

II. Investment with Repatriation Benefits

NRIs/OCBs are also permitted to make investments in Indian firms/companies with repatriation benefits i.e. capital invested and dividend/income earned thereon are allowed to be repatriated outside India, under various schemes as explained in paragraphs 10C.11 to 10C.18.

Investment in New issues of Indian Companies under 40% Scheme

10C.11 (i) NRIs/OCBs are permitted to subscribe to new issues of shares (both equity and preference) and convertible debentures of any new or existing company, with the right of repatriation of capital invested and income earned thereon subject to payment of applicable taxes, provided:

(a) The issue of equity/preference shares and convertible debentures to NRIs/OCBs with repatriation facility does not exceed 51 per cent of the face value of each new issue of the company concerned, and

(b) The shares of the company are not listed on any stock exchange, and

(c) The company is engaged in manufacturing activity **not** being an activity specified in Annexure III to the Statement of Industrial Policy 1991 of Government of India, amended from time to time.

Investment under this scheme can be made for setting up new manufacturing projects or for expansion/diversification of their existing manufacturing activities.

(ii) Reserve Bank, vide its Notification No.F.E.R.A.187/98-RB dated 3rd October 1998 read with Notification No.F.E.R.A. 190/98-RB dated 2nd December 1998, has granted general permission under Section 19(1)(a), 19(1)(d) and 29(1)(b) of FERA 1973 to Indian companies for issue and export of equity shares/convertible debentures to NRI/OCB investors in respect of eligible investments. Indian companies seeking investment from NRIs/OCBs under the scheme and such unlisted Indian companies satisfying the conditions laid down in the said Notifications may issue shares/convertible debentures to NRIs/OCBs without prior approval of Reserve Bank and file a declaration in Form ISD(R) together with the required documents with the concerned Regional Office of Reserve Bank, under whose jurisdiction their Registered Office is situated, within 30 days from the date of issue of shares/convertible debentures. Accordingly, NRIs/OCBs who have been issued shares/convertible debentures under the general permission granted by this Notification would not need any specific approval under Section 29(1)(b) of FERA 1973 from Reserve Bank.

(iii) The Indian company should report within 30 days from the date of receipt of remittance from NRIs/OCBs, full details of remittance like name, amount, date of receipt to the Regional Office of Reserve Bank under whose jurisdiction it is situated.



Investment in New issues of Indian Companies under 24% Scheme

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10C.11A NRIs/OCBs are permitted to subscribe to new issues of equity shares/convertible debentures of existing or new companies (both private and public limited) engaged/proposing to engage in any activity including finance, hire purchase, leasing, trading or other services etc., (except agricultural/plantation activities and real estate business) with repatriation benefits upto 24% of the new issue of the concerned Indian company. Reserve Bank, vide its Notification No.F.E.R.A.187/98-RB dated 3rd October 1998 has granted general permission under Section 19(1)(a), 19(1)(d) and 29(1)(b) of FERA 1973 to Indian companies for issue and export of equity shares/convertible debentures to NRI/OCB investors in respect of the eligible investment. Indian companies seeking investment from NRIs/OCBs under the Scheme and satisfying the conditions laid down in the said Notification may issue equity shares/convertible debentures to NRIs/OCBs without prior approval of Reserve Bank and file a declaration in Form ISD together with the required documents with the concerned Regional Office of Reserve Bank, under whose jurisdiction their Registered Office is situated, within 30 days from the date of issue of shares/convertible debentures. Accordingly, NRIs/OCBs who have been issued shares/convertible debentures under the general permission granted by this notification would not need any specific approval under

Section 29(1)(b) of FERA 1973 from Reserve Bank.

Investment in Priority Industries under 100% Scheme

10C.12 (i) NRIs/OCBs are permitted to invest in priority industries (industries included in Annexure III to Ministry of Industry's Press Note No.14 (1997 series) dated 8th October 1997 and in Indian companies primarily engaged in export trading activity, with full repatriation benefits up to 100% of the new issue of shares. Reserve Bank, vide its Notification No. F.E.R.A. 180/98-RB dated 13th January 1998 (as amended up to 14th July 1998) has granted general permission under Sections 19(1) and 29 (1) (b) of FERA 1973 to Indian companies for issue and export of equity shares to NRI/OCB investors in respect of the eligible investment. Indian companies seeking investment from NRIs/OCBs under the Scheme and satisfying the conditions laid down in the said Notification may issue equity shares to NRIs/OCBs, without prior approval of Reserve Bank and file a declaration in form ISD(R) together with the required documents with the concerned Regional Office of Reserve Bank, under whose jurisdiction their Registered office is situated, within 30 days from the date of issue of shares. The scheme is open to new industries as well as for expansion/diversification of existing industrial undertakings. A company, existing on the date of the above Notification, which is not engaged in the Annexure III activities will also be eligible to issue shares if it embarks upon expansion programme predominantly in the Annexure III activities, subject to the condition that the equity raised by issue of equity shares to non-resident investors is utilised for such expansion.

