



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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RBI/FED/2015-16/7

FED Master Direction No. 12/2015-16

January 1, 2016

[Updated as on April 11, 2018]

[Updated as on February 4, 2016*]

To,

All Category - I Authorised Dealer banks and Authorised Banks

Madam/ Sir

Master Direction – Acquisition and Transfer of Immovable Property under Foreign Exchange Management Act, 1999

Acquisition and transfer of immovable property by Indian residents outside India and Non-residents in India is regulated in terms of sub-sections (3), (4) and (5) of section 6 of the Foreign Exchange Management Act, 1999 (FEMA) read with ¹[Notification No. FEMA 7\(R\)/2015-RB dated January 21, 2016](#) and ²[Notification No. FEMA 21\(R\)/2018-RB dated March 26, 2018](#), respectively. These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

2. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/constituents with a view to implementing the regulations framed.

3. Instructions issued on acquisition of immovable property have been compiled in this Master Direction. The list of underlying circulars/ notifications which form the basis of this Master Direction is furnished in the Appendix. Reporting instructions can be found in Master Directions on reporting ([Master Direction No. 18 dated January 1, 2016](#))

4. It may be noted that, whenever necessary, Reserve Bank shall issue directions to Authorised Persons through A.P. (DIR Series) Circulars in regard to any change in the Regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents. The Master Direction issued herewith shall be amended suitably simultaneously.

Yours faithfully

(A K Pandey)
Chief General Manager

* Since this Master Direction has been significantly amended, it has been replaced rather than showing the changes in track mode for reader convenience. The changes are listed at the end of Master Direction in any case.

¹ FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2000 was repealed and replaced by FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 with effect from January 21, 2016.

² FEM (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 were repealed and replaced by FEM (Acquisition and Transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018

³Master Direction 12/ 2015-16 - Acquisition and Transfer of Immovable Property under Foreign Exchange Management Act, 1999

Part I - Acquisition and Transfer of Immovable Property outside India by a person resident in India

1. Introduction

1.1 The Foreign Exchange Management Act, 1999 (FEMA) empowers the Reserve Bank to frame regulations to prohibit, restrict or regulate the acquisition or transfer of immovable property outside India by persons residents in India. The regulations governing acquisition and transfer of immovable property outside India are notified under [4 Notification No. FEMA 7\(R\)/2015-RB dated January 21, 2016](#), as amended from time to time.

1.2 A person resident in India can, acquire property outside India if so permitted under the FEMA or the regulations framed thereunder or with the general or special permission of the Reserve Bank. These restrictions, however, do not apply to the property held by a person resident in India who is a foreign national or if the property was acquired by a person resident in India on or before July 8, 1947 and continued to be held by him with the permission of the Reserve Bank. The restrictions also do not apply to acquisition of property outside India by a person resident in India on a lease not exceeding five years.

2. Definitions

Some key terms used in the regulations are given below:

2.1 'Relative' in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual.

2.2 'Liberalised Remittance Scheme' is a facility available to resident individuals for making remittances outside India as per the conditions mentioned in the Master Direction on Liberalised Remittance Scheme.

³ Updated up to April 4, 2018 through FEM (Acquisition and Transfer of Immovable Property in India) Regulations, 2018 dated March 26, 2018. The Original Master Direction No. 12/2015-16 was issued on January 1, 2016.

⁴ FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2000 were repealed and replaced by FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 with effect from January 21, 2016.

3. Modes of acquiring property outside India by a resident

3.1 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.

3.2 A resident can acquire immovable property outside India by way of gift or inheritance from:

- (a) a person referred to at 3.1 above; or
- (b) a person resident in India who had acquired such property on or before July 8, 1947 and continued to be held by him with the permission of the Reserve Bank.
- (c) ⁵a person resident in India who has acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition.

3.3 A resident can purchase immovable property outside India out of foreign exchange held in his/ her Resident Foreign Currency (RFC) account.

3.4 ⁶A resident can acquire immovable property outside India jointly with a relative who is a person resident outside India, provided there is no outflow of funds from India.

⁷[**]

4. Acquisition under the Liberalised Remittance Scheme (LRS)

A resident individual can send remittances under the Liberalised Remittance Scheme for purchasing immovable property outside India.

⁵ Inserted by FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 with effect from January 21, 2016.

⁶ Inserted by FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 with effect from January 21, 2016.

