

TYPES OF NON-RESIDENT DEPOSIT AND FOREIGN CURRENCY ACCOUNTS

In this topic we will discuss the facilities of account available to NRIs, PIOs and also the accounts which resident Indians can open in outside India, which has been split into three parts as:

- (A) Foreign currency accounts by a person resident in India
- (B) Foreign currency accounts that can be held outside India
- (C) Accounts in India by a person resident outside India (this covers accounts of NRI/PIOs)

To understand the facilities of accounts available to Non Resident Indians let us know the definition of Non Resident Indian and Person of Indian Origin.

Non Resident Indian: A 'Non-resident Indian' (NRI), under FEMA is defined as person resident outside India who is a citizen of India or is a person of Indian Origin. So, it is imperative who is person resident Indian.

A person resident Indian is clearly defined under Section 2 (v) of FEMA, as a person who has lived in India for more than 182 days during the course of preceding financial year but it does not include:

- a) A person who has gone outside India to gain employment, do business, or any other business which depicts his intention of staying abroad for uncertain period.
- b) A person who has to come to India or stays in India for employment doing business or any other purposes which indicate his intention of staying for an uncertain period.

A Person Resident in India, apart from person as defined above, also includes

- (i) Any person or body corporate registered or incorporated in India,
- (ii) An office, branch or agency in India owned or controlled by a person resident outside India,
- (iii) An office, branch or agency outside India owned or controlled by a person resident in India

Person of Indian Origin: Any person (not being a citizen of Pakistan or Bangladesh or such other country as specified by Govern of India from time to time- As per MHA presently, the specified countries whose nationals are ineligible for grant of PIO Card are Pakistan, Bangladesh, Sri Lanka, Bhutan, Afghanistan, Iran, China and Nepal)

- i) who at any time was citizen of India, or
- ii) Who is a child or a grandchild or a great grandchild of a citizen of India or
- iii) Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred in (i) and (ii).

(A) Foreign Currency Accounts by a Person Resident in India

The following type of three foreign currency accounts can be opened by resident Indian:

- (i) **Exchange Earners Foreign Currency account (EEFC Account):** Up to 100% of foreign exchange earning can be credited in EEFC accounts. Please note that account will be a non interest bearing account. The other transactions which can be credited into account are
 - a. Advance remittance received towards export of goods/services
 - b. Payment received for the purpose of counter trade
 - c. Professional fee like director's fee, consultancy fee, lectures fee, honorarium, and other similar received from abroad
 - d. Interest earned on funds held in this account
 - e. Re-credit of unutilized foreign currency withdrawn earlier
 - f. Repayment of trade related loans (if previously exporter has granted loan to its buyer)
 - g. Disinvestment proceeds received by the resident account holder on conversion of shares held by him to ADRs/ GDRs under the DR Scheme, 2014; and
 - h. Payments received in foreign exchange by an Indian startup arising out of sales/ export made by the startup or its overseas subsidiaries

The debits which can be allowed in the account are

- a. Payment outside India towards capital/current transactions in accordance with provisions of FEMA (Permissible Capital Account Transactions) Regulations 2000 or FEMA (Current Account Transactions)
- b. Payment in foreign exchange towards cost of goods purchased from 100% Export Oriented Unit or unit operating in Export Processing Zone/ Software Technology Park.
- c. Trade related loan given by exporter to his buyer/importer
- d. Payment of Custom duty
- e. Payment in Foreign Currency to a person resident in India for supply of goods/services including hotel, air fare etc.