NOTE : *In terms of Reserve Bank Notification dated 13th January 1998 referred to above, the general permission does not cover investment by -*

(a) persons who are citizens of Pakistan, Bangladesh or Sri Lanka

(b) companies incorporated in Pakistan or Bangladesh

(c) a company being -

(i) manufacturer of items reserved for small scale sector;

(ii) unit manufacturing items which require industrial licence;

(iii) unit manufacturing any item of aerospace and defence equipments whether specifically mentioned or not;

(iv) unit manufacturing any item related to production or use of atomic energy including carrying out of any process, preparatory or ancillary to such production or use, under the Atomic Energy Act, 1962; and

(v) 100 % Export Oriented Unit and unit in Export Processing Zone.

(ii) Since the general permission referred to in subparagraph (i) above does not cover investment by individual NRIs in partnership firms, applications for necessary permission for seeking such investment should be made to Reserve Bank, Central Office, Mumbai in form ISD(R) by the non-resident investor or the Indian firm proposing to invite the investment.

(iii) Applications for foreign investment which do not satisfy the parameters prescribed for general permission as laid down in the Reserve Bank Notification dated 13th January

1998 as amended upto 14th July 1998 referred to above or in 100% Export Oriented Units are required to be made to the Secretariat for Industrial Assistance (SIA)/Foreign Investment Promotion Board (FIPB), as the case may be. If the unit is located in any of the Export Processing Zones, applications should be made to the Development Commissioner of the Export Processing Zone concerned.

(iv) With a view to simplifying the procedure in respect of proposals approved by SIA/FIPB, Reserve Bank, vide its Notification No.F.E.R.A.182/98-RB dated 10th February 1998 has granted general permission under Sections 19(1) and 29(1)(b) of FERA 1973 to Indian companies for issue and export of shares/securities to foreign investors in respect of investments approved by SIA/FIPB. As a result of the general permission, Indian companies seeking foreign investments from NRIs/OCBs under the scheme based on the approvals granted by SIA/FIPB and satisfying the conditions laid down in the notification will not require any prior clearance of Reserve Bank. Such Indian companies may issue shares/securities to foreign investors and file a declaration in form ISD together with the required documents, with the concerned Regional Office of Reserve Bank under whose jurisdiction their Registered Office is situated, within 30 days from the date of issue of shares/securities to foreign

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Investment in Housing and Real Estate

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10C.13

NRIs/OCBs will be permitted to invest up to 100% in the new issue of equity

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convertible debentures of Indian companies engaged in the following

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Development of serviced plots and construction of built up residential ;

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(ii)

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Real estate covering construction of residential and commercial premises including business centres and offices;

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Development of

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City and region level urban infrastructure facilities including roads and ;

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(v)

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Manufacturing of building ;

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(vi)

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Financing of housing

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Repatriation of original investment in this case will be permitted by Reserve Bank only after a lock in period of three years from the date of issue of the equity shares/convertible debentures. Applications for the purpose should be made to Reserve Bank (Central Office) in form ISD(R).

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NOTE:

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OCBs will be permitted to repatriate net profit (up to 16 per cent) arising from sale of such investment after the lock-in-period of three

Investment in Air Taxi

10C.14

NRIs/OCBs will be allowed to set up Indian companies with 100% equity participation for carrying on Air Taxi Operations in terms of the guidelines issued by the Director General of

Civil Aviation for Air Taxi Operations. Applications for the purpose should be made to Reserve Bank (Central Office) in form ISD(R). Repatriation of the investment and/or remittance of dividend will be permitted only after the expiry of five years of operation of the Air Taxi Scheme and only out of accumulated net foreign exchange

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A.D.(M.A. Series) Circular No.9

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Investment in non-convertible Debentures of Indian Companies

10C.15 Reserve Bank of India vide its Notification No.F.E.R.A.213/99-RB dated 1st November 1999, has granted general permission to Indian companies to issue, by way of public issue, non-convertible debentures (NCDs) to NRIs/PIOs/OCBs on repatriation basis subject to the following conditions:

i) The amount of subscription should be received by inward remittance from abroad through normal banking channels or by debit to the non-resident's NRE/FCNR account, as the case may be, with an authorised dealer in India. Further, the percentage of such NCDs issued to NRIs/OCBs to the total paid-up value of each series of NCDs issued should not exceed the ceiling applicable for issue of equity shares/convertible debentures as prescribed by the Reserve Bank from time to time, under the respective schemes viz. 24%/ 51%/100% etc. for investment by NRIs/OCBs **on repatriation basis** in the capital of the issuer company.

ii) The rate of interest on such NCDs shall not exceed prime lending rate of State Bank of India, plus 300 basis points.

iii) The minimum period for redemption of such NCDs should be three years.

iv) The company raising funds through NCDs should not be engaged in agricultural/plantation activity, real estate business, trading in transferable development rights (TDRs) or act as Nidhi/Chit Fund company.

v) The issuer company files with the Regional Office of Reserve Bank, not later than thirty days from the date of

receipt of remittance, a report containing the following:-

(a) A list containing names of NRIs/OCBs.

