

RBI/2008-2009/17
Master Circular No. 04/2008-09

July 1, 2008

To,

All Authorised Dealer Category – I banks and Authorised banks

Madam / Sir,

**Master Circular on Remittance Facilities for Non-Resident Indians /
Persons of Indian Origin / Foreign Nationals**

Remittance facilities for Non-Residents/Persons of Indian Origin/Foreign Nationals are being governed by sub-section (1) and (2) of section 6 of the Foreign Exchange Management Act, 1999 read with FEMA Notification No.13/2000-RB and FEMA Notification No. 21/2000-RB dated May 3, 2000 as amended from time to time.

2. This Master Circular consolidates the existing instructions on the subject of **“Remittance facilities for Non-Resident Indians / Persons of Indian Origin /Foreign Nationals”** at one place. The list of underlying circulars/notifications consolidated in this Master Circular is furnished in Appendix.

3. This Master Circular is being issued with a sunset clause of one year. This circular will stand withdrawn on July 1, 2009 and be replaced by an updated Master Circular on the subject.

Yours faithfully,

(Salim Gangadharan)
Chief General Manager-in-Charge

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<p>1. Remittance facilities for Non Resident Indians (NRIs) / Persons of Indian Origin (PIO) and Foreign Nationals</p>	<p>The Regulations for transfer of assets outside India by a person whether resident in India or not are given in the Notifications No. FEMA 13/2000-RB and FEMA 21/2000-RB both dated May 3, 2000 and the related amendments to these Notifications. Accordingly, remittance of capital assets in India held by a person whether resident in or outside India would require approval of the Reserve Bank except to the extent provided in FEMA or Rules or Regulations made there under.</p>
<p>2. Definition of NRI/PIO</p>	<p>NRI for this purpose is defined as a person resident outside India who is citizen of India.</p> <p>In terms of Regulation 2 FEMA Notification No.13 dated May 3, 2000, Non-Resident Indian (NRI) means a person resident outside India who is a citizen of India. Person of Indian Origin (PIO) means a citizen of any country other than Bangladesh or Pakistan who had (a) at any time held Indian passport or (b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act 1955 or (c) the person is a spouse of an Indian citizen or a person referred to in (a) or (b).</p>
<p>3. Remittance of current income</p>	<p>3.1 Remittance of current income like rent, dividend, pension, interest, etc. of NRIs/PIO even those who do not maintain NRO Account is freely allowed, on the basis of appropriate certification by a Chartered Accountant certifying that the amount proposed to be remitted is eligible for remittance and that applicable taxes have been paid / provided for.</p> <p>3.2 NRIs/PIO have the option to credit the current income</p>

	<p>to their Non-Resident (External) Rupee account, provided the authorized dealer bank is satisfied that the credit represents current income of the non-resident account holder and income tax thereon has been deducted / provided for.</p>
<p>4. Remittance of assets by a foreign national of non-Indian origin</p>	<p>4.1 A foreign national of non-Indian origin who has retired from an employment in India or who has inherited assets from a person resident in India or who is a widow of an Indian citizen who was resident in India, may remit an amount not exceeding USD one million, per financial year (April-March), on production of documentary evidence in support of acquisition / inheritance of assets, an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No.10/2002 dated October 9, 2002.</p> <p>4.2 These remittance facilities are not available to citizens of Nepal and Bhutan.</p>
<p>5. Remittance of assets by NRI/PIO</p>	<p>5.1 A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) may remit an amount up to USD one million, per financial year, out of the balances held in his Non-Resident (Ordinary) Rupee (NRO) account / sale proceeds of assets (inclusive of assets acquired by way of inheritance or settlement), for all bonafide purposes, to the satisfaction of the authorized dealer bank, on production of an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular</p>

No.10/2002 dated October 9, 2002.

5.2 NRI/PIO may remit sale proceeds of immovable property purchased by him out of Rupee funds (or as a person in India) as indicated in para 5.1 above without any lock-in-period.

