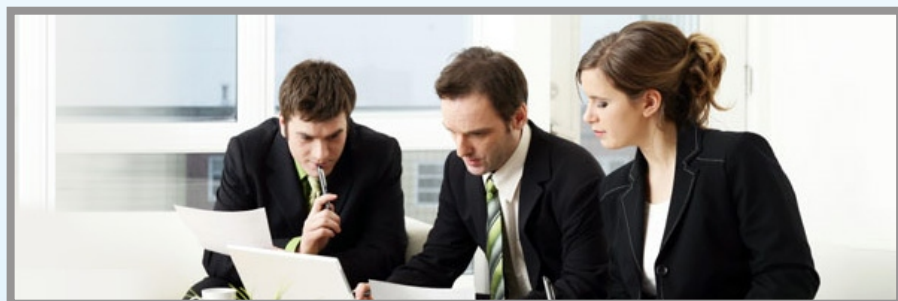


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Announcements made in the Budget 2013

- Simplification of portfolio investor norms
- Rationalization of the foreign investment regime by indications that the regulatory frame work may shift from a classification-based regime to a regime based on investment size thereby clearing the overlap between FIIs, QFIs & FDI.
- FIIs will be permitted to participate in the Exchange Traded Currency Derivative Segment to the extent of their Indian rupee exposure in India.
- FIIs will also be permitted to use their investment in Corporate Bonds and Government Securities as collateral to meet their margin requirements.
- Designated depository participants will be allowed to register different classes of portfolio investors, subject to compliance with KYC guidelines issued by SEBI.

A Guide to FEMA

With the liberalization of the Indian Economy and replacement of stringent Foreign Exchange Regulation Act (FERA) by a simpler Foreign Exchange Management Act (FEMA), India has now become a highly attractive destination for foreign investors/NRIs to park their funds by way of Investing in India in Business Organisations, Indian Capital Market, Banking industry etc. Accordingly, the much required inflows of foreign exchange have seen a rapid surge in the recent years. Complying with this law is also very crucial from a monetary aspect as non-compliance of the same would lead to huge amount of penalties. Recently, the Enforcement Directorate (ED), a higher level authority under FEMA has slapped a Rs. 98.5 crore penalty notice to IPL team Rajasthan Royals for being accused of violating the Foreign Exchange law provisions. This booklet thus would guide you through the basics of FEMA & the compliance requirement thereon.

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Residential Status:

As application of Direct Tax laws heavily depends upon residential status of a person the same is a crucial factor that decides the application of FEMA provision & regulations.

A. Person Resident in India means the following [section 2(v)]:

- (a) A person residing in India for more than 182 days during the course of the preceding financial year. However, it does not include a person who has gone out of India or stays outside India for employment outside India or carrying on business or vocation outside India or for any other purpose, in such circumstances as would indicate his intention to stay outside India for uncertain period.
- (b) A person residing in India for more than 182 days during the course of the preceding financial year. However, it does not include a person who has come to or stays in India, in either case otherwise than (i) He has come for employment in India or (ii) for carrying on business or vocation in India or (iii) for any other purpose, in such circumstances as would indicate his intention to in India for an uncertain period.
- (c) Any person or body corporate registered or incorporated in India
- (d) An office, branch or agency in India owned or controlled by a person resident outside India
- (e) An office, branch or agency outside India owned or controlled by a person resident in India

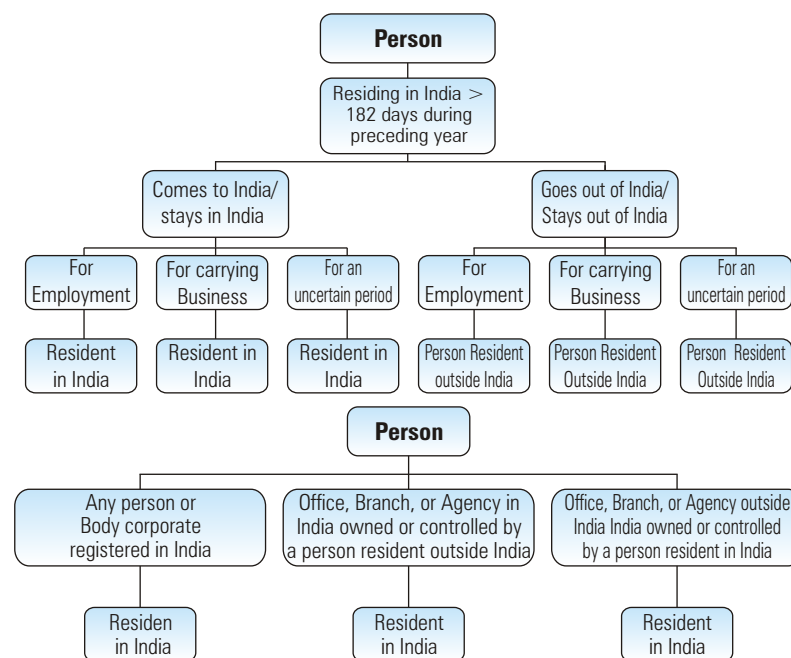
Largely, 'person resident of India' includes person of India (except those staying abroad for work or business or for other purpose) and foreign persons who come to India or stay in India for employment, carrying out business or other purpose. Even office, branch or agency can be 'person'.