(b) Country of residence or incorporation of the non-resident investor;

(c) Amount and date of receipt of remittance and its rupee equivalent;

(d) Name and address of the authorised dealer in India through whom the remittance is received.

vi) The issuer company files with Regional Office of Reserve Bank, not later than thirty days from the date of issue of NCDs, the following:-

(a) A list containing names of NRIs/OCBs and the number and face value of NCDs issued to each of them on repatriation basis.

(b) Certified true copy of resolution passed in the meeting of the Board of Directors of the company, indicating the quantum and value of NCDs issued to NRIs/OCBs and residents and other details of the issue such as coupon rate,

date of redemption, etc.

(c) Original Foreign Inward Remittance Certificate (FIRC)/Bank Certificate evidencing receipt of funds, from abroad or from the NRE/FCNR accounts as the case may be, of the NRI/PIO/OCB.

(d) Memorandum and Articles of Association of the issuer company.

(e) Certificate in Form OAC/OAC1 indicating the NRI shareholding to the extent of atleast 60% either directly or indirectly in case of investment by OCB.

(f) Any information sought by the Reserve Bank with reference to the issue of NCDs within such time as may be stipulated.

(g) An undertaking that the issuer company is not and shall not be engaged in agricultural/plantation activity, real estate business, trading in TDRs or act as Nidhi/Chit Fund company.

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Investment in Sick Industrial

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10C.16

(i)

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NRIs/OCBs will be permitted by Reserve Bank to undertake revival of

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industrial units by making bulk investment in them either by way of purchase

equity shares from existing shareholders or in the form of subscription to new equity issues of the sick units on the following basis

(a)

The bulk investment can be made on private placement basis up to 100% of the equity capital of the sick company with full benefits of repatriation of capital invested and

income earned

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(b)

Issue/transfer of equity shares should be approved by the existing shareholders of the company through a Special Resolution.

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For the purpose of investment under the scheme, a company should be declared as sick or there should be a rehabilitation programme approved by the public financial

institution/commercial bank or a consortium of banks or by the Board for Industrial and Financial Reconstruction (BIFR).

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(ii)

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Applications for permission for issue/transfer of equity shares to non-

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should be made by the concerned Indian company in form RSU to the Central Office of Reserve Bank together with the particulars/documents specified in the application

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Investment in the Schemes of Domestic Mutual

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10C.16A (i) Reserve Bank, by its Notification Nos. F.E.R.A.195/99-RB dated 30th March 1999 and No. F.E.R.A. 212/99-RB dated 18th October 1999, has granted general permission under Section 19(1)(d) and 19(1)(a) read with Section 9 (1) (a) of the Foreign Exchange Regulation Act, 1973 to domestic mutual funds referred to in clause (23D) of Section 10 of the Income Tax Act, 1961:-

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0. to issue units or any other similar instrument, on repatriation basis, to NRIs/OCBs/PIOs/FIIs under the schemes floated by them with the approval of the Securities and Exchange Board of India, subject to the conditions mentioned under (ii), below.

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0. to send such units/instruments out of India to the place of residence or location, as the case may be, of the non-resident investor, or to their global custodians in the case of FIIs.

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0. to repurchase units or similar instruments issued to NRIs/OCBs/PIOs/FIIs and to make payment therefor to them;

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(ii) the general permission to issue units referred to in (i)(a) is subject to the following conditions:-

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0. The mutual fund should comply with the terms and conditions stipulated by the Securities and Exchange Board of India.

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0. The amount representing investment should be received by inward remittance through normal banking channels or by debit to the NRE/ FCNR account of the non-resident investor or Special Non-Resident Rupee account of the FII maintained with an authorised dealer/ designated bank in India.

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(iii) The net amount representing the dividend/interest and maturity proceeds may be remitted through normal banking channel or credited to NRE/FCNR/NRO/NRSR account of the non-resident investor or Special Non-Resident Rupee Account of the FII.

