

Non-repatriable funds of NRI

1902. SHRI DEVENDER GOUD T.: Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) what are non-repatriable funds of NRIs;
- (b) how much year-wise and country-wise non-repatriable funds are flowing into the country every year and the funds so far flown in the last one decade;
- (c) whether Department of Industrial Policy and Promotion (DIPP) has sought Cabinet approval for treating above funds as domestic investments instead of Foreign Direct Investment (FDI) and exempted them from sectoral restrictions; and
- (d) if so, the details thereof and the reasons therefor?

THE MINISTER OF STATE OF THE MINISTRY OF COMMERCE AND INDUSTRY (SHRIMATI NIRMALA SITHARAMAN): (a) and (b) As per Foreign Exchange Management (Issue or Transfer of Security by a Person Resident outside India) Regulations, 2000, an NRI can make investment on non-repatriable basis under Schedules 3 and 4 of Notification No. FEMA 20/2000 issued by Reserve Bank of India. Schedule 3 permits purchase/sale of shares and/or convertible debentures by an NRI on a Stock Exchange in India on repatriation and/or non-repatriation basis under Portfolio Investment Scheme and the details are given in Statement-I (*See* below). Schedule 4 deals with purchase and sale of shares or convertible debentures or warrants by a Non-resident Indian (NRI) on non-repatriation basis and the details are given in Statement-II (*See* below).

The funds of NRIs in Non-Resident Ordinary Rupee Account Scheme (*i.e.*, NRO Account) are not repatriable except (i) all current income and (ii) up to US\$ one million in a financial year. The year-wise data on NRO deposits are as under:

NRO Deposits

(US\$ Million)

Year	Flows	Outstanding (End-March)
2005-06	1,148	1,148
2006-07	468	1,616
2007-08	1,172	2,788
2008-09	1,985	4,773
2009-10	2,608	7,381
2010-11	2,326	9,707

Year	Flows	Outstanding (End-March)
2011-12	2,525	12,232
2012-13	-2,522	9,710
2013-14	-596	9,114
2014-15	479	9,593

Source: Handbook of Statistics on the Indian Economy, RBI.

(c) and (d) No decision has been taken by the Government in this regard.

Statement-I

SCHEDULE 3 [See Regulation 5 (3) (i)]

Purchase/sale of shares and/or convertible debentures by an NRI on a Stock Exchange in India on repatriation and/or non-repatriation basis under Portfolio Investment Scheme

1. A Non-resident Indian (NRI) may purchase/sell shares and/or convertible debentures of an Indian company, through a registered broker on a recognised stock exchange, subject to the following conditions :

- (i) NRIs may purchase and sell shares/convertible debentures under the Portfolio Investment Scheme through a branch designated by an Authorised Dealer for the purpose;
- (ii) the paid-up value of shares of an Indian company, purchased by each NRI both on repatriation and on non-repatriation basis, does not exceed 5 per cent of the paid-up value of shares issued by the company concerned;
- (iii) the paid-up value of each series of convertible debentures purchased by each NRI both on repatriation and non-repatriation basis does not exceed 5 per cent of the paid-up value of each series of convertible debentures issued by the company concerned;
- (iv) the aggregate paid-up value of shares of any company purchased by all NRIs does not exceed 10 per cent of the paid up capital of the company and in the case of purchase of convertible debentures the aggregate paid-up value of each series of debentures purchased by all NRIs does not exceed 10 per cent of the paid-up value of each series of convertible debentures;

Provided that the aggregate ceiling of 10 per cent referred to in this clause may be raised to 24 per cent if a special resolution to that

effect is passed by the General Body of the Indian company concerned;

- (v) the NRI investor takes delivery of the shares purchased and gives delivery of shares sold.

2. The link office of the designated branch of an authorized dealer referred to in paragraph 1 shall obtain a Unique Code number from the Reserve Bank. The said link office of the designated branch of an authorized dealer shall furnish to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai, a report on daily basis on PIS transactions undertaken on behalf of NRIs for their entire bank under the Online Report Filing System (ORFS). The said link office shall be responsible to ensure that the data submitted to the Reserve Bank is reconciled by periodically taking an NRI holding report for its bank.

