



## Investment Schemes for NRI in India and Guidelines for them

Sravanthi S.

Damodaram Sanjivayya National Law University, Vishakhapatnam, Andhra Pradesh, INDIA

Available online at: [www.isca.in](http://www.isca.in), [www.isca.me](http://www.isca.me)

Received 14<sup>th</sup> September 2013, revised 1<sup>st</sup> October 2013, accepted 8<sup>th</sup> November 2013

### Abstract

*Non Resident Indians or NRIs are looking more and more in the direction of their dwelling land to invest their money. NRI is characterised as any person who resides outside India for foremost part of the year because of his employment. Since 1950s, Indian economy has been growing steadily and investors from all over the world have conveyed interest in taking benefit of this growth. After the reforms of 1990 with the commencement of the era of liberalization, India has become one of the favourite investment destinations of NRIs. In this paper I would like to discuss about the investment opportunities to the NRI and guidelines to be followed by NRI to invest in India.*

**Keywords:** NRI investments; Reserve Bank of India, Person India Origin; company shares and debentures, mutual funds, Immovable Property, government securities, partnership firms, economic advisor.

### Introduction

In the last few years, there is gigantic boost in investment possibilities for NRIs and Persons of India Origin (PIO). A non-resident Indian (NRI) has an exclusive place under the Indian foreign investment law. Government of India has simplified directions and guidelines applicable for NRI's and encouraging them to invest in India. NRI's are showing larger interest in investing into India. An NRI is playing a significant role in the development of India through investments. The connection that an NRI has with India has led to a number of investments since liberalization. The focus of Indian principle has been thus to encourage NRI Investments.

NRI investments are governed under the Foreign Exchange Management Act, 1999 (FEMA), regulations specified by the Securities and Exchange Board of India (SEBI), the Foreign Direct Investment policy of the ministry of commerce (the FDI Policy), the master circular issued by reserve bank (the master circular). The FDI Policy is reissued every 6 months while the master circular is reissued annually<sup>1</sup>.

According to the Foreign Exchange Management Act (FEMA), 1999, "an NRI is a person resident outside India who is either a citizen of India or a person of Indian origin (PIO)."

An NRI: .i is an individual; ii. is a person resident outside India; iii. has been or is an Indian citizen or a person of Indian origin (PIO). A person includes an individual. A person resident outside India is any person who is not resident in India. A person resident in India is any person residing in India for more than 182 days during the course of the preceding financial year but does not include a person who has gone out of India to pursue employment or do a business or for any other purpose, in such circumstances as would indicate his intention to stay

outside India for an uncertain period. A person of Indian origin is a citizen of any country other than Bangladesh or Pakistan who has held an Indian passport or any of whose parents or grandparents were citizens of India or is a spouse of any such person.

Under KYC norms NRI must submit passport copy and relevant pages of passport having name, photo, date of birth and address should be submitted. Overseas address is mandatory. Either the permanent or correspondence address must be an overseas address.

NRI can open, hold and maintain the different types of accounts with an Authorized Dealer (bank authorized to deal in foreign exchange) in India without the permission from the Reserve Bank. NRO Savings accounts can be maintained with the Post Offices in India. Individuals/ entities of Bangladesh and Pakistan require prior approval of the Reserve Bank.

**The various types of Bank Accounts an NRI can open are:** i Ordinary Non-Resident Rupee (NRO) Account: NRIs can maintain NRO account for transactions in rupees without any approval from Reserve Bank of India. This account can be opened in the form current, savings, recurring or fixed deposit account. NRIs can also maintain this account jointly with residents or relatives in India. If NRI returns to India permanently, this account can be again designated as a resident account<sup>2</sup>. ii. Non Resident (External) Rupee Accounts (NRE A/C): NRE account is maintained for transactions in freely convertible foreign currency. They can jointly open this account with another NRI. This account can be opened in the form of saving or current or recurring or fixed deposit account. Balance in this account and any interest earned through this account are exempted from tax. Iii. Foreign Currency (Non Resident) Account (FCNR A/C): FCNR A/C is maintained through term

deposit. The account can be opened in Pound Sterling, U.S. dollar, Deutsche Mark and Japanese Yen. The deposit is acknowledged for a period not less than six months and not above three years. Remittance from overseas is to be made in the foreign currency in which the account is desired to be maintained. The balances and the interest on this account are exempt from tax. iv. Non Resident (Non Repatriable) Rupee Deposit Scheme -NR-NR-RD Scheme: NRIs can invest through this scheme in term deposit maintained out of the funds transferred in India in freely convertible foreign currency through proper banking channels. This account is maintained in Indian rupees. The deposits can be for a period ranging from 6 months to 3 years.

