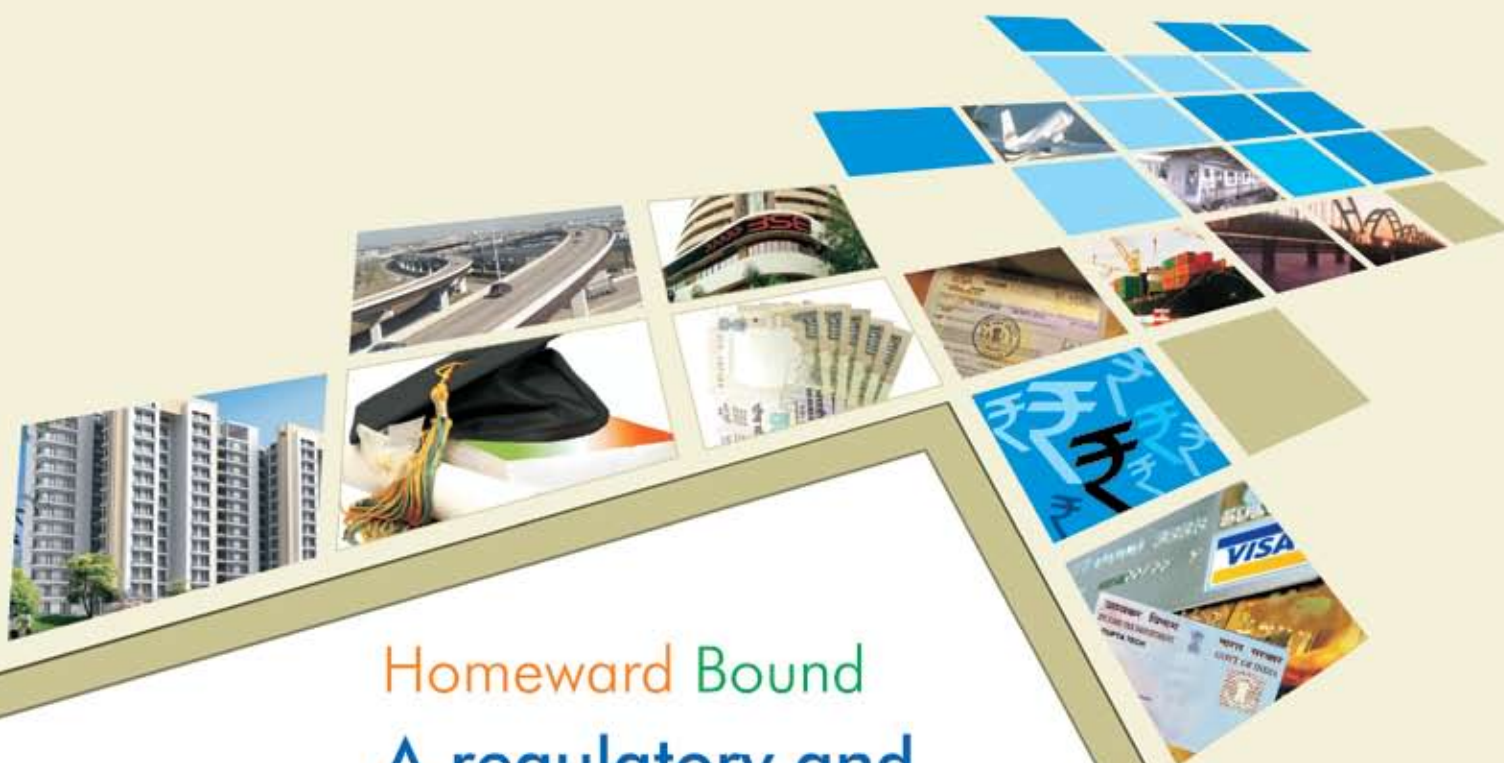




Confederation of Indian Industry
Since 1895



Homeward Bound
A regulatory and
investment handbook
for Overseas Indians



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January 2011

Message



Dear Friends,

Greetings to all of you!

