

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai – 400 001**

Notification No.FEMA.361/2016-RB

February 15, 2016

**Foreign Exchange Management (Transfer or Issue of Security by a Person
Resident outside India) (Amendment) Regulations, 2016**

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 ([Notification No. FEMA. 20/2000-RB dated 3rd May 2000](#)) namely:-

1. Short Title & Commencement

(i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2016.

(ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulation

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, ([Notification No. FEMA 20/2000-RB dated 3rd May 2000](#)),

A. In Regulation 2, the existing clause (viiia) shall be substituted, namely:

“(viiia) Non-Resident Indian (NRI) means an individual resident outside India who is citizen of India or is an ‘Overseas Citizen of India’ cardholder within the meaning of section 7 (A) of the Citizenship Act, 1955.”

B. Regulation 5 (3) shall be substituted, namely

“(i) A Non- Resident Indian (NRI) may acquire securities or units on a Stock Exchange in India on repatriation basis under the Portfolio Investment Scheme, subject to the terms and conditions specified in Schedule 3.

(ii) A Non- Resident Indian (NRI) may acquire securities or units on a non-repatriation basis, subject to the terms and conditions specified in Schedule 4.

C. Schedule 3 shall be substituted, namely

“Schedule-3

[See Regulation 5(3) (i)]

Acquisition of Securities or Units by a Non-Resident Indian (NRI) on a Stock Exchange in India on Repatriation basis under the Portfolio Investment Scheme

1. A Non-resident Indian (NRI) may purchase or sell shares, convertible preference shares, convertible debentures and warrants of an Indian company or units of an investment vehicle, on repatriation basis, on a recognised stock exchange, subject to the following conditions:
 - a. NRIs may purchase and sell shares /convertible preference shares/ convertible debentures /warrants and units under the Portfolio Investment Scheme through a branch designated by an Authorised Dealer for the purpose;
 - b. The paid-up value of shares of an Indian company purchased by any individual NRI should not exceed five percent of the paid-up value of shares issued by the company concerned;
 - c. the paid-up value of convertible preference shares or convertible debentures of any series purchased by any individual NRI on repatriation basis should not exceed five percent of the paid-up value of convertible preference shares or convertible debentures of that series issued by the company concerned;
 - d. the paid-up value of warrants of any series purchased by any individual NRI on repatriation basis should not exceed five percent of the paid-up value of warrants of that series issued by the company concerned;
 - e. the aggregate paid-up value of shares of any company purchased by all NRIs on repatriation basis should not exceed ten percent of the paid-up value of shares of the company and the aggregate paid-up value of each series of convertible preference shares or convertible debentures or warrants purchased by all NRIs should not exceed ten percent of the paid-up value of that series of convertible preference shares or convertible debentures or warrants;

Provided that the aggregate ceiling of ten per cent referred to in this clause may be raised to twenty-four per cent if a special resolution to that effect is passed by the General Body of the Indian company concerned;
 - f. The NRI investor should take delivery of the shares/convertible preference shares/ convertible debentures /warrants and units purchased and give delivery of the same when sold;
 - g. The investment shall be subject to the provisions of the FDI policy and Schedule 1 of these Regulations in respect of sectoral caps wherever applicable.

Explanation: ‘Investment Vehicles’ and ‘Units’ and shall have the same meaning as defined in sub-regulation (ii g) and (xi A) of Regulation 2 of these Regulations.

2. Report to Reserve Bank

The reporting of transactions under this Schedule shall be made by the designated branch of the Authorised Dealer referred to in paragraph 1, in a manner specified by Reserve Bank of India.

3. Maintenance of accounts by an NRI for routing transactions for purchase and sale of shares / convertible debentures/ units, etc.

An NRI may open a designated NRE account (opened and maintained by Authorised Dealer bank in terms of the Foreign Exchange Management (Deposit) Regulations, 2000) for the purpose of investment under this scheme with a designated branch of an Authorized Dealer bank referred to in paragraph 1, for routing the receipt and payment for transactions relating to sale and purchase of shares /convertible preference shares/ convertible debentures/ warrants/ units under this Schedule. The designated account will be called an NRE (PIS) Account.

