

CHAPTER 13

RUPEE ACCOUNTS OF NON-RESIDENTS OTHER THAN BANKS

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RUPEE ACCOUNTS OF NON-RESIDENTS OTHER THAN BANKS

Introduction

13.1 Under Section 9(1) of FERA 1973, no person in India can, without general permission or special exemption granted by Reserve Bank, make any payment to or place any sum to the credit of any person resident outside India. Similarly, permission of Reserve Bank is required for making any payment to or for placing any sum to the credit of any person by order or on behalf of any person resident outside India. Opening of accounts in the names of non-residents in India and operations on those accounts, therefore, require general or special permission of Reserve Bank. This Chapter sets out the regulations relating to the opening of and operations on non-resident rupee accounts maintained by authorised dealers. Regulations governing maintenance of and operations on non-resident rupee accounts by authorised co-operative/commercial banks have been given separately in Memorandum ABM.

Accounts of Certain Non-residents Treated as Resident Accounts

13.2 Although the undernoted categories of persons, firms, companies, etc. are treated as resident outside India under FERA 1973, by virtue of Reserve Bank Notification No. FERA.7/74-RB dated 1st January 1974 their rupee accounts with authorised dealers in India are regarded as resident accounts and such accounts may be opened and operated upon freely provided QA 22 formalities are complied with (See Part B of Chapter 11).

- (a) Indians, Nepalese or Bhutanese resident in Nepal or Bhutan.
- (b) Offices and branches situated in Nepal or Bhutan of any business carried on by a company or a corporation incorporated or established under any law in force in India, Nepal or Bhutan.
- (c) Offices and branches situated in Nepal or Bhutan of any business carried on as a partnership firm or otherwise by Indians, Nepalese or Bhutanese.

PART A - ORDINARY NON-RESIDENT RUPEE (NRO) ACCOUNTS

Opening of NRO Accounts

13A.1 Authorised dealers may open accounts in the names of non-resident individuals/entities without approval of Reserve Bank for the purpose of putting through bona fide transactions in rupees not involving any violation of the provisions of FERA 1973 and Exchange Control regulations framed thereunder. The operations on the accounts do not allow, inter alia, making available foreign exchange to any person resident in India against reimbursement in rupees or in any other manner in India. At the time of opening of the account, the account holders should give an undertaking that in cases of debits to the accounts for the purpose of investment in India and credits representing sale proceeds of investments, they would ensure that such investments/disinvestments would be covered either by the general or special permission of Reserve Bank. Once this undertaking has been obtained, authorised dealers need not verify the particulars of approvals for investments/disinvestments while permitting individual credits/debits to the account.

NOTES: A. *Opening of and operations on the accounts of individuals/entities of Pakistani/Bangladesh nationality/ownership require approval of Reserve Bank.*

B. Post Offices have been authorised to maintain savings bank accounts in the names of persons resident outside India and to allow operations on these accounts subject to the same rules as are applicable to NRO accounts maintained by authorised dealers.

Joint Accounts with Residents

13A.2 Accounts of non-residents may be held jointly with residents.

Change of Status from Resident to Non-resident

13A.3 When a person resident in India leaves India for a country (other than Nepal or Bhutan) for taking up employment, business or vocation outside India or for any other purpose indicating his intention to stay outside India permanently or for an uncertain period, he becomes a person resident outside India. His account should, therefore, be designated as non-resident. Doubtful cases should be referred to Reserve Bank by letter in duplicate giving full particulars.

Change of Status from Non-resident to Resident

13A.4 NRO accounts may be re-designated as resident accounts on the return of the account holder to India, provided authorised dealers are satisfied that the account holder has returned to India for taking up employment, business or vocation or for any other purpose indicating his intention to stay in India for an uncertain period. Where the account holder is only on a temporary visit to India, the account should continue to be treated as non-resident even during such visit.

Types of Accounts

13A.5 NRO accounts may be maintained in the nature of current, savings, recurring or fixed deposit accounts. The requirements laid down in the directives issued by Reserve Bank in regard to resident accounts shall apply to NRO accounts.

Operations on the Accounts

13A.6 The undernoted credit and debit transactions may be allowed in the accounts by authorised dealers.

Credits:

- (a) Proceeds of remittances received in any permitted currency from abroad through normal banking channels or any permitted currency tendered by the account-holder during his temporary visit to India or transfers from rupee accounts of non-resident banks.
- (b) Legitimate dues in rupees of the account holder in India.

Debits:

All local payments in rupees (See paragraph 13A.1 for instructions relating to debits for investments).

Form A4

13A.7 Form A4 should be completed in respect of operations on the account where the transactions are for Rs.10,000 and above (except interest earned on funds in the account or on deposits held by the account holder). These forms A4 need not be forwarded to Reserve Bank but should be retained with authorised dealers for scrutiny at the time of audit/inspection. Form A4 need not be forwarded to the non-resident constituent for completion. As far as possible, authorised dealers should have the form completed by the resident party to the transaction or complete it themselves after obtaining requisite particulars from resident beneficiary or remitter, as the case may be.