I am happy that the Overseas Indian Facilitation Centre (OIFC) has brought out an important compilation for the benefit of individual Overseas Indian investors.

During my frequent interactions with Overseas Indian friends, a need has always been expressed for a comprehensive yet simple publication that would provide relevant information on investment, taxation matters and procedures.

OIFC has been established in a public private partnership mode by my Ministry with the Confederation of Indian Industry. It provides a one-stop destination for economic engagement, investment and business.

I am sure this new publication “Homeward Bound – A regulatory and investment handbook for Overseas Indians” would prove to be a useful repository of practical information for the use of all Overseas Indians.

A handwritten signature in black ink, followed by the date 20/12/16.

VAYALAR RAVI
Minister for Overseas Indian Affairs



Preface

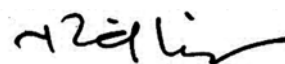
Greetings to all of you!

On the occasion of the Ninth Pravasi Bhartiya Divas 2011 Convention, it gives us great pleasure in bringing out 'Homeward Bound - A regulatory and investment handbook for Overseas Indians', a one point reference book for the overseas Indians who wish to take advantage of the rich investment opportunities offered by India to individual investors, and who would like to have relevant and practical information on the regulatory procedures, opportunities in education, real estate, capital markets and many other such areas.

Ministry of Overseas Indian Affairs' (MOIA) constant endeavor is to further strengthen the strong bond between India and its diaspora, address their concerns and problems and create an enabling environment, whereby Overseas Indians engage with, and benefit from, the opportunities in a rapidly growing economy. The Overseas Indian Facilitation Centre (OIFC) set up by the MOIA in 2007, in partnership with the Confederation of Indian Industry (CII), is a special purpose vehicle for the MOIA, in providing facilitation services to the Overseas Indians, especially for their economic engagement with India.

We trust the readers would find this reference book a useful guide in their quest for information on the regulatory and practical dimensions of investing in India.

We are grateful to Hon'ble Minister for Overseas Indian Affairs Shri. Vayalar Ravi for his encouragement and guidance in bringing out this book. We also place on record our appreciation for the contribution made by Ernst & Young Pvt. Ltd, OIFC's Knowledge Partner for this publication.



A Didar Singh,
Secretary of MOIA and Chairman of OIFC



Preface

Greetings to all of you!

In the World Economic Outlook released recently, the International Monetary Fund (IMF) has projected for India, a growth of 9.7 percent in 2010 and 8.4 percent in 2011. With a healthy growth rate of 8.9 per cent in the first two quarters - the fastest in more than two years - Indian economic activity is accelerating. The performance has been spurred by a rebound in farm output, a recovery in exports and buoyancy in the services sector. Industrial output has also remained strong although volatile.

The future outlook for the Indian economy continues to be cheerful even as there is uncertainty about whether global growth will recover or remain subdued for a long time. Strong domestic demand within India is expected to protect the economy from external shocks. India has a diverse economy with competitive strengths across sectors. The availability of skilled labour and an edge in research, design and innovation further makes India an attractive place to do business.

Given this backdrop, India abounds in investment opportunities for the global investors, including the Overseas Indians, and could be your partner in progress in the years to come.

The Confederation of Indian Industry (CII) has been privileged to incubate and support the Overseas Indian Facilitation Centre (OIFC), in a Public Private Partnership mode, with the Ministry of Overseas Indian Affairs (MOIA). The OIFC has been playing a very proactive and pivotal role in expanding the economic engagement of overseas Indians with India. Its new publication "Homeward Bound - A regulatory and investment handbook for Overseas Indians", with Ernst & Young Pvt. Ltd as its Knowledge Partner, will be a useful guide for the individual NRI investors. We trust the readers would find this reference book to be a useful guide.

A handwritten signature in black ink, appearing to read "Chandrajit Banerjee".

Chandrajit Banerjee
Director General of CII and Co-Chairman of OIFC

Executive summary

‘Homeward Bound’ is a one point reference book for the overseas Indians who wish to take advantage of the rich investment opportunities offered by India and would like to have the relevant and authentic information on the myriad aspects. It seeks to serve as a guide on the regulatory and practical dimensions entailing investments in India.

