FOREIGN EXCHANGE MANAGEMENT
(FEMA)

FREQUENTLY ASK QUESTIONS (FAQs)

HSBC

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Contents

FAQ on **Accounts in India by Non-residents**

Q1. Who is an NRI?

Ans : A ‘Non-resident Indian’ (NRI) is a person resident outside India who is a citizen of India.

Q2. Who is a PIO?

Ans : A ‘Person of Indian Origin (PIO)’ is 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, 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 or
d. Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person

A PIO will include an ‘Overseas Citizen of India’ cardholder within the meaning of Section 7(A) of the Citizenship Act, 1955. Such an OCI Card holder should also be a person resident outside India.

Q3. What are the major accounts that can be opened in India by a non-resident?

Ans : The major accounts that can be opened are,

a. Non-Resident (External) Rupee Account Scheme [NRE Account]
b. Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR (B) Account]
c. Non-Resident Ordinary Rupee Account Scheme [NRO Account]

Particulars	NRE Account	FCNR (B) Account	NRO Account
Who can open an account	NRIs and PIOs Individual/entities of Pakistan and Bangladesh shall requires prior approval of the Reserve Bank of India		Any person resident outside India for putting through bonafide transactions in rupees. Individual/entities of Pakistan and Bangladesh shall requires prior approval of the Reserve Bank of India 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
Joint account	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’ 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 in the names of two or more NRIs/ PIOs. 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 Account	Savings, Current, Recurring, Fixed Deposit	Term Deposit only	Savings, Current, Recurring, Fixed Deposit
Period for fixed deposits	From one to three years, However, banks are allowed to accept NRE deposits above three years from their Asset-Liability point of view	For terms not less than 1 year and not more than 5 years	As applicable to resident accounts.

<table>
<tr><th>Particulars</th><th>NRE Account</th><th>FCNR (B) Account</th><th>NRO Account</th></tr>
<tr><td>Permissible Credits</td><td colspan="2">Credits permitted to this account are inward remittance from outside India, interest accruing on the account, interest on investment, transfer from other NRE/ FCNR(B) accounts, maturity proceeds of investments (if such investments were made from this account or through inward remittance).

Current income like rent, dividend, pension, interest etc. will be construed as a permissible credit to the NRE account.

Care: Only those credits which have not lost repatriable character</td><td>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.</td></tr>
<tr><td>Permissible Debits</td><td colspan="2">Permissible debits are local disbursements, remittance outside India, transfer to other NRE/ FCNR (B) accounts and investments in India.</td><td>The account can be debited for the purpose of local payments, transfers to other NRO accounts or remittance of current income abroad.

Balances in the NRO account cannot be repatriated abroad / transferred to NRE account up to USD 1 million per Financial year.</td></tr>
<tr><td>Repatriablity</td><td colspan="2">Repatriable</td><td>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.</td></tr>
<tr><td>Loans in India</td><td colspan="2">AD can sanction loans in India to the account holder/ third parties without any limit, subject to usual margin requirements. These loans cannot be repatriated outside India and can be used in India only for the purposes specified in the regulations.

In case of the loan sanctioned to the account holder, it can be repaid either by adjusting the deposits or through inward remittances from outside India through banking channels or out of balances held in the NRO account of the account holder.</td><td>Loans against the deposits can be granted in India to the account holder or third party subject to usual norms and margin requirement. The loan amount cannot be used for relending, carrying on agricultural/ plantation activities or investment in real estate.</td></tr>
<tr><td>Operations by Power of Attorney in favour of a resident</td><td colspan="2">Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments or remittance to the account holder himself through normal banking channels.</td><td>Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments in rupees, remittance of current income to the account holder outside India or remittance to the account holder himself through normal banking channels. While making remittances, the limits and conditions of repatriability will apply.</td></tr>
<tr><td>Change in residential status from Non-resident to resident</td><td>NRE accounts should be designated as resident accounts or the funds held in these accounts may be transferred to the RFC accounts, at the option of the account holder, immediately upon the return of the account holder to India for taking up employment or on change in the residential status.</td><td>On change in residential status, FCNR (B) deposits may be allowed to continue till maturity at the contracted rate of interest, if so desired by the account holder.

Bank 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.</td><td>NRO accounts may be designated as resident accounts on the return of the account holder 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.</td></tr>
</table>

Q4. Can a Bangladeshi/ Pakistani national or an entity owned/ controlled from Bangladesh/ Pakistan have an account in India?

Ans : Opening of accounts by individuals/ entities of Pakistan nationality/ ownership and entities of Bangladesh ownership requires prior approval of the Reserve Bank.

However, individuals of Bangladesh nationality can open an NRO account subject to the individual(s) holding a valid visa and valid residential permit issued by Foreigner Registration Office (FRO)/ Foreigner Regional Registration Office (FRRO) concerned.

Further, citizens of Bangladesh/Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians residing in India and who have been granted Long Term Visa (LTV) or whose application for LTV is under consideration, are permitted to open only one NRO account with an AD bank in India subject to the conditions mentioned in Notification No. FEMA 5(R)/2016-RB dated April 01, 2016.

Q5. What are the accounts that a tourist visiting India can open?

Ans : 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.

Q 6. What are the deposits that foreign Diplomatic missions/ personnel and their family members in India can hold?