**Authorised Dealer's Responsibilities
regarding Non-resident Accounts**

13A.8 Authorised dealers should report to Reserve Bank any transactions in the NRO accounts which may appear to represent reimbursement in rupees against foreign exchange made available to person resident in India other than an authorised dealer. Any other transactions of suspicious nature should also be reported to Reserve Bank.

Remittance of Balances

13A.9 Balances in NRO accounts are not normally eligible for remittance abroad and requests for such remittance should not be acceded to without securing approval of Reserve Bank. Funds derived by remittances from abroad and which cannot be said to have lost their identity as remittable funds will only be considered for remittance abroad. Where an account (current/savings) is opened by a foreign tourist visiting India, with funds remitted from abroad in an approved manner or by sale of foreign exchange brought by him to India, authorised dealers may convert the balance in the account at the time of departure of the tourist from India provided the account has been maintained only for a short period not exceeding six months. Form A2 needs to be completed in such cases.

Note: *See paragraph 10C.24A regarding repatriation of income/interest earned during the financial year 1994-95 and onwards.*

Grant of Loans/Overdrafts to Account holders

13A.10 Loans/overdrafts to non-resident account holders may be granted on the security of fixed deposits held by them subject to usual norms as are applicable to resident accounts, except for the purpose of relending, carrying on agricultural/plantation activities or for investments in real estate business.

Grant of loans/overdrafts to third parties against security of NRO deposits

13A.10A Authorised dealers may grant loans/overdrafts to resident individuals/firms/companies in India against the security of deposits held in NRO accounts, subject to the following terms and conditions.

- (a) The loans should be utilised only for meeting borrower's personal requirements and/or business purpose and not for relending or investment in shares/securities/real estate or for undertaking agricultural and plantation activities.
- (b) The funds held in NRO accounts of the lender should be his own funds and not borrowed funds.
- (c) Regulations relating to normal margin, rate of interest as stipulated by Reserve Bank from time to time should be complied with.

Before granting such loans authorised dealers may obtain an undertaking from the resident borrower to the effect that the loan amount will be utilised for meeting his personal/business requirements and not for other purposes referred to in (a) above.

Authorised dealers should apply the usual norms and considerations as they do in the case of advances to trade/industry and satisfy themselves as to the acceptability of purpose, genuineness of credit needs of the borrower and end-use of funds and need not be guided solely by the availability of security.

Temporary Overdrawings

13A.11 Authorised dealers may allow temporary overdrawings in NRO Savings Bank accounts, up to a limit of Rs.20,000 subject to the condition that the overdrawings together with the interest payable thereon are cleared/repaid within a period of two weeks either by way of remittances from abroad or out of legitimate funds of the account holder or transfer from his NRE/FCNR accounts. However, Authorised dealers may exercise their own discretion/commercial judgement while allowing ovedraft under this provision.

Continuance of Loans/Overdrafts to Residents who become Non-residents

13A.12 In case of persons who had availed of loan or overdraft facilities while resident in India and who subsequently become non-resident, authorised dealers may allow continuance of the loan/overdraft facilities granted to them subject, inter alia, to the following conditions:

- (a) The borrower is an Indian citizen or a person of Indian origin.
- (b) The rupee loan/overdraft was granted for business purposes or to meet the borrower's personal requirements while he was resident in India and not for investment.
- (c) The loan or overdraft will be restricted to the period originally fixed or up to one year from the date of the borrower's departure from India, whichever period is longer, and must not exceed the amount outstanding when he became non-resident.
- (d) So long as the borrower continues to be a non-resident, repayment of the loan/overdraft as also payment of interest accruing thereon will be made out of remittance from abroad through normal banking channels or from the funds held in his Non-redsident (External) account. Loan/overdraft can be allowed to be repaid out of local rupee resources held in the NRO account of the borrower subject to the condition that the loan so repaid would be charged interest at commercial rate as in force from time to time.

Before according their approval, authorised dealers should obtain from such borrowers an application stating, inter alia, (i) the date of the borrower's departure from India, (ii) country to which he has gone, (iii) the purpose and probable duration of his stay abroad, and (iv) reasons for continuing the rupee loan/overdraft.

Transfer of Funds to Non-resident Nominees

13A.13 The Banking Companies (Nomination) Rules, 1985 framed under the Banking Regulation Act, 1949, enable banks to pay the amount standing to the credit of the deceased depositor to his nominee. There is, therefore, no objection to the registration of nomination either in favour of a resident or non-resident. In the case of non-resident

nominee, the amount entitled to him from the account(s)/deposit(s) of a deceased person will be credited to his NRO account and shall not be allowed to be remitted outside India.

PART B - NON-RESIDENT (EXTERNAL) RUPEE ACCOUNTS (NRE Accounts)

General

13B.1 NRE accounts are opened and maintained in terms of Non-Resident (External) Accounts Rules, 1970. Government Notification No.1/9/EC/69 dated 10th February 1970 contains the Rules (see Appendix II in Volume II). These accounts are permitted to be opened in the names of non-resident individuals of Indian nationality or origin (NRIs), overseas companies, firms, societies and other corporate bodies which are owned directly or indirectly to the extent of at least 60% by NRIs and overseas trusts in which at least 60% of the beneficial interest is irrevocably held by such persons (OCBs).