Please note that following

- a. Claim settled by ECGC is not to be construed as export realization and therefore cannot be credited in EEFC Account
- b. Credit facilities cannot be granted against balance outstanding in EEFC Account
- c. Exporters can repay packing credit advances, whether availed of in Rupee or in foreign currency, from balances in their EEFC account to the extent exports have actually taken place.
- d. Balances held in the account may be credited to NRE/ FCNR (B) Accounts, at the option/ request of the account holder consequent upon change of their residential status from resident to non-resident.
- e. Withdrawals in rupee also permitted, provided amount so withdrawn cannot be re-credited into the account.
- f. The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments
- g. Fund-based/ non-fund based credit facilities should not be granted against the balances held in EEFC Accounts

(ii) Resident Foreign Currency (RFC) Account: RFC accounts can be maintained in current, savings for term deposits. Any resident Indian can keep foreign exchange earned/or held outside India through

- i) Pension or superannuation benefits received outside India from his overseas employer
- ii) Converting assets which were acquired by him when he was non resident or inherited from or gifted by a person resident outside India
- iii) received as proceeds of LIC claims/ maturity/ surrendered value settled in forex from an Indian insurance company permitted to undertake life insurance business by the Insurance Regulatory and Development Authority.

The account can be held jointly with resident Indian as joint holders on Former or Survivor basis. The resident Indian joint holder cannot operate account during the lifetime of resident account holder.

The balances in the RFC account are free from all restrictions regarding utilisation of foreign currency balances outside India.

The balances in NRE and FCNR (B) accounts can be credited in RFC Account when the status of Non-Resident Indian changes to Resident Indian.

(iii) Resident Foreign Currency (Domestic) Accounts: The accounts are opened by Resident individuals to retain foreign exchange, in the form of currency notes, bank notes and travelers cheque, acquired from overseas sources arising out of

- i) Payment while visit abroad not arising from any business or anything done in India
- ii) Honorarium or gift in settlement of any service renders to a person not resident in India and who is on a visit to India.
- iii) Honorarium or gift received while on visit outside India.
- iv) Gift from a relative
- v) unspent foreign exchange acquired from an authorised person for travel abroad
- vi) Disinvestment proceeds received by resident holder on conversion of shares held by him under ADR/GDR
- vii) by way of earnings received as the proceeds of life insurance policy claims/ maturity/ surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority

The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

Balances in the account can be used for any current or capital account transactions in accordance with the provisions of FEMAs. Balances may be credited to NRE/ FCNR (B) Accounts, at the option/ request of the account holder consequent upon change of their residential status from resident to non-resident.

(B) Foreign Currency Accounts that can be Held Outside India

The following persons can open a foreign currency account with a bank outside India for carrying on normal business and incidental transactions.

- a. An authorized dealer in India with its branch/ head office/ correspondent outside India.
- b. A branch outside India of a bank incorporated in India.
- c. An Indian shipping or airline company.
- d. Insurance/ reinsurance companies registered with Insurance Regulatory and Development Authority of India (IRD(A) to carry out insurance/ reinsurance business.
- e. An India firm/ company/ body corporate in the name of its foreign office/ branch or its representative posted outside India.
- f. An exporter who is exporting services and engineering goods on deferred payment terms or executing a turnkey project or a construction contract abroad.

Student going abroad for studies: A person resident in India who has gone abroad for studies may open a foreign currency account with a bank outside India during his stay abroad. All credits to the account from India should be made in accordance with FEMA and the rules and regulations made thereunder. On the student's return to India after completion of studies, the account will be deemed to have been opened under the Liberalised Remittance Scheme.

Visit to a foreign Country: A person resident in India who is on a visit to a foreign country may open a foreign currency account with a bank outside India during his stay abroad. The balance in the account should be repatriated to India on return of the account holder to India.

Exhibition in foreign Countries: A person going abroad to participate in an exhibition/ trade fair may open a foreign currency account with a bank outside India for crediting the sale proceeds of goods. The balance should be repatriated to India within one month from the date of closure of the exhibition/ trade fair.

The following persons can open a foreign currency account outside India for remitting/ receiving their entire salary payable to him in India. The account can be opened singly or jointly.