In its first part, the publication covers the regulatory framework relevant to the overseas Indians. ‘Overseas Indians’ is a broad term that may cover Non Resident Indians, People of Indian Origin or even Overseas Citizens of India. The publication brings out the distinction between these categories and outlines the immigration norms that may be applicable. Details about the income tax provisions relevant to different categories of residential status, the scope of wealth tax and the double taxation avoidance agreements have been provided, followed by the provisions expected to be introduced in the new Direct Taxes Code. A gist of the Foreign Exchange Regulations completes the regulatory section of the publication.

Having acquainted the reader with the relevant regulations, the second part of the publication ‘Investing in India’ brings out the entry options into this attractive investment destination, providing an overview of the possible forms of business in India and the range of investment schemes that could be explored. The details, including the eligibility criteria, aim to enable the readers to make informed investment decisions. Real estate continues to be a favored investment avenue for resident and non-resident Indians alike. The section, therefore, incorporates the tax and regulatory laws that impact the investment of immovable property by an NRI/PIO and a brief on the evolving Special Economic Zones in India. The FAQs section chooses to address some common queries of non-resident investors.

The next section puts together the practical details one must know before starting up. It spans the procedural aspects of obtaining a Permanent Account Number and the basics of banking, remittances and borrowings by NRIs and building a portfolio in India.

‘Gifts and Inheritance’, constitute an area of wide interest among the overseas Indians. A separate section highlights the foreign exchange and tax regulations applicable to gifts of shares/securities and movable and immovable property and inheritance of property, titles, debts, and obligations.

Last, but by no means the least, the publication provides a brief discussion on the abounding opportunities in India’s upcoming education sector, followed by an insight into the special facilities offered by Central Government and OIFC State Government Partners for the engagement and welfare of the Indian diaspora.

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Regulatory framework for Overseas Indians





Immigration

Overseas Indians may be either of the following:

- Non Resident Indians (NRIs)
- Persons of Indian origin (PIOs)
- Overseas Citizens of India (OCIs).

The term 'Overseas Indians' leaves an individual to speculate what category of Overseas Indians he falls in. The table below seeks to clarify these terms.

Particulars	NRI	PIO	PIO card holder	Overseas Citizen of India (OCI)
Definition	An Indian citizen who resides outside India	A person who or whose ancestors were Indian Citizens	A person registered as PIO card holder under MHA's Scheme	A person registered as Overseas Citizen of India under the Citizenship Act
Eligibility criteria	NA	NA	<p>A person can qualify as PIO card holder, if:-</p> <ul style="list-style-type: none"> • A person has at any time held an Indian Passport • Parents or grandparents of such person were born, or permanently resident in India as defined in Government of India Act, 1935 and other territories that became part of India thereafter (provided neither was at any time a citizen of Afghanistan, Bhutan, China, Nepal, Pakistan and Sri Lanka) • Spouse of such person is an Indian citizen or a PIO 	<p>A person whose country of citizenship allows dual citizenship under the local laws, and satisfies any of the following conditions is eligible for registration as OCI, if such person:-</p> <ul style="list-style-type: none"> • Is a foreign citizen, who was eligible to become citizen of India on 26.01.1950 • Was a citizen of India on or at any time after 26.01.1950 • Belonged to a territory that became part of India after 15.08.1947 and his/her* children and grand children (however, if the applicant had ever been a citizen of Pakistan or Bangladesh, he/she will not be eligible for OCI. Further, minor children of such person are also eligible)
Visa requirement	Not required	Specific visa depending on purpose of visit	No visa required for 15 years from the date of issue of the PIO card	Not required
FRRO Registration	Not required	Required	FRRO registration is required once, if the stay in India exceeds 180 days for the first time	Not required
Permissible activities in India	All activities are permitted	Activities as specified in the visa	All activities except mountaineering, missionary and research work. Require specific permit to visit restricted / protected areas	All activities except mountaineering, missionary and research work. Require specific permit to visit restricted / protected areas

Exchange control

❖ Basic concepts

The governing law for exchange control in India is the Foreign Exchange Management Act (FEMA), 1999.