Repatriation of Balances

13B.2 NRE account holders are permitted to repatriate balances held in such accounts along with interest accrued thereon outside India at any time without approval of Reserve Bank.

Tax Exemptions

13B.3 In terms of Clause 4(ii) of Section 10 of Income-tax Act, 1961, any income from interest on monies standing to the credit of NRE accounts is exempt from income-tax. Likewise, balances held in such accounts are exempt from Wealth-tax in terms of Section 6(ii) of Wealth-tax Act, 1957. Gifts made to close relatives in India from out of balances in such accounts are also free of Gift tax.

NOTE: *Tax exemptions referred to above are available only in respect of NRE accounts maintained by NRIs and not for those maintained by OCBs.*

Opening of Accounts in the Names of NRIs/OCBs

13B.4 (i) Authorised dealers may freely open NRE accounts in the names of NRIs/OCBs provided funds for the purpose are transferred to India in an approved manner in freely convertible foreign currency. While opening an account, authorised dealer should obtain an undertaking from the account holder that he would intimate the authorised dealer about his return to India immediately on his coming to India for permanent residence. This undertaking should be obtained in the account opening form itself. The account should be opened by the non-resident account holder himself and not by the holder of power of attorney in India on behalf of the non-resident.

(ii) Authorised dealers should obtain from OCB, along with the account opening form, a certificate from an overseas auditor/chartered accountant/certified public accountant of OCB in form OAC where the ownership/beneficial interest is directly held by NRIs and in form OAC 1 where it is held indirectly by NRIs. Similar certificates should be called for on an annual basis to ensure that the ownership/beneficial interest held by NRIs continue to be at or above the level of 60%. If the ownership/beneficial interest in OCB is reduced to a level below 60%, authorised dealers should intimate such a change to Reserve Bank immediately after they come to know of it, furnishing the name and address of the corporate body/trust and full particulars of the account maintained including the type of account and balance in it.

NOTE: *Opening of NRE accounts in the names of Pakistani/Bangladeshi nationals though of Indian origin requires Reserve Bank's approval.*

Opening of Accounts during Temporary Visits to India

13B.5 Accounts may be opened in the name of any eligible NRI during his temporary visit to India against tender of foreign currency travellers cheques issued in his own name or notes and coins tendered, provided the authorised dealer is satisfied that the person has not ceased to be non-resident. The amount so tendered should be endorsed on the Currency Declaration Form, where applicable (See paragraph 7D.5). Authorised dealers should, however, ensure that the travellers cheques and currency notes tendered by the account holder have in fact been brought by him from abroad and not acquired locally.

Joint Accounts

13B.6 (i) Opening of joint NRE accounts in the names of two or more non-resident individuals is permitted provided all the account holders are persons of Indian nationality or origin. When one of the joint holders becomes resident, authorised dealers may either delete his name and allow the account to continue as NRE account or redesignate the account as a resident/RFC account, at the option of the account holders.

(ii) The Non-resident (External) Accounts Rules, 1970 do not permit opening of such accounts by non-residents jointly with residents.

Operations by Residents under Powers granted by Non-residents

13B.7 Authorised dealers may allow operations on NRE accounts by residents in terms of Power of Attorney or other authority granted in the residents' favour by the non-resident account holders, provided they are restricted to withdrawals for local payments. In cases where the account holder or a bank designated by him has been granted permission by Reserve Bank to make investments in India, the Power of Attorney holder may be permitted by authorised dealers to operate the account to facilitate such investments. The resident power of attorney holders should not, however, be allowed to repatriate outside India funds held in the accounts under any circumstances or make payment of gifts on behalf of the account holder.

Free Transferability between NRE and Foreign Currency (Non-Resident) Accounts (FCNR Accounts)

13B.8 Funds held in NRE accounts (other than those in the names of persons resident in the erstwhile bilateral group countries) may be freely transferred to FCNR accounts of the same account holder. Likewise, funds held in FCNR accounts may be transferred to NRE accounts of the same account holder.

Loans/Overdrafts to NRE Account Holders in India

13B.9 (i) Authorised dealers may grant loans/overdrafts in India to the account holders themselves for purposes other than investment in India, provided that the advances are fully secured by the fixed deposits and regulations relating to normal margin, interest rate, etc. are complied with. Repayment will have to be made either by adjustment of the deposit or by fresh remittances in foreign exchange from abroad. The loan can also be repaid out of local rupee resources held in the NRO account of the borrower subject to the condition that the loan repaid from local resources would be charged interest at commercial rate as in force from time to time.