5.3 In respect of remittance of sale proceeds of assets acquired by way of inheritance or legacy or settlement for which there is no lock-in period, NRI / PIO may submit documentary evidence in support of inheritance or legacy of assets, an undertaking by the remitter and certificate by a Chartered Accountant in the prescribed formats. Settlement is also a mode of inheritance from the parent, the only difference being that the property under the settlement passes to the beneficiary on the death of the owner/parent without any legal procedures/hassles and helps in avoiding delay and inconvenience in applying for probate, etc. Here, it is clarified that in case settlement is done without retaining any life interest in the property, it would tantamount to regular transfer by way of gift. Therefore, if property is received by NRI/PIO by way settlement without the settler retaining life interest, it may be reckoned as transfer by way of gift and the remittance of sale proceeds of such property would be guided by the extant instructions on remittance of balance in the NRO account.

5.4 (a) The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran,

	<p>Nepal and Bhutan.</p> <p>(b) The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.</p>
<p>6. Repatriation of sale proceeds of residential property purchased by NRIs / PIO out of foreign exchange</p>	<p>6.1 Repatriation of sale proceeds of residential property purchased by NRI / PIO is permitted to the extent of the amount paid for acquisition of immovable property in foreign exchange received through banking channels. The facility is restricted to not more than two such properties.</p> <p>6.2 Authorised dealer banks may permit repatriation of amounts representing the refund of application / earnest money / purchase consideration made by the house building agencies / seller on account of non-allotment of flat / plot / cancellation of bookings / deals for purchase of residential / commercial property, together with interest, if any (net of income tax payable thereon), provided the original payment was made out of NRE / FCNR (B) account of the account holder, or remittance from outside India through normal banking channels and the authorised dealer bank is satisfied about the genuineness of the transaction. Such funds may also be credited to the NRE / FCNR (B) account of the NRI / PIO, if they so desire.</p> <p>6.3 Authorised dealer banks may allow repatriation of sale proceeds of residential accommodation purchased by NRIs/PIO out of funds raised by them by way of loans from the authorized dealer banks / housing finance institutions to the extent of such loan/s repaid by them out of foreign</p>

<p>7. Authorisation to Regional Rural Banks (RRBs)</p>	<p>inward remittances received through normal banking channel or by debit to their NRE / FCNR(B) accounts.</p> <p>With a view to make foreign exchange services available to the NRIs/PIO on a wider scale, RRBs are now authorised to open and maintain FCNR (B) Deposit accounts also by NRIs/PIO.</p>
<p>8. Repatriation of maturity proceeds of FCNR (B) deposits</p>	<p>Authorised Dealer banks are permitted to make remittance of the maturity proceeds of FCNR (B) deposits to the third parties outside India, provided the transaction is specifically authorised by the account holder and the authorised dealer is satisfied about the bonafides of the transaction.</p>
<p>9. ESOP to NRI Employees</p>	<p>Authorised Dealer banks are permitted to grant Rupee loans to NRIs employees of Indian companies for acquiring shares of the companies under the ESOP Scheme. The loan scheme should be as per the policy approved by the bank's Board and would further be subject to the following conditions :</p> <p>(i) The loan amount should not exceed 90 per cent of the purchase price of the shares or Rupees 20 lakhs per NRI employee, whichever is lower.</p> <p>(ii) The rate of interest and margin on such loans may be decided by the banks, subject to the directives issued by the Reserve Bank from time to time.</p> <p>(iii) The amount shall be paid directly by the bank to the company and should not be credited to the borrowers' non-resident accounts in India.</p> <p>(iv) The loan amount should be repaid by the borrower by</p>

