



# NRI Transactions – FEMA- Latest Changes & Challenges

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PVR Rajendra Prasad, FCA  
PnP Consulting  
Singapore Hyderabad Dubai  
Mobile:+91 9395320202  
Email : rpfema@gmail.com



# Agenda

## NRI Transactions – FEMA- Latest Changes & Challenges

Policy Framework	Inbound Transactions	Outbound Transactions
<ul style="list-style-type: none"><li>The Policy Framework</li></ul>	<ul style="list-style-type: none"><li>Loans &amp; Guarantees from NRIs</li></ul>	<ul style="list-style-type: none"><li>Liberalized Remittance Scheme</li></ul>
<ul style="list-style-type: none"><li>Capital Account Transactions</li></ul>	<ul style="list-style-type: none"><li>Acquisition of immovable property in India by NRIs/OCIs</li></ul>	<ul style="list-style-type: none"><li>Gifts to NRIs</li></ul>
<ul style="list-style-type: none"><li>Current Account Transactions</li></ul>	<ul style="list-style-type: none"><li>Gift of Shares / immovable property to NRIs</li></ul>	<ul style="list-style-type: none"><li>Acquisition of Property abroad</li></ul>
<ul style="list-style-type: none"><li>Residential Status</li></ul>	<ul style="list-style-type: none"><li>Investments in Real Estate Sector by NRIs without Repatriation</li></ul>	<ul style="list-style-type: none"><li>Setting up companies / entities abroad</li></ul>
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# POLICY FRAMEWORK



# Policy Framework

## Overview of FEMA Regulations:

Source	Author	Nature
FDI Policy	Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry	Policy
Press Notes	DPIIT, Ministry of Commerce and Industry and Ministry of Finance	Policy
Press Releases	RBI	Administrative Policy
FEMA Bare Act	Central Government	Law
FEMA-Rules	Central Government	Law
FEMA Notifications	RBI	Law
FEM (Non-debt Instruments) Rules, 2019	Ministry of Finance	Law
AP (DIR Series) Circulars	RBI	Directions to Bankers and constituents
Master Directions	RBI	Directions to Bankers and constituents



# Scope of FEMA

## Applicability of the Act:

- Applies to Whole of India
- Branches, offices and agencies outside India owned or controlled by a person resident in India
- Any contravention thereunder committed outside India by any person to whom Act applies



# Residential Status

Person Resident in India	Resides for more than 182 days in the preceding financial Year	
	but does not include:	Who has gone out or stays outside India for (a) for or on Employment (b) Business or vocation (c) Uncertain period
		Who has come to or stays in India <u>otherwise than</u> for (a) For or on Employment (b) Business or vocation (c) Uncertain period

Reserve Bank does not determine the residential status. Under FEMA, residential status is determined by the operation of law. The onus is on an individual to prove his / her residential status, if questioned by any authority.