1. A foreign citizen resident in India, being an employee of a foreign company, on deputation to the office/ branch/ subsidiary/ joint venture/ group company in India;
2. An Indian citizen, being an employee of a foreign company, on deputation to the office/ branch/ subsidiary/ joint venture/ group company in India
3. A foreign citizen resident in India employed with an Indian company;
4. A resident Indian can open foreign currency account outside India for remittance under Liberalized Remittance Scheme
5. Indian startup, having an overseas subsidiary, may open a foreign currency account with a bank outside India for the purpose of crediting to the account the foreign exchange earnings out of exports/ sales made by the said startup or its overseas subsidiary

Important Conditions for Accounts: The foreign currency account maintained by a person resident in India with an authorized dealer in India under the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015, dated January 21, 2016 as amended from time to time, may be opened, held and maintained in the form of current or savings or term deposit account in cases where the account holder is an individual, and in the form of current account or term deposit account in all other cases

The account can be held singly or jointly in the name of person eligible to open, hold and maintain such account

On death of foreign currency holder:

- Nominee person outside India: Authorized dealer can remit outside the amount to the extent of his share or entitlement from the account of the deceased account holder
- Nominee resident India: RBI permission required for remittance of his share abroad
- Nominee resident India for account held outside has to close the accounts and bring the balances in India.

(C) Accounts In India by a Person Resident Outside India

(i) Non Resident External (NRE) Account: Any NRI or PIO can open NRE account by funds transferred from a bank abroad. The account can be opened in any form saving, current, recurring, fixed deposit etc. Inward remittance and remittance outside India are permitted from the account.

Joint Operations: The account can be opened jointly by two NRIs or with a resident Indian on 'Former or Survivor' basis. However, during the lifetime of NRI the account will be operated by NRI only and Resident Indian can operate the account as Power of Attorney holder.

Permitted Credits: as inward remittance are interest accruing on the account, interest on investment, transfer from other NRE/ FCNR(B) accounts, maturity proceeds if such investments

were made from this account or through inward remittance.

The NRI/PIOs have the option of crediting their current income like rent, dividend, pension interest etc. into NRE account provided the authorized dealer is satisfied that income is current and income tax has been duly provided for. Further, transfer into another NRE/FCNR (B) account is also permitted.

Permitted Debits: The debits allowed from this account are local disbursements, transfer to other NRE/ FCNR(B) and investments in India.

Loan against NRE Funds: (Fund based and/or Non fund based)The banks can grant loan against security of funds lying in NRE Account to Account holder/third party without any limit. The loan cannot be repatriated outside India and shall be utilized for

- i) Personal purpose or carrying on business activities but not for lending or carrying on agriculture/plantation activities.
- ii) Making direct investment in Indian companies on non-repairable basis.
- iii) Acquiring flat/house in India for own residential purpose

In case of loans sanctioned to a third party, there should be no direct or indirect foreign exchange consideration for the non-resident depositor agreeing to pledge his deposits to enable the resident individual/ firm/ company to obtain such facilities

In case of the loan sanctioned to the account holder, it can be repaid either by adjusting the deposits or through inward remittances from outside India through banking channels or out of balances held in the NRO account of the account holder

Authorised Dealers may allow their branches/ correspondents outside India to grant loans to or in favour of non-resident depositor or to third parties at the request of depositor for bona fide purpose against the security of funds held in the NRE accounts in India and also agree for remittance of the funds from India, if necessary, for liquidation of the outstanding.

Temporary Overdrawings: Authorised dealers/ authorised banks may at their discretion/ commercial judgement allow for a period of not more than two weeks, overdrawings in NRE savings bank accounts, up to a limit of Rs.50,000 subject to the condition that such overdrawings together with the interest payable thereon are cleared/ repaid within the said period of two weeks, out of inward remittances through banking channels or by transfer of funds from other NRE/ FCNR(B) accounts.

Operations through Power of Attorney: An Indian Resident as PoA holder can operate NRE Account. However, the operations will be limited to withdrawals for local payment or remittance to the account holder himself. The following operations are not permitted on the basis of Power of Attorney

- i) Opening NRE account
- ii) Remitting funds outside India to any person other than the account holder
- iii) Make payment as gift to resident Indian
- iv) Transfer funds from account to another NRE Account

Tax on Interest Income: Income from interest on balances standing to the credit of NRE Accounts is exempt from Income Tax. Likewise balances held in such accounts are exempt from wealth tax.