The designated branch shall ensure that sale proceeds of securities or units which have been acquired by modes other than Portfolio Investment Scheme such as underlying shares acquired on conversion of ADRs / GDRs, shares / convertible preference shares / convertible debentures /warrants acquired under FDI Scheme or purchased outside India

from other NRIs or acquired under private arrangement from residents/non-residents or purchased while resident in India, do not get credited in the NRE (PIS) Account and vice-versa.

4. Permitted Credits/ Debits in NRE(PIS) account

Credits

- a. Inward remittances in foreign exchange through normal banking channels;
- b. Transfer from the NRI's other NRE accounts or FCNR (B) accounts maintained with Authorised Dealer in India;
- c. Net sale proceeds (after payment of applicable taxes) of shares / convertible preference shares /convertible debentures /warrants/ units acquired on repatriation basis under the Scheme and sold on stock exchange through registered broker; and
- d. Dividend or income earned on investment made on repatriation basis under the Scheme

Debits

- a. Outward remittances of dividend or income earned;
- b. Amounts paid on account of purchase of shares /convertible preference shares/ convertible debentures /warrants/ units on repatriation basis on stock exchanges through registered broker under the Scheme; and
- c. Any charges on account of sale / purchase of securities or units under the Scheme.
- d. Remittances outside India or transfer to NRE / FCNR (B) accounts of the account holder of the NRI or any other person eligible to maintain such account.

5. Saving

The existing NRO (PIS) accounts may be re-designated as NRO account.”

D. Schedule 4 shall be substituted, namely

“Schedule-4

[See Regulation 5(3) (ii)]

Acquisition of Securities or units by a Non-Resident Indian (NRI), on Non-Repatriation basis

Permission to purchase

1. A Non-resident Indian (NRI), including a company, a trust and a partnership firm incorporated outside India and owned and controlled by non-resident Indians, may acquire and hold, on non-repatriation basis, equity shares, convertible preference shares, convertible debenture, warrants or units, which will be deemed to be domestic investment at par with the investment made by residents. Without loss of generality, it is stated that
 - a. An NRI may acquire, on non-repatriation basis, any security issued by a company without any limit either on the stock exchange or outside it.
 - b. An NRI may invest, on non-repatriation basis, in units issued by an investment vehicle without any limit, either on the stock exchange or outside it.
 - c. An NRI may contribute, on non-repatriation basis, to the capital of a partnership firm, a proprietary firm or a Limited Liability Partnership without any limit.

Explanation: ‘Investment Vehicles’ and ‘Units’ and ‘shall have the same meaning as defined in sub-regulation (ii g) and (xi A) of Regulation 2 of these Regulations.

Prohibition on purchase

2. Notwithstanding what has been stated in paragraph 1, an NRI shall not make any investment, under this Schedule, in equity shares, convertible preference shares, convertible debenture, warrants or units of a Nidhi company or a company engaged in agricultural/plantation activities or real estate business or construction of farm houses or dealing in Transfer of Development Rights.

Explanation: For the purpose of this paragraph, "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. Further, earning of rent income on lease of the property, not amounting to transfer, will not amount to "real estate business". Investment in units of Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) regulations 2014 shall also be excluded from the definition of "real estate business".

Method of payment for purchase

3. The consideration for investment under this Schedule shall be paid by way of inward remittance through normal banking channel from abroad or out of funds held in NRE/FCNR/NRO account maintained with a bank in India:

Sale/ Maturity proceeds

4. The sale/maturity proceeds (net of applicable taxes) of the securities or units acquired under this Schedule shall be credited only to NRO account irrespective of the type of account from which the considerations for acquisition were paid.
5. The amount invested under this Scheme and the capital appreciation thereon shall not be allowed to be repatriated abroad. ”

(B.P. Kanungo)
Principal Chief General Manager

Foot Note:-

The Principal Regulations were published in the Official Gazette vide G.S.R. No.406 (E) dated May 8, 2000 in Part II, Section 3, sub-Section (i) and subsequently amended as under:-