Ans : The following accounts are permitted:

a. Foreign diplomatic missions and diplomatic personnel and their family members in India may open rupee deposits with an AD Bank.
b. Diplomatic missions and diplomatic personnel can open special rupee accounts namely Diplomatic Bond Stores Account to facilitate purchases of bonded stocks from firms and companies who have been granted special facilities by customs authorities for import of stores into bond, subject to conditions. The funds in the account may be repatriated outside India without the approval of Reserve Bank.
c. Diplomatic missions, diplomatic personnel and non-diplomatic staff, who are the nationals of the concerned foreign countries and hold official passport of foreign embassies in India can open foreign currency accounts in India. The account may be held in the form of current or term deposit account, and in the case of diplomatic personnel and non-diplomatic staff, may also be held in the form of savings account Such accounts can be credited by way of inward remittances and transfers (which are collected in India as visa fees) from the rupee account of the diplomatic mission in India. Funds held in such account if converted in rupees shall not be converted back into foreign currency. The funds in the account may be repatriated outside India without the approval of Reserve Bank.

Q7. Can persons resident in Nepal and Bhutan have accounts in India?

Ans : Persons resident in Nepal and Bhutan can open Indian rupee accounts with an authorised dealer in India.

Q8. Can an Indian company accept deposits from non-residents in compliance with section 160 of the Companies Act, 2013?

Ans : 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.

Q12. Who can open an Escrow Account in India and for what purpose?

Ans : Resident and Non-resident acquirers can open Escrow Account in INR with an AD bank in India as the Escrow Agent, for acquisition/transfer of capital instruments/convertible notes in accordance with Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017, as amended from time to time and subject to the terms and conditions specified under Schedule 5 of Foreign Exchange Management (Deposit) Regulations, 2016, as amended from time to time.

<u>**FAQ on Liberalised Remittance Scheme**</u>

Q 1. What is the Liberalised Remittance Scheme (LRS) of USD 2,50,000 ?

Ans. Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both. Further, resident individuals can avail of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules 2015, dated May 26, 2015, within the limit of USD 2,50,000 only.

In case of remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.

Q 2. What is Capital Account Transaction?

Ans. Capital Account Transactions are defined as transactions which alter assets or liabilities including contingent liabilities outside India of persons resident in India or assets and liabilities in India of person's resident outside India. Some examples of Capital Account transactions of person resident in India include investment in foreign Securities, transfer of immovable property outside India etc. Some examples of Capital account transaction of person resident outside India are acquisition and transfer of immovable property in India, import and export of currency/currency notes into/from India etc.

Q 3. What is Current Account Transaction?

Ans. Current Account Transactions are defined as transactions other than Capital Account transactions. Such transactions are generally permitted, however subject to permissibility under the extant FEMA regulations.

Q 4. What types of Payments are allowed under LRS Scheme?

Ans. As per the RBI Circular dated 01Jan2016, any local payments by a Resident Indian to a NRI Close Relative (viz spouse, parents, step-parents, son, step-son, daughter-in-law, daughter, son-in-law, brother/sister, step-brother/ step-sister) are allowed only for "Gift" and "Loan". All such transfers are under the scope of LRS limit monitoring.

Q 5. What are the prohibited items under the Scheme?

Ans. The remittance facility under the Scheme is not available for the following:

i. Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of FEMA 2000.
ii. Remittance from India for margins or margin calls to overseas exchanges / overseas counterparty.
iii. Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.
iv. Remittance for trading in foreign exchange abroad.
v. Capital account remittances, directly or indirectly, to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time.
vi. 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.

Q 6. What are the purposes under FEM (CAT) Amendment Rules, 2015, under which a resident individual can avail of foreign exchange facility?

Ans. Individuals can avail of foreign exchange facility for the following purposes within the LRS limit of USD 2,50,000 on financial year basis:

i. Private visits to any country (except Nepal and Bhutan)
ii. Gift or donation
iii. Going abroad for employment
iv. Emigration
v. Maintenance of close relatives abroad (viz spouse, parents, step-parents, son, step-son, daughter-in-law, daughter, son-in-law, brother/sister, step-brother/ step-sister)
vi. Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up
vii. Expenses in connection with medical treatment abroad
viii. Studies abroad
ix. Any other current account transaction which is not covered under the definition of current account in FEMA 1999.

The AD bank may undertake the remittance transaction without RBI's permission for all residual current account transactions which are not prohibited/ restricted transactions under Schedule I, II or III of FEM (CAT) Rules, 2000, as amended or are defined in FEMA 1999. It is for the AD to satisfy themselves about the genuineness of the transaction, as hitherto.

Q 7. Can remittances under the LRS facility be consolidated in respect of family members?

Ans. Remittances under the facility can be consolidated in respect of close family members subject to the individual family members complying with the terms and conditions of the Scheme. However, clubbing is not permitted by other family members for capital account transactions such as opening a bank account/investment/purchase of property, if they are not the co-owners/co-partners of the investment/property/overseas bank account. Further, a resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.

Q 8. Is it mandatory for resident individuals to have Permanent Account Number (PAN) for sending outward remittances under the Scheme?

Ans. Yes, it is mandatory for the resident individual to provide his/her Permanent Account Number (PAN) for all transactions under LRS made through Authorized Persons.

Q 9. Are there any restrictions on the frequency of the remittance?