# Residential Status

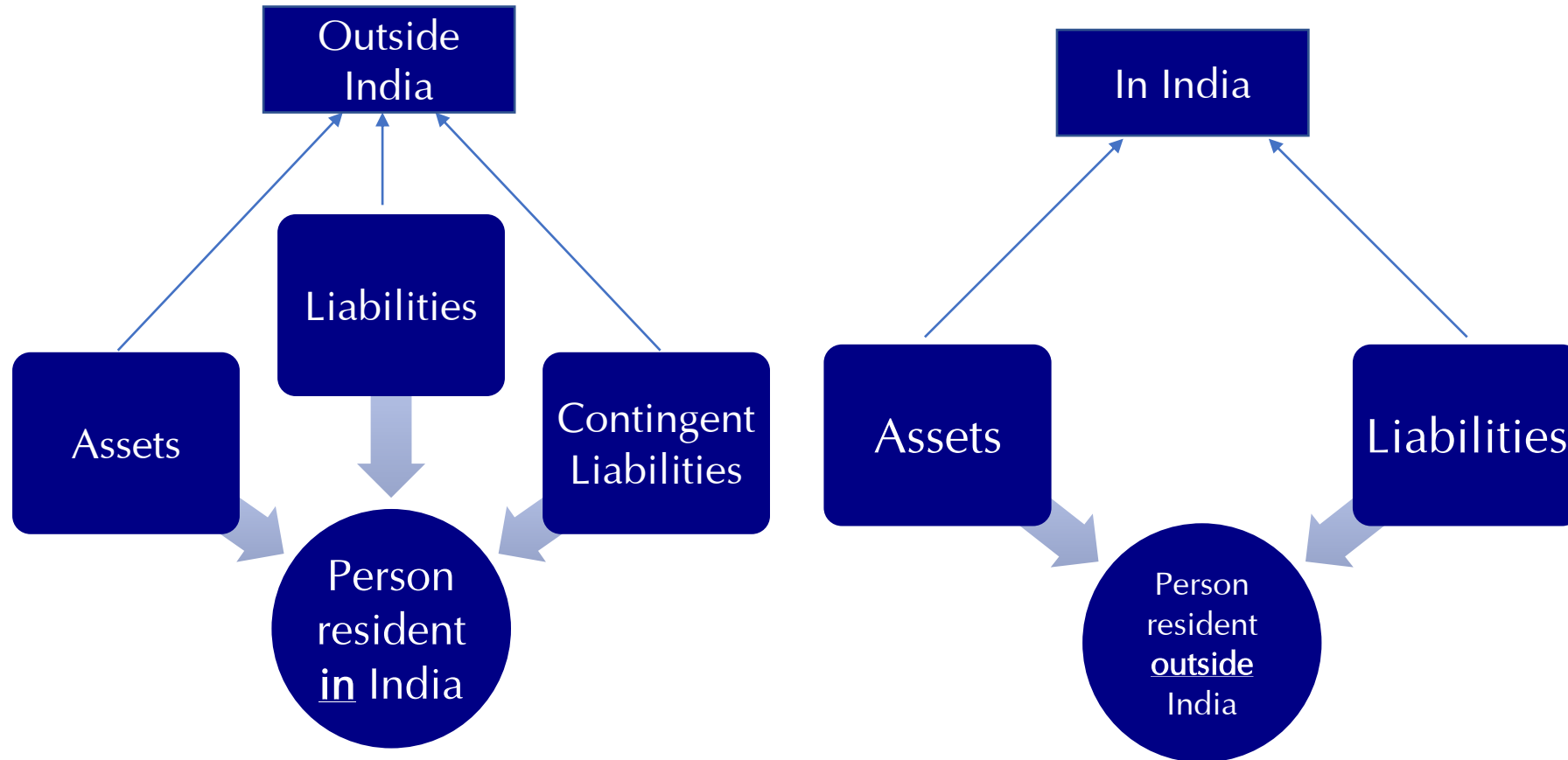
## Person Resident In India

1. Any person or body corporate Registered or incorporated in India
2. Office, branch or agency in India owned or controlled by a person resident outside India.
3. Office Branch or agency outside India owned or controlled by a person resident in India



# Capital Account Transactions

A capital account transaction is a transaction that *alters*



\*and includes transactions referred to in section 6 (3)





# Current Account Transactions

- Current Account transactions means other than a Capital account transaction and without prejudice to the generality of the foregoing such transactions includes:
  - (i) payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business,
  - (ii) payments due as interest on loans and as net income from investments,
  - (iii) remittances for living expenses of parents, spouse and children residing abroad, and
  - (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children;



# Dangerous Sections

Unless permitted by Act or Rules or RBI, the following transactions are prohibited and Section 3(a) is not compoundable by RBI:

Section	Particulars
3 (a)	Dealing in or transfer of any Foreign Exchange or foreign Security not through an Authorized Dealer
3 (b)	Making payments to or for the credit of any person resident outside India in any manner
3 (c)	Any foreign exchange receipt without any corresponding inward remittance
3 (d)	Financial payment or credit in India for a corresponding creation of asset/ credit outside India



# Dangerous Sections

- Penalties – Changes w.e.f. 9<sup>th</sup> Sep 2015
  - 37A – Any person is **suspected** to have held any foreign exchange, foreign Security or Foreign Immovable Property in contravention of Section 4 – Enforcement Directorate(DoE) has power to Confiscate equivalent value of Domestic Property
  - Sec 13 (1A) Impose Penalty up to 3 times the transaction value
  - 13 (1B) DoE can file criminal compliant... which will trigger Money Laundering case
  - 13 (1C) In addition to the above penalties... imprisonment up to 5 years and with fine