1. Who is an NRI?

Under FEMA, an NRI is a person:

- Who is an Indian Citizen
- Has gone out of India or stays outside India, in either case
 - for or on taking up employment outside India
 - for carrying on a business or vocation outside India, or
 - for any other purpose, in such circumstances as would indicate an intention to stay outside India for an uncertain period.

In other words, an NRI is a person who is not a person resident in India but who is a citizen of India or is a PIO.

2. Who is a PIO?

Unless otherwise specified, a PIO is a citizen of any country other than Bangladesh or Pakistan, if

- he at any time has held an Indian passport
- he or either of his parents or any of his grandparents were any time citizen(s) of India by virtue of the Constitution of India or the Citizenship Act
- the person is a spouse of an Indian citizen or a person referred to above.

In case of transactions involving immovable properties, the third condition mentioned above does not apply.

3. Who is an OCI?

An OCI is not recognized as a class of investor under FEMA or regulations made there under. Accordingly, OCIs can invest in an Indian company as PIOs if they satisfy the criteria specified for PIOs in accordance with the definition provided above.

4. Residential status

Residential status under FEMA is defined differently from that under other legislations such as the Income Tax Act, 1961

- **Who is a person resident in India?**

For an individual to qualify as a person resident in India under FEMA, the individual must satisfy the following tests:

- (a) Basic test of physical presence in India

The individual must have lived in India during the preceding financial year (April to March) for more than 182 days

- (b) Additional tests indicating purpose

In addition to the basic test, the individual must be living in India for either of the following purposes:

- For or on taking up employment in India
- For carrying on a business or a vocation in India
- For any other purpose.

In such circumstances as would indicate his intention to stay in India for an uncertain period.

In other words, to be treated as a person resident in India under FEMA, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the preceding financial year) but has to also comply with the condition of the purpose/intention of stay.

- **Who is an NR in India?**

A person is an NR in India under FEMA, if he/she is not a resident as stated above.

Income tax

The Income Tax Act, 1961 governs the taxation of income in India. Income tax is charged on total income for a given financial year. The financial year runs from 1 April to 31 March of the following year.

❖ Residential status

The residential status of an individual for income-tax purposes depends on the physical stay of the individual in India. Based on the period of stay in India in a given financial year, an individual may be classified as:

- Resident
- Not ordinarily resident (NOR)
- Non-resident (NR).

Tests of residence under the act

A. An individual is a resident in India if he stays in India for:

- At least 182 days during a financial year
- At least 60 days during a financial year and 365 days or more during the 4 years preceding that fiscal year.

Exceptions to the above:

The 60-day period mentioned above will be substituted for 182 days in case of the following persons:-

- A citizen of India who leaves the country as a crew member of an Indian ship or for the purposes of employment outside India
- A citizen of India or PIO who visits India in any previous year.

B. An individual is an NOR in India if:

- He is an NR in India in 9 of 10 financial years preceding the relevant fiscal year
- His stay in the 7 years preceding the relevant financial year is in the aggregate 729 days or less.

C. An individual is an NR in India if:

- He does not satisfy any of the two conditions mentioned in A above.