⁷ Omitted by FEM (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 with effect from January 21, 2016. Prior to omission, the clause read as "If a person resident in India has acquired immovable property outside India as per the provisions listed at 3.1 to 3.3, above, he may transfer it by way of gift to his relative who is a person resident in India."

5. Companies having overseas offices

A company incorporated in India having overseas offices, may acquire immovable property outside India for its business and for residential purposes of its staff, provided total remittances ⁸do not exceed the following limits prescribed for initial and recurring expenses, respectively:

- a) 15 per cent of the average annual sales/ income or turnover of the Indian entity during the last two financial years or up to 25 per cent of the net worth, whichever is higher;
- b) 10 per cent of the average annual sales/ income or turnover during the last two financial years.

Part II - Acquisition and Transfer of Immovable Property in India

1. Introduction

1.1 The Foreign Exchange Management Act, 1999 (FEMA) empowers the Reserve Bank to frame regulations to prohibit, restrict or regulate the acquisition or transfer of immovable property in India by persons resident outside India. The regulations governing acquisition and transfer of immovable property in India are ⁹either laid down in FEMA or notified under [Notification No. FEMA 21\(R\)/2018-RB dated March 26, 2018](#), as amended from time to time. These restrictions do not apply to acquisition or transfer of immovable property in India by a person resident outside India on a lease not exceeding five years.

1.2 As per section 6(5) of FEMA, a person resident outside India can hold, own, transfer or invest in any immovable property situated in India if such property was acquired, held or owned by him/ her when he/ she was resident in India or inherited from a person resident in India.

2. Definitions

Some key terms used in the regulations are given below:

⁸ Inserted by [AP \(DIR Series\) Circular No. 43/2015-16 \[1/7\(R\)\]](#). Prior to insertion it read as "in accordance with the direction issued by the Reserve Bank of India from time to time."

⁹ Inserted by [Notification No. FEMA 21\(R\) with effect from March 26, 2018](#).

2.1 ¹⁰A 'Non-Resident Indian' (NRI) is a person resident outside India who is a citizen of India.

2.2 ¹¹An 'Overseas Citizen of India (OCI)' is a person resident outside India who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955.

2.3 'Repatriation outside India' means the buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through banking channels or crediting it to an account denominated in foreign currency or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency.

2.4 'Transfer' includes sale, purchase, mortgage, exchange, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

2.5 'Relative' means relative as defined in section 2(77) of the Companies Act, 2013.

3. Acquisition/ transfer by a Non- Resident Indian (NRI)

3.1 ¹²Acquisition of immovable property

3.1.1 ¹³An NRI or an OCI can acquire by way of purchase any immovable property (other than agricultural land/ plantation property/ farm house) in India.

¹⁴3.1.2 An NRI or an OCI can acquire by way of gift any immovable property (other than agricultural land/ plantation property/ farm house) in India from person resident in India or from an NRI or an OCI who in any case is a relative as defined in section 2(77) of the Companies Act, 2013.

¹⁰ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion, it read as "A 'Non-Resident Indian' (NRI) is a citizen of India resident outside India."

¹¹ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "A 'Person of Indian Origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who at any time, held an Indian Passport or who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955)."

¹² Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion, it read as "Purchase of Immovable Property."

¹³ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "An NRI can acquire by way of purchase any immovable property (other than agricultural land/ plantation property/ farm house) in India."

¹⁴ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#)

¹⁵3.1.3 An NRI or an OCI can acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired the property in accordance with the provisions of the foreign exchange law in force at the time of acquisition.

¹⁶3.1.4 An NRI or an OCI can acquire any immovable property in India by way of inheritance from a person resident in India

3.2 Transfer of immovable property

(a) ¹⁷An NRI or an OCI may transfer any immovable property in India to a person resident in India;

(b) ¹⁸An NRI or an OCI may transfer any immovable property (other than agricultural land or plantation property or farm house) to an NRI or ¹⁹an OCI.

In case the transfer is by way of gift the transferee should be a relative as defined in section 2(77) of the Companies Act, 2013.

3.3 Payment for Acquisition of Immovable Property

(a) ²⁰NRIs or OCIs may make payment, if any, for transfer of immovable property out of funds received in India through banking channels by way of inward remittance from any place outside India or by debit to their NRE/ FCNR (B)/ NRO account;

(b) Such payments cannot be made either by traveller's cheque or by foreign currency notes or by other mode except those specifically mentioned above.

¹⁵ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#)

¹⁶ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#)

¹⁷ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "An NRI may transfer any immovable property in India to a person resident in India."