(ii) Authorised dealers may also grant loans/overdrafts in India to the account holders themselves for purposes of making direct investment in India on non-repatriation basis by way of contribution to the capital of Indian firms/companies engaged in manufacturing/industrial activities, export oriented trading activities, hospitals, hotels of 3 star or higher grades, shipping, development of computer software and oil exploration services subject to compliance with the following conditions:

- (a) The concerned Indian investee company intends to issue shares to NRIs on non-repatriation basis in terms of Reserve Bank's Notification No. FERA.114/92-RB dated 27th April 1992.
- (b) The period of loan shall not exceed the unexpired period of maturity of NRE fixed deposit accepted as security. There is no objection to the renewal of deposit and the loan at the request of the depositor and borrower subject to compliance with the interest rate directives of Reserve Bank.
- (c) The loan amount shall be disbursed to the investee firm/company on behalf of the NRI account holder.
- (d) The investment made out of the loan will not be allowed to be repatriated outside India at any time in future.
- (e) The loan will be repaid together with interest thereon either by remittance from abroad or by utilisation of maturity proceeds of his NRE deposits accepted as security. The loan can also be repaid out of local rupee resources held in NRO account of the NRI borrower in India subject to the condition that the loan repayable from local resources would be charged interest at commercial rate as in force from time to time.
- (f) Requirements regarding margin, interest rate etc. as stipulated by Reserve Bank from time to time are complied with.

(iii) Authorised dealers may grant loans to non-resident individuals of Indian nationality and foreign citizens of Indian origin against their NRE deposits in India for the purpose of acquisition of flats/houses in India for their own residential use subject to the following conditions:

- (a) The period of loan does not exceed the period of unexpired maturity of the NRE deposits accepted as security. There is no objection to the renewal of deposit and the loan at the request of the depositor and borrower subject to compliance with the interest rate directives of Reserve Bank.
- (b) The loan will be repaid together with interest thereon either by remittance from abroad or by utilisation of maturity proceeds of the NRE deposit/s accepted as security. The loan can also be repaid out of local rupee resources held in NRO account of the NRI borrower in India subject to the condition that the loan repayable from local resources would be charged interest at commercial rate as in force from time to time.
- (c) The house/flat to be acquired/constructed with the loan should be meant for residential use of the borrower and not for any commercial purpose.
- (d) The sale proceeds of the house, if sold, will not be allowed to be repatriated outside India.
- (e) Requirements regarding margin, interest rate, etc. as stipulated by Reserve Bank from time to time are complied with.
- (f) Acquisition of the property by foreign citizens of Indian origin will be subject to Reserve Bank's approval under Section 31 of FERA, 1973.

NOTE: *The above facility will, however, not be available for OCBs.*

Applications not covered by foregoing provisions should be referred to Reserve Bank in form LOV 1 for consideration.

Loans/Overdrafts to Residents against Security of Fixed Deposits in NRE Accounts

13B.10 Authorised dealers may grant loans/overdrafts to resident individuals/firms/companies in India against the collateral of fixed deposits held in NRE accounts subject to the following conditions:-

- a) 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 the loan/overdraft facility.
- b) The period of the loan shall not exceed the unexpired period of maturity of the fixed deposit accepted as security. In addition, the non-resident depositor should furnish an irrevocable undertaking to the authorised dealer not to withdraw the deposit during the period of the loan/overdraft. There is no objection to the renewal of deposit and the loan at the request of the depositor and borrower subject to compliance with the interest rate directives of Reserve Bank.
- c) Regulations relating to margin, interest rate, purpose of loan, etc., as stipulated by Reserve Bank from time to time should be complied with.
- d) The loan should be utilised for personal purposes or for carrying on business activities other than agricultural/plantation activities.
- e)
 - i) The loan should be granted by the bank against the NRE fixed deposit(s) issued by the same bank (irrespective of its branch) and **not** by any other bank.
 - ii) The branch giving the loan **should hold** the original deposit receipt(s) against which the loan is granted and the branch which has issued the receipt should be advised of the lien.
 - iii) Loans against NRE deposit(s) to the depositor himself or to a third party is granted only under his specific request/mandate and after **verifying the authenticity of the signature of the depositor**.

Authorised dealers should apply the usual norms and considerations as they do in the case of advances to trade/industry and satisfy themselves as to the acceptability of purpose, genuineness of credit needs of the borrower and end-use of funds and need not be guided solely by the availability of security.

Loans/Overdrafts to NRE Account Holders outside India

13B.11 Authorised dealers may allow their overseas branches/ correspondents to grant any type of fund based and/or non-fund based facilities to or in favour of non-resident depositor or to third parties at the request of the depositor for bona fide purpose against the security of funds held in the NRE Accounts in India. Authorised dealers may also agree to remittance of the funds from India, if necessary, for liquidation of the outstandings, subject to report to Reserve Bank.

Change of Status from Non-resident to Resident

13B.12 NRE accounts should be redesignated as resident rupee accounts or as RFC accounts (if eligible), at the option of the account holder immediately upon the return of the account holder to India if authorised dealer is satisfied that he has returned to India for taking up employment or for carrying on a business or vocation or for any other purpose with the intention of residing in India for an uncertain period. Where the account holder is only on a short visit to India, the account may continue to be treated as NRE account even during his stay in this country. In respect of funds held in fixed deposits in NRE accounts, interest will be payable at the rate originally fixed, provided the deposit is held for the full term even after conversion into resident account.