Ans. There are no restrictions on the frequency of remittances under LRS. However, the total amount of foreign exchange purchased from or remitted through, all sources in India during a financial year should be within the cumulative limit of USD 2,50,000.

Once a remittance is made for an amount up to USD 2,50,000 during the financial year, a resident individual would not be eligible to make any further remittances under this scheme, even if the proceeds of the investments have been brought back into the country.

Q 10. Under LRS are resident individuals required to repatriate the accrued interest/dividend on deposits/investments abroad, over and above the principal amount?

Ans. No, the investor can retain and reinvest the income earned from portfolio investments made under the Scheme.

However, a resident individual who has made overseas direct investment in the equity shares and compulsorily convertible preference shares of a Joint Venture or Wholly Owned Subsidiary outside India, within the LRS limit, then he/she shall have to comply with the terms and conditions as prescribed under [Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations 2004 as amended from time to time] Notification No. 263/ RB-2013 dated August 5, 2013.

Q 11. Resident individuals (but not permanently resident in India) can remit up to net salary after deduction of taxes. However, if he has exhausted the limit of USD 2,50,000 as net salary remittance and desires to remit any other income under LRS is it permissible as the limit will be over and above USD 2,50,000?

Ans. Resident individuals (but not permanently resident in India) who have remitted their entire earnings and salary and wish to further remit 'other income' may approach RBI with documents through their AD bank for consideration.

Q 12. Can remittances be made only in US Dollars?

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

Q 13. Are there any restrictions towards remittances to Mauritius and Pakistan for permissible current account transactions?

Ans. No, there are no restrictions towards remittances for current account transactions to Mauritius and Pakistan.

Remittances directly or indirectly to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time; and 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 are not permissible.

Q 14. Are there any restrictions on the kind/quality of debt or equity instruments an individual can invest in?

Ans. No ratings or guidelines have been prescribed under LRS of USD 2,50,000 on the quality of the investment an individual can make. However, the individual investor is expected to exercise due diligence while taking a decision regarding the investments which he or she proposes to make.

Q 15. Whether credit facilities (fund or non-fund based) in Indian Rupees or foreign currency can be extended by AD banks to resident individuals?

Ans. LRS does not envisage extension of fund and non-fund based facilities by the AD banks to their resident individual customers to facilitate remittances for capital account transactions under LRS.However, AD banks may extend fund and non-fund based facilities to resident individuals to facilitate current account remittances under the Scheme.

Q 16. Can bankers open foreign currency accounts in India for residents under LRS?

Ans. No.

Q 17. Can an Offshore Banking Unit (OBU) in India be treated on par with a branch of the bank outside India for the purpose of opening of foreign currency accounts by residents under the Scheme?

Ans. No

Q 17. Whether prior approval is required to open, maintain and hold foreign currency account with a bank outside India for making remittances under the LRS?

Ans: No.

Q 18. Can a resident individual make a rupee loan to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

Ans. A resident individual is permitted to make a rupee loan to a NRI/PIO who is a close relative (viz spouse, parents, step-parents, son, step-son, daughter-in-law, daughter, son-in-law, brother/sister, step-brother/ step-sister) of the resident individual ('relative' as defined in Section 2(77) of the Companies Act, 2013) by way of crossed cheque/ electronic transfer subject to the following 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 LRS limit of USD 2,50,000, per financial year, available to the resident individual. It would be the responsibility of the lender to ensure that the amount of loan is within the LRS limit of USD 2,50,000 during the financial year.
(iii) The loan shall be utilised for meeting the borrower's personal requirements or for his own business purposes in India.
(iv) The loan shall not be utilised, either singly or in association with other person, for any of the activities in which investment by persons resident outside India is prohibited, namely;

    a. the business of chit fund, or
    b. Nidhi Company, or
    c. agricultural or plantation activities or in real estate business, or construction of farmhouses, or
    d. trading in Transferable Development Rights (TDRs).

Explanation: For the purpose of item (c) above, real estate business shall not include development of townships, construction of residential / commercial premises, roads or bridges.

(v) The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c.
(vi) The loan amount shall not be remitted outside India.
(vii) Repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO)/ Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

Q 19. Can a resident individual make a rupee gift to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

Ans. A resident individual can make a rupee gift to a NRI/PIO who is a close relative (viz spouse, parents, step-parents, son, step-son, daughter-in-law, daughter, son-in-law, brother/sister, step-brother/ step-sister) of the resident individual [relative' as defined in Section 2(77) of the Companies Act, 2013] by way of crossed cheque /electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) a/c of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 250,000 per financial year as permitted under the LRS for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances made by the donor during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

Q 20. As per Master Circular 106 dated June 01, 2015 states that the applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance for capital account transactions. Whether this restriction applies to current account transactions?

Ans. No. The rationale is that remittance facility is up to the LRS limit of USD 250, 000 for current account transactions under Schedule III of FEM (CAT) Amendment Rules, 2015, such as for private and business visits which can also be provided by FFMCs. As FFMCs cannot maintain accounts of remitters the proviso (as mentioned in para 5.4 of the circular ibid) has been confined to capital account transactions. However, FFMCs, are required to ensure that the "Know Your Customer" guidelines and the Anti-Money Laundering Rules in force have been complied with while allowing the current account transactions.

Q 21. Clarification on remittance by sole proprietor under LRS.