¹⁸ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "An NRI or a PIO resident outside India may transfer any immovable property (other than agricultural land or plantation property or farm house) to an NRI or PIO resident outside India."

¹⁹ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as: "NRIs can make payment for acquisition of immovable property (other than agricultural land/ plantation property/ farm house) out of funds received in India through normal banking channels by way of inward remittance from any place outside India or by debit to his NRE/ FCNR (B)/ NRO account."

²⁰ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as: "NRIs can make payment for acquisition of immovable property (other than agricultural land/ plantation property/ farm house) out of funds received in India through normal banking channels by way of inward remittance from any place outside India or by debit to his NRE/ FCNR (B)/ NRO account."

²¹4. Joint acquisition by the spouse of an NRI or an OCI

4.1 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.

4.2 Consideration for transfers made under this para should be out of funds received in India through banking channels by way of inward remittance from any place outside India or by debit to non-resident account of the person concerned maintained in accordance with the Act or the rules framed thereunder. Payments cannot be made either by traveller's cheque or by foreign currency notes or by other mode except those specifically mentioned in this para.

4.3 The marriage should have been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property.

4.4 The non-resident spouse should not otherwise be prohibited from such acquisition.

²²5. Acquisition by a Long-Term Visa holder

5.1 A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries viz., Hindus, Sikhs, Jains, Buddhists, Parsis

²¹ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion, it read as, "4. Acquisition/ transfer by a Person of Indian Origin (PIO)

4.1 Purchase of immovable property

A PIO resident outside India can acquire by way of purchase any immovable property (other than agricultural land/ plantation property / farm house) in India.

4.2 Gift/ Inheritance of immovable property

A PIO resident outside India may acquire

(a) any immovable property (other than agricultural land/ plantation property/ farm house) in India by way of gift from a person resident in India or an NRI or a PIO resident outside India;

(b) 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 or FEMA regulations, at the time of acquisition of the property or from a person resident in India.

4.3 Transfer of immovable property

A PIO resident outside India can transfer

(a) by way of sale, any immovable property in India (other than agricultural land/ farm house/ plantation property), to a person resident in India;

(b) by way of gift or sale, agricultural land/ farm house/ plantation property in India, to a person resident in India who is a citizen of India; by way of gift, residential or commercial property in India, to a person resident in India or to an NRI or to a PIO resident outside India.

4.4 Payment for Acquisition of Immovable Property in India

(a) A PIO resident outside India can make payment for acquisition of immovable property in India (other than agricultural land/ farm house/ plantation property) by way of purchase out of funds received by inward remittance through normal banking channels or by debit to his NRE/ FCNR (B) / NRO account;

(b) Such payments cannot be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically mentioned above."

²² Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Subsequent to this insertion paragraphs 5 to 9 have been numbered as 6-10, respectively

and Christians, who is residing in India and has been granted a Long Term Visa (LTV) by the Central Government may purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for self-employment.

5.2 The property should not be located in and around restricted/ protected areas so notified by the Central Government or cantonment areas.

5.3 The person should submit a declaration to the Revenue Authority of the district where the property is located specifying the source of funds and that he/ she is residing in India on a LTV.

5.4 The registration documents of the property should mention the nationality and the fact that such person is on a LTV.

5.5 The property of such person may be attached/ confiscated in the event of his/ her indulgence in anti-India activities.

5.6 A copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division).

5.7 Sale of the immovable property so acquired is permissible only after such person has acquired Indian citizenship. However, transfer of such immovable property before acquiring Indian citizenship requires the prior approval of the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned.

6. Acquisition of immovable Property by Foreign Embassies/ Diplomats/ Consulate Generals

Foreign Embassy/ Diplomat/ Consulate General, may 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 the normal banking channels.

7. Acquisition of immovable property by person resident outside India for carrying on a permitted activity

7.1 A branch or office or any other place of business in India, other than a liaison office, established by a person resident outside India, may acquire immovable property in India which is necessary for or incidental to the activity carried on in India by such branch or office.

7.2 Such a person is required to file with the Reserve Bank a declaration in the form IPI (as given in the Master Direction on Reporting), not later than ninety days from the date of such acquisition.

7.3 The immovable property so acquired can be mortgaged to an Authorised Dealer as a security for any borrowing.

7.4 However, acquisition of immovable property in India by a branch, office or other place of business of persons of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Hong Kong or Macau or Nepal or Bhutan or ²³Democratic People's Republic of Korea origin/ nationality/ ownership requires the prior approval of the Reserve Bank.