NRI

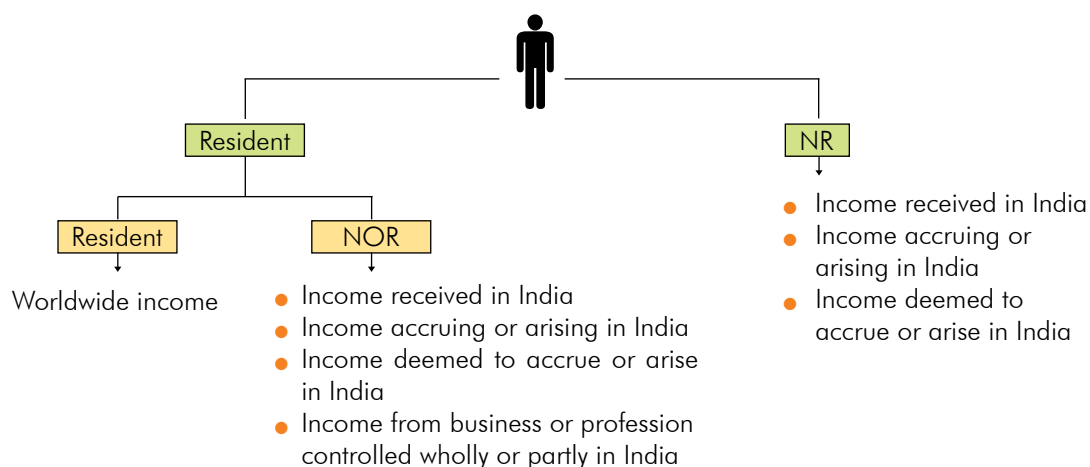
An NRI is defined as a citizen of India or a PIO who is not a resident.

PIO

A person shall be deemed to be of Indian origin if he or either of his parents or grandparents were born in undivided India.

❖ Scope of taxable income

Impact of residential status on the taxability of income



❖ Special provisions relating to NRs

1. Tax exempt incomes for NRs/NRIs

In following cases investment income is exempt from tax for NRs/NRIs :

- Interest earned by a person resident outside India from non-resident external (NRE) accounts
- Interest earned by an NR or NOR from foreign currency (non-resident) (FCNR) accounts
- Interest on notified securities, bonds, annuity certificates and savings certificates issued by the Central Government
- Interest on bonds issued by local authorities and notified by the Central Government in the official gazette
- Dividends received from Indian companies and from specified mutual funds
- Long-term capital gains from the transfer of equity shares in a company or units of an equity oriented fund provided such transaction has been subjected to securities transaction tax.

2. Computation of capital gains in the case of NRs

Any income arising from the transfer of a capital asset is chargeable to tax under capital gains in the year of the transfer. Capital gains are specified as either short term or long term depending on the holding period of the capital assets.

Short-term capital gains are included in total income and are taxed at the progressive slab tax rate of an individual, except for short-term capital gains resulting from specified securities traded on a recognized

stock exchange in India (and on which Securities Transaction Tax is paid), which are taxed at a fixed rate of 15% plus applicable cess.

Gains by an NR on the sale of assets (i.e., shares and debentures of an Indian company) acquired in foreign currency are computed differently.

Capital gains are computed by converting the full value of consideration, expenses incurred in connection with the transfer, and the cost of acquisition in the same foreign currency as was initially utilized for purchase. This conversion takes care of exchange-rate fluctuations.

3. Relevant provisions relating to NRIs and PIOs

Further, separate tax provisions have been prescribed for NRIs under the act in respect of long-term capital gains (Para A) or investment income (Para B) derived from foreign exchange assets.

A foreign exchange asset is a specified asset acquired by an NRI out of convertible foreign exchange.

NRIs also enjoy other benefits such as exemption from filing their return of income and the continuation of benefits under the special tax regime discussed in Paragraphs C & D.

Specified assets are:

- Shares, debentures and deposits of public companies
- Shares of private companies
- Securities notified by the Central Government
- Other notified assets (no such asset has yet been notified).

A. Income from long-term capital gains

Where long term capital gains arise from transfer of specified assets, the applicable tax rate will be 10% (plus applicable cess) on net capital gains.

From gains on such transfers, only expenses incurred in connection with the transfer are allowed as a deduction to determine net capital gain. The valuation under these provisions is not in foreign currency. Therefore, exchange-rate fluctuations are not considered.

Capital gains arising on the transfer of specified assets are completely exempt from tax if the following conditions are fulfilled:

- The asset transferred must be long-term capital assets
- Net consideration must be invested in specified assets
- Investment should be made within six months of the transfer
- Where only a portion of net consideration is reinvested, proportionate exemption is allowed
- New asset must be held for at least three years.