Reserve Requirements

13B.13 In respect of the liabilities representing amounts received under NRE accounts, authorised dealers are required to comply with CRR/SLR requirements as laid down by Reserve Bank from time to time.

Rates of Interest

13B.14 Rates of interest payable on NRE accounts should be in accordance with the instructions issued by Reserve Bank from time to time.

Premature Withdrawal of Term Deposits

13B.15 (i) Wherever a term deposit in NRE account is withdrawn before maturity, directions issued in this behalf by Reserve Bank including directions, if any, about levy of penalty should be complied with, except where it is otherwise provided in this Manual.

(ii) In cases where FCNR deposits are converted into NRE deposits before maturity at the request of account holders, the FCNR deposits should be treated as if they have been withdrawn prematurely for making new deposits in NRE accounts. The rule regarding rate of interest for premature withdrawal of FCNR deposits will be applicable in such cases.

Remittance/Transfer of Funds to Non-resident Nominees

13B.16 The Banking Companies (Nomination) Rules, 1985 framed under Banking Regulation Act, 1949 enable banks to pay the amount standing to the credit of the deceased depositor to his nominee. Authorised dealers may allow remittance of funds lying in the NRE/FCNR accounts of the deceased accountholders to their non-resident nominees subject to the following conditions:

- (i) Application in form LEG is submitted by the nominee(s);
- (ii) A valid nomination has been registered on the bank's records in favour of the nominee/s in conformity with the provisions of the Banking Companies (Nomination) Rules, 1985;
- (iii) The nominee continues to be non-resident at the time of the claim/remittance sought for from India and that the deceased depositor was non-resident at the time of his/her death;
- (iv) All the legal heirs are non-residents. A signed declaration to the effect duly witnessed may be submitted by the nominee to the authorised dealer.

Application in form LEG together with the documents/particulars mentioned therein received from the nominees should be scrutinised and after satisfying about the legality of the claim as per the internal guidelines, authorised dealers may settle the claim and allow transfer of funds to the nominee to the extent of balances held in the deceased depositor's NRE/FCNR accounts. A copy of the form LEG and the relevant documents should be kept on records for verification by the inspecting officials of Reserve Bank. All other cases which do not fulfil the aforesaid terms and conditions or where the amount in NRE/FCNR account is claimed by a person other than the nominee should be referred to the concerned Regional Office of Reserve Bank for prior approval by authorised dealer in form LEG supported by documents indicated therein together with the legal representation issued by an Indian Court.

Permitted Types of Accounts

13B.17 Authorised dealers may open NRE accounts in any form, e.g. savings, current, recurring or fixed deposit account.

Special Series of Cheques for NRE Account Holders

13B.18 In order to facilitate easy identification and quicker processing of cheques drawn on NRE accounts, authorised dealers have been advised to issue to their constituents holding NRE accounts cheque books containing a special series of cheques with the prefix "NRE" printed on them in a different colour. They should ensure that only the special NRE cheques are issued to all constituents holding NRE accounts with them.

Transfer of Funds from One Account to Another

13B.19 (i) Transfer of NRE accounts from one branch of authorised dealer to another branch of same authorised dealer may be freely made. Occasionally, NRE account holders may wish to transfer funds from accounts held with one authorised dealer to another authorised dealer at the same centre or at another centre for opening new NRE accounts or for funding NRE accounts. Authorised dealers may open (or credit) NRE accounts with funds transferred from other authorised dealers in this manner provided :

- (a) account is opened (or held) in the name of the same account holder/s; and
- (b) a certificate, issued by the authorised dealer transferring funds confirming the Non-Resident (External) status of the account from which transfer is being made, is produced along with the relative pay order or draft.

(ii) Authorised dealers may allow transfer of funds between NRE accounts of different persons held with themselves or different authorised dealers for any purpose. Where the transfer of funds is by way of gift, it may be allowed after obtaining an undertaking from the transferee/transferee's banks that gift tax, if any, payable on the transfer of funds will be paid to the Income-tax authorities in India. In case of transfer of funds between NRE accounts held with different authorised dealers, the authorised dealer transferring the funds should issue a certificate confirming the non-resident status of the transferor.

Temporary Overdrawings

13B.20 Authorised dealers may allow temporary overdrawings in NRE Savings Bank accounts, up to a limit of Rs.20,000 subject to the condition that the overdrawings together with the interest payable thereon are cleared/repaid within a period of two weeks, either by fresh remittance in foreign exchange from abroad through normal banking channel or out of transfer of funds held in other NRE/FCNR accounts. However, authorised dealers may exercise their own discretion/commercial judgement while allowing overdraft under this provision.

Form A4

13B.21 Form A4 should be completed in respect of operations on NRE accounts which call for either a report to, or approval of Reserve Bank. Forms requiring approval should be completed in duplicate and submitted to Reserve Bank. If the transaction is approved, one copy of the form will be returned to authorised dealer, with the approval of Reserve Bank marked thereon. The debit or credit entry in the relative account may be made only after receipt of the approved form. All forms A4 covering transactions requiring completion thereof should be collected and sent along with the monthly statement of operations on NRE accounts (See paragraph 13B.25).