Ans. In a sole proprietorship business, there is no legal distinction between the individual / owner and as such the owner of the business can remit USD 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 USD 250,000 in a financial year under LRS, he cannot remit another USD 250,000 in the capacity of owner of the sole proprietorship business as there is no legal distinction.

Q 22. Can a person resident in India hold assets outside India?

Ans. In terms of sub-section 4, of Section (6) of the Foreign Exchange Management Act, 1999, a person resident in India is free to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

Further, a resident individual can also acquire property and other assets overseas under LRS.

FAQ on Purchase of Immovable Property

Part I.

- **Purchase of immovable property outside India by Resident Individuals**

Q.1 Can a resident continue to hold immovable property outside India which was acquired by him when he was a non-resident?

Ans. According to section 6(4) of the FEMA, a person resident in India can hold, own, transfer or invest in any immovable property situated outside India if such property was acquired, held or owned by him/ her when he/ she was resident outside India or inherited from a person resident outside India.

Q.2 Can a resident individual send remittances and purchase property outside India?

Ans. A resident individual can send remittances under the Liberalised Remittance Scheme (LRS) for purchasing immovable property outside India. In case members of a family pool their remittances to purchase a property, then the said property should be in the name of all the members who make the remittances.

Q.3 To whom do the restrictions of transferring property outside India not apply?

Ans. The prohibition of a resident acquiring property outside India is not applicable if:

a. The resident is a foreign national; or
b. The property was acquired before July 8, 1947 and continued to be held after obtaining permission; or
c. If it is acquired on a lease not exceeding five years

Q.4 How can immovable property be acquired outside India by a resident?

Ans. Immovable property can be acquired outside India:

a. Under section 6(4) of FEMA.
b. As an inheritance/ gift from a person (i) referred to in sec 6(4) of FEMA; or (ii) who has acquired it prior to July 8, 1947 (iii) who has acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition.
c. Purchased with balances in the Resident Foreign Currency (RFC) account of the resident.
d. As a gift from persons at (b) & (c) above, provided he is a relative of such persons.
e. Purchased with remittances made under the Liberalised Remittance Scheme (LRS).
f. Jointly with a relative provided there are no outflow of funds from India.
g. By an Indian company having overseas offices, for housing its business or for residence of staff.

Part II.

- **Purchase of immovable property in India by Non-Resident Individuals**

Q.1 How can a Non-resident Indian (NRI) and an Overseas Citizen of India (OCI) acquire immovable property in India?

Ans. A NRI/OCI Holder is allowed to acquire/sell immovable property in India. They can

- Purchase or sell Property (Residential/ Commercial)
- Acquire Land as gift
- Acquire Land in a form of inheritance

Note : At any given circumstances, NRI/OCI are not allowed to purchase/sell/acquire any Agricultural Land / Farm House / Plantation Property in India.

Q.2 What are the accepted modes of payment for property acquired in India?

Ans: Payment for immovable property has to be received in India through banking channels and is subject to payment of all taxes and other duties/ levies in India. The payment can also be made out of funds held in NRE/ FCNR(B)/ NRO accounts of the NRIs/ OCIs. Payments should not be made through travellers' cheque and foreign currency notes.

Q.3 Can Foreign Embassies/ Diplomats/ Consulate Generals acquire property in India?

Ans: Foreign Embassy/ Diplomat/ Consulate General, can purchase/ sell immovable property (other than agricultural land/ plantation property/ farm house) in India provided –

a. Clearance from the Government of India, Ministry of External Affairs is obtained for such purchase/sale, and
b. The consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channels.

Q.4 Can foreign nationals acquire property in India?

Ans.

a. Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau, Hong Kong or Democratic People's Republic of Korea (DPRK), irrespective of their residential status, cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years. This prohibition shall not be applicable to an OCI.
b. Foreign nationals of non-Indian origin resident in India (except 11 countries listed at (a) above) can acquire immovable property in India.
c. Foreign nationals of non-Indian origin resident outside India can acquire/ transfer immovable property in India, on lease not exceeding five years and can acquire immovable property in India by way of inheritance from a resident.
d. All other acquisitions/ transfers by foreign nationals will require the prior permission of RBI.
e.

Q.5 How can a Long Term Visa (LTV) holder acquire property in India?

Ans. Citizen of Pakistan, Bangladesh or Afghanistan belonging to minority community (Hindu, Christian, Sikh, Parsi, Buddhist, Jain) in that country and residing in India who has been granted an LTV by the Central government can purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment. However, such acquisition is subject to the conditions.

For more details, please refer Regulation 7 of Notification No. FEMA 20 (R)/2018-RB dated March 26, 2018.

Q.6 Can a spouse of an NRI/ OCI who is not a NRI/ OCI acquire property in India?

Ans. A person resident outside India, not being a Non-Resident Indian or an Overseas Citizen of India, who is a spouse of a Non-Resident Indian or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse subject to the conditions.

For more details, please refer Regulation 6 of FEMA 21(R).

Q.7 Can a non-resident repatriate the sale proceeds of immovable property in India?

Ans.

(a) A person who has acquired the property U/s 6(5) of FEMA or his successor cannot repatriate the sale proceeds of such property without RBI approval.

