



RESERVE BANK OF INDIA
Mumbai - 400 001

RBI/2015-16/384

A.P. (DIR Series) Circular No. 64/2015-16 [(1)/13(R)]

April 28, 2016

To

All Category - I Authorised Dealer and Authorised Banks

Madam/ Sir

Foreign Exchange Management (Remittance of Assets) Regulations, 2016

Attention of Authorised Dealers (ADs) is invited to (a) A.D. (M.A. Series) Circular No. 11 dated May 16, 2000 in terms of which ADs were advised of various Rules, Regulations, Notifications/ Directions issued under the Foreign Exchange Management Act, 1999 (hereinafter referred to as the Act) and (b) Para 2.3 and 3.2 of [Master Direction No. 13 on Remittance of Assets](#). On a review it is felt necessary to revise the regulations issued under the Foreign Exchange Management (Remittance of Assets) Regulations, 2000, as amended from time to time. Accordingly, in consultation with the Government of India, the said regulations have been repealed and superseded by the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 ([Notification No. FEMA 13\(R\)/2016-RB dated April 1, 2016](#), hereinafter referred to as Remittance of Assets Regulations).

2. Some key definitions in the regulations are:

- a) A 'Non-resident Indian (NRI)' is a person resident outside India who is a citizen of India
- b) A 'Person of Indian Origin (PIO)' is a person resident outside India who is a citizen of any country other than Bangladesh or Pakistan or such other country as may be specified by the Central Government, satisfying the following conditions:
 - (i) Who was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or

- (ii) Who belonged to a territory that became part of India after the 15th day of August, 1947; or
- (iii) Who is a child or a grandchild or a great grandchild of a citizen of India or of a person referred to in clause (a) or (b); or
- (iv) Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred to in clause (a) or (b) or (c)

Explanation: PIO will include an 'Overseas Citizen of India' cardholder within the meaning of Section 7(A) of the Citizenship Act, 1955.

- c) 'Remittance of asset' means remittance outside India of funds in a deposit with a bank/ firm/ company, provident fund balance or superannuation benefits, amount of claim or maturity proceeds of Insurance policy, sale proceeds of shares, securities, immovable property or any other asset held in India in accordance with the provisions of the Act or rules/ regulations made under the Act;
- d) 'Expatriate staff' is a person whose provident/ superannuation/ pension fund is maintained outside India by his principal employer outside India;
- e) 'Not permanently resident' is a person resident in India for employment of a specified duration or for a specific job/ assignment, the duration of which is not more than three years.

3. The salient features of the Remittance of Assets regulations are given as under:

- a) Remittance of capital assets in India held by a person whether resident in or outside India would require the approval of the Reserve Bank except to the extent provided in the Act or Rules or Regulations made under the Act.
- b) In terms of regulation 4(1) of the Remittance of Assets regulations, ADs may allow remittance of assets, up to USD one million per financial year, by a foreign national (not being a PIO or a citizen of Nepal or Bhutan), on submission of documentary evidence, in case:
 - (i) the person has retired from employment in India;
 - (ii) the person has inherited the assets from a person referred to in section 6(5) of the Act;

(iii) the person is a non-resident widow/ widower and has inherited assets from the person's deceased spouse who was an Indian citizen resident in India.

In case the remittance is made in more than one instalment, the remittance of all instalments should be made through the same AD.

- c) In terms of regulation 4(1), *ibid*, ADs may allow remittance of balance amount, held by a foreign student in a bank account in India, after completion of his/her studies/training in India.
- d) In terms of regulation 4(2), *ibid*, ADs may allow NRIs and PIOs, on submission of documentary evidence, to remit up to USD one million, per financial year:
 - (i) out of balances held in their Non-Resident (Ordinary) Accounts (NRO accounts)/ sale proceeds of assets/ assets acquired in India by way of inheritance/ legacy;
 - (ii) out of assets acquired under a deed of settlement made by either of his parents or a relative as defined in Companies Act, 2013. The settlement should take effect on the death of the settler.

In case the remittance is made in more than one instalment, the remittance of all instalments should be made through the same AD. Further, where the remittance is to be made from the balances held in the NRO account, the Authorised Dealer should obtain an undertaking from the account holder stating that "the said remittance is sought to be made out of the remitter's balances held in the account arising from his/ her legitimate receivables in India and not by borrowing from any other person or a transfer from any other NRO account and if such is found to be the case, the account holder will render himself/ herself liable for penal action under FEMA."

- e) In terms of regulation 4(3), *ibid*, ADs may allow remittances by Indian companies under liquidation on directions issued by a Court in India.
- f) In terms of regulation 5, *ibid*, ADs may also allow Indian entities to remit their contribution towards the provident fund/ superannuation/ pension fund in respect of their expatriate staff resident in India but "not permanently resident" in India.
- g) In terms of regulation 6, *ibid*, ADs may permit remittance of assets on closure or remittance of winding up proceeds of branch office/ liaison office (other than project office) as per Reserve Bank's directions from time to time.

h) In terms of regulation 7, *ibid*, remittance of assets on hardship ground and remittances by NRIs and PIOs in excess of USD one million/financial year would require the prior approval of the Reserve Bank.

i) Any transaction involving remittance of assets under these regulations are subject to the applicable tax laws in India.

4. The new regulations have been notified vide [Notification No. FEMA. 13\(R\)/2016-RB dated April 1, 2016](#) c.f. G.S.R. No.388 (E) dated April 1, 2016 and shall come into force with effect from April 1, 2016. The [Master Direction No.13](#) has also been amended to incorporate the changes.

5. AD Category- I banks may bring the contents of the circular to the notice of their constituents concerned.

6. The directions contained in this circular have been issued under Section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

Yours faithfully,

(A. K. Pandey)
Chief General Manager