# FEMA Trigger Points

Trigger Points	FEMA Applicability
Transaction between a person resident in India and a Resident outside India	Yes
Transaction by Non Resident in Rupees	Yes
Transaction by Resident in Forex	Yes
Transaction by Non Resident in India	Yes
Transaction by Resident outside India	Yes
Transactions outside India between Non residents in forex without connection to India	No



# INBOUND TRANSACTINS



# Loans & Guarantees from NRIs

## Basic Issues

- Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 – FEMA 3 (R) are the main controlling regulations.
- Unless permitted a Person Resident in India shall not borrow or lend in foreign exchange from or to a Person Resident in or outside India.
- Unless permitted a Person Resident in India shall not borrow in Rupees from or lend in Rupees to a Person Resident Outside India.
- Use of Credit Card:
  - (i) In India by a Person Resident Outside India.
  - (ii) Outside India by a Person Resident in India.shall not be deemed as borrowing or lending in Indian Rupees / Foreign Exchange.
- NRIs include OCI card holders also for these regulations



# Loans & Guarantees from NRIs

## Basic Issues

- **“Real Estate Activity”** means any activity involving own or leased property for buying, selling and renting of commercial and residential properties or land and also includes activities either on a fee or contract basis assigning real estate agents for intermediating in buying, selling, letting or managing real estate. However, this would not include development of integrated township, purchase/long term leasing of industrial land as part of new project/modernisation or expansion of existing units or any activity under ‘infrastructure sub-sectors’ as given in the Harmonised Master List of Infrastructure sub-sectors approved by the Government of India vide Notification F. No. 13/06/2009-INF, as amended/updated from time to time;
- **“Relative”** shall have the same meaning as assigned to it in the Companies Act, 2013, as amended from time to time;
- **“Restricted End Uses”** shall mean end uses where borrowed funds cannot be deployed and shall include the following:
  - (a) In the business of chit fund or Nidhi Company;
  - (b) Investment in capital market including margin trading and derivatives;
  - (c) Agricultural or plantation activities;
  - (d) Real estate activity or construction of farm houses; and
  - (e) Trading in Transferrable Development Rights (TDR), where TDR shall have the meaning as assigned to it in the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2015.



# Loans & Guarantees from NRIs

## Borrowings in Foreign Exchange from NRIs

- Resident Individual may borrow up to USD 250,000 or its equivalent in Foreign Exchange from a Relative outside India.
- Minimum Maturity period of loan must be one year.
- The Loan shall be interest free.
- The Loan should come from abroad through normal banking channels or by debit to NRE / FCNR account of the Lender.
- No clarity given in the regulations on end use restrictions. It is advisable not to use for “Restricted end uses”.





# Loans & Guarantees from NRIs

## Individual Resident Student Borrowing in Foreign Exchange

- An Individual Resident in India and studying abroad may raise loan up to USD 250,000 or equivalent for the purpose of payment of Education Fees abroad and maintenance.
- RBI clarified that a student, who stays abroad for studies, more than 182 days in the preceding financial year shall be reckoned as NRI [AP (DIR Series) Circular No.45 dt.08.12.2003]
- Till a student becomes NRI, he / she permitted to raise foreign exchange Loan from abroad up to USD 250,000 or equivalent.



# Loans & Guarantees from NRIs

## External Commercial Borrowings (ECBs) / Trade Credits

- Eligible Resident Indian entities may raise ECBs / Trade Credits in compliance with the conditions of Master Directions on External Commercial Borrowings, Trade Credits and Structured Obligations – No.5/2018-19 dated 26.03.2019 as amended up to 08.08.2019.
- An importer in India is permitted to avail foreign currency credit for permitted imports up to six months.
- Project Exports on deferred payment basis for execution of turnkey projects or civil construction contract can avail foreign exchange borrowings as per the Approval of the Designated Authority / Working Group.



# Loans & Guarantees from NRIs

## Lending to NRIs in Foreign Exchange

- Under Liberalized Remittance Scheme (LRS) Resident Individuals can give loan to Non-Residents, up to 250,000 per financial year.
- A Person Resident in India can lend to an importer customer abroad in the permitted export transaction out of the Exchange Earners Foreign Currency (EEFC) account.
- Indian companies having branches abroad in compliance with FEMA Regulations, can lend personal loans to the employees abroad of the branch in foreign currency.