(b) Repatriation up to USD 1 million per financial year is allowed, along with other assets under (Foreign Exchange Management (Remittance of Assets) Regulations, 2016) for NRIs/ PIOs and a foreign citizen (except Nepal/ Bhutan/ PIO) who has (i) inherited from a person referred to in section 6(5) of FEMA, or (ii) retired from employment in India or(c) is a non-resident widow/ widower and has inherited assets from her/ his deceased spouse who was an Indian national resident in India.

(c) NRIs/ PIOs can remit the sale proceeds of immovable property (other than agricultural land/ farm house/ plantation property) in India subject to the following conditions:

i. The immovable property was acquired in accordance with the provisions of the foreign exchange law in force at the time of acquisition or the provisions of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2018;
ii. The amount for acquisition of the property was paid in foreign exchange received through banking channels or out of the funds held in foreign currency non-resident account or out of the funds held in non-resident external account;
iii. In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

Q.8 What is the meaning of transfer?

Ans. As per FEMA, transfer means, sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

FAQ on Foreign Investment in India

Q.1: How can an Indian company receive foreign investment?

Ans : The routes under which foreign investment can be made is as under:

a. Automatic Route: Foreign Investment is allowed under the automatic route without prior approval of the Government or the Reserve Bank of India, in all activities/ sectors as specified in the Regulation 16 of FEMA 20 (R).
b. Government Route: Foreign investment in activities not covered under the automatic route requires prior approval of the Government. Procedure for applying for Government approval.

Q.2: What are the Capital instruments permitted for receiving foreign investment in an Indian company?

Ans : Capital Instruments means equity shares, debentures, preference shares and share warrants issued by the Indian company.

Equity shares: Equity shares are those issued in accordance with the provisions of the Companies Act, 2013 and will include partly paid equity shares issued on or after July 8, 2014.

Share warrants: Share warrants issued on or after July 8, 2014 will be considered as capital instruments.

Debentures: 'Debentures' means fully, compulsorily and mandatorily convertible debentures.

Preference shares: 'Preference' shares means fully, compulsorily and mandatorily convertible preference shares.

Non-convertible/ optionally convertible/ partially convertible preference shares issued as on and up to April 30, 2007 are reckoned to be FDI compliant capital instruments and shall be treated as debt and shall require conforming to External Commercial Borrowings guidelines regulated under FEMA.

Optionally convertible/ partially convertible debentures issued up to June 7, 2007 till their original maturity are reckoned to be FDI compliant capital instruments and shall be treated as debt and shall require conforming to External Commercial Borrowings guidelines regulated under FEMA.

Q.3: Whether extension of compulsorily convertible preference shares (CCPS) or compulsorily convertible debentures (CCDs) requires RBI approval?

Ans : Tenor of convertible instruments will be guided by the instructions framed under the Companies Act, 2013 and the rules framed thereunder. However, the investee company should ensure that the price/ conversion formula of convertible capital instruments is determined upfront at the time of issue of the instruments. The price at the time of conversion should not in any case be lower than the fair value worked out, at the time of issuance of such instruments, in accordance with the extant FEMA regulations.

Q.4: What is a convertible note?

Ans : A convertible note is an instrument issued by a start-up company evidencing receipt of money initially as debt, which is repayable at the option of the holder, or which is convertible into such number of equity shares of such startup company, within a period not exceeding five years from the date of issue of the convertible note, upon occurrence of specified events as per the other terms and conditions agreed to and indicated in the instrument.

Q.5: Who can invest in a convertible note and what are the instructions in this regard?

Ans : A person resident outside India (other than an individual who is a citizen of Pakistan or Bangladesh or an entity which is registered/ incorporated in Pakistan or Bangladesh), may purchase convertible notes issued by an Indian start-up company for an amount of twenty five lakh rupees or more in a single tranche. A start-up company engaged in a sector where foreign investment requires Government approval may issue convertible notes to a non-resident only with the approval of the Government. The amount of consideration should be received by inward remittance through banking channels or by debit to the NRE/ FCNR (B)/ Escrow account maintained by the person concerned.

Q.6: What is meant by Foreign Investment, Foreign Direct Investment and Foreign Portfolio Investment?

Ans : Foreign Investment means any investment made by a person resident outside India on a repatriable basis in capital instruments of an Indian company or to the capital of an LLP.

Foreign Direct Investment (FDI) is the investment through capital instruments by a person resident outside India (a) in an unlisted Indian company; or (b) in 10 percent or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company.

Foreign Portfolio Investment is any investment made by a person resident outside India in capital instruments where such investment is (a) less than 10 percent of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company or (b) less than 10 percent of the paid up value of each series of capital instruments of a listed Indian company.

Q.7: What is meant by capital on a fully diluted basis ?

Ans : Fully diluted basis means the total number of shares that would be outstanding if all possible sources of conversion are exercised.

Q.8: Whether the foreign investment will be classified as FDI or FPI based on the schedule under which the investment is being made.

Ans : No, FDI and FPI are agnostic from the point of view of the schedule under which investment has been made. It is the percentage which defines whether it is direct or portfolio investment.

Q.9: For an FPI investment, once the investment is classified as FDI (basis total holding), if the FDI holding comes back to <10%, will the holdings be classified as FPI again?

Ans : Once an FDI always an FDI.

Q.10 : Whether any approval is required for an entity which has received foreign investment under automatic route and subsequently the sector was brought under approval route

Ans : As long as the foreign shareholding in the entity remains the same and there is no corporate action pursuant to the sector being brought under approval route, approval is not required.