B. Investment income

No deductions are permitted from income earned on investments. However, this income is taxed at a preferential rate of tax of 20% (plus applicable cess), as against the maximum marginal rate of 30% (plus applicable cess).

C. Exemption from filing return of income

The due date for filing both income tax and wealth tax returns is 31 July, i.e., within four months of the end of the fiscal year (31 March).

NRIs have the option of not filing a tax return if:

- Their total income consists only of investment income and/or long-term capital gains
- Tax has been deducted at source on such income.

D. Continuation of special benefits

These provisions shall continue to apply to investment income even after NRIs become resident, provided they furnish a declaration along with their tax returns.

NRIs may completely opt out of the special provisions mentioned above by filing a written declaration along with their tax returns.

Special benefits relating to global depository receipts (GDRs)

There are special benefits relating to income from GDRs. The provisions apply to:

- Interest and dividends
- Long-term capital gains on bonds or shares issued abroad by Indian companies and purchased in foreign currency.

The tax rate on gross income, plus applicable cess, is 10%. Gross income means that no deduction is allowed for:

- Business expenses
- Expenses on transfer
- Other expenses
- Deduction on account of specified payments or income.

Transfers outside India between NRIs, inter se, are not subject to capital gains tax in India.

Wealth tax

❖ Scope of wealth tax

Wealth tax is chargeable for every fiscal year in respect of individual's net wealth. The incidence of wealth tax depends on both residential status and nationality. An individual is taxable in India on his global net wealth if:

- The individual is a ROR in India
- The individual is an Indian national.

In all other cases, the individual is taxable in India only on assets located in the country.

❖ Rate of tax

Wealth tax is levied at 1% on net wealth, which exceeds INR 3,000,000 on 31 March of a given fiscal year.

❖ Assets

An individual's net wealth includes:

- Guest house, farm house, residential house or commercial building
- Cars
- Jewelry, bullion, gold and silver utensils
- Yachts, boats and aircraft
- Urban land
- Cash in excess of INR 50,000.

Specific exemptions are available on some of these assets.

❖ Exemption on repatriation

Special exemption for seven successive assessment years is available to a PIO or an NRI repatriating to India with the intention of permanently residing in India. The exemption is available on the following assets:-

- Moneys brought to India (including any balance in the NRE account)
- Assets
- Any asset acquired by sending money from a foreign country within one year immediately preceding the date of return to India
- Any asset acquired after arrival in India out of money or assets brought in India.

Double tax avoidance agreements

The Government of India has entered into DTAA's or tax treaties with several countries to safeguard taxpayers against double taxation.

Under the DTAA, the income of an NRI or a PIO is either only taxed in one of the two countries (i.e., it is exempt from tax in one country) or in both countries, but the country of residence allows credit of the taxes paid in the other country.

Sometimes, due to tax-rate reductions under the domestic law domestic rates become more favorable to NRIs or PIOs. Since the object of tax treaties is to benefit NRIs or PIOs, they can, under such circumstances, be assessed either according to the provisions of the treaty or the domestic law.

The Direct Tax Code (DTC)

The Government of India has proposed a new direct tax law that is likely to be effective from 1 April 2012.

Some of the key personal tax proposals likely to impact an individual are:

❖ Residential status

- An individual will qualify either as a resident or an NR under the DTC. However, a resident will be taxed on worldwide income only if he does not satisfy any of the following conditions:
 - Qualifies as an NR in India in 9 of 10 preceding financial years.
 - Physical presence in India is less than 730 days during the 7 preceding financial years.
- The extension of 60 days to 182 days for becoming a resident in a relevant year available to an Indian citizen or PIO visiting India from overseas will no longer be available. Therefore, such a person will become a resident, if his physical presence in India is 60 days or more in the relevant financial year and 365 days or more over a period of 4 years prior to the financial year. On becoming a resident, an individual is taxable on their global income subject to exceptions as stated above. However, the major challenge is to protect global assets from being charged to wealth tax in India.