(iv) Authorised dealers may allow the credit of net amount of dividend/interest or the maturity proceeds/ repurchase value to the NRE/FCNR account of the non-resident investor or Special Non-resident Rupee account of the FII or allow remittance thereof only on production of a certificate from the mutual fund that the investment was made out of inward remittance from abroad or from the funds held in NRE/FCNR account of the non-resident investor maintained with an authorised dealer or Special Non-Resident Rupee Account of the FII with a designated bank in India and subject to compliance with the provisions of paragraph 3B.10.□

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Investment in Bonds issued by Public Sector Undertakings (PSUs)

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10C.16B

NRI/OCBs will be permitted to invest in the Bonds issued by Public Sector Undertakings (PSUs) in India with repatriation benefits. The concerned PSU should obtain

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necessary approval from Government of India for raising funds through issue of bonds and adhere to the guidelines issued by Government of India, Ministry of Finance, in this regard. Applications for necessary permission should be made by the concerned PSU to Reserve Bank (Central Office) in form ISD(R) along with a certified copy of the approval of Government of India for issue of

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General Permission to NRIs/OCBs to

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shares of Public Sector Enterprises

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10C.16C

Reserve Bank by its Notification No.FERA.159/94-RB dated 5th October 1994 has granted general permission under Sections 29(1) and 19(4) of FERA 1973 to

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OCBs to purchase the shares on repatriation basis disinvested by Government of India in certain Public Sector Enterprises (PSEs) and to PSEs to register in their books the overseas address of such NRIs/OCBs, subject to the conditions that (a) the holding of shares by a NRI or by an OCB, at any time, does not exceed one per cent of the paid up capital of the PSE concerned, (b) the purchase consideration/bid money is received by way of remittance from abroad through normal banking channels or by transfer of funds held in investor's NRE/FCNR accounts, and (c) the application is submitted alongwith deposit of bid

money/purchase consideration at the branch of State Bank of India designated by the Government of India for that purpose in the notice inviting the

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Opening of Foreign Currency Collection

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10C.17

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In order to facilitate collection of subscriptions from NRIs/OCBs at foreign centres, Reserve Bank may allow Indian companies inviting NRI

to open temporary foreign currency bank accounts at various foreign centres. After final allotment of shares/debentures to non-resident subscribers to the new issues, refund of excess subscriptions is allowed to be made out of funds lying in the overseas accounts. The temporary bank accounts have to be closed thereafter and the balance repatriated to

(ii)

Applications for opening temporary foreign currency accounts for the

purpose may be made by letter giving names and addresses of overseas bank branches with whom accounts are to be

opened, full details of NRI issue, and number and date of Reserve Bank's approval for issue of shares/debentures to NRIs/OCBs, to the concerned office of Reserve Bank if the NRI investment is on non-repatriation basis or where the investment is to be made in 100% Export Oriented Unit and to Central Office of Reserve Bank in other

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Refund of

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10C.18□

Where NRIs/OCBs intend to subscribe to new issues of Indian companies, authorised dealers may allow payment of subscription (application money) from the

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NRE/FCNR accounts or NRO accounts, as the case may be. If the subscription or any portion thereof (inclusive of interest on delayed refunds of share application money) is to be refunded by the company, authorised dealers may recredit the amount to the same account of the applicant from which it was drawn earlier. In cases where subscription to new issues of shares/securities were made by remittance from abroad or by debit to the investor's NRE/FCNR account, he will have the option of having the excess subscription refunded to him either by remittance of the amount abroad or by credit to his NRE/FCNR account. Remittance of funds abroad or credit thereof to the applicant's NRE/FCNR account may be allowed only if the relative refund order is accompanied by a certificate from the collecting bankers or the investee company's bankers indicating that the original subscription was received by way of remittance from abroad or by debit to the applicants' NRE/FCNR account. Authorised dealers may also ensure that the payment of interest in respect of delayed refund of share subscription is in accordance with the provisions indicated in the prospectus of the company in its public issue as vetted by Securities and Exchange Board of India

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Deposits with

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10C.19

NRIs and OCBs will be permitted to place funds in fixed deposits with public limited companies in India (including Government undertakings with limited liability)

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full repatriation benefits for a period of three years. The total amount of fixed deposits permitted to be accepted will be stipulated by Reserve Bank in individual cases. The application for permission to accept deposits from non-residents with repatriation rights may be made by the Indian company through its bankers to the concerned office of Reserve Bank under whose jurisdiction its Head/Registered Office is situate, giving details of the deposit scheme. It is not necessary for non-resident depositors to seek separate permission from Reserve Bank in this regard. Reserve Bank will grant permission to the bank branch nominated by the company for accepting deposits. While granting permission, Reserve Bank will authorize the branch to allow remittance of interest and maturity proceeds of deposits or credit thereof to the depositor's NRE/FCNR

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III. Portfolio Investment in Shares/Debentures of Indian Companies and in Domestic Mutual Funds

Regulations regarding Portfolio Investment (i.e. investment through Stock Exchange) in shares/debentures by NRIs/OCBs

have been explained in paragraphs 10C.20 to 10C.23.