8. Repatriation of sale proceeds of immovable property

8.1 A person acquiring property in accordance with section 6(5) of FEMA (reference para 1.2 of Part II) or his successor cannot repatriate outside India the sale proceeds of such immovable property without the prior permission of the Reserve Bank. ²⁴However, if such a person is an NRI or a PIO (as defined in Foreign Exchange Management (Remittance of Assets) Regulations, 2016) resident outside India, he/ she can utilise the remittance facilities available under the Foreign Exchange Management (Remittance of Assets) Regulations, 2016, as amended from time to time.

²³ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

²⁴ Inserted as Foreign Exchange Management (Remittance of Assets) Regulations, 2000 was repealed and replaced by Foreign Exchange Management (Remittance of Assets) Regulations, 2016. Prior to insertion it read as, "However, if such a person is an NRI or a PIO resident outside India, he can make a remittance under the facilities available under the Foreign Exchange Management (Remittance of Assets) Regulations, 2000, as amended from time to time."

8.2 In the event of sale of immovable property other than agricultural land/ farm house/ plantation property in India by ²⁵a PIO resident outside India [who held property in India in terms of the erstwhile FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2000] or an NRI or an OCI, the Authorised Dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

- (a) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him;²⁶
- (b) ²⁷the amount for acquisition of the immovable property was paid in foreign exchange received through banking channels or out of funds held in FCNR(B) account or NRE account;

In case an immovable property in India has been purchased by ²⁸a PIO resident outside India [who held property in India in terms of the erstwhile FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2000] or an NRI or a OCI out of housing loans availed in terms of Foreign Exchange Management (Borrowing and lending in rupees) Regulations, 2000, as amended from time to time, and the repayments for such loans are made out of remittances received from abroad through banking channels or by debit to the NRE/ FCNR(B) account of such person, such repayments may be treated as equivalent to foreign exchange received.

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

²⁵ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "NRI/ PIO resident outside India."

²⁶ Deleted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to deletion it read as, "*or the provisions of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000.*"

²⁷ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "*the amount to be repatriated does not exceed the amount paid for acquisition of the immovable property received through normal banking channels or out of funds held in FCNR(B) account or NRE account.*"

²⁸ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "*an NRI/ PIO*"

²⁹8.3 In the event of failure in repayment of external commercial borrowing availed by a person resident in India under the provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, as amended from time to time, a bank which is an authorised dealer may permit the overseas lender or the security trustee (in whose favour the charge on immovable property has been created to secure the ECB) to sell the immovable property on which the said loan has been secured only to a (by the) person resident in India and to repatriate the sale proceeds towards outstanding dues in respect of the said loan and not any other loan.

9. Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries

³⁰9.1 Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau, Hong Kong and Democratic People's Republic of Korea cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years. For this purpose the term "citizen" shall include natural persons and legal entities.

³¹9.2 The prohibition at 9.1 above shall not apply to an OCI.

10. Miscellaneous

10.1 Authorized Dealer Category-I banks may convey no objection for creation of charge on immovable assets of a person resident in India either in favour of the external commercial borrowing (ECB) lender or the security trustee subject to the following conditions:

- (a) 'No objection' shall be granted only to a resident ECB borrower;
- (b) The period of such charge on immovable assets has to be co-terminus with the maturity of the underlying ECB;

²⁹ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

³⁰ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "*Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau or Hong Kong cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years.*"

³¹ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

(c) Such 'no objection' should not be construed as a permission to acquire immovable asset (property) in India, by the overseas lender/ security trustee;

(d) In the event of enforcement/ invocation of the charge, the immovable asset (property) will have to be sold only to a person resident in India and the sale proceeds shall be repatriated to liquidate the outstanding ECB.

³²10.2 An authorised dealer which is an Indian correspondent of an overseas lender may create a mortgage on an immovable property in India owned by an NRI or an OCI who is a director of a company outside India, for a loan to be availed by the company outside India from the said overseas lender subject to the following conditions:

(a) The funds should be used by the borrowing company only for its core business purposes overseas; and

(b) In case of invocation of charge the authorised dealer should sell the immovable property to an eligible acquirer and remit the sale proceeds to the overseas lender.

³³10.3 A person resident outside India who has acquired any immovable property in India in accordance with foreign exchange laws in force at the time of such acquisition or with the general or specific permission of the Reserve Bank may transfer such property to a person resident in India provided the transaction takes place through banking channels in India and provided that the resident is not otherwise prohibited from such acquisition.