**NRI can invest in India under the following ways:** i. Investment in company shares and debentures, ii. Investment in mutual funds, iii. Investment in Immovable Property, iv. Investment in Bonds / Government securities, v. Investment in proprietary/partnership firms

### **Investment in company shares and debentures**

**Portfolio Investment Scheme:** Under RBI and FEMA, Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs) are permitted to invest in the primary and secondary capital markets in India through the portfolio investment Scheme design (PIS). Under this Scheme, NRIs can acquire shares/debentures of Indian companies through the stock markets in India. Currently there are diverse banks which are proposing PIS accounts like ICICI Bank etc.<sup>3</sup>

The NRIs are allowed to invest under portfolio investment schemes subject to following conditions: i. The payment for shares and debentures is obtained through an inward remittance in foreign exchange or by debit to the investor's NRE/FCNR account. ii. On non repatriation basis the payment for purchase of shares and debentures is obtained out of capital held in NRO account or through an inward remittance in foreign exchange or by debit to the investor's NRE/FCNR account. iii. The investment should be made through a registered broker on a recognized stock exchange. iv. The NRI should route all transactions relating to purchase and sale of shares / convertible debentures through a designated branch of an authorized Dealer (Generally a Bank Branch). v. The paid-up value of shares of and each series off convertible debentures of an Indian company, purchased by each NRI both on repatriation and on non-repatriation basis, should not exceed 5 percent of the paid-up value/ each series of convertible debentures respectively handed out by the company. vi. The aggregate paid-up value of shares and each series of convertible debentures of a company purchased by all NRIs/OCBs should not exceed 10% of the paid-up capital / each series of convertible debentures of respective company. This limit of 10% may be increased of 24% if a special resolution to that effect is passed by the General Body of the Indian Company concerned. vii. The NRI investor should take delivery of the shares purchased and gives

delivery of shares sold. viii. The net sale / maturity proceeds (after payment of taxes) of such securities will be allowed to be remitted overseas or at his/its option credited to NRE / FCNR/ NRO account. On non- repatriation it is credited to NRO account<sup>4</sup>.

### **Foreign Direct Investment (FDI) Scheme**

A non-resident Indian or a non-resident person of Indian origin (not being citizen of Bangladesh/Pakistan/Sri Lanka) or an OCB (not incorporated in Bangladesh/ Pakistan) may buy equity shares, Preference shares, Convertible Preferences shares and Convertible debentures of an Indian company on repatriation basis under two routes: i. Automatic route which requires only reporting to the RBI. ii. Approval of Secretariat for Industrial Assistance (SIA) / Foreign Investment Promotion Board (FIPB).

Nonresident Indian may without any limit, buy on non-repatriation basis, shares or convertible debentures of an Indian business issued by way of public issue or private placement or right topic subject to following situation: i. The payment for purchase of shares and debentures is received out of funds held in NRO account or through an inward remittance in foreign exchange or by debit to the investor's NRE/FCNR account. ii. Where the NRI/OCB is inhabitant in Nepal or Bhutan, the allowance of investment will be paid only by way of remittance in foreign exchange through usual banking channels. iii. The Indian company should not be ChitFund or a Nidhi company nor should it be committed in agricultural/plantation activities or real estate or building of farm houses or considering in Transferable Development Rights (excluding development of townships, building of residential /commercial premises, streets, connections etc.) iv. The sale / maturity proceeds (net of applicable taxes) shall be credited to NRO account. v. The amount invested in shares or convertible debentures under this Scheme and the capital appreciation thereon shall not be allowed to be repatriated.<sup>5</sup>

**Investment in mutual funds:** These investments have to be carried out as per FEMA guidelines. A mutual fund is an indirect way to invest in stocks or fixed deposit. Non Resident Indians and Persons of Indian Origin can invest in mutual fund Schemes in India. In case of NRIs no special acceptance is to be searched from administration such as the RBI. They can invest in mutual funds on repatriable basis or non repatriable basis. To invest on repatriable basis an NRE account or FCNR account with a bank in India<sup>6</sup>. In this regard the investment money should be remitted through common banking passages or from the NRE/FCNR account of the NRI investor. Investment can be made on non-repatriation basis as well with investment fund being supplied from NRO account of the NRI shareholder. Investment can be made on non-repatriation basis as well with investment capital being supplied from NRO account or NRE/FCNR account of the shareholder. The schemes that invest in shares are called as Equity Mutual Funds and schemes that

invest in fixed deposits like instruments are called as Debt Funds. A mix of both is called as Hybrid Funds.

For an NRI the method of applying in a mutual fund is alike to the one followed by residents. The application pattern should be submitted at the investor service centres along with cheques or bank drafts. Details of the Indian bank account of the investor should be furnished at the time of application. Alternately online application can be made. Investment will not be made in foreign currency. Rupee cheques drawn from the investor's bank account in India or from overseas payable in a bank in India or Rupee drafts purchased abroad payable at the town where the submission is made should be supplied. Usual facilities like nomination, appointing Power of advocate is available for NRI investors as well. Redemption proceeds are paid in Indian Rupees by cheque to the account number supplied at application. For selected banks they may credit proceeds to the account directly. If investments are made on non-repatriable basis redemption proceeds will be credited to the NRO account of the shareholder. Likewise if an individual turns an NRI after purchasing of units the maturity proceeds will not qualify for repatriation. However dividends are completely repatriable in all situations<sup>7</sup>.