Registration of Designated Branches

10C.20 Portfolio investments in shares/debentures by NRIs/OCBs are permitted only through designated branches of authorised dealers preferably located at centres having stock

exchanges. Authorised dealers should inform the names of such branches to Central Office of Reserve Bank and obtain approval. The Code number allotted by Reserve Bank should be quoted in all correspondence undertaken with Reserve Bank in this regard. Non-resident investors can also authorise Indian residents or stock exchange brokers as their agents in India to purchase/sell shares on their behalf under the schemes but all transactions should be routed through the designated branch of authorised dealer.

General Conditions for Purchase with Repatriation or Non-Repatriation rights

10C.21 (i) NRIs/OCBs will be permitted to make portfolio investment in shares/debentures (convertible and non-convertible) of Indian companies, with or without repatriation benefits provided the purchase is made through a stock exchange and also through designated branch of an authorised dealer. NRIs/OCBs are required to designate only one branch authorised by Reserve Bank for this purpose.

(ii) Investment in equity shares and convertible debentures will be permitted subject to an overall ceiling of (a) 10 per cent of the total paid-up equity capital of the company concerned; and (b) 10 per cent of the total paid-up value of each series of the convertible debentures issued by the company concerned for all NRIs/OCBs taken together both on repatriation and on non-repatriation basis. [See [paragraph 10C.23\(ii\)](#) in respect of investments in excess of the limit of 10%].

(iii) The purchase of shares and debentures under the scheme is required to be made at the ruling market price.

10C.21(iv) NRIs/OCBs intending to invest on non-repatriation basis should submit their applications in Form NRI and NRC respectively, through a designated branch of an authorised dealer, to Reserve Bank (Central Office). Reserve Bank will grant general permission to the concerned authorised dealer to purchase shares/debentures of Indian companies, securities (other than bearer securities) of the Central or any State Government and Treasury Bills on behalf of the NRI/OCB subject to the condition that the payment for such investment is received through inward remittance or from the investor's NRE/FCNR/NRO/NRSR account. The general permission granted by Reserve Bank would be initially valid for a period of five years. Authorised dealers may themselves renew the permission granted by Reserve Bank to individual NRIs as well as OCBs for a period of five years at a time.

(v) NRIs and OCBs intending to invest with repatriation benefits should submit their applications through a

designated branch of an authorised dealer in Form RPI and RPC respectively. Reserve Bank will grant general permission to the designated branch for purchase of shares/debentures of Indian companies, securities (other than bearer securities) of the Central or any State Government and Treasury Bills subject to the conditions that -

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0. the payment is received through an inward remittance in foreign exchange or by debit to the investor's NRE/FCNR account.

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0. investment made by any single NRI/OCB investor in equity/preference shares and convertible debentures of any listed Indian company does not exceed 5% of its total paid-up equity or preference capital or 5% of the total paid-up value of each series of convertible debentures issued by it.

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0. NRIs/OCBs take delivery of the shares/convertible debentures purchased and give delivery of the shares/convertible debentures sold under the

Scheme.

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The general permission granted by Reserve Bank will be valid initially for a period of five years. Authorised dealers may themselves renew the permission granted by Reserve Bank to individual NRIs as well as OCBs for a further period of five years at a time. Authorised dealers may note to obtain the latest OAC/OAC 1 certificate from the OCB concerned before renewing the permission.

(vi) NRIs/OCBs intending to invest in the units of domestic mutual funds on non-repatriation/repatriation basis under the Portfolio Investment Scheme should apply to Reserve Bank (Central Office) in the manner indicated in subparagraphs (iv) and (v) above. However, approvals already granted for portfolio investment in shares/debentures of Indian companies will also be valid for purchase of units of domestic mutual funds.

Registration of Shares & Investment in Joint Names

10C.22 (i) Shares/debentures purchased by NRIs/OCBs should be held and registered in the names of either the investor himself or an authorised dealer or the latter's nominee/s.

(ii) Shares/debentures can be purchased by NRIs in joint names with other NRIs with permission of Reserve Bank. In such cases, if the investment is with repatriation benefits,

the first holder is to be treated as investor for the purpose of 5% ceiling. The second or third holder will be eligible to invest separately in the same company in his own name as the first holder in joint holdings up to the limit of 5%. Reserve Bank will also permit investment jointly with residents. However, if the resident joint holder inherits the shares/debentures, he/she will not be entitled to repatriation benefits.