B. Person Resident outside India (PROI) [section 2(w)]: It means a person who is not resident in India.

Person Resident outside is subdivided into following categories:

- (a) Non Resident Indian (NRI): it means an individual, who is either citizen of India or PIO (Person of Indian Origin). PIO means either he or either of his parents or any of his grandparents were born in undivided India. Many privileges/benefits have been accorded to NRIs under FEMA. The same are covered under different topics hereunder.
- (b) Non Resident: It means a person resident outside India, who is not an NRI.

The above could be easily understood in a diagrammatic manner highlighted below:



Notes : Basic requirement for an individual to be a resident of India is that he/she should have stayed in India for more than 182 days during preceding year. If he/she did not, he never becomes 'person resident of India' for that year e.g. if a person stayed in India in 2008-09 for 182 days or less, he can never be 'person resident in India' in 2004-05, irrespective of his stay in India and irrespective of his purpose to go abroad or stay in India.

Types of Transactions :

Under FEMA there are mainly two types of transactions:

A. Current Account Transactions: It means a transaction other than a capital account transaction. It includes the following:

- (a) Payment due in connection with foreign trade, other current business, services and short term banking and credit facilities in the ordinary course of business
- (b) Payments due as interest on loans and as net income from investments
- (c) Remittances for living expenses of parents, spouse and children residing abroad and
- (d) Expenses in connection with foreign travel, education and medical care of parents, spouse & children.

- The definition is 'inclusive' that means besides aforesaid expenses, any expenditure which is not a "capital account transaction" will also be a current account transaction e.g. personal expenses of travel, education & medical care, rent expenses etc...
- Generally there are no restrictions on current account transactions unless there being a specific restriction by Central Government or RBI.

There are transactions (i) for which withdrawal of foreign exchange is prohibited. [Schedule I]; (ii) which require prior approval of central Government [Schedule II]; (iii) which require prior approval of RBI [Schedule III].

Illustrative transactions

Schedule I Prohibited Transactions:

- Remittance out of lottery winnings
- Remittance of income from racing/riding etc. or any other hobby
- Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.

Schedule II Government approval:

- Cultural Tours
- Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping

Schedule III RBI approval exceeding a specified monetary limit :

- Gift Remittance exceeding US \$ 5000 per remitter/ donor per annum
- Donation exceeding US \$ 10,000 per remitter/ donor per annum

B. Capital Account Transactions:

It means (i) a transaction which alters the assets or liabilities, including contingent liabilities outside India of person resident in India (ii) a transaction which alters the assets or liabilities in India of person resident outside India.

- Generally capital account transactions are deemed to be prohibited unless specifically permitted.

Permissible Capital Account Transactions:

- i. Transactions specified in Schedule I, of a person resident in India
- ii. Transactions specified in Schedule II, of a person resident outside India

Illustrative transactions

Schedule I:

- Investment by a person resident in India in foreign securities
- Foreign currency loans raised in India & abroad by a person resident in India
- Transfer of immovable property outside India by a person resident in India

Schedule II:

- Issue of a security by a body corporate or an entity in India and investment therein by a person resident outside India
- Acquisition and transfer of immovable property in India by a person resident outside India
- Guarantee by a person resident in India in favor of, or on behalf of, a person resident outside India.

Prohibited Capital Account Transactions:

No person resident outside India shall make investment in India, in any form, in any company, or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage:

- i. *In the business of chit fund, or*
- ii. *As Nidhi Company, or*
- iii. *In agriculture or plantation activities, or*
- iv. *In real estate business, or construction of farm houses, or (For the purpose of this regulation 'real estate businesses' shall not include development of townships, construction of residential/ commercial premises, roads or bridges)*
- v. *In trading in Transferable Development Rights (TDRs)*

Deposits by Persons Resident Outside India [PROI]:

Deposit, a capital account transaction referred to in section 6(3)(f) and subsection (2) of sec. 47 of FEMA, includes deposit of money with a bank, company, proprietary concern, partnership firm, corporate body, trust or any other person.