G.S.R.No. 158(E) dated 02.03.2001
G.S.R.No. 175(E) dated 13.03.2001
G.S.R.No. 182(E) dated 14.03.2001
G.S.R.No. 4(E) dated 02.01.2002
G.S.R.No. 574(E) dated 19.08.2002
G.S.R.No. 223(E) dated 18.03.2003
G.S.R.No. 225(E) dated 18.03.2003
G.S.R.No. 558(E) dated 22.07.2003
G.S.R.No. 835(E) dated 23.10.2003
G.S.R.No. 899(E) dated 22.11.2003
G.S.R.No. 12(E) dated 07.01.2004
G.S.R.No. 278(E) dated 23.04.2004
G.S.R.No. 454(E) dated 16.07.2004
G.S.R.No. 625(E) dated 21.09.2004
G.S.R.No. 799(E) dated 08.12.2004
G.S.R.No. 201(E) dated 01.04.2005
G.S.R.No. 202(E) dated 01.04.2005
G.S.R.No. 504(E) dated 25.07.2005
G.S.R.No. 505(E) dated 25.07.2005
G.S.R.No. 513(E) dated 29.07.2005
G.S.R.No. 738(E) dated 22.12.2005
G.S.R.No. 29(E) dated 19.01.2006
G.S.R.No. 413(E) dated 11.07.2006
G.S.R.No. 712(E) dated 14.11.2007
G.S.R.No. 713(E) dated 14.11.2007
G.S.R.No. 737(E) dated 29.11.2007
G.S.R.No. 575(E) dated 05.08.2008
G.S.R.No. 896(E) dated 30.12.2008
G.S.R.No. 851(E) dated 01.12.2009
G.S.R.No. 341 (E) dated 21.04.2010
G.S.R.No. 821 (E) dated 10.11.2012
G.S.R.No. 606(E) dated 03.08.2012
G.S.R.No. 795(E) dated 30.10.2012
G.S.R.No. 796(E) dated 30.10.2012
G.S.R. No. 797(E) dated 30.10.2012
G.S.R.No. 945 (E) dated 31.12.2012
G.S.R. No.946(E) dated 31.12.2012
G.S.R. No.38(E) dated 22.01.2013
G.S.R.No.515(E) dated 30.07.2013
G.S.R.No.532(E) dated 05.08.2013
G.S.R. No.341(E) dated 28.05.2013
G.S.R.No.344(E) dated 29.05.2013
G.S.R. No.195(E) dated 01.04.2013
G.S.R.No.393(E) dated 21.06.2013
G.S.R.No.591(E) dated 04.09.2013
G.S.R.No.596(E) dated 06.09.2013
G.S.R.No.597(E) dated 06.09.2013
G.S.R.No.681(E) dated 11.10.2013
G.S.R.No.682(E) dated 11.10.2013
G.S.R. No.818(E) dated 31.12.2013
G.S.R. No.805(E) dated 30.12.2013
G.S.R.No.683(E) dated 11.10.2013
G.S.R.No.189(E) dated 19.03.2014
G.S.R.No.190(E) dated 19.03.2014
G.S.R.No.270(E) dated 07.04.2014

G.S.R.No. 361 (E) dated 27.05.2014
G.S.R.No.370(E) dated 30.05.2014
G.S.R.No.371(E) dated 30.05.2014
G.S.R.No. 435 (E) dated 08.07.2014
G.S.R.No. 400 (E) dated 12.06.2014
G.S.R.No. 436 (E) dated 08.07.2014
G.S.R.No. 487 (E) dated 11.07.2014
G.S.R.No. 632 (E) dated 02.09.2014
G.S.R.No. 798 (E) dated 13.11.2014
G.S.R.No. 799 (E) dated 13.11.2014
G.S.R.No. 800 (E) dated 13.11.2014
G.S.R.No. 829 (E) dated 21.11.2014
G.S.R.No. 906(E) dated 22.12.2014
G.S.R.No. 914 (E) dated 24.12.2014
G.S.R.No. 30 (E) dated 14.01.2015
G.S.R.No. 183 (E) dated 12.03.2015
G.S.R.No. 284 (E) dated 13.04.2015
G.S.R.No. 484 (E) dated 11.06.2015
G.S.R.No. 745 (E) dated 30.09.2015
G.S.R.No. 759 (E) dated 06.10.2015
G.S.R.No. 823 (E) dated 30.10.2015
G.S.R.No. 858 (E) dated 16.11.2015

Published in the Official Gazette of Government
of India – Extraordinary – Part-II, Section 3,
Sub-Section (i) dated 15.02.2016-
G.S.R.No.165(E)