3. An NRI may open a separate sub-account of NRE/NRO account [opened and maintained by Authorised Dealer bank in terms of the Foreign Exchange Management (Deposit) Regulations, 2000]. With a designated branch of an Authorized Dealer bank referred to in paragraph 1, for routing the Receipt and payment for transactions relating to purchase and sale of shares/convertible debentures under this Scheme. NRE (PIS) account shall be opened for investment made on repatriation basis and NRO (PIS) account shall be opened for investment made on non-repatriation basis under the Scheme. The designated branch of an Authorised Dealer bank shall ensure that sale proceeds of shares/convertible debentures which have been acquired by modes other than Portfolio Investment Scheme such as underlying shares acquired on conversion ADRs/GDRs, shares/convertible debentures acquired under FDI Scheme, shares/convertible debentures purchased outside India from other NRIs shares/convertible debentures acquired under private arrangement from residents/non-residents, shares/convertible debentures purchased while resident in India, do not get credited/debited in the NRE(PIS)/NRO(PIS) account opened exclusively for routing transactions under this scheme].

4. (A) Permitted Credits/Debits in NRE (PIS) account Credits –
- (i) Inward remittances in foreign exchange through normal banking channels;
 - (ii) Transfer from the NRI's other NRE accounts or FCNR(B) accounts maintained with Authorised Dealer in India;
 - (iii) Set sale proceeds (after payment of applicable taxes) of shares/convertible debentures acquired on repatriation basis under the Scheme and sold on stock exchange through registered broker; and

- (iv) Dividend or income earned on investment made on repatriation basis under the Scheme Debits:—
- (a) Outward remittances of dividend or income earned;
 - (b) Amounts paid on account of purchase of shares and convertible debentures on repatriation basis on stock exchanges through registered broker under the Scheme; and
 - (c) Any charges on account of sale/purchase of shares or convertible debentures under the Scheme.
- (B) Permitted Credits/Debits in NRO (PIS) account Credits –
- (i) Inward remittances in foreign exchange through normal banking channels;
 - (ii) Transfer from the NRI's other NRE accounts or FCNR (B) accounts or NRO accounts maintained with Authorised Dealer in India;
 - (iii) Net sale proceeds (after payment of applicable taxes) of shares and convertible debentures acquired on repatriation basis (at the option of the NRI) and non-repatriation basis under the Scheme and sold on stock exchange through registered broker; and
 - (iv) Dividend or income earned on investment made on repatriation basis under the Scheme Debits :
 - (a) Outward remittances of dividend or income earned;
 - (b) Amounts paid on account of purchase of shares and convertible debentures on non-repatriation basis on stock exchanges through registered broker under PIS; and
 - (c) Any charges on account of sale/purchase of shares or convertible debentures under PIS.

Statement-II

SCHEDULE-4 [See Regulation 5 (3) (ii)]

***Purchase and Sale of Shares or Convertible Debentures or Warrants by
a Non-Resident Indian (NRI) on Non-Repatriation Basis***

1. Prohibition on purchase of shares or convertible debentures or warrants of certain companies:

No purchase of shares or convertible debentures or warrants of an Indian company shall be made under this Scheme if the company concerned is a Chit Fund or a Nidhi company or is engaged in agricultural/plantation activities or real estate business or construction of farm houses or dealing in Transfer of Development Rights.

Explanation : For the purpose of this paragraph, real estate business shall not include development of township, construction of residential/commercial premises, roads, bridges, etc.

2. Permission to purchase and/or sell shares or convertible debentures or warrants of an Indian company:

Subject to paragraph 1, a Non-resident Indian may without any limit, purchase on non-repatriation basis, shares or convertible debentures or warrants of an Indian company issued whether by public issue or private placement or right issue.

3. Method of payment for purchase of shares or convertible debentures or warrants:

The amount of consideration for purchase of shares or convertible debentures or warrants of an Indian company on non-repatriation basis, shall be paid by way of inward remittance through normal banking channels from abroad or out of funds held in NRE/FCNR/NRO/NRSR/NRNR account maintained with an authorised dealer or as the case may be with an authorised bank in India.

Provided that in the case of an NRI resident in Nepal and Bhutan, the amount of consideration for purchase of shares or convertible debentures or warrants of an Indian company on non-repatriation basis, shall be paid only by way of inward remittance in foreign exchange through normal banking channels.

4. Sale/Maturity proceeds of shares or convertible debentures or warrants:

- (i) The sale/maturity proceeds (net of applicable taxes) of shares or convertible debentures or warrants purchased under this Scheme shall be credited only to NRSR account where the purchase consideration was paid out of funds held in NRSR account and to NRO or NRSR account at the option of the seller where the purchase consideration was paid out of inward remittance or funds held in NRE/FCNR/NRO/NRNR account.
- (ii) The amount invested in shares or convertible debentures or warrants under this Scheme and the capital appreciation thereon shall not be allowed to be repatriated abroad.