❖ Taxation of rental income

- The existing provision for taxation of rental income on deemed income basis has been removed. Therefore, only income from those properties that have been actually let out during the relevant financial year will be taxed.

❖ Taxation of capital gain

Period of holding:

- DTC seeks to remove the classification of an asset as long term or short term; however, the concept has been retained in substance, as the effective tax rate is still influenced by the period for which the assets are held.
- The provision for the holding period of equity shares or units (securities transaction tax [STT] paid) under the DTC is similar to the existing provisions. However, the period of holding for all other assets has been reduced from 36 months currently to a maximum of 24 months. This means that indexation benefits can be availed within a relatively short period of time.

Base date for indexation:

- Under the DTC, the base date for the indexation of inflation will be shifted from 1 April 1981 (the base date under existing provisions) to 1 April 2000 for assets acquired prior to 1 April 2000. This is another positive measure, as the stepped up cost of acquisition will mean that capital appreciation up to 1 April 2000 will not be taxed.

Rollover deduction:

- The DTC provides for a rollover deduction in respect of capital gains (for assets held for more than a year) if the proceeds of any “long-term” investment asset are invested in a residential house. This provision is similar to the relief available under the existing provisions, but the scope has been narrowed to offer benefits only if the taxpayer does not own more than one residential house on the transfer date of the original asset, other than the residential house being purchased.

Carrying forward and setting off losses:

- Capital losses can be set off against long-term or short-term capital gains vis-à-vis the existing provision where only short-term capital loss can be set off against long-term capital gain and not vice versa. Further, the resultant losses can be carried forward for an indefinite period against existing eight years of limitation.

Tax rate:

- Capital gains on equity assets (STT paid) held for more than one year continue to be tax free. However, where such assets are held for less than a year, the maximum effective tax rate for an individual will be 15%.
- On other assets, the option available to NRs to be taxed at special rates has been done away with, and residents and NRs will be taxed at par on normal slab rates. For example, under the existing provision an NR can pay tax on long-term capital gains arising on the transfer of capital indexed bonds either at 10% without claiming indexation benefit or at 20% with indexation. However under the DTC, an NR will be taxed at the applicable slab rate, potentially 30%.

❖ Tax rates

- Tax rates proposed in the DTC are in line with existing tax rates, except some minor adjustments.

❖ **Wealth tax**

Scope of wealth tax

- The DTC has extended the levy of wealth tax on assets located worldwide (i.e., global assets) to all residents, whether Indian or foreign citizens. Under the existing provisions, foreign citizens even on becoming resident in India were not liable to wealth tax on assets outside India. This change may have repercussions for PIOs visiting India and qualifying as residents during the relevant financial year, as they would potentially be liable to pay wealth tax on worldwide assets, since there is no safe harbor on the taxation of worldwide asset base as in case of income taxation for first-time residents (i.e., total stay less than the cumulative presence of 730 days as in preceding 7 years).

Assets

- The definition of assets for wealth tax purposes has been expanded to include:
 - Bank deposits outside India
 - Any interest in a foreign trust or any other body outside India (whether incorporated or not)
 - Helicopter
 - Archaeological collections
 - Drawings, paintings, sculptures, or any other work of art
 - Watch (value in excess of INR 50,000)
 - Any equity or preference shares held by a resident in controlled financial corporations.