Acceptance of deposits by an Authorized Dealer Bank from PROI would be as under:

- A. Non-resident (Ordinary) Account Scheme (NRO Account)
- B. Non-resident (External) Account Scheme (NRE Account)
- C. Foreign Currency (Non-resident) Account Banks Scheme (FCNR(B) Account)

Description of the above accounts in a comparative table is highlighted below:

Description	Non-ordinary Rupee Account (NRO Account)	Non-Resident (External) Rupee Account Scheme (NRE Account)	Foreign Currency (Non-resident) Account (Bank) (FCNR(B) Account)
Who can open account	Person Resident Outside India (Individuals/ entities of Bangladesh/ Pakistan nationality/ ownership requires RBI approval)	NRI (Individuals/ entities of Bangladesh/ Pakistan nationality/ ownership requires RBI approval)	NRI (Individuals/ entities of Bangladesh/ Pakistan nationality/ ownership requires RBI approval)
Repatriable/ Non-Repatriable	Non-repatriable (Except under USD 1 million per FY scheme)	Repatriable	Repatriable
Type of Account	Current, Savings, Recurring or Fixed Deposit Accounts	Current, Savings, Recurring or Fixed Deposit Accounts	Term Deposits
Joint Accounts	Jointly with residents	Two or more NRI	Same as NRE account

Major Permissible Credits	<ul style="list-style-type: none"> Remittance in permitted foreign currency Deposit by account holder during temporary visit to India Transfer from rupee account of non-resident banks etc. 	<ul style="list-style-type: none"> Remittance in permitted foreign currency Proceeds of foreign currency/bank notes tendered during temporary visit to India Transfer from other NRE account, Transfer from NRO account within the overall limit of USD 1 million 	Same as NRE account (except for transfer from NRO account)
Major Permissible Debits	<ul style="list-style-type: none"> Local Rupee payments Remittance outside India of current income in India (net of taxes) transfer to NRE account subject to overall ceiling of USD 1 million 	<ul style="list-style-type: none"> Local disbursements remittance outside India transfer to other NRE/FCNR account etc 	Same as NRE account
Transfer of Funds between different accounts	To NRE Account permissible (within USD 1 million)	To NRO account not permissible	Not applicable
Loan- to account holders	Rupee loan against security of fixed deposits for personal purpose or business purpose except for relending or agricultural/ plantation activity or for investment in real estate business	For personal purpose or business purpose except for relending or agricultural/ plantation activity or for investment in real estate business For direct investment in India in firms/companies on non-repatriation business For purpose of flat in India for own residential purpose	Same as NRE account
Loan to third parties	Loans/overdrafts to R/ firms/ Indian/ companies against security of FD in NRO account subject to conditions	Fund based/ non-fund based to Resident/ firms/ Indian/ companies against security of FD in NRE account subject to conditions	Same as NRE account
Loan- outside India	Not allowed	Fund based or non-fund based to or in favor of NRI or to third parties	Same as NRE account
Income tax exemption on interest	Taxable	Not taxable	Not taxable

• It is to note here that foreign nationals i.e. other than NRIs can open only an NRO account for deposit with AD.

Export of Goods & Services :

Export trade is regulated by the Directorate General of Foreign Trade(DGFT).

A. Declaration as regards export of goods and services

- Exporter to furnish a declaration to RBI or other prescribed authority
- Showing Full Export Value

Full value of export to be the amount that exporter expects to receive in case full export value is not ascertainable at the time of export.

- Exporter to take necessary steps to ensure realization of export proceeds

i. Form & manner of export declaration

Declaration should be submitted in sets of numbers as specified. Prescribed declaration forms by FEMA regulations are as under:

Sr. No.	Form	Purpose of Form	Copies to be submitted
1	GR	For exports otherwise than by post including export of software in physical form	Duplicate
2	SDF	For exports declared to Customs offices notified by the Central Government which have introduced Electronic Data Interchange (EDI) system for processing shipping bills	Duplicate & appended to shipping bill
3	PP	For Export by post	Duplicate
4	SOFTEX	For export of software otherwise than in physical form	Triplicate

- Declaration should be supported by evidence.
- Showing full export value
- Exporter to take necessary steps to ensure realization of export proceeds

ii. Exemption from declaration:

Export of goods or service may be made without furnishing the declaration in the following cases:

Particulars	Description
Trade Samples	Trade samples of goods and publicity material supplied free of payment
Baggage	Personal effects of travelers, whether accompanied or un-accompanied
Stores/Transshipment Cargo	Ship's stores & transshipment cargo
Government/ Ministry supplies	Goods supplied under the orders of Central Government also goods supplied for military, naval or air force requirements
Goods of value less than USD 25,000	Goods or software accompanied by a declaration by the exporter that they are not more than US \$ 25000 in value
Gifts less than Rs. Five Lakhs	Gift of goods accompanied by a declaration by the exporter that they are not more than five lakh rupees in value.
Aircrafts for overhauling	Aircrafts or aircraft engines and spare parts for overhauling and/or repairs abroad subject to their re-import into India after overhauling /repairs, within a period of six months from the date of their export.
Imports on re-export basis	Goods imported free of cost on re-export basis
Small value goods to Myanmar	Goods not exceeding US \$1000 or its equivalent in value per transaction exported to Myanmar under Barter Trade Agreement between the Central Government and the Government of Myanmar
Replacement goods exported free of charge	Replacement goods exported free of charge in accordance with the provisions of EXIM Policy in force
Goods sent for testing and re-import	Goods sent outside India for testing and re-import
Defective goods sent abroad for repair and re-import	Defective goods sent outside India for repair and re-import
Exports with permission of RBI	Exports permitted by RBI as per conditions stipulated in the permission.

B. Certain Export requires prior approval:

Following exports need prior approval of RBI:

- i. **Lease/Hire:** Export of goods on lease, hire or any manner other than sale or disposal as such requires RBI approval.
- ii. **Export on elongated credit terms:** Exports on elongated credit term requires RBI approval.
- iii. **Counter Trade:** Counter Trade i.e. any arrangement involving adjustment of value of goods imported into India against value of goods exported from India requires RBI approval. [Note: - *Counter Trade Proposal for transaction taking place between the Indian Party & the overseas party through Escrow Account opened in India in US Dollar will be considered by RBI subject to certain conditions.*]

C. Receipt of Export Proceeds

- Export proceeds to be realised within the period specified. Generally within one year from the day of export.
- Re-import within the period of realization of export proceeds is considered to be realization.
- Receipt of payment - by bank drafts, banker's cheques, foreign currency, payment from FCNR/NRE account of buyer or International Credit Cards.

D. Advance Payment received by exporter from foreign buyer:

Where an exporter receives advance payment (with or without interest), from a buyer outside India, the exporter shall be under obligation to ensure that:

(i) The shipment of goods is made within one year from the date of receipt of advance payment;

(ii) The rate of interest, if any, payable on the advance payment does not exceed London Inter-Bank Offered Rate (LIBOR) + 100 basis points, and

(iii) The documents covering the shipment are routed through the authorized dealer through whom the advance is received.

- *Remittance towards refund of advance payment in case of failure to ship the goods should within one year, should be made with prior approval of RBI.*
- *A-Prior approval of RBI required in case shipment of goods is to be made beyond the period of one year from the date of receipt of advance payment.*

Realization & Repatriation of Foreign Exchange:

- A person resident in India to realize and repatriate to India such foreign exchange which has accrued to him or is due to him.
- To take necessary steps to realize the foreign exchange due.
- Repatriate to India' means bringing into India the realized foreign exchange and (i) selling of such foreign exchange to an authorised person in India in exchange for rupees or (ii) the holding of realised amount in an account with an authorized person in India to the extent notified by RBI. It also includes use of realized amount for discharge of a debt or liability denominated in foreign exchange.

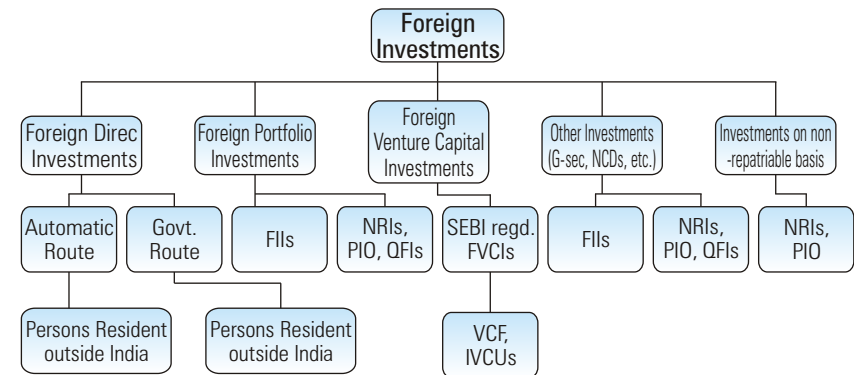
Import of Goods & Services

Import trade is regulated by the Directorate General of Foreign Trade (DGFT).

