India

If a person is NRI or PIO, she/he can, without the permission from the Reserve Bank, open, hold and maintain the different types of accounts given below with an Authorised Dealer in India, i.e. a bank authorised to deal in foreign exchange.

NRO Savings accounts can also be maintained with the Post Offices in India.

Individuals/ entities of Bangladesh and Pakistan require prior approval of the Reserve Bank.

A. Non-Resident Ordinary Rupee Account (NRO Account)

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

- *Savings Account* - Normally maintained for crediting legitimate dues /earnings / income such as dividends, interest etc. Banks are free to determine the interest rates.
- *Term Deposits* - Banks are free to determine the interest rates. Interest rates offered by banks on NRO deposits cannot be higher than those offered by them on comparable domestic rupee deposits.
- Account should be denominated in Indian Rupees.



- Permissible credits to NRO account are
 - ❖ transfers from rupee accounts of non-resident banks,
 - ❖ remittances received in permitted currency from outside India through normal banking channels,
 - ❖ permitted currency tendered by account holder during his temporary visit to India,
 - ❖ legitimate dues in India of the account holder like current income like rent, dividend, pension, interest, etc.,
 - ❖ sale proceeds of assets including immovable property acquired out of rupee/foreign currency funds or by way of legacy/ inheritance.
- Eligible debits such as all local payments in rupees including payments for investments as specified by the Reserve Bank and remittance outside India of current income like rent, dividend, pension, interest, etc., net of applicable taxes, of the account holder.
- **NRI/PIO may remit from the balances held in NRO account an amount not exceeding USD one million per financial year, subject to payment of applicable taxes.**
- The limit of USD 1 million per financial year includes sale proceeds of immovable properties held by NRIs/PIOs.
- The accounts may be held jointly with residents and / or with non-resident Indian.
- The NRO account holder may opt for nomination facility.
- NRO (current/savings) account can also be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India.
- Loans to non-resident account holders and to third parties may be granted in Rupees by Authorized Dealer / bank against the security of fixed deposits subject to certain terms and conditions.

A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) may remit an amount up to USD one million, per financial year, out of the balances held in his Non- Resident (Ordinary) Rupee (NRO) account / sale proceeds of assets (inclusive of assets acquired by way of inheritance or settlement), for all bonafide purposes, subject to the satisfaction of the Authorized Dealer bank, and on production of an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes. NRI/PIO may remit sale proceeds of immovable property purchased by him out of Rupee funds (or as a person resident in India) without any lock-in-period.

The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan. A person or his successor who has acquired immovable property in accordance with Section 6(5) of FEMA, 1999 cannot repatriate sale proceeds of such property outside India except with prior permission of the Reserve Bank. The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.

B. Non-Resident (External) Rupee Account (NRE Account)

- NRE account may be in the form of savings, current, recurring or fixed deposit accounts. Such accounts can be opened only by the non-resident himself and not through the holder of the power of attorney.
- NRIs as defined in Notification No. FEMA 5/2000-RB dated May 3, 2000 may be permitted to open NRE account with their resident close relatives (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with the extant instructions during the life time of the NRI/PIO account holder.
- Account will be maintained in Indian Rupees.
- Balances held in the NRE account are freely repatriable.
- Accrued interest income and balances held in NRE accounts are exempt from Income tax and Wealth tax, respectively.
- Authorised dealers/authorised banks may at their discretion/commercial judgement allow for a period of not more than two weeks, overdrawings in NRE savings bank accounts, up to a limit of Rs.50,000 subject to the condition that such overdrawings together with the interest payable thereon are cleared/repaid within a period of two weeks, out of inward remittances through normal banking channels or by transfer of funds from other NRE/FCNR accounts.
 - ♣ *Savings* - Banks are free to determine the interest rates.
 - ♣ *Term deposits* – Banks are free to determine the interest rates of term deposits of maturity of one year and above. Interest rates offered by banks on NRE deposits cannot be higher than those offered by them on comparable domestic rupee deposits.
- Permissible credits to NRE account are
 - ❖ Inward remittance to India in permitted currency, proceeds of account payee cheques,
 - ❖ Demand drafts / bankers' cheques, issued against encashment of foreign currency, where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category-I / Category-II,
 - ❖ Transfers from other NRE / FCNR accounts,
 - ❖ Sale proceeds of FDI investments,
 - ❖ Interest accruing on the funds held in such accounts,
 - ❖ interest on Government securities/dividends on units of mutual funds purchased by debit to the NRE/FCNR(B) account of the holder, certain types of refunds, etc.
- Eligible debits are
 - ❖ local disbursements,