NOTE: *In cases where funds in NRE accounts are remitted abroad or foreign currency notes, travellers cheques, etc. are issued on the instruction of account holder, form A2 covering the sale of foreign exchange should be completed and sent to Reserve Bank along with appropriate R Return. In such cases, form A4 need not be completed.*

Credits to NRE Accounts

13B.22 Undernoted credit transactions may be allowed in NRE accounts by authorised dealers in conformity with conditions, if any, laid down against each item. A report of the transaction should be submitted to Reserve Bank on form A4 only in cases where (i) the transaction is of Rs.1,00,000/- or above and (ii) a specific indication has been given against the relative item.

NOTE: *Funds remitted from abroad in fulfilment of an undertaking given by the account holder should not be credited to the account.*

- (a) Proceeds of remittances to India in freely convertible foreign currency in an approved manner from abroad. (Report on form A4 should be submitted).
- (b) Proceeds of foreign currency travellers cheques, drafts and personal cheques drawn by account holder on a foreign currency account maintained abroad by him (including instruments expressed in Indian rupees for which reimbursement will be received in foreign currency or in rupees from the account of a non-resident bank) deposited by account holder during his temporary visit to India, provided authorised dealer is satisfied that the account holder is still normally resident abroad, the travellers cheques/drafts are standing in the name of account holder and have not been endorsed in his favour and in the case of travellers cheques, they are discharged by the account holder in the presence of the bank officials. (Report on form A4 should be submitted. See Guide to authorised dealers for compilation of R Returns regarding submission of form A2 with R Return for certain transactions).
- (c) Proceeds of foreign currency/bank notes tendered by account holder during his temporary visits to India, provided these are tendered to the authorised dealer in person by the account holder himself and the authorised dealer is satisfied that account holder is still normally resident outside India (Report on form A4 should be submitted).

NOTES : A. *(Purchases of travellers cheques/ currency notes/bank notes made in terms of (b) and (c) above should be endorsed on the reverse of Currency Declaration Form (CDF), wherever applicable (See paragraph 3E.3). A photocopy of CDF should be kept on record by the authorised dealer.*

B. *Foreign currency notes/bank notes and travellers cheques tendered by the Power of Attorney holder or any person other than the account holder should not be credited to NRE account.*

C. *Rupee proceeds of foreign currencies/bank notes or travellers cheques tendered to a bank other than the one maintaining NRE account or to a money changer should not be credited to NRE account on the strength of encashment certificate issued by them.)*

- (d) Transfers from other NRE accounts provided in case the transfer is made from the account of another person, it is made for bona fide personal purposes [See paragraph 13B.19(ii)]. Report on form A4 should be submitted.
- (e) Interest accruing on the deposit account.
- (f) Interest on Government securities and dividend on Units of Unit Trust of India, provided the securities/units were purchased by debit to account holder's NRE account or FCNR account (Report on form A4 should be submitted).
- (g) Maturity proceeds of Government securities including National Plan/Savings Certificates as well as proceeds of Government securities sold on a recognised Stock Exchange in India and sale proceeds of Units received from Unit Trust of India, provided the securities/units were originally purchased by debit to account holder's NRE account or FCNR account (Report on form A4 should be submitted).

NOTE: *While crediting interest/dividend on securities/units or maturity/sale proceeds thereof in terms of (f) and (g) above, authorised dealers should satisfy themselves that the investments were originally made from out of account holder's funds in NRE/FCNR accounts with them. Suitable notes of the original debits should be taken in the ledger folios to facilitate verification of the transactions by Reserve Bank. While completing form A4 for credits, similar information should be furnished. In the case of units purchased directly from the Unit Trust of India, the payment should be received from the Trust with a confirmation that the units were purchased by the non-resident investor either out of remittances sent from abroad in an approved manner or out of funds in NRE/FCNR accounts.*

- (h) Refund of share/debenture subscriptions to new issues of Indian companies or portion thereof if the amount of subscription was paid earlier from the same account or from another NRE/FCNR account of the account holder or by remittance from abroad through normal banking channels (Report on form A4 should be submitted).
- (i) Any other transaction if covered under general or special permission granted by Reserve Bank subject to compliance with conditions, if any, laid down by it (Report on form A4 should be submitted).

(j) Refund of application/earnest money made by the house building agencies on account of non-allotment of flat(s)/plot(s), provided that the original payment was made by debit to the NRE/FCNR accounts of the concerned NRI or by direct remittance from abroad to the house building agencies and the authorised dealer is satisfied about the genuineness of the transaction with reference to the documentary evidence such as receipts issued by the house building agency and/or copy of agreement/sale deed/letter from the house building agency indicating non-allotment of flat/plot. Before allowing the credit of such refunds authorised dealers may call for inward remittance certificate evidencing receipt of funds from abroad by the agency concerned or a certificate from the concerned bank with whom the NRE/FCNR account is maintained to the effect that the payment of application/earnest money was made by debit to the FCNR/NRE account of the applicant. A declaration from the account holder to the effect that he continues to be a non-resident with his overseas address should be obtained. The net amount of Interest, (i.e. after payment of tax) if any, paid by the house building agency on the application/earnest money may also be credited to NRE/FCNR account. (Report on form A4 should be submitted).