- An application in form A-1 to be made for import exceeding USD 5000
- Banks can freely open letters of credit and allow remittances except for goods requiring special licenses.
- Generally the time limit for import remittances is **six month** from the date of shipment of goods. Permission for remittances exceeding the above time limit depends upon facts & circumstances.
- For **Deferred payment arrangements** for remittances exceeding six months from the date of shipment procedural *guidelines of External Commercial Borrowings & Trade Credits* is to be followed.
- No limit on import of foreign exchange. However, exceeding a specified sum a declaration form has to be filed.
- Advance remittance for import of goods is allowable subject to certain conditions.
- BPO companies allowed making remittances towards the cost of equipment to be imported at their overseas site.

Foreign Investment in India

A schematic representation for foreign investment in India is highlighted below:



As it is clearly a highlighted above broadly, foreign investment in India can be under the following heads:

- A. Foreign Direct Investment in India [FDI]
- B. Foreign Portfolio Investment
- C. Foreign Venture Capital Investments
- D. Other Investments
- E. Investments on non-repatriable basis

Let us try and understand each of them separately:

A. Foreign Direct Investment in India

Government of India along with Ministry of Commerce & Industry & Department of Industrial Policy & Promotion issues a 'Consolidated FDI Policy Circular' on a yearly basis on March 31 of each year which prescribe amongst other things the mode of investment i.e. issue or acquisition of shares/convertible debentures and preference shares, manner of receipt of funds, pricing guidelines, and reporting of investments to the Reserve Bank.

Under the FDI scheme, investments can be made in shares, mandatorily & fully convertible debentures and mandatorily & fully convertible preference shares of an Indian company by non-residents through two routes:

- i. **Automatic Route:** Under the automatic route, the foreign investor or the Indian company does not require any approval from the Reserve Bank or Government of India for investment.
- ii. **Government Route/Approval Route:** Under the Government Route, the foreign investor or the Indian Company should obtain prior approval of the Government of India, Ministry of Finance, Foreign Investment Promotion Board (FIPB) for the investment.

The details of the entry route applicable and the maximum permissible foreign investment/ sectoral cap in terms of percentage in an Indian Company are determined by the sector in which it is operating.

Sr. No.	Particulars	Description
1	Eligible Investors for FDI	Any PROI#*, or an entity incorporated outside India,
2	Types of Instruments	Equity shares, Fully & mandatorily convertible debentures and fully & mandatorily convertible Preference shares ^
3	Pricing	<ul style="list-style-type: none"> • Fresh Issue ≠ - For listed companies: on the basis of SEBI guidelines - For unlisted companies: fair value as determined by a CA/SEBI registered merchant banker applying Discounted Cash Flow Method (DCF).

Sr. No.	Particulars	Description
		<ul style="list-style-type: none"> • Acquisition/transfer of existing shares: <ul style="list-style-type: none"> - For listed companies: Negotiated price should not be less than price as per SEBI guidelines - For unlisted companies: Negotiated price should not be less than fair value as determined by a CA or SEBI registered Merchant Banker applying DCF method
4	Mode of Payment	<ul style="list-style-type: none"> • Inward remittance through normal banking channels. • Debit to NRE/FCNR account of a person concerned i.e. NRI • Conversion of royalty/lump sum/ technical knowhow fee due for payment or conversion of ECB • Conversion of import payables/pre incorporation expenses
5	Prior Permission of RBI	<ul style="list-style-type: none"> • Transfer of share by way of gift by a resident to a PROI • Deferment of receipt of consideration on transfer of share to non resident
6	Reporting (Compliance)	<ul style="list-style-type: none"> • On Issue of sharesπ : <ul style="list-style-type: none"> - Intimation to RBI via AD Bank in a specified form within 30 days of receipt of consideration - Filing of form FC-GPR with AD Bank within 30 days of from issue of shares • On Transfer of shares: <ul style="list-style-type: none"> - Filing of form FC-TRS within 60 days from date of receipt of consideration

Other than a citizen of Pakistan & an entity incorporated in Pakistan

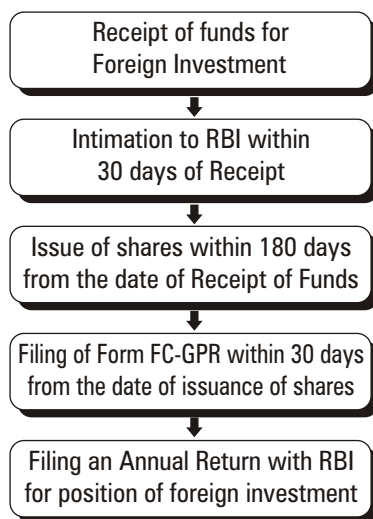
* A citizen of Bangladesh or an entity incorporated in Bangladesh can invest in India under FDI with prior approval of the FIPB.