Procedure for Monitoring the Overall Ceilings

10C.23 (i) Reserve Bank (Central Office) will monitor the overall ceiling of 10% on the acquisition of shares/debentures by NRIs/OCBs under the Portfolio Investment Scheme with the assistance of link offices of authorised dealers in Mumbai. The link offices should submit a statement in form LEC (NRI) giving details of purchases/sales of shares/debentures (company-wise) made by all designated branches **on daily basis**. The daily statement should be serially numbered. All purchase and sale transactions for which commitments have been made (as evidenced by contract notes issued by recognised stock exchange brokers) irrespective of whether the actual deliveries have been effected or not should be included in the daily statement. Sales where shares/debentures were originally purchased by the NRI/OCB investors through stock exchange should only be included in the statement. If no transactions are effected on any day, a 'nil' statement need not be submitted.

(ii) Indian companies listed on recognised stock exchanges in India may, however, resolve by a General Body Resolution to allow NRIs/OCBs to acquire shares/debentures up to 24% instead of the 10% mentioned in [paragraph 10C.21\(ii\)](#).

Indian companies desirous of exceeding the limit of 10% should, therefore, forward the necessary resolution to Reserve Bank indicating that the General Body has no objection to NRIs/OCBs purchasing shares/debentures up to 24% of the paid up capital/paid up value of each series of convertible debentures. On receipt of the resolution, the name of the company will be intimated to all link offices of designated branches of authorised dealers to enable them to make purchases on behalf of their clients up to the raised/revised limit in respect of the company.

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which it relates, gross dividend/interest, tax deducted at source and net remittable amount;

- (c) A certified statement from the company, under the signature of an authorised official, that in the terms of permission granted by Reserve Bank for acquisition of the shares/bonds/debentures there is no prohibition for the remittance of dividend/interest.

On receipt of the above particulars/documents and after verifying documentary evidence that the permission granted by Reserve Bank to the non-resident share/bond/debenture holder for purchase/ holding/issue of shares/bonds/debentures under Section 29(1)(b)/ 29(4)(a)/19(1) of FERA 1973 does not prohibit the remittance of dividend/interest, authorised dealers may credit the amount of the dividend/interest warrant to the NRE account of the non-resident share / bond / debenture holder.

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While granting permission to bank branches of authorised dealers to purchase

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undertaking/certificate regarding payment of income-tax (cf. paragraph 3 B.10) has been produced from the Income-tax Authorities. Doubtful cases should be referred to Reserve Bank with full particulars

NOTE :

Remittance of pension may be allowed if the applicant does not have any other income in India, without insisting on a certificate from Chartered Accountant/Income tax authorities regarding payment of Income-tax. In such cases authorised dealers should obtain a 'one time certificate' issued by the pension disbursing office that the applicable Income-tax is being deducted by them.

(iii)

The designated branch should maintain party-wise records of the approvals

granted by Reserve Bank as also actual remittances made there against. A half-yearly statement in form CIR should be sent to Reserve Bank giving details of the remittances made/credits to NRE/FCNR accounts allowed, by 15th of the month following the half-year.

Sale/Transfer of Shares/Bonds/Debentures

by NRIs to Residents

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secretary stating that shares with necessary transfer forms duly signed have been received/lodged with the company for registration in favour of the transferee.

General Exemption for Sale/Transfer of Shares/Bonds/

Debentures of Indian Companies through a Stock Exchange

acquired without repatriation benefit

10C.26

(i)

Reserve Bank by its
Notification No.
FERA.149/93-RB dated 26th
April 1993

has exempted the transfer of shares, bonds or debentures of Indian companies made by

NRIs through stock exchange in India in case where (a) such transfers are made in favour of an Indian citizen or person of Indian origin resident in India or in favour of a company or other body corporate incorporated in India and (b) sale proceeds of shares are credited to the NRO account of the transferor with no right of repatriation outside India. In such cases, authorised dealers may credit the sale proceeds to the seller's NRO account after verifying the contract notes issued by recognised stock exchange brokers through whom the sale was effected. This exemption is available in respect of shares, bonds or debentures acquired by NRIs under the Portfolio Investment Scheme as well as under any Direct Investment Scheme.

- (ii) For sale/transfer of shares, bonds or debentures by OCBs acquired on non-

repatriation basis through a stock exchange in India, a consolidated application giving full particulars may be submitted to the concerned office of Reserve Bank. Permission will be granted by Reserve Bank for a specific period subject to renewal.