### Investment in Immovable Property

NRI who is an individual resident in India (citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, ceramic, Iran, Nepal and Bhutan would need prior approval from RBI) may acquire immovable property in India other than agricultural land/ plantation property or a farm house out of repatriable and / or non-repatriable fund.

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 RBI Regulations or from a person resident in India, An NRI may transfer any immovable property in India to a person resident in India.

In respect of such investments, NRIs are eligible to repatriate<sup>8</sup>: i. 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. ii. 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. iii. 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. iv. 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 i. Application / earnest money / purchase consideration made by house-building agencies/seller on account of non-allotment of flats / plots and ii. 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<sup>9</sup>.

### Investment in Government Securities and units of UTI

On non-repatriation basis NRIs can freely purchase units of UTI, Central and State Government securities (other than bearer securities) and National Plan/ Savings Certificates by remittances from abroad through normal banking channels or by withdrawing funds from their non-resident accounts with banks in India. Such investments should be made through the banks maintaining their non-resident accounts. The banks have been permitted to credit the dividend/ interest and sale or maturity proceeds of the units/ securities to Ordinary Non-resident accounts of NRI. Units can also be bought by NRIs/OCBs directly from UTI<sup>10</sup>.

They can also invest on non-repatriation basis, in bonds issued by public sector undertakings provided they have secured RBI permission to seek investments from Non-Residents.

On repatriation basis NRIs can freely purchase units of UTI, Central and State Government securities (other than bearer securities) and National Plan/ Savings Certificates by remittances from abroad through normal banking channels or by withdrawing funds from their NRE or FCNR accounts. The dividend and interest income from the investment as well as the sale proceeds/ maturity proceeds of securities purchased by remittances from abroad or by withdrawing funds from NRE/ FCNR accounts can be remitted outside India or may be credited to the investor's NRE/ FCNR accounts.

### Investment in Proprietorship/ Partnership Concerns

By its Notification No. FERA 113/92-RB dated 27th April, 1992 handed out under part 9(1) read with part 29(1) of FERA, 1973, RBI has allocated general permission to: i. NRI can invest in any proprietary or partnership concern in India engaged in any Industrial, commercial or trading activity, on non-repatriation basis and ii. any sum invested by NRI in that

proprietary or partnership concern or the income accruing to such person by way of profit on his investments.

The general permission is subject to fulfillment of the following conditions: i. The amount invested by NRI should be of remittance from abroad through normal banking channels or by transfer of funds from the investor's NRE/FCNR/NRO accounts with a bank in India. ii. The proprietary or partnership concern in India is not engaged in any agricultural/ plantation activity or real estate business, i.e., dealing in land and immovable property with a view to earning profit or earning income there from. iii. The amount invested and the income accruing thereon are not eligible for repatriation to any place outside India and is payable only in non-repatriable Indian rupees.

### **Conclusion**

From the overhead discussion, it can be noted that the India today boasts a large investments. The right potential grades for financial development of businesses in India, political stability of the territory, high asset grades, and favourable foreign investment principles have all conceived a flawless atmosphere for investors to invest in India. It is not a surprise if Non Resident Indians are interested in parking their capital in India. Investors need to take ample precautions while committing funds to India. One way to minimize the risk of deception or bad recommendations is by selecting a believable economic advisor.

### **References**

1. NRI Investment in India available at <http://www.supremecourtcases.com/> accessed on 6th September 2013 (2013)
2. FAQs ON NRI INVESTMENT IN INDIA available on <http://www.sma.net.in/> accessed on 10th September 2013 (2013)
3. Best investment options for NRI's in India now available at <http://myinvestmentideas.com/> accessed on 7th September 2013 (2013)
4. Investment in securities available at [http://www.nritaxservices.com/inv\\_prchs.htm](http://www.nritaxservices.com/inv_prchs.htm) accessed on 6th September 2013 (2013)
5. Tips for invest in mutual funds in India available at <http://investinindia.sulekha.com/> accessed on 10th September 2013 (2013)
6. A complete guide for NRIs investing in Mutual Funds Traditionally available at <http://www.moneycontrol.com/> accessed on 7th September 2013 (2013)
7. Facilities for Non Resident Indians (NRIs) and Persons of Indian available at [www.rbi.org](http://www.rbi.org) accessed on 10th September 2013 (2013)
8. Investment in Shares/ MFs/ securities in India available at <http://welcome-nri.com/> accessed on 8th September 2013 (2013)