^ Issue of other type of preference shares such as optionally convertible, partially convertible would have to be done in accordance with External Commercial Borrowings (ECB) guidelines.

≠ The same pricing guidelines are also applicable for issues of shares against payment of lump sum technical know-how fee / royalty or conversion of ECB into equity or capitalization of pre incorporation expenses/import payables.

- Shares should be issued within 180 days from the date receipt of consideration.

Compliance Chart



B. Foreign Portfolio Investment

Sr. No.	Particulars	Description
1	Who can invest	<ul style="list-style-type: none"> • Foreign Institutional Investors (FIIs) registered with SEBI • NRIs • SEBI approved sub account of FII • Qualified Foreign Investor in listed equity shares#
2	Ceiling on investment	<ul style="list-style-type: none"> • An individual FII/SEBI approved sub account = maximum of 10 percent of paid-up capital • Total holding of all FIIs/SEBI approved sub accounts of FII shall not exceed 24 percent • NRI can invest under PIS route up to 5 percent of the paid up capital • Ceiling on Total holding of all NRIs is 10 percent • For QFIs the same limit would apply as applicable to NRIs

Sr. No.	Particulars	Description
3	Trading in exchange traded derivatives	<ul style="list-style-type: none"> • FIIs are allowed to trade in all approved exchange traded derivatives on a repatriable basis. • NRIs are allowed to trade in all approved exchange traded derivatives but on a non repatriable basis. • QFIs not allowed.
4	Short Selling	<ul style="list-style-type: none"> • For FIIs allowed • For NRIs not allowed
5	Transfer of Shares	<ul style="list-style-type: none"> • Shares acquired under PIS cannot be transferred under a private placement unless approved by RBI.

QFIs would mean nonresident investors, other than SEBI registered FIIs & FVCIs.

C. Foreign Venture Capital Investments

Sr. No.	Particulars	Description
1	Who Can Invest	A SEBI registered Foreign Venture Capital Investor (FVCI) with specific approval from RBI
2	Where to invest	<ul style="list-style-type: none"> • In Indian Venture Capital Undertaking (IVCU) or Venture Capital Fund (VCF) or • In a scheme floated by such VCFs • Investment in securities on a recognized stock exchange subject to provisions of SEBI (FVCI) regulations
3	Type of Instrument	<ul style="list-style-type: none"> • Equity/Equity linked instruments • Debt/Debt instruments • Debentures • Units of schemes/funds set up by a VCF
4	Mode of Investment	<ul style="list-style-type: none"> • Through IPOs • Private Placement • Purchase from third party • Private arrangement

D. Other Foreign Investments:

Sr. No.	Particulars	Description
1	Investment by NRIs	<ul style="list-style-type: none"> Investment in shares/convertible debentures, Government securities, treasury bills, units of domestic mutual funds, units of money market mutual funds. Without limit on non-repatriable basis Sale proceeds to be credited to NRO account if on non-repatriable basis Can also invest in non-convertible debentures both on non-repatriable basis as well as repatriable basis subject to certain conditions NRIs not allowed investing in Public Provident Fund (PPF).
2	Investment in IDRs	<ul style="list-style-type: none"> Can be issued by non-resident companies in India SEBI registered FII and Sub-accounts & NRIs may invest, purchase, hold, transfer IDRs of eligible companies resident outside India Not redeemable into underlying equity shares before the expiry of one year period from the date of issue Compliance with Foreign Exchange Management (Issue or Transfer of Foreign Security) Regulations at the time of redemption Proceeds on the issue of IDRs to be repatriated outside India immediately
3	Investment by FIIs in other securities	<ul style="list-style-type: none"> Investment in Government securities, treasury bills, units of domestic mutual funds, units of money market mutual funds. Maximum investment by SEBI registered FIIs in Government Securities at present is USD 25 billion
4	Investment by QFIs in units of Domestic Mutual Fund & debt securities	<ul style="list-style-type: none"> Permitted to invest on repatriable basis in rupee denominated units of equity schemes of SEBI registered domestic MFs Investment can be made by two routes <ul style="list-style-type: none"> Direct Route i.e. SEBI registered Depository Participant route Indirect Route i.e. Unit Confirmation Receipt (UCR) Route Permitted to invest in debt securities on repatriation basis subject to certain conditions
5	Investment in Infrastructure Debt Funds (IDF)	<ul style="list-style-type: none"> FIIs, NRIs, HNIs, Various Global Funds etc... are eligible to invest Eligible Instruments Foreign Currency & Rupee denominated bonds & Rupee denominated bonds Overall Maximum foreign investment limit USD 25 billion (USD 12 billion by FIIs, USD 3 billion by QFIs & USD 10 billion by NRIs, other various global funds)