General Exemption for Sale/Transfer of Shares/Bonds/Debentures

of Indian Companies through a Stock Exchange acquired with repatriation benefits under the Portfolio Investment Scheme

10C.27 (i) Reserve Bank by its Notification No.FERA.150/93-RB dated 26th April 1993

has exempted transfer of shares, bonds or debentures of Indian companies registered

in India previously **acquired by NRIs/OCBs with repatriation benefits under the Portfolio Investment Scheme** to persons resident in India or persons of Indian origin resident in India or in favour of companies or bodies corporate, incorporated under any law in force in India on the following conditions.

(a) The transferor had purchased such shares, bonds or debentures from the stock market through a member of a recognised stock exchange in India and delivery of shares, bonds or debentures so purchased has been taken by him or on his behalf by the concerned authorised dealer or its nominee.

(b) The shares, bonds or debentures are sold in the stock market through a member of a recognised stock exchange in India and the sale transaction is effected at the ruling market price as determined on the floor of the stock exchange by normal bid and offer method and through the same designated branch of the authorised dealer through which the shares, bonds or debentures were

through which the
shares, bonds or
debentures were
earlier purchased;

and

- (c) The sale proceeds are
paid to the said
designated branch.

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*nationalised bank authorised for the purpose, within one week from the date of deduction of tax. NRIs have, however, been given the option to pay tax at the above flat rate or pay it on the total income for the assessment year, in which case the remaining amount of sale proceeds withheld by authorised dealers may be credited to **NRE/FCNR** account of the seller or remitted to him abroad only after production of the necessary tax clearance certificate.*

(iii)

A quarterly statement of sales / transfers of shares / bonds / debentures

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Transfer of Rupee Securities to Non-residents as Gifts

10C.29 Transfer of rupee shares/securities by
 requires prior approval of Reserve Bank.
made to the concerned Office of Reserve Bank and should,

- (a) Name, address and
- (b) Relationship between
- (c) Reason for making the

Recording of Overseas Address by Indian Companies

Consequent on Resident Security Holder Becoming Non-resident

10C.30 In terms of Section 19(4) of FERA 1973, permission of Reserve Bank is required to be obtained by Indian companies for recording in their registers/books, the overseas

address of the holder of securities, consequent on change of his status from resident to non-resident. By its Notification No. FERA 122/92-RB dated 17th September 1992, Reserve Bank has granted general permission to companies in India to enter the overseas address in such cases provided the company obtains an undertaking from the holder of any security that he will not seek repatriation of any income, dividend or sale proceeds of the security. The dividend/interest earned on such securities or sale proceeds thereof should, therefore, be credited only to the Ordinary Non-resident Rupee (NRO) Account of the holder with a bank in India.

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

Conversion of Holdings of Securities into

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provided (i) the resident holder continues to be the first holder; (ii) the joint holding is treated as non-resident holding in the books of the company; (iii) any dividend or income or sale proceeds becoming payable to NRIs are credited to his NRO account and (iv) the securities are not sold or disposed of otherwise than through a member of a recognised stock exchange in India, except with the permission of Reserve Bank.

Note:

See [paragraph 10C.24A](#) regarding repatriation of income/interest earned during the financial year 1994-95 and onwards.

V. Investment in Government Securities/Units, etc.

Investment in Government Securities, National Plan/

Savings Certificates and Units of UTI

Central or any State
Government and National
Plan/Savings Certificates

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price is paid out of the investors' NRE/FCNR accounts maintained with authorised dealers in India. Where funds held in NRO accounts are utilised for purchase of units, UTI will issue units to NRIs/OCBs on the condition that the funds invested and income earned thereon will not qualify for repatriation out of India at any time in future. Units can thus be bought by NRIs/OCBs directly from UTI also.

Sale/Transfer of Government Securities/Units

10C.33 NRIs/OCBs may freely sell/transfer Government securities through a Stock Exchange in India, provided the sale/transfer of such securities is arranged through an authorised

dealer. Similarly NRIs/OCBs holding units of UTI may freely tender them for repurchase by the Trust.

Repatriation of Interest/Dividend/Maturity

Proceeds of Government Securities/National

Plan and Savings Certificates/Units

10C.34 Interest and maturity proceeds of Government securities including National Plan/Savings Certificate, sale proceeds of Government securities sold on Stock Exchanges as well

as dividend on Units of UTI and repurchase proceeds thereof may be credited by authorised dealers to the NRO accounts of non-resident investors without reference to Reserve Bank. As far as credits of such funds to NRE/FCNR accounts are concerned, powers of authorised dealers are restricted to cases where the original investment was made by remittances from abroad or by debit to the NRE/FCNR accounts maintained by non-resident investors. In the case of Units purchased directly from UTI, authorised dealers may credit the dividends/repurchase proceeds to the investor's NRE/FCNR account or make remittance to the investor abroad only if the payment is received from UTI with a confirmation that the investment in those units was made out of funds received from abroad in an approved manner or by debit to NRE/FCNR account of the unit holder. In all other cases, dividend/repurchase proceeds should be credited to NRO accounts.