- ❖ transfer to other NRE / FCNR accounts of person eligible to open such accounts,
- ❖ remittance outside India,
- ❖ Investments in shares / securities/commercial paper of an Indian company, etc.

● Banks may sanction Rupee loans in India or foreign currency loans outside India to either the account holder or a third party to the extent of the balance in the NRE/FCNR (B) account subject to margin requirements.

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

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

- FCNR (B) accounts are only in the form of term deposits of 1 to 5 years
- All debits / credits permissible in respect of NRE accounts, including credit of sale proceeds of FDI investments, are permissible in FCNR (B) accounts also.
- Account can be in any freely convertible currency.
- Loans up to Rs.100 lakh can be extended against security of funds held in FCNR (B) deposit either to the depositors or third parties.
- The interest rates are stipulated by the Department of Banking Operations and Development, Reserve Bank of India. In respect of FCNR (B) deposits of all maturities contracted effective from the close of business in India as on November 23, 2011, interest shall be paid within the ceiling rate of LIBOR/SWAP rates plus 125 basis points for the respective currency/corresponding maturities (as against LIBOR/SWAP rates plus 100 basis points effective from close of business on November 15, 2008). On floating rate deposits, interest shall be paid within the ceiling of SWAP rates for the respective currency/maturity plus 125 basis points. For floating rate deposits, the interest reset period shall be six months.

- When an account holder becomes a person resident in India, deposits may be allowed to continue till maturity at the contracted rate of interest, if so desired by him.
- Terms and conditions as applicable to NRE accounts in respect of joint accounts, repatriation of funds, opening account during temporary visit, operation by power of attorney, loans/overdrafts against security of funds held in accounts, shall apply mutatis mutandis to FCNR (B). NRI can open joint account with a resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on former or survivor basis. The resident close relative will be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.

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

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

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

An individual resident Indian can borrow sum not exceeding USD 250,000 or its equivalent from his close relatives staying outside India,

Can an individual resident lend money to his close relative NRI / PIO?

Yes, an individual resident can lend money by way of crossed cheque /electronic transfer within the overall limit of USD 200,000 per financial year under the Liberalised Remittance Scheme, to meet the borrower's personal or business requirements in India, subject to conditions. The loan should be interest free and have a maturity of minimum one year and cannot be remitted outside India.

Can an individual resident repay loans of close relative NRIs to banks in India?

Yes, where an authorised dealer in India has granted loan to a non-resident Indian such loans may also be repaid by resident close relative (relative as defined in Section 6 of the Companies Act, 1956), of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

Banks may sanction Rupee loans in India or foreign currency loans outside India to either the account holder or a third party to the extent of the balance in the NRE/FCNR (B) account subject to margin requirements.

Provision

Loans against NRE/FCNR(B) Fixed Deposits

Rupee loans to be allowed to depositor/third party without any ceiling subject to usual margin requirements**

Loans against NRE/FCNR(B) Fixed Deposits

Foreign Currency loans to be allowed to depositor/third party without any ceiling subject to usual margin requirements **

* The term 'loan' shall include all types of fund based/non-fund based facilities.

** In case of FCNR deposits, the margin requirement shall be notionally calculated on the rupee equivalent of the deposits in accordance with para 9(2) of Schedule-2 of Foreign Exchange Management (Deposit) Regulations, 2000.



What are the other facilities available to NRIs/PIO?