Establishment of a place of business in India:

A body corporate incorporated outside India (including a firm or other association of individuals) can establish a place of business in India by setting up a Branch office (BO) or Liaison Office (LO) or a project office (PO). A comparative table describing all the three options:

Sr. No.	Particulars	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
1	Who can open	A body corporate incorporated outside India (including a firm or other association of Individuals)	Same as BO/	Foreign Companies
2	Permission for setting up	<ul style="list-style-type: none"> Prior approval of RBI Foreign Banks do not require separate approval under FEMA for opening Branch office. However approval from Department of Banking Operations & Development, RBI. 	<ul style="list-style-type: none"> Prior approval of RBI Foreign Insurance Companies would require approval from Insurance Regulatory & Development Authority of India (IRDA) Foreign Banks would require approval from Department of Banking Operations & Development (DBOD), RBI. 	<ul style="list-style-type: none"> No Prior approval from RBI subject to certain conditions except intimation to RBI within 2 months. However, foreign non-government organisations/non-profit organisations/foreign government bodies/departments would require prior permission of RBI.
3	Eligibility Criteria	<ul style="list-style-type: none"> Profit making track record during preceding five financial years in home country 	<ul style="list-style-type: none"> Profit making track record during preceding three financial years in home country 	General permission of RBI is available to foreign companies if they satisfy followings:

Sr. No.	Particulars	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
		<ul style="list-style-type: none"> Not less than USD 100,000 of Net worth as per the latest Audited 	<ul style="list-style-type: none"> Not less than USD 50,000 of Net worth as per the latest Audited Balance Sheet certified by a CPA 	<p>FC has secured a contract from an Indian Company to execute a project in India and</p> <p>i. The project is funded by inward remittance or</p> <p>ii. the project is funded by a bilateral or multilateral International Financing Agency or</p> <p>iii. the project has been cleared by an appropriate authority or</p> <p>iv. a company or entity in India awarding the contract has been granted term loan by a Public Financial Institution (PFI)</p>
4	Application Form	• Form FNC	• Form FNC	No prescribed form as such
5	Permitted activities	Eight activities permitted by RBI for BO. Local manufacturing & retail trading are not permitted	Only information collection, market survey, communication activity etc permitted	PO can only execute projects
6	Funding for local operations	Local expenses can be met through inward remittances or local earnings	Local expenses can be met only out of inward remittances	Local expenses can be met through inward remittances or local earnings

Sr. No.	Particulars	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
7	Operating time limit	Does not have any time limit for carrying on business	LO shall be opened for a period of three years and further renewal can be obtained through AD	PO has time limit as per Contract Agreement
8	Permanent Establishment	Regarded as a PE in India of the foreign company	Not regarded as a PE in India subject to DTA and Domestic Tax/laws subject to liaison activities only	Regarded as a PE in India of the foreign company
9	Compliance requirements under Income Tax Act	Required to file return of Income in respect of BO operations	Required to file return of income. Not liable for income tax as no income or revenue earned	Required to file return of income in respect of PO operations.
10	Acquisition of Immovable Property	Can acquire immovable property on ownership/lease	Can acquire immovable property only on lease that to not exceeding five years	Can invest in immovable property without prior approval subject to certain conditions
11	Compliances	<ul style="list-style-type: none"> Annual Activity Certificate (AAC) from CA along with the audited balance sheet to be submitted to AD bank with a copy to Director General of Income Tax (International Taxation), New Delhi on or before 30th September every year Submit a report 	<ul style="list-style-type: none"> Annual Activity Certificate (AAC) from CA along with the audited balance sheet to be submitted to AD bank with a copy to Director General of Income Tax (International Taxation), New Delhi on or before 30th September every 	<ul style="list-style-type: none"> Annual certificate from a CA showing the project status and that the accounts of the PO has been audited and activities are as per approval by RBI. Submit a report as per prescribed format on an annual basis with the Director

Sr. No.	Particulars	Branch Office (BO)	Liaison Office (LO)	Project Office (PO)
		as per prescribed format on an annual basis with the Director General of Police (DGP) of the state concerned	year • Submit a report as per prescribed format on an annual basis with the Director General of Police (DGP) of the state concerned	General of Police (DGP) of the state concerned

Acquisition & Transfer of immovable property (IP) in India by a person resident outside India:

A. Acquisition

Sr. No.	Particulars	Description
1	Who can acquire	<ul style="list-style-type: none"> • NRIs • PIOs • A person who has established a branch, office or other place of business in India • Certain other specified categories like foreign nationals*, diplomats (subject to certain conditions)
2	Type of property	Any immovable property in India (other than an agricultural property (AP) / plantation (PL)/ farm house (FH) #)
3	Mode of acquisition	<ul style="list-style-type: none"> • Purchase • By way of gift from a person resident in India/NRI/PIO • By way of inheritance from a person resident in India or a person resident outside India who had acquired such property in accordance with applicable forex laws at the time of acquisition of property
4	Mode of payment	<ul style="list-style-type: none"> • By inward remittance through normal banking channels or • By debit to NRE/FCNR(B)/NRO account
5	Misc	<ul style="list-style-type: none"> • No requirement to file any document with RBI after acquisition of immovable property by NRI/PIO • Foreign nationals establishing a place of business have to file a declaration within 90 days from the date of acquisition with RBI. • No restriction on number of properties that can be purchased by an NRI or PIO.

* Foreign nationals of non-Indian origin:

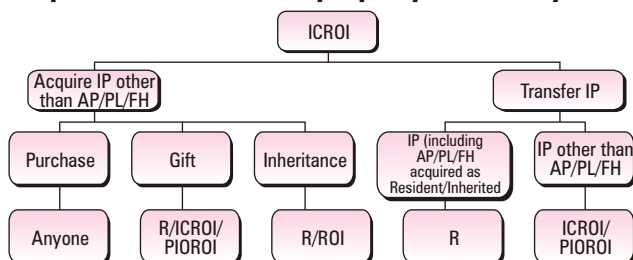
- Require to obtain prior approvals and fulfill the requirements, if any prescribed by the other authorities (e.g. state government)
- Can acquire by way of inheritance from a resident in India
- Can acquire property on lease for a term not exceeding 5 years

B. Transfer

Sr. No.	Particulars	Description
1	Who can transfer	<ul style="list-style-type: none"> NRIs PIOs*
2	Type of property	Any IP in India (other than an AP/ PL/ FH#)
3	Mode of transfer	<ul style="list-style-type: none"> Sale Gift
4	To whom	<ul style="list-style-type: none"> A person resident in India NRI PIO
5	Repatriation of funds on transfer	<ul style="list-style-type: none"> Allowed subject to certain conditions & with a ceiling on how much can be repatriated In case of residential property, repatriation of sale proceeds is restricted to not more than two such properties Sale proceeds of property acquired by way of gift should be credited to NRO account only

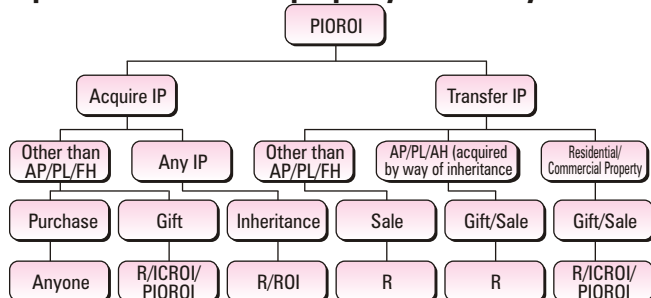
Acquisition and subsequent transfer of immovable properties by an NRI & PIO for an easy reference is summarized as follows:

Acquisition/ Transfer of property in India by an ICROI



ICROI - Indian Citizen Resident Outside India
 PIOROI - Person of Indian Origin Resident outside India
 R - Resident
 ROI - Resident outside India

Acquisition/Transfer of property in India by an PIOROI



Acquisition & Transfer of immovable property outside India by a person resident in India:

A. Acquisition

Sr. No.	Particulars	Description
1	Who can acquire	<ul style="list-style-type: none"> Person resident in India with certain conditions Indian Company# for: <ul style="list-style-type: none"> - business purposes - residential purpose of its staff
2	Type of property	Any immovable property outside India
3	Mode of acquisition	<ul style="list-style-type: none"> Purchase out of funds held in Resident foreign currency account By way of gift from a person resident in India

has to comply with the guidelines issued by the RBI from time to time.

B. Transfer

Sr. No.	Particulars	Description
1	Who can transfer	Person resident in India
2	Type of property	Any immovable property outside India
3	Mode of transfer	<ul style="list-style-type: none"> Sale Gift

Liberalised Remittance Scheme (LRS):

Sr. No.	Particulars	Description
1	Who can remit	A resident individual
2	Up to what limit	USD 200,000 per financial year
3	Type of transactions	<p>For permitted capital or current account transactions e.g.</p> <ul style="list-style-type: none"> Acquisition of immovable property Investment in Shares listed and unlisted Investment in debt instrument Investment in mutual funds Purchase of any other asset located outside India remittance towards gifts & donation Purchase of objects of art
4	Compliance	Prescribed application-cum-declaration form to be filed with RBI.