Debits

13B.23 Undenoted debit transactions may be allowed in NRE accounts.

- (a) Local disbursements;
- (b) Remittances abroad;
- (c) Transfer to NRE/FCNR accounts of the same account holder;
- (d) Transfer to NRE accounts of persons other than the account holder for any purpose [see paragraph 13B.19(ii)];
- (e) Investment in shares/securities/commercial paper of Indian companies or for purchase of immovable property in India provided such investment is covered by general/special permission granted by Reserve Bank (Report on Form A4 should be submitted if the amount involved is Rs.1,00,000/- or more).
- (f) Any other transaction if covered under general or special permission granted by Reserve Bank.

NRE Accounts of Persons resident in the Erstwhile Bilateral Group countries

13B.24 Repatriation of balances abroad from NRE accounts of persons resident in the erstwhile Bilateral Group countries will require specific permission from Reserve Bank.

Statement of Operations on NRE Accounts

13B.25 Authorised dealers should submit to Reserve Bank, a monthly statement in form STAT 1 in respect of operations on Non-resident (External) Rupee accounts maintained by them so as to reach Reserve Bank by 10th of the month following the month to which it relates. Forms A4 covering operations on the accounts during the month requiring report to Reserve Bank (including forms approved by Reserve Bank) should be enclosed. A monthly statement in form STAT 8 for the bank as a whole may be forwarded to the Chief General Manager, Exchange Control Department (Central Statistical Division), Reserve Bank of India, Central Office, Mumbai 400 001 so as to reach him by 10th of the month following the month to which it relates.

PART C - NON-RESIDENT(NON-REPATRIABLE) RUPEE DEPOSIT SCHEME

Objective

13C.1 With a view to providing wider options to persons of Indian nationality/origin residing abroad (NRIs) and overseas corporate bodies predominantly owned by NRIs (OCBs) and to provide a facility to other non-resident individuals/entities for making investments in India Non-resident (Non-repatriable) Rupee Deposit Scheme (NRNR) has been formulated. The scheme has been in operation with effect from 15th June 1992.

Opening of Accounts

13C.2 The Scheme is open to all non-residents including foreign citizens of non-Indian origin (except Pakistani and Bangladeshi nationals) and overseas entities. Accounts under the Non-resident (Non-repatriable) Rupee Deposit Scheme may be opened in Indian rupees by authorised dealers out of the funds in freely convertible currency transferred for the purpose to India in an approved manner. Accounts may also be opened by transfer of funds from the existing NRE/FCNR Accounts of the non-resident account holder. No penal interest is chargeable for premature withdrawal of NRE/FCNR deposits for the purpose of making investment in the Scheme. Balances held in the accounts will not be allowed to be remitted abroad under any circumstances.

NOTE: *Premature withdrawal of NRE/FCNR deposits for the purpose of opening NRNR Rupee Deposit accounts with a different authorised dealer will attract penalty as per the directions issued by Reserve Bank from time to time.*

Joint Holding

13C.3 The deposit can be held by a non-resident jointly with a resident.

Period of Deposit

13C.4 The deposit may be held for periods ranging from 6 months to 3 years.

Rate of Interest

13C.5 These deposits, and advances against the deposits, would not be subject to interest rate regulations and as such banks will be free to determine the deposit and lending rates under this Scheme.

Renewal of Deposit

13C.6 The principal amount of the deposit together with the interest accrued thereon from 1st October 1994 will be allowed to be renewed for a further period ranging from 6 months to 3 years. The deposit accounts opened on or after 1st October 1994 may be renewed together with the interest accrued thereon, if desired by the account holder. The deposit account can also be shifted from one bank to another. If, however, the deposit is withdrawn or invested in other schemes, the proceeds thereof will not be eligible for investment under this scheme. A monthly statement in form STAT 9 for the bank as a whole may be forwarded to the Chief General Manager, Exchange Control Department (Central Statistical Division), Reserve Bank of India, Central Office, Mumbai 400 001 so as to reach him by 10th of the month following the month to which it relates.

Repatriability

13C.6A. Interest accrued on the deposit for the period from 1st October 1994 is repatriable.

Gift

13C.7 In the case of individual deposit holders the amount of the deposit can be gifted to a non-resident or to a close relative in India or to any Charitable Trust in India recognised under the Indian Income Tax Act 1961.

Reserve Requirements

13C.8. In respect of liabilities representing amounts received under the scheme authorised dealers are required to comply with CRR/SLR requirements as laid down by Reserve Bank from time to time.

Applicability of Priority Sector Lending Stipulations

13C.9. Advance outstanding against these deposits would not be considered as part of net bank credit for purpose of determining priority sector lending.

Tax Benefits

13C.10. (i) Income from the deposits will be free from Indian Income Tax in terms of Section 10(15)(i) of the Income-tax Act 1961 read with Government Notification No. S.O.653(E) dated August 31 1992.