# Loans & Guarantees from NRIs

## Borrowings in Rupees from NRIs

A Person Resident in India, other than a company incorporated in India, may borrow in Rupees from:

- (a) NRI
  - (b) Relatives who are OCIs
- Borrowings shall only be on Non-Repatriable basis.
  - Loan should come through normal banking channels.
  - Period of Loan shall not exceed 3 years.
  - Rate of interest on loan shall not be more than 2% above Bank Rate.
  - Should not be used for “Restricted End Uses”



# Loans & Guarantees from NRIs

## Borrowings in Rupees against NRI Deposits with Banks

- Resident Individuals, Partnership firms and companies can borrow money from Authorized Banks in India against the collateral of the Fixed Deposits held in NRE/FCNRB/NRO accounts of NRIs
- Generally Authorized Banks will ask for the privity of the contract. Hence, only suitable between Relatives.
- Loan Proceeds cannot be used for relending, agriculture, plantation and real estate business.
- There should not be any direct or indirect foreign exchange consideration to NRIs from residents.



# Loans & Guarantees from NRIs

## Deposits from NRIs

- A company, Partnership firm or a Proprietorship firm may accept deposits on non-repatriation basis from NRIs under Public Deposit Scheme or private arrangement.
- Maturity period shall not exceed 3 years.
- The amount of deposit shall come from NRO Account only from the Local / Domestic sources only.
- The deposit amount should not come from abroad or from NRE / FCNR(B) accounts.
- All other compliances of State Laws and Companies Act, 2013 to be complied.
- Should not be used for Restricted end uses.



# Loans & Guarantees from NRIs

## Guarantees from NRIs

- NRIs can give Guarantee to a Person Resident in India. This will not be construed as a Capital account transaction (Refer definition of Capital Account Transaction).
- In case of invocation of guarantee, general permission is available to Resident to make payment to NRI Guarantor, who met the liability under a guarantee.
- In case of Domestic debt raised through issue of capital market instruments, such as Rupee Bonds and debentures, eligible Non-Resident entities can give Credit enhancement guarantee subject to conditions specified in Master Directions No.5/2018-19, Part III.



# Loans & Guarantees from NRIs

## Challenges

- No general permission available for a company incorporated in India to take unsecured loan from NRI /OCI shareholders or Directors.
- Partnership firm, Proprietorship concern, LLP or any other entity other than a company taking loan from NRI / OCI should comply with the regulations as mentioned in slide 20.
- Lending to NRO/OCI directors / shareholders / partners in Rupees by any entity is not allowed under General Permission.





# Acquisition of Immovable Property in India by NRIs / OCIs

## Basic Concepts

- Unless permitted by the Act (FEMA), Rules or Regulations made thereunder no person Resident Outside India shall transfer (transfer means and includes Sale, Purchase, Exchange, Mortgage, Pledge, Gift, loan or any other form of transfer of right, title, possession or lien) of any immovable property in India.

These Restrictions shall not apply for lease of property for tenure not more than 5 years.



# Acquisition of Immovable Property in India by NRIs / OCIs

## Basic Concepts

- NRI and OCI are permitted to acquire any immovable property in India other than:
  - (a) Agricultural land
  - (b) Farm House
  - (c) Plantation Property



# Acquisition of Immovable Property in India by NRIs / OCIs

## Acquisition by NRI / OCI

NRI / OCI may acquire permitted immovable property in the following ways:

- |                            |   |
|----------------------------|---|
| Acquisition by Purchase    | ➤ Funds remitted from abroad through Banking Channels or out of balances with Authorized Banks in NRE / NRO/FCNR Accounts (No other method of payment permitted). Funds should be directly paid to Seller of the Property – <b>Payments through third parties prohibited.</b> |
| Acquisition by Gift        | ➤ Can acquire by way of Gift from a Person Resident in India or NRI or OCI, who is a relative as defined in the Companies Act, 2013.  |
| Acquisition by inheritance | a) Can acquire any immovable property from a Person Resident Outside India, who acquired such property in accordance with Foreign Exchange Law in force at the time of such acquisition.<br>b) From any Person Resident in India  |



# Acquisition of Immovable Property in India by NRIs / OCIs

## Transfer by NRI / OCI

- NRI / OCI can transfer
  - Any immovable property in India to a Person Resident in India
  - Any immovable property other than agricultural land, farm house and plantation property to an NRI or an OCI.