Treatment of NRE account on Return of NRI: NRE account should be designated as Resident accounts or funds can be transferred to other RFC accounts upon return of NRI.

Demise of Account Holder: The balance shall be transferred to non resident nominee of the deceased account holder. However, request from a resident nominee for remittance of funds outside India for meeting liabilities, if any, of the deceased account holder or similar other purpose shall be forwarded to RBI.

(ii) FCNR (B) AND NRE Fixed Deposit: (Foreign Exchange Management (Deposit) Regulations, 2000 Notification No.FEMA 5 /2000-RB dated 3rd May 2000)

FCNR (B) deposits can be accepted in India in any permissible currency. The permissible currency as per FEM (Deposit) Regulation is a currency which is freely convertible. The currencies which are fully convertible: US Dollar, Pound Sterling, Euro, Japanese Yen, Australian Dollars, Canadian Dollars, Deutsche Mark.

Type of account: These accounts may be opened only in the form of term deposit for any of the three maturity periods, viz. one year and above but less than two years, two years and above but less than three years and three years only.

Operations: Same conditions as applicable to NRE account (given above)

Rate for conversion of Rupee into designated currency and vice versa:

- i) Remittance received in Indian rupee for opening of account shall be converted into designated foreign currency at TT selling rate
- ii) For the purpose of payment in rupees, the funds held in the account shall be converted into rupees at TT buying rate.

Deposit in currencies other than designated: In case the depositor with any currency other than designated currency desires to place a deposit in these accounts, authorised dealers may undertake with the depositor a fully covered swap in that currency against the desired designated currency. Such a swap may also be done between two designated currencies

NRE Deposit Account of Deceased Depositor: In case the NRI of NRE deposit account expires and claimants are residents, the deposit will be treated as domestic deposit and subsequent interest will be paid as per conditions applicable to domestic deposits.

Loan against NRE and FCNR deposits: The loans are permitted against NRE and FCNR depositors however it should not be utilized for investment in agriculture/plantation and real estate investment

(iii) Ordinary Non Resident Account (NRO Account)

Any person resident outside India (as per Section 2 (w) of FEM(A), may open and maintain NRO account with an Authorised Dealer or an Authorised Bank for the purpose of putting through bona fide transactions denominated in Indian Rupees.

- i. Post Offices in India may maintain savings bank accounts in the names of persons resident outside India and allow operations on these accounts
- ii. Opening of accounts by individuals/ entities of Pakistan nationality/ ownership and entities of Bangladesh ownership requires prior approval of the Reserve Bank. However, individuals of Bangladesh nationality may be allowed to open these accounts subject to the individuals holding a Long Term valid visa and valid residential permit issued by Foreigner Registration Office (FRO)/ Foreigner Regional Registration Office (FRRO) concerned.
- iii. Authorized Dealers may open only one Non-Resident Ordinary (NRO) Account for a citizen of Bangladesh or Pakistan, belonging to minority communities in those countries, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, residing in India and who has been granted a Long Term Visa (LTV) by the Central Government. The account will be converted to a resident account once such a person becomes a citizen of India. This account can also be opened if such person has applied for LTV which is under consideration of the Central Government, in which case the account will be opened for a period of six months and may be renewed at six monthly intervals subject to the condition that the individual holds a valid visa and valid residential permit issued by Foreigner Registration Office (FRO)/ Foreigner Regional Registration Office (FRRO) concerned
- iv. The accounts may be maintained in any form, e.g. savings, current, recurring or fixed deposit account.
 - v. The accounts may be held jointly with residents on 'former of survivor' basis. NRIs and PIOs may hold an NRO account jointly with other NRIs and PIOs.
 - vi. Inward remittances from outside India, legitimate dues in India and transfers from other NRO accounts are permissible credits to NRO account. Rupee gift/ loan made by a resident to a NRI/PIO relative within the limits prescribed under the Liberalised Remittance Scheme may be credited to the latter's NRO account.
 - vii. The account can be debited for the purpose of local payments, transfers to other NRO accounts or remittance of current income abroad. Apart from these, balances in the NRO account cannot be repatriated abroad except by NRIs and PIOs up to USD 1 million. The Funds can be transferred to NRE Account within this USD 1 Mn facility.
- viii. Loans against the deposits can be granted in India to the account holder or third party. Shall not be used for re-lending, agriculture/plantation, real estate.