10.4 Any transfer of property not covered in these directions will require the prior permission of the Reserve Bank.

10.5 As per Government of India Press Release dated February 1, 2009, (given in the annex) in order to be considered as a person resident in India, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the course of preceding financial year) but also his purpose of stay as well as the type of Indian visa granted to him should clearly indicate the intention to stay in India

³² Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

³³ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). On the insertion the existing paras 9.2 and 9.3 have been renumbered as 10.4 and 10.5, respectively.

for an uncertain period. In this regard, to be eligible, the intention to stay has to be unambiguously established with supporting documentation including visa.

³⁴10.6 Any transaction involving acquisition or transfer of immovable property by a person resident outside India should be through banking channels in India.

³⁵10.7 Any existing holding of immovable property in India by a person resident outside India made in accordance with the policy in existence at the time of such acquisition would not require any modifications to conform to the Foreign Exchange Management (Acquisition and transfer of Immovable Property in India) Regulations, 2018

11. ³⁶Payment of taxes and other duties/ levies in India

Any transaction involving acquisition of immovable property by a person resident outside India shall be subject to applicable tax laws and other duties/ levies in India.

³⁴ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

³⁵ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#).

³⁶ Inserted by FEM (Acquisition and transfer of Immovable Property in India) Regulations, 2018 with effect from March 26, 2018 through [FEMA 21\(R\), dated 26.03.2018](#). Prior to insertion it read as, "10. *Payment of taxes – Any transaction involving acquisition of immovable property under these regulations shall be subject to applicable tax laws in India.*"

APPENDIX

List of notifications / A.P.(DIR Series) circulars which have been consolidated in this Master Circular

Notification / Circular	Date
³⁷ FEMA 21(R)/2018-RB	March 26, 2018
³⁸ FEMA 7(R)/2015-RB	January 21, 2016
A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R)]	February 4, 2016

³⁷ FEMA 21 repealed and replaced by [FEMA 21\(R\)](#). The new notification was issued in the Gazette of India vide G.S.R.280(E) dated March 26, 2018

³⁸ FEMA 7 repealed and replaced by [FEMA 7\(R\)](#). The new notification was issued in the Gazette of India vide G.S.R.95(E) dated January 21, 2016

Press Release of Government of India

Ministry of Finance

February 1, 2009

Government's advice on acquiring land by persons residing outside India

15:8 IST

Government of India has advised State Governments to be extra vigilant in matters of acquisition and transfer of immovable property in India by a person resident outside India and satisfy themselves about the eligibility under FEMA before registering a sale or purchase of immovable property in India. The enquiries may include both the intending buyers and sellers. The relevant travel documents and the nature of visa may also be verified before registering such sale / purchase. Government has further advised all including concerned authorities in the State Governments that wherever appropriate, the authorities may consider reviewing registration of sale / purchase already made to determine their compliance with legal requirements. Further, persons acquiring immovable property have to fulfil the requirements, if any, prescribed by the State authorities.

A foreign company which has established a Branch Office or other place of business in India under the provisions of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 ([FEMA 22/2000-RB dated the 3rd May, 2000](#)) can acquire immovable property in India which is necessary for or incidental to carrying on such activity, subject to the conditions stipulated in Regulation 5 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 ([Notification No. 21/2000-RB dated the 3rd May, 2000](#)).

Apart from above, a foreign national who is residing in India for more than 182 days during the course of the preceding financial year for taking up employment or carrying on business / vocation or for any other purpose indicating his intention to stay for an uncertain period can acquire immovable property in India as he would be a 'person resident in India' as per section 2(v) of FEMA, 1999. To be treated as a person resident in India under FEMA, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the course of preceding financial year) but also his purpose of stay as well as the type of Indian visa granted to him to clearly indicate the intention to stay in India for an uncertain period. In this regard, to be eligible, the intention to stay has to be unambiguously established with supporting documentation including visa.

As per the provisions contained in Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulation 21/2000 ([Notification No.](#)

[21/2000-RB dated the 3rd May, 2000](#)), an Indian citizen resident outside India and a Person of Indian Origin resident outside India may acquire immovable property in India other than agricultural land, plantation or a farm house.

It has come to the notice of the Central Government that foreign nationals are buying immovable property illegally in some parts of the country, particularly in Goa, which has raised concerns. Many organisations and social groups have also made representations to the Central Government expressing their serious concerns in this regard. It has also been observed that foreign nationals coming to India and staying beyond 182 days on a tourist or other visa meant for a certain period are illegally acquiring immovable property in India in violation of the extant rules and regulations under FEMA.

BSC/BY/GN-1/09