In case of transfer by way of Gift then it can be transferred to a relative as defined under the Companies Act, 2013.



# Acquisition of Immovable Property in India by NRIs / OCIs

## Joint Acquisition by the spouse of a NRI / OCI

- A spouse of an NRI/OCI, who is a Non NRI/OCI can acquire One immovable property (other than Agricultural lands, Farm house, Plantation) jointly with his or her NRI / OCI spouse.
- Non NRI /OCI spouse is not otherwise prohibited to acquire immovable property in India without prior approval of RBI.

(Natural citizens and legal entities of the following 11 countries are prohibited to acquire/transfer any immovable property in India without prior approval of RBI

***Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong, Macau or Democratic People's Republic of Korea (DPRK).***

- Marriage should be registered and subsisted for a continuous period of not less than 2 years immediately preceding the acquisition of property.



# Acquisition of Immovable Property in India by NRIs / OCIs

## Special Provisions

A Person being a citizen of Afghanistan, Bangladesh or Pakistan and has been granted “Long Term Visa” and belonging to minority communities of those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians and residing in India can purchase:

- (i) One residential property for self occupation; and
- (ii) One immovable property for carrying on self employment;

Subject to conditions:

- (a) Submission of declaration to District Revenue Authority about his residence and sources of funds.
- (b) Submit a copy of the purchase documents to Deputy Commissioner of Police or Foreign Registration Office and to Ministry of Home Affairs (Foreigners Division).



# Acquisition of Immovable Property in India by NRIs / OCIs

## Repatriation of Sale Proceeds

In the event of sale of immovable property other than Agricultural land, farm house or plantation property, NRI or OCI, can repatriate sale proceeds out of India subject to:

- The said property acquired in accordance with FEMA Regulations.
- The amount for acquisition was paid out of inward remittances or from NRE / FCNR accounts.
- In case of Residential Property only up to 2 properties permitted. There is no restriction for other properties.

In respect of properties acquired through domestic funds or other sources as gift/inheritance, NRI / OCI can use the facility of USD 1 Million repatriation under Foreign Exchange Management (Remittance of Assets) Regulations, 2016.



# Acquisition of Immovable Property in India by NRIs/OCIs

## Challenges

- NRI / OCI holding immovable properties in India prior to becoming NRI or acquiring through inheritance cannot repatriate sale proceeds without seeking prior approval of RBI. However, up to USD 1 Million limit can be utilised for repatriation under Foreign Exchange Management (Remittance of Assets) Regulations, 2016.
- In case of transfer between NRI / OCI and another NRI / OCI the flow of funds should happen through Indian Banking channels and cannot be settled outside India





# Gift of Shares / Immovable Property to NRIs/OCIs

## Gift of Shares to NRIs/ OCIs

A Person Resident in India can transfer equity instruments or units of an Indian company to a Person Resident Outside India by way of Gift **only with the prior approval of RBI**, subject to compliance of following conditions:

- Gift does not exceed five percent (5%) of the paid up capital or each series of debentures or each fund scheme on cumulative basis by a single person to another single person.
- Donor and donee shall be relatives as per the Companies Act, 2013.
- Gift cannot be more than USD 50,000 or equivalent in value per financial year.



# Gift of Shares / Immovable Property to NRIs/OCIs

## Gift of Immovable Property to NRIs / OCIs

- A Person Resident in India can transfer immovable property (other than Agricultural lands, farm house and plantation property) as Gift to an NRI or OCI, who is relative as per the Companies Act, 2013.
- There is no limit on number of properties that can be Gifted.
- The limit of USD 250,000 under Liberalized Remittance Scheme (LRS) is not applicable.



# Investment in Real Estate sector by NRIs/OCIs under Non Repatriation basis

Under Schedule IV of Foreign Exchange Management (Non-debt Instruments) Rules, 2019, investments under general permission can be made in Real Estate Development under Non Repatriation basis:

## Eligible Investors:

NRI, OCI and a company, a trust and partnership firm incorporated outside India and owned and controlled by NRIs / OCIs.