	<p>way of inward remittances or by debit to his NRO / NRE / FCNR(B) account.</p> <p>(v) The loans will be included for reckoning capital market exposures and the bank will ensure compliance with prudential limits, prescribed by the Reserve Bank (DBOD) from time to time, for such exposure to capital market.</p>
<p>10. Facilities for students</p>	<p>10.1 Students going abroad for studies are treated as Non-Resident Indians (NRIs) and are eligible for all the facilities available to NRIs under FEMA.</p> <p>10.2 As Non-Residents, they will be eligible to receive remittances from India (i) up to USD 100,000 from close relatives in India on self declaration towards maintenance, which could include remittances towards their studies also and (ii) up to USD 1 million per financial year, out of sale proceeds of assets / balances in their NRO account maintained with an Authorised Dealer bank in India.</p> <p>10.3 All other facilities available to NRIs under FEMA are equally applicable to the students.</p> <p>10.4 Educational and other loans availed of by them as residents in India will continue to be available as per FEMA regulations.</p>
<p>11. Income-tax clearance</p>	<p>The remittances will be allowed to be made by the authorized dealer banks on production of an undertaking by the remitter and a certificate from a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India</p>

	in their Circular No.10/2002 dated October 9, 2002. [cf. A. P. (DIR Series) Circular] No.56 dated November 26, 2002].
12. International Credit Cards	Authorised Dealer banks have been permitted to issue International Credit Cards to NRIs/PIO, without prior approval of Reserve Bank. Such transactions may be settled by inward remittance or out of balances held in the cardholder's FCNR (B) / NRE / NRO accounts.

Annex-1

Statement / Returns to be submitted to the Reserve Bank

Master Circular on Remittance Facilities for Non-Resident Indians/Persons of Indian Origin / Foreign Nationals

1	Facilities to NRIs/PIO and Foreign Nationals – Liberalisation- Remittance from NRO account	Quarterly	A.P. (DIR Series) Circular No. 12 dated November 16, 2006	
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Annex-2

Master Circular on Remittance Facilities for Non-Resident Indians/Persons of Indian Origin / Foreign Nationals

Operational Instructions for Authorised Dealer Banks

1. General	<p>1.1 Authorised Dealer banks may carefully study the provisions of the Act / Regulations / Notifications issued under Foreign Exchange Management Act, 1999 (the Act).</p> <p>1.2 Reserve Bank will not prescribe the documents which should be verified by the authorised dealer banks while permitting remittances for various transactions. In this regard Authorised Dealer banks may refer to sub-section (5) of Section 10 of the Act.</p> <p>1.3 In terms of the provisions contained in sub-section 5 of section 10 of the Act, before undertaking any transaction in foreign exchange on behalf of any person, authorised dealer bank is required to obtain a declaration and such other</p>
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	<p>information from the person (applicant) on whose behalf the transaction is being undertaken that will reasonably satisfy him that the transaction is not designed to contravene or evade the provisions of the Act or any of the Rules or Regulations made or Notifications or directions or orders issued under the Act. Authorised dealer banks should preserve the information/ documents obtained by them from the applicant before undertaking the transactions for verification by the Reserve Bank.</p> <p>1.4 In case the person on whose behalf the transaction is being undertaken refuses or does not give satisfactory compliance of the requirements of an authorised person, he shall refuse in writing to undertake the transactions. Where an authorised person has reasons to believe that a contravention or evasion of the Act or the Rules or Regulations made or Notifications issued thereunder was contemplated in the transaction that he has refused to undertake, he shall report the matter to the Reserve Bank.</p> <p>1.5 With a view to maintaining uniform practices, authorised dealer banks may consider requirements or documents to be obtained by their branches to ensure compliance with provisions of sub-section (5) of section 10 of the Act.</p>
<p>2. Opening of accounts by Bangladesh/ Pakistan entities.</p>	<p>Opening of accounts by individuals/entities of Bangladesh / Pakistan nationality / ownership requires prior approval of Reserve Bank. All such requests may be referred to the Chief General Manager, Foreign Exchange Department, (Foreign Investment Division), Reserve Bank of India, Central Office, Mumbai-400 001.</p>