Q.11: Whether the percentage of foreign investment should be calculated at the time of issuance of Employee Stock Options (ESOP) or vesting stage or exercising stage?

Ans : Foreign investment percentage has to be calculated on a fully diluted basis i.e. at the time of issuance of Employee Stock Options.

Q.12: Whether cash is a permissible mode of payment for making foreign direct investment in Indian company.

Ans : No. The amount of consideration for transfer of capital instruments between a person resident in India and a person resident outside India should be received from abroad or remitted from India, as the case may be, through banking channels in India or paid out from or received in, as the case may be, NRE/ FCNR(B)/ Escrow accounts maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016..

Q.13: Are the investments and profits earned in India repatriable?

Ans : All foreign investments are repatriable (net of applicable taxes) except in cases where the investment is made or held on non-repatriation basis.

Q.14: What is meant by investment on repatriation basis and investment on non-repatriation basis?

Ans : Investment on repatriation basis means an investment, the sale/ maturity proceeds of which are, net of taxes, eligible to be repatriated out of India. The expression investment on non-repatriation basis may be construed accordingly.

Q.15: Can a foreigner set up a partnership/ proprietorship concern in India?

Ans : Only NRIs/ OCIs are allowed to invest in partnership/ proprietorship concerns in India on non-repatriation basis.

Q.16 : Can a foreign investor invest in Rights shares issued by an Indian company at a discount?

Ans : There are no restrictions under FEMA for investment in Rights shares issued at a discount by an Indian company under the provisions of the Companies Act, 2013. The offer on rights basis to the persons resident outside India shall be:

a. in case of shares of a company listed on a recognized stock exchange in India, at a price, as determined by the company; and
b. in case of shares of a company not listed on a recognized stock exchange in India, at a price, which is not less than the price at which the offer on right basis is made to resident shareholders.

Q.17: Is a person resident outside India permitted to acquire capital instruments on stock exchange?

Ans : The following persons can acquire capital instruments on the stock exchanges:

a. FPIs registered with SEBI
b. NRIs
c. Other than (a) and (b) above, a person resident outside India, can acquire capital instruments on stock exchange, subject to the condition that the investor has already acquired and continues to hold the control of such company in accordance with SEBI Regulations.

Q.18: What is the concept of downstream investment and Indirect Foreign Investment?

Ans : Downstream investment is investment made by an Indian entity which has total foreign investment in it or an Investment Vehicle in the capital instruments or the capital, as the case may be, of another Indian entity.

If the investor company has total foreign investment in it and is not owned and not controlled by resident Indian citizens or is owned or controlled by persons resident outside India then such investment shall be "Indirect Foreign Investment" for the investee company.

Q.19: What are the regulations regarding II. Foreign Portfolio Investment investments on the stock exchanges in India

Ans : Foreign Portfolio Investors (FPIs) registered in accordance with the provisions of SEBI (FPI) Regulations and NRIs/ OCIs can make investment on the stock exchanges in India, subject to the individual and aggregate limits prescribed in schedules 2 and 3, respectively of FEMA 20(R).

Q 20:

FAQ on Forex facilities (mainly Travel)

Q 1. Who is an Authorized Dealer (AD)?

Ans. An Authorised Dealer (AD) is any person specifically authorized by the Reserve Bank under Section 10(1) of FEMA, 1999, to deal in foreign exchange or foreign securities (the list of ADs is available on www.rbi.org.in) and normally includes banks.

Q 2. Who are authorized by the Reserve Bank to sell foreign exchange for travel purposes?

Ans. Foreign exchange can be purchased from any authorised person, such as an AD Category-I bank and AD Category II. Full-Fledged Money Changers (FFMCs) are also permitted to release exchange for business and private visits.

Q 3. How much foreign currency can be carried in cash for travel abroad?

Ans. Travellers going to all countries other than (a) and (b) below are allowed to purchase foreign currency notes / coins only up to USD 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 USD 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 (USD 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.

Q 4. How much Indian currency can be brought in while coming into India?

Ans. 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.

Q 5. How much foreign exchange can be brought in while visiting India?

Ans. 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 USD 10,000 or its equivalent and/or the value of foreign currency alone exceeds USD 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.

Q 6. Can one pay by cash full rupee equivalent of foreign exchange being purchased for travel abroad?

Ans. 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.

Q 7. Is there any time-frame for a traveller who has returned to India to surrender foreign exchange?

Ans. 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 USD 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.

Q 8. Should foreign coins be surrendered to an Authorised Dealer on return from abroad?

Ans. The residents can hold foreign coins without any limit.

Q 9. Is there any category of visit which requires prior approval from the Reserve Bank or the Government of India?

Ans. Dance troupes, artistes, etc., who wish to undertake cultural tours abroad, should obtain prior approval from the Ministry of Human Resources Development (Department of Education and Culture), Government of India, New Delhi.

Q 10. Whether permission is required for receiving grant/donation from abroad under the Foreign Contribution Regulation Act, 1976?

Ans. The Foreign Contribution Regulation Act, 1976 is administered and monitored by the Ministry of Home Affairs whose address is given below:

Foreigners Division, Jaisalmer House, 26, Mansingh Road, New Delhi-110011

No specific approval from the Reserve Bank is required in this regard

Q 11. Who is permitted to hold International Credit Card (ICC) and International Debit Card (IDC) for undertaking foreign exchange transactions?