## Eligible Entities to receive investment:

Company, Partnership firm, LLP and Proprietorship concern.

## Prohibited Area:

Real Estate development is permitted but real estate business is not permitted.

Real estate business' means dealing in land and immovable property with a view to earning profit therefrom and does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships;



# Investment in Real Estate sector by NRIs/OCIs under Non Repatriation basis

*Explanation: —*

- (a) Investment in units of Real Estate Investment Trusts (REITs) registered and regulated under the Securities and Exchange Board of India (REITs) regulations 2014 shall also be excluded from the definition of “real estate business”.
- (b) Earning of rent income on lease of the property, not amounting to transfer, shall not amount to real estate business.
- (c) Transfer in relation to real estate includes,
  - (i) the sale, exchange or relinquishment of the asset; or
  - (ii) the extinguishment of any rights therein; or
  - (iii) the compulsory acquisition thereof under any law; or
  - (iv) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or
  - (v) any transaction, by acquiring capital instruments in a company or by way of any agreement or any arrangement or in any other manner whatsoever, which has the effect of transferring, or enabling the enjoyment of, any immovable property.

Real estate broking services shall be excluded from the definition of “real estate business” and 100% foreign investment is allowed in real estate broking services under automatic route.

## **Repatriation:**

Capital invested cannot be repatriated, however profits / dividends can be repatriated.



# OUTBOUND TRANSACTINS



# Liberalized Remittance Scheme (LRS)

## Salient Features

- This Scheme is applicable only to Resident Indian Individuals, including minors.
- Resident individual can remit up to USD 250,000 or equivalent for any permitted capital or current account transaction or combination of both per financial year.



# Liberalized Remittance Scheme (LRS)

## Salient Features

- Permissible **capital account transactions** under LRS:
  - (i) opening of foreign currency account abroad with a bank;
  - (ii) purchase of property abroad;
  - (iii) making investments abroad- acquisition and holding shares of both listed and unlisted overseas company or debt instruments; acquisition of qualification shares of an overseas company for holding the post of Director; acquisition of shares of a foreign company towards professional services rendered or in lieu of Director's remuneration; investment in units of Mutual Funds, Venture Capital Funds, unrated debt securities, promissory notes;
  - (iv) setting up Wholly Owned Subsidiaries and Joint Ventures (with effect from August 05, 2013) outside India for bonafide business subject to the terms & conditions stipulated in Notification No FEMA.263/ RB-2013 dated March 5, 2013;
  - (v) extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 2013.



# Liberalized Remittance Scheme (LRS)

## Salient Features

- Remittances can be consolidated in respect of family members but each individual member should comply with the Regulations.
- Clubbing of Remittances in to one person's account not permitted for capital account transactions such as
  - Opening of Bank Accounts
  - Purchase of investments
  - Purchase of Property
- In all the above, all the persons shall be co-owners / Joint Owners in proportion to their remittances.
- A Resident Indian cannot Gift or Loan foreign exchange to another Resident Indian





# Liberalized Remittance Scheme (LRS)

## Prohibited transactions under LRS

- Purchase or participation in Lottery Schemes, any Gambling Schemes / Banned / proscribed Magazines.
- Margins or Margin calls to Overseas Exchanges / Counter Parties.
- Foreign Currency trading based on margins or Margin calls
- Capital Account remittances to countries identified by FATF as non-cooperative countries and territories.



# Liberalized Remittance Scheme (LRS)

## Gifts / Loans to Non Residents

- A Resident Indian Individual can give a Loan or Gift to any Non Resident through remittance abroad under LRS in foreign exchange.

However, a Resident Individual can give interest free Loan or Gift only to an NRI / OCI who is a relative as defined in Companies Act, 2013 up to the limit of LRS i.e., USD 250,000 in Rupees in India per Financial year



# Liberalized Remittance Scheme (LRS)

## Business Trips / Private Visits

- A Resident Individual can obtain foreign exchange up to USD 250,000 for any number of Business or Private visits abroad other than Nepal and Bhutan in a financial year.
- If an employee, who is a Resident Indian is deputed abroad by any entity in India for business visits then such expenses will not be counted under LRS Scheme, but will be treated as Current Account transactions of that entity. Such current account transactions can be without any limit.