Operation by Power of Attorney Holder: Operation to Resident Power of Attorney Holders (given to Resident Indians) can be permitted. Such operations are restricted to

- i) Local payments
- ii) Remittances to non residents

Return of Non Resident Indian: NRO accounts may be designated as resident accounts on the return of the account holder to India for any purpose indicating his intention to stay in India for an uncertain period. Likewise, when a resident Indian becomes a person resident outside India, his existing resident account should be designated as NRO account

Foreign nationals of non-Indian origin on a visit to India: NRO (current/savings) account can be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India. The balance in the NRO account may be converted by the Authorised Dealer bank into foreign currency for payment to the account holder at the time of his departure from India provided the account has been maintained for a period not exceeding six months and the account has not been credited with any local funds, other than interest accrued thereon. In case the account has been maintained for a period more than six months, applications for repatriation of balance will have to be made by the account holder concerned on plain paper to the Regional Office concerned of the Reserve Bank.

Foreign National going Abroad: Foreign Nationals coming to India for employment can open Resident Savings account, and have the option of converting such account into NRO at the time of their return in order to receive legitimate current income. The remittance from such account is permitted subject to Income Tax application. The funds credited to the NRO account should be repatriated abroad immediately, subject to payment of the applicable income tax and other taxes in India. The amount repatriated abroad should not exceed USD one million per financial year. The debit to the account should be only for the purpose of repatriation to the account holder's account maintained abroad. The account should be closed immediately after all the dues have been received and repatriated as per the declaration made by the account holder when the account was designated as an NRO account.

International Credit Card: Authorised Dealer banks have been permitted to issue International Credit Cards to NRIs/PIOs, without prior approval of RBI. Such transactions may be settled by inward remittance or out of balances held in the cardholder's FCNR (B) / NRE / NRO Accounts

Payment of funds to Non-Resident Nominee: The amount due/payable to non-resident nominee from the NRO account of a deceased account holder shall be credited to NRO account of the nominee with an Authorised dealer / bank in India

Loans to against NRO Account: can be granted provided the funds are not utilized for agriculture/plantation activities or real estate business or for re-lending. In case a resident person availing Overdraft or loan facility becomes non resident, such loan/overdraft facilities may be continued. However, payment of interest or repayment of loan must be made by inward remittance or out of legitimate resources in India of the person concerned.

(iv) Special Non Resident Rupee Account (SNRRA): Any person resident outside India having interest in business in India can open SNRR account. The SNRR account shall carry the nomenclature of business for which it is being opened and will not earn interest. The RBI (vide notification dated 22.11.2019) with a view to promote the usage of INR products by persons resident outside India, decided, in consultation with the Government of India, to expand the scope of SNRR Account by permitting person resident outside India to open such account for:

- i) Investment made India, in accordance with FEMA (Non Debt Instruments)
- ii) Import of goods and services in accordance with Section 5 of the Foreign Exchange Management Act 1999
- iii) Export of goods and services in accordance with Section 7 of the Foreign Exchange Management Act 1999
- iv) Trade Credit transaction and lending under External Commercial Borrowings in INR; and
- v) Business related transactions outside International Financial Service Centre (IFSC) by IFSC units at GIFT city like administrative expenses in INR outside IFSC, INR amount from sale of scrap, government incentives in INR, etc. The account will be maintained with bank in India (outside IFSC).

The tenure of SNRR Account will be in concurrent to the tenure of the contract/period of operation/business of the account holder and in no case shall exceed 7 years. However for accounts opened for the purposes given above, the condition regarding tenure of 7 years is not applicable.

- a) The debits/ credits and the balances in the account shall be incidental and commensurate with the business operations of the account holder
- b) The balances in the SNRR account shall be eligible for repatriation
- c) Transfers from any NRO account to the SNRR account are prohibited.
- d) All transactions in the SNRR account will be subject to payment of applicable taxes in India.