(ii) The deposit will also be exempt from Gift Tax for one-time gifting, in the case of NRIs only.

(iii) Exemption from Income-Tax will not be available to resident donee and those residents, who being joint holders, become owners of the deposit as survivor of the non-resident depositor.

Loans against Deposits

13C.11. Authorised dealers can grant loans/overdrafts in India against the security of these deposits without any limit for purposes other than investments. The margin and rate of interest for loans may be decided by the lending bank. Repayment of loans can be by way of further remittance in a freely convertible foreign currency, or by debit to NRE/FCNR/NRO account of the depositor, or by adjustment against maturity proceeds of the deposit

Premature Withdrawal

13C.12 Authorised dealers may allow premature withdrawal of the deposit on payment of penalty prescribed as per their discretion.

Nomination

13C.13. Nomination by the account holder in favour of a non-resident can be registered by the authorised dealer on condition that the amount standing to the credit of the depositor in the event of his death will be paid to the non-resident nominee only in Indian rupees and will not be allowed to be remitted abroad under any circumstances.

PART D - BLOCKED ACCOUNTS

Opening and Designation of Blocked Accounts

13D.1 Section 10 of FERA 1973 confers powers on Reserve Bank to 'block' accounts in India of any person, whether an individual, firm or company resident outside India and to direct that payment of any sums due to that person shall be made to such blocked account. A blocked account means an account opened as a blocked account at any branch or office in India of a bank authorised in this behalf by Reserve Bank or an account blocked by order of the Reserve Bank. All authorised dealers are permitted to maintain blocked accounts subject to the conditions laid down herein. In certain cases, banks other than authorised dealers may also be authorised by Reserve Bank to maintain blocked accounts. No blocked account may be opened by an authorised dealer or an existing 'free' account blocked, except under directions from Reserve Bank. A blocked account may not be opened in the name of a resident of India, except jointly with a non-resident.

Payments to Blocked Accounts

13D.2 Section 10(1)(b) of FERA 1973 provides that where Reserve Bank has directed that any payment due to a non-resident be made to a blocked account in his name with a bank in India, the crediting of the dues to the blocked account shall, to the extent of the sum credited, be a good discharge to the person making the payment. It is, however, essential that the blocked accounts are opened in the names of actual non-resident beneficiaries and that the amounts are held by banks to their order. Unless this is done, the person making the payment will not obtain the legal discharge available under the above provision.

Amounts payable to Blocked Accounts

13D.3 Payments in discharge of liabilities to non-residents, remittance of which outside India cannot be approved by Reserve Bank under current Exchange Control regulations, notwithstanding that they may have arisen legitimately and lawfully, will only be allowed to be made to blocked accounts. For instance, any payments to a person resident in a foreign country to which remittance facilities are not at all permissible under the regulations will be permitted to be made only into a blocked account in the name of the beneficiary.

Procedure for Payments to Blocked Accounts

13D.4 Where the Reserve Bank directs that a payment be made to a blocked account only, it will be the responsibility of the banker to whom the direction is issued, to ensure that funds in question are immediately immobilized and are in fact disbursed only to the credit of a blocked account in the name of the non-resident concerned with a bank authorised to maintain blocked accounts. The banker with whom the non-resident maintains or has arranged to open a blocked account in his name should first obtain Reserve Bank's approval on form A4 for credit of the amount and confirm to the paying banker the fact of his having obtained such approval to enable the latter to disburse the amount.

Operations on Blocked Accounts

13D.5 Reserve Bank will issue special directions regarding operations on individual blocked accounts at the time of authorizing opening of such blocked accounts. Such balances will not ordinarily be allowed to be invested in India.

Form A4

13D.6 Form A4 should be completed in respect of all operations on blocked accounts, irrespective of whether the operations are made by authorised dealers in terms of Reserve Bank's special directions, if any, or require Reserve Bank's specific approval. The words 'BLOCKED ACCOUNT' must be prominently written in red ink at the top of every form A4 completed in respect of a debit or credit to a blocked account. Where forms are completed for purpose of obtaining Reserve Bank's specific approval, they should be sent to Reserve Bank in duplicate and the debit or credit entry made only after one copy of the form has been returned by Reserve Bank duly approved. Such approved forms A4 as well as forms A4 completed as reports for transactions made in terms of Reserve Bank's special directions, if any, should be submitted to Reserve Bank along with the annual statement in STAT 2 regarding operations on blocked accounts (See paragraph 13D.8).

Deblocking of Accounts

13D.7 No blocked account should be deblocked by an authorised dealer except under specific direction from Reserve Bank.

Statement of Balances and Securities held in Blocked Accounts

13D.8 Authorised dealers should furnish to Reserve Bank annual statement (in duplicate) showing balances and securities held by them in blocked accounts as on 31st March in form STAT 2. The statement should be submitted on or before 1st May of the subsequent financial year.

NOTE: *If a new blocked account is opened or an existing account is closed or deblocked during the year (April-March) reference number and date of Reserve Bank's letter for blocking the account or deblocking the account, as the case may be, should be quoted in the "Remarks" column.*