# Acquisition of Immovable Property abroad

- Resident Individual can send remittance under LRS for purchasing immovable property abroad.
- Such property can be let out or sold and sale proceeds / rental income need not be repatriated to India.
- Funds retained can be reinvested.
- Family members can jointly purchase property abroad.
- No borrowing for purchase of property allowed – either loans or instalments given by builder / seller are not permitted.
- An individual can remit up to USD 250,000 per financial year abroad and park the money in foreign Bank accounts over multiple years until sufficient funds are available for purchase of property.



# Acquisition of Immovable Property abroad

- A Resident Individual or Group of individuals cannot incorporate a Company / Trust / any other entity abroad exclusively for the purpose of holding property abroad.
- Directly or indirectly no liability of capital account nature can be created outside India without prior approval of RBI.
- Normal current account liabilities of duration less than six months can be created without prior RBI approval viz., Maintenance Charges for property, Utility Bills, Insurance Bills etc.
- Resident Individual who acquired immovable property abroad through LRS can gift the immovable property to any Person Resident in India or Outside India. Also can bequeath the property to any person in India or outside India.



# Setting up of a Company abroad by Individuals

## Overseas Investments by Individuals under LRS

Strategic Investment –  
ODI Documentation

Portfolio Investment –  
LRS Documentation



# Setting up of a company abroad by Individuals

## Strategic Investment

- Resident Individual is a strategic investor, if
  - (a) He is a promoter of the company abroad.
  - (b) Wholetime Director / Executive Director of the company abroad
  - (c) Having Cheque signing Authority of the company abroad.
  - (d) Having signing Authority of contracts of the company abroad
  - (e) Holding equity shares of 10% or more.

## Portfolio Investment:

- A Portfolio investor is an investor simplicitor not having any Strategic involvement and holding less than 10% of the equity / controlling Right



# Setting up of a company abroad by Individuals

## Portfolio Investment:

- Resident Individual making a Portfolio investment abroad has to follow the LRS documentation as per the directions of the Authorised Dealer bank. ( ODI documentation should not be submitted)

## Strategic Investment

- Resident Individual setting up or acquiring a company abroad as a strategic Investment would require ODI process. ( FEMA Notification 263/2013-RB dated 5-3-2013)





# Setting up of a company abroad by Individuals

## LRS - ODI by Resident Individuals

- Investment limited to LRS limit - USD 250,000 per Financial Year
  - Includes investment from balances in EEFC and RFC Accounts
  - Investment can be made singly or in association with other Resident Individuals or with Indian Party
- Only for bonafide business outside India (**Bonafide business as per RBI does not include investment back in to any Indian Company or entity**)
- Prohibited to invest in a JV / WOS which is engaged in or proposes to engage in
  - Real estate business; or
  - Banking business; or
  - Financial services activity
- Investment only in equity shares or compulsorily convertible preference shares allowed



# Setting up of a company abroad by Individuals

## LRS - ODI by Resident Individuals

- Investment only in operating entity.
  - No step-down subsidiary is allowed
  - No guarantees allowed
  - No pledge of shares allowed
  - No non-cash remittances allowed
  - Charge on domestic or foreign assets not allowed
  - Write-offs not allowed
- Investment needs to be through banking route and with one Bank only
- Use of credit cards or use of cash or third party payments to open companies outside India is a violation of FEMA.



# Setting up of a company abroad by Individuals

## LRS - ODI by Resident Individuals

- Valuation of the shares of company abroad to be done as prescribed.
- Cannot invest in countries identified as “non-cooperative countries and territories” by FATF.
- Resident individual should not be on Reserve Bank's Exporters Caution List or List of defaulters to the banking system or under investigation by any investigation/enforcement agency or regulatory body.



# Individuals – Emigration – EB5 USA

## LRS - EB5 - USA

- US-EB5 program can get a Permanent Residency (Green Card) for the family for an investment of USD 900,000 or USD 1,800,000 (and some other conditions)
- Resident Individual can avail foreign exchange facility for Emigration up to USD 250,000 per year.
- For additional requirement above USD 250,000 an application can be made to RBI, but, RBI will not permit for investment in Emigration investments abroad such as Government bonds, Equity Investments, etc.,
- Absolute care is essential, as any non-compliance with FEMA in India will also be reckoned as a non-compliance in USA.



# Thank you!