Ans. 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.

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 card-holder 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.

Q 12. How much jewellery can be carried while going abroad?

Ans. Taking personal jewellery out of India is as per the Baggage Rules, governed and administered by Customs Department, Government of India. While no approval of the Reserve Bank is required in this case, approvals, if any, required from Customs Authorities may be obtained.

Q 13. Can a resident extend local hospitality to a non-resident?

Ans. 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.

Q 14. Can residents purchase air tickets in India for their travel not touching India?

Ans. 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.

FAQ on Remittance of Assets

Q1. What is meant by Remittance of Assets?

Ans : 'Remittance of assets' means remittance outside India of funds representing

A deposit with a bank or a firm or a company of:

1. provident fund balance
2. superannuation benefits
3. amount of claim or maturity proceeds of Insurance policy
4. sale proceeds of shares, securities, immovable property or any other asset held in India

Q2. What are the assets out of/ from which funds may be remitted and by whom?

Ans :

A foreign national of non-Indian origin (other than Nepal/ Bhutan/ PIO)	**An NRI/ PIO**	**Indian entity**	**A branch or office established in India by a person resident outside India**
1. The person has retired from employment in India. 2. Inherited assets from a person referred to in Sec 6(5)1 of FEMA 3. 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. **May remit up to USD 1 Million in a financial year**	1. From the balances of NRO account – subject to declaration* 2. Sale proceeds of assets 3. 3. Assets acquired from legacy// inheritance/ deed of settlement **May remit up to USD 1 Million in a financial year**	Its contribution towards PF/ superannuation fund/ pension for expatriate employee who are resident but not permanently resident.	Remit its winding up proceeds after submission of requisite documents

* *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."*

Q.3 Who is a Resident?

Ans. Resident as defined in Sec 2(v) 2 of FEMA, 1999. Further, the onus is on the individual to prove his/ her residential status, if questioned by any authority.

Q.4 What is meant by 'not permanently resident'?

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

Q5. Which are the cases related to Remittance of Assets for which prior approval of RBI is to be sought for effecting the remittance?

Ans : RBI approval is required if:

(i) Remittance is in excess of USD 1,000,000 (US Dollar One million only) per financial year:

a. on account of legacy, bequest or inheritance to a citizen of foreign state, resident outside India;
b. by NRIs/ PIOs out of the balances held in NRO accounts/ sale proceeds of assets/ the assets acquired by way of inheritance/ legacy.

(ii) Hardship will be caused to a person if remittance from India is not made to such a person.

Q6. What are the Tax implications in respect of remittance of assets?

Ans. All remittances are subject to payment of taxes as applicable in India – Authorised Dealers are to convince themselves on this aspect.

FAQ on Foreign Currency Accounts by Resident (Individuals)

Q1. Who is a person resident in **India**?

Ans : Sec 2(v) of the Foreign Exchange Management Act, 1999 (FEMA) defines a person resident in India as:

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

(A) a person who has gone out of India or who stays outside India, in either case-

a. for or on taking up employment outside India, or
b. for carrying on outside India a business or vocation outside India, or
c. for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) a person who has come to or stays in India, in either case, otherwise than-

a. for or on taking up employment in India, or
b. for carrying on in India a business or vocation in India, or
c. for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India;

Q2. What is a foreign currency account?

Ans : A Foreign Currency Account is an account held or maintained in currency other than the currency of India or Nepal or Bhutan.

Q3. What are the major foreign currency accounts that can be opened in India by a resident individual?

Ans : Some of the foreign currency accounts that can be opened by resident individuals with an Authorised Dealer bank in India, along with their features are given below:

(a) EEFC
(b) RFC
(c) RFC (D)

Details of various Foreign Currency Accounts

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		
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, step-parents, son, step-son, daughter-in-law, daughter, son-in-law, brother/sister, step-brother/ step-sister) Relative joint account holder cannot operate the account during the life time of the account holder	Jointly with any person eligible to open the	Same as EEFC
Type of Account	Current only	Current only	Current/ savings/ term deposits
Interest	Non-interest earning	Non-interest earning	Interest earning
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 5) professional earnings like director's/ consultancy/ lecture fees, honorarium and similar other earnings received by a professional by rendering services in his individual capacity 6) Interest earned on the funds held in the account 7) Re-credit of unutilised foreign currency earlier withdrawn from the account 8) Payments received in foreign exchange by an Indian startup arising out of sales/ export made by the startup or its overseas subsidiaries	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 5) Disinvestment proceed on conversion of shares into ADR/ GDR 6) foreign exchange received as earnings of LIC claims/ maturity/ surrendered value settled in forex from an Indian insurance company	1) Foreign exchange received by him as superannuation/ other monetary benefits from overseas employer 2) Foreign exchange realised on conversion of the assets referred to in Sec 6(4) of FEMA 3) Gift/ inheritance received from a person referred to in Sec 6(4) of FEMA 4) Foreign exchange acquired before the July 8, 1947 or any income arising on it held outside India with RBI permission 6) Foreign exchange received as earnings of LIC claims/ maturity/ surrendered value settled in forex from an Indian insurance company 7) Balances in NRE/ FCNR (B) accounts on change in residential status
Permitted Debits	1) Any permissible current or capital account transaction 2) Cost of goods purchased 3) Customs duty 4) Trade related loans and advances	Can be used for any permissible current/ capital account transactions.	No restrictions on utilisation in/ outside India.