- e) SNRR account may be designated as resident rupee account on the account holder becoming a resident
- f) Opening of SNRR accounts by Pakistan and Bangladesh nationals and entities incorporated in Pakistan and Bangladesh requires prior approval of Reserve Bank
- g) The amount due/ payable to non-resident nominee from the account of a deceased account holder, will be credited to NRO account of the nominee with an authorised dealer/ authorised bank in India
- h) Apart from Non-Resident Ordinary (NRO) Account, permit credit of amount due/ payable to non-resident nominee from account of a deceased account holder to Non-Resident External (NRE) Account or direct remittance outside India through normal banking channels
- i) The operations in the SNRR account shall not result in the account holder making available foreign exchange to any person resident in India against reimbursement in rupees or in any other manner.
- j) SNRR account may be designated as resident rupee account on the account holder becoming a resident

(v) Escrow Account: Resident or non-resident corporate/ acquirers may open Escrow account in INR with an authorized dealer in India as an Escrow agent subject to the terms and conditions specified in Schedule 5 of the Foreign Exchange Management (Deposit) Regulations, 2016, as amended from time to time.

- The accounts shall be non-interest bearing.
- No fund/ non-fund based facility would be permitted against the balances in the account.

(vi) Acceptance of deposits by Indian proprietorship concern/ firm or a company from NRIs or PIOs

a) On non-repatriation basis:

i) Deposits: An Indian proprietorship concern/ firm or a company (including Non-Banking Finance Company) registered with Reserve Bank can accept deposits from NRIs or PIOs on non-repatriation basis subject to the terms and conditions specified in Schedule 7 Foreign Exchange Management (Deposit) Regulations, as amended from time to time.

The maturity period as per regulations shall not exceed 3 years.

The deposit shall be received by inward remittance or by debit to NRE/NRO/NRNR/FCNR account. The maturity proceeds/interest shall be credited to NRO Account.

ii) Indian companies can accept deposits from NRIs or PIOs by issue of a commercial paper subject to terms and conditions specified in Schedule 6 of FEMA Deposit Regulations.

- a) The issue is in due compliance with instruction on issue of Commercial Papers
- b) Payment is received by inward remittance from outside India through banking channels or out of funds held in a deposit account maintained by a Non-Resident Indian or a Person of Indian Origin in accordance with the Regulations made by Reserve Bank in that regard;
- c) The amount invested in Commercial Paper shall not be eligible for repatriation outside India; and
- d) The Commercial Paper shall not be transferable

b) On Repatriation basis: A company incorporated in India including NBFC registered with the Reserve Bank cannot accept deposits on repatriation basis subject to following conditions:

- a) The deposits are received under a public deposit scheme
- b) The maturity period of deposits shall not exceed 3 years.
- c) The amount of deposit received shall not exceed 35% of its net owned funds.
- d) The amount of deposit so collected shall not be utilised by the company for re-lending (not applicable to NBFC)
- e) The amount representing repayment of deposit may also be credited to the depositor's NRNR/NRO or NRSR account, at the depositor's option.

(vii) Other Accounts/Deposits: An Authorised Dealer may allow unincorporated joint ventures (UJV) of foreign companies/ entities, with Indian entities, executing a contract in India, to open and maintain non-interest bearing foreign currency account and an SNRR account as specified in Schedule 4 of the Deposit Regulations for the purpose of undertaking transactions in the ordinary course of its business. The debits and credits in these accounts should be incidental to the business requirement of the UJV. The tenure of the account should be concurrent to the

tenure of the contract/ period of operation of the UJV and all operations in the account shall be in accordance with the provisions of the Act or the rules or regulations made or the directions issued thereunder. Opening of such accounts by companies/ entities of Pakistan/ Bangladesh ownership/ nationality would require the prior approval of the Reserve Bank.

(viii) Nomination Facility: The nomination facility can be provided for accounts maintained by Individual account holders.

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