A. Investment facilities for NRIs

NRI may, without limit, purchase on repatriation basis:

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

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

B. Investment in Immovable Property

• NRI / PIO⁴ / Foreign National **who is a person resident in India** (citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan would require prior approval of the Reserve Bank) may acquire immovable property in India other than agricultural land/ plantation property or a farm house out of repatriable and / or non-repatriable funds.

- The payment of purchase price, if any, should be made out of
 - ❖ funds received in India through normal banking channels by way of inward remittance from any place outside India or
 - ❖ funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank.

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

- NRI may acquire any immovable property in India other than agricultural land / farm house plantation property, by way of gift from a person resident in India or from a person resident

outside India who is a citizen of India or from a person of Indian origin resident outside India

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

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

- ❖ The sale proceeds of immovable property in India if the property was acquired out of foreign exchange sources i.e. remitted through normal banking channels / by debit to NRE / FCNR (B) account.
- ❖ The amount to be repatriated should not exceed the amount paid for the property in foreign exchange received through normal banking channel or by debit to NRE account (foreign currency equivalent, as on the date of payment) or debit to FCNR (B) account.
- ❖ In the event of sale of immovable property, other than agricultural land / farm house / plantation property in India, by a person resident outside India who is a citizen of India / PIO, the repatriation of sale proceeds is restricted to not more than two residential properties subject to certain conditions.
- ❖ If the property was acquired out of Rupee sources, NRI or PIO may remit an amount up to USD one million per financial year out of the balances held in the NRO account (inclusive of sale proceeds of assets acquired by way of inheritance or settlement), for all the bonafide purposes to the satisfaction of the Authorized Dealer bank and subject to tax compliance.
- ❖ Refund of (a) application / earnest money / purchase consideration made by house-building agencies/seller on account of non-allotment of flats / plots and (b) cancellation of booking/deals for purchase of residential/commercial properties, together with interest, net of taxes, provided original payment is made out of NRE/FCNR (B) account/inward



remittances.

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

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

Facilities to returning NRIs/PIOs

- Returning NRIs/PIOs may continue to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India, if such currency, security or property was acquired, held or owned when resident outside India
- The income and sale proceeds of assets held abroad need not be repatriated.

Foreign Currency Account

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

Resident Foreign Currency Account

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

- RFC accounts can be maintained in the form of current or savings or term deposit accounts, where the account holder is an individual and in the form of current or term deposits in all other cases.

RFC accounts are permitted to be held jointly with the resident close relative(s) as defined in the Companies Act, 1956 as joint holder (s) in their RFC bank account on 'former or survivor basis'. However, such resident Indian close relative, now being made eligible to become joint account holder shall not be eligible to operate the account during the life time of the resident account holder.

General facilities

Can Exchange Earners Foreign Currency (EEFC) accounts be held jointly with a -resident Indian?

Yes, EEFC account of a resident individual can be held jointly with a resident close relative on a 'former or survivor' basis.

However, such resident Indian close relative will not be eligible to operate the account during the life time of the resident account holder.

Can a resident individual holding a savings bank account include nonresident close relative as a joint account holder?

Yes, individuals resident in India are permitted to include non-resident close relative(s) as a joint holder(s) in their resident bank accounts on 'former or survivor' basis. However, such non-resident Indian close relatives shall not be eligible to operate the account during the life time of the resident account holder.

Can a resident individual gift shares/securities/convertible debentures etc to NRI close relative?

Yes, a resident individual is permitted to gift shares/securities/convertible debentures etc to NRI close relative up to USD 50,000 per financial year subject to certain conditions.

Can a resident individual give rupee gifts to his visiting NRI/PIO close relatives?

Yes, a resident individual can give rupee gifts to his visiting NRI/PIO close relatives by way of crossed cheque/electronic transfer within the overall limit of USD 200,000 per financial year for the resident individual and the gifted amount should be credited to the beneficiary's NRO account.

What types of services can be provided by a resident individual to his / her nonresident close relatives?

A resident may make payment in 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. Further, where the medical expenses in respect of NRI close relative are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may also be covered under the term “services”.

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