<p>3. Remittance of current income</p>	<p>3.1 Remittance outside India of current income like rent, dividend, pension, interest, etc. in India of the account holder is a permitted debit to the NRO account.</p> <p>Authorised Dealer banks may allow repatriation of current income like rent, dividend, pension, interest, etc. of NRIs who do not maintain an NRO account in India based on an appropriate certification by a Chartered Accountant, certifying that the amount proposed to be remitted is eligible for remittance and that applicable taxes have been paid/provided for.</p> <p>3.2 NRIs/PIO have the option to credit the current income to their Non-Resident (External) Rupee account, provided the authorised dealer bank is satisfied that the credit represents current income of the non-resident account holder and income tax thereon has been deducted / provided for.</p>
<p>4. Restrictions</p>	<p>(a) The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan.</p> <p>(b) The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.</p>
<p>5. Tax compliance</p>	<p>Authorised dealer banks can allow remittances to non-residents only on production of an undertaking by the remitter and a Certificate from a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India in their Circular No.10/2002 dated October 9, 2002. [cf. Our A.P. (DIR Series) Circular No.56 dated November 26,2002].</p>

APPENDIX

List of notifications / circulars which have been consolidated in this Master Circular - Remittance facilities for Non-Resident Indians/Persons of Indian Origin/Foreign Nationals

http://www.rbi.org.in/Scripts/BS_ApCircularsDisplay.aspx

http://www.rbi.org.in/Scripts/Bs_FemaNotifications.aspx

Sl. No.	Notification / Circular No.	Date
1.	Notification No. FEMA 62/2002-RB	May 13, 2002
2.	Notification No. FEMA 65/2002-RB	June 29, 2002
3.	Notification No. FEMA 93/2003-RB	June 9, 2003
4.	Notification No. FEMA 97/2003-RB	July 8, 2003
5.	Notification No. FEMA 119/2004-RB	June 29, 2004
6.	Notification No. FEMA 152/2007-RB	May 15, 2007
1.	AP (DIR Series) Circular No.45	May 14, 2002
2.	AP (DIR Series) Circular No.1	July 2, 2002
3.	AP (DIR Series) Circular No.5	July 15, 2002
4.	AP (DIR Series) Circular No.19	September 12, 2002
5.	AP (DIR Series) Circular No.26	September 28, 2002
6.	AP (DIR Series) Circular No.27	September 28, 2002
7.	AP (DIR Series) Circular No.35	November 01, 2002
8.	AP (DIR Series) Circular No.40	November 5, 2002
9.	AP (DIR Series) Circular No.46	November 12, 2002
10.	AP (DIR Series) Circular No.56	November 26, 2002
11.	AP (DIR Series) Circular No.59	December 9, 2002
12.	AP (DIR Series) Circular No.67	January 13, 2003
13.	AP (DIR Series) Circular No.101	May 5, 2003
14.	AP (DIR Series) Circular No.104	May 31, 2003
15.	AP (DIR Series) Circular No.43	December 8, 2003
16.	AP (DIR Series) Circular No.45	December 8, 2003
17.	AP (DIR Series) Circular No.62	January 31, 2004

18.	AP (DIR Series) Circular No.43	May 13, 2005
19.	AP (DIR Series) Circular No.12	November 16, 2006
20	AP (DIR Series) Circular No.57	May 18, 2007
21.	AP (DIR Series) Circular No. 1	July 5, 2007
22.	AP (DIR Series) Circular No. 7	August 22, 2007

NOTE

- **For the convenience of authorised dealers, a table of Statements / Returns to be submitted to RBI and Operational Guidelines have been given in Annex-1 & 2, respectively.**
- **It is also clarified for information of all users that the Master Circular need not necessarily be exhaustive and a reference to the relevant A.P.(DIR Series) Circular is needed wherever further information/ clarification is required.**