Q4. In what form can a foreign currency account in India be opened?

Ans : Unless otherwise specifically stated in the features of the account, a foreign currency account maintained by a person resident in India with an authorized dealer in India can be opened, held and maintained in the form of current or savings or term deposit account in cases where the account holder is an individual, and in the form of current account or term deposit account in all other cases. The account can be held singly or jointly in the name of person eligible to open, hold and maintain such account.

Q5. When can a resident individual open a foreign currency account outside India?

Ans : A resident individual can open a foreign currency account with a bank outside India in the following cases:

1) A resident student who has gone abroad for studies for the period of 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 (LRS).

2) A resident who is on a visit to a foreign country for the period of stay abroad. The balance in the account should be repatriated to India on return of the account holder to India.

3) A person going abroad to participate in an exhibition/ trade fair for crediting the sale proceeds of goods. The balance should be repatriated to India within one month from the date of closure of the exhibition/ trade fair.

4) 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.

5) For the purpose of sending remittances under the Liberalized Remittance Scheme.

Q6. Can a resident continue to maintain an account outside India which was opened by him when he was a non-resident?

Ans : 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.

Q7. What is the status of the account held outside India on the demise of the account holder?

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

FAQ on Exchange Earner's Foreign Currency Account (EEFC)

Q 1. What is an EEFC Account and what are its benefits?

Ans. Exchange Earners' Foreign Currency Account (EEFC) is an account maintained in foreign currency with a bank i.e. a bank authorized to deal in foreign exchange. It is a facility provided to the foreign exchange earners, including exporters, to credit 100 per cent of their foreign exchange earnings to the account, so that the account holders do not have to convert foreign exchange into Rupees and vice versa, thereby minimizing the transaction costs.

Q 2. Who can open an EEFC account?

Ans. All categories of foreign exchange earners, such as individuals, companies, etc., who are resident in India, may open EEFC accounts.

Q 3. What are the different types of EEFC accounts? Can interest be paid on these accounts?

Ans. An EEFC account can be held only in the form of a current account. No interest is payable on EEFC accounts.

Q 4. How much of one's foreign exchange earnings can be credited into an EEFC account?

Ans. 100% foreign exchange earnings can be credited to the EEFC account subject to the condition that 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.

Q 5. What are the permissible credits into this account?

Ans. i) Inward remittance through normal banking channels, other than remittances received on account of foreign currency loan or investment received from abroad or received for meeting specific obligations by the account holder;

ii) Payments received in foreign exchange by a 100 per cent Export Oriented Unit or a unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park for supply of goods to similar such units or to a unit in Domestic Tariff Area;

iii) Payments received in foreign exchange by a unit in the Domestic Tariff Area for supply of goods to a unit in the Special Economic Zone (SEZ);

iv) Payment received by an exporter from an account maintained with an authorised dealer for the purpose of counter trade. (Counter trade is an arrangement involving adjustment of value of goods imported into India against value of goods exported from India in terms of the Reserve Bank guidelines);

v) Advance remittance received by an exporter towards export of goods or services;

vi) Payment received for export of goods and services from India, out of funds representing repayment of State Credit in U.S. Dollar held in the account of Bank for Foreign Economic Affairs, Moscow, with an authorised dealer in India;

vii) Professional earnings including directors' fee, consultancy fee, lecture fee, honorarium and similar other earnings received by a professional by rendering services in his individual capacity;

viii) Re-credit of unutilised foreign currency earlier withdrawn from the account;

ix) Amount representing repayment by the account holder's importer customer in respect of trade related loan/advances granted by the exporter (subject to compliance with the extant guidelines) holding EEFC account; and

x) The disinvestment proceeds received by the resident account holder on conversion of shares held by him to ADRs/GDRs under the Sponsored ADR/GDR Scheme approved by the Foreign Investment Promotion Board of the Government of India.

Q 6. What are the permissible debits into this account?

Ans. i) Payment outside India towards a permissible current account transaction [in accordance with the provisions of the Foreign Exchange Management (Current Account Transactions) Rules, 2000] and permissible capital account transaction [in accordance with the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000].

ii) Payment in foreign exchange towards cost of goods purchased from a 100 percent Export Oriented Unit or a Unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park

iii) Payment of customs duty in accordance with the provisions of the Foreign Trade Policy of the Central Government for the time being in force.

iv) Trade related loans/advances, extended by an exporter holding such account to his importer customer outside India, subject to compliance with the Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.

v) Payment in foreign exchange to a person resident in India for supply of goods/services including payments for airfare and hotel expenditure.

Q 7. Is there any restriction on withdrawal in rupees of funds held in an EEFC account?

Ans. No, there is no restriction on withdrawal in Rupees of funds held in an EEFC account. However, the amount withdrawn in Rupees shall not be eligible for conversion into foreign currency and for re-credit to the account.

Q. 8. Whether the EEFC balances can be covered against exchange risk?

Ans. Yes, the EEFC account balances can be hedged. The balances in the account sold forward by the account holders have to remain earmarked for delivery. However, the contracts can be rolled over.

Q. 12. Whether EEFC Account is permitted to be held jointly with a resident relative?

Ans : Resident individuals are permitted to include resident relative(s) [as defined in section 2(77) of the Companies Act, 2013]