Note:

See [paragraph 10C.24A](#) regarding repatriation of income/interest earned during the financial year 1994-95 and onwards.

PART D - LOANS, OVERDRAFTS AND GUARANTEES FOR NON-RESIDENTS

Loans Abroad against Securities provided in India

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of the
shares/
securities/
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- (ii) Reserve Bank has granted general permission to certain financial institutions

providing housing finance e.g. Housing Development Finance Corporation, LIC Housing Finance Ltd., etc. to grant housing loans to non-resident Indian nationals for acquisition of a

- (iii) Authorised dealers may also grant housing loans to NRIs holding Indian passports

- (iii) Authorised dealers may also grant housing loans to NRIs holding Indian passports

against the security of immovable property proposed to be acquired by them subject to the following conditions:

- (a) The house/flat will be used for self occupation by the non-resident on return to India and not for any other purpose.
- (b) The quantum of loan, margin money and the purpose of loan will be at par with those applicable to housing loans being granted to residents.
- (c) The loan should be fully secured by creating equitable mortgage of the concerned property and if necessary, lien on borrower's other assets in India.
- (d) Repayment of the loan should be made by the borrower within a period not exceeding 15 years and in instalments comprising principal and interest including all charges by remittances from abroad through normal banking channels or out of funds in his/her NRE/FCNR/NRO account in India.

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- (iv) Authorised dealers may also grant loans to NRTs where the NRT is a principal borrower
- (v) Reserve Bank will also be prepared to grant general permission to companies/ banks and

Loans in India to NRIs against Security of

**Loans in India to NRIs against Security of
NRI Bonds issued by SBI**

10D.3 Deleted.

**Loans in India to Non-resident holders of
India Development Bonds issued by SBI**

10D.4 Deleted.

**Loans/Overdrafts to Residents against
Security of India Development Bonds**

10D.5 Deleted.

Loans in India against Guarantees by Non-residents

10D.6 (i) Authorised dealers may grant loans and
overdrafts to persons, firms and companies

in India against the guarantees of individuals, firms
and companies (including banks)

outside India subject to the following conditions:-

- (a) No direct or indirect outgo of foreign exchange is involved by way of guarantee commission or otherwise.
- (b) The loan is fully secured by the guarantee of an international bank and the lender bank adheres to the guidelines prescribed for capital adequacy, prudential norms, etc. and the lending discipline prescribed for working capital and term loan purposes, by Reserve Bank from time to time.
- (c) Regulations relating to normal margin, interest rates, etc. as stipulated by Reserve Bank from time to time are complied with.

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(5) hectares in his individual name or jointly with others. The amount of loan should not exceed Rs.3 lakhs.

(b) The amount of loan should be utilised for carrying on agricultural activities on the existing land holding only and not to be used for acquiring any additional land.

(c) The loan can be repaid out of income generated from the agricultural activity or by remittances in foreign exchange sent by NRI from abroad or by debit to his NRE/FCNR/NRO account.

(d) Requirements regarding security, margin, rate of interest etc. as stipulated by Reserve

interest etc. as stipulated by Reserve Bank from time to time should be complied with.

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the following clause:

'This is to clarify that you, as our shipping agents, have the full authority to give guarantees in respect of any of our debts or other obligations or liability in favour of any officer or other authority appointed or constituted under the Income-tax Act, the Customs Act, the Major Ports Act or any other Central or State Act in force in India. You may pay the dues payable to any of those authorities out of our funds representing genuine freight collections and lying with you or at your power or disposal. If any shortfall arises, we will fully reimburse you by making adequate remittance in this regard in foreign exchange through banking channel.'

exchange through
banking channel.'

NOTE: *In case of tramp
agencies,
shipping agents
may obtain, if
they so desire,
such letters of
undertaking
from the master
of the ship
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principals.*

(b) Amounts paid by
shipping agents
should be recovered
out of the funds
remitted from abroad
by the overseas
shipping principal
through normal
banking channels
and/or from the
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(ii) Reserve Bank has likewise granted general
permission to authorised dealers vide

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indicating the steps being taken by the bank to recover the amount due under the guarantee.

NOTE:

Authorised dealers may issue guarantees in favour of overseas organisations issuing travellers cheques in respect of blank travellers cheques stocked for sale by them or on behalf of their constituent who are full-fledged money changers holding valid licences from Reserve Bank, subject to suitable counter guarantee being obtained from the latter. In the event of the guarantee being invoked authorised dealers may effect remittance but should send a separate report thereon furnishing full details to the Chief General Manager, Exchange Control Department, (Forex Market Division), Reserve Bank of India, Central Office, Mumbai 400 001.