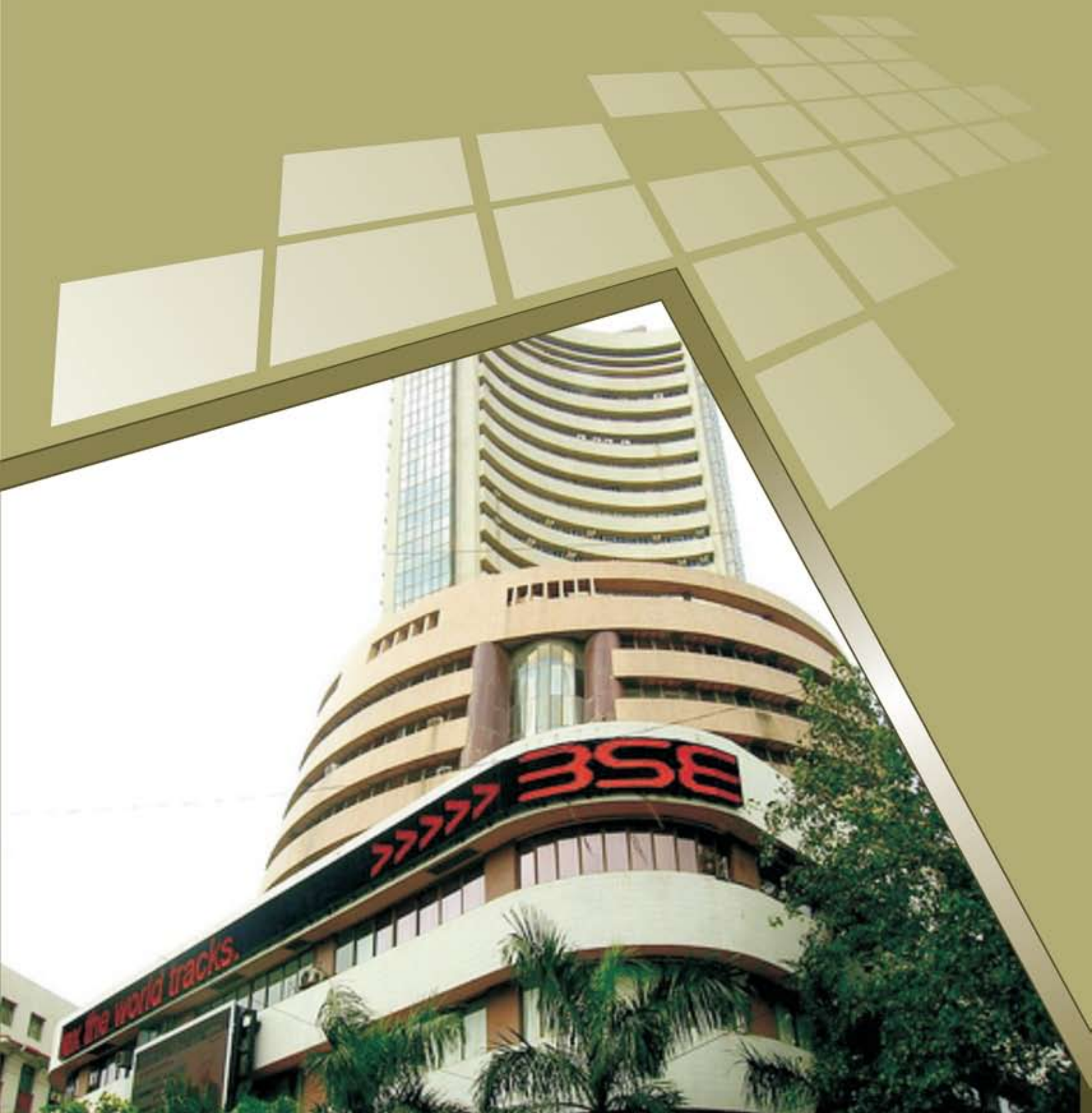
Rate of tax

- Wealth tax will be levied at 1% subject to the basic exemption limit of INR 10,000,000 vs. INR 3,000,000 currently.

❖ **Tax Residency Certificate (TRC)**

DTC has introduced the concept of Tax Residency Certificate (TRC). DTC provides that an individual shall not be entitled to claim relief under the provisions of the DTAA unless a certificate of being a resident in the other country is obtained from the tax authority of that country, in such form as may be prescribed by the tax authorities.

Investing in India





Overview

As one of the fastest-growing economies in the world, India has emerged as an attractive destination for investment in the global arena. The UN Conference on Trade and Development (UNCTAD), in its World Investment Report 2010, has placed India among the top 10 destinations for foreign direct investment (FDI). The country received US\$ 35 billion in FDI in 2009. Clearly, India is becoming the center of global foreign investment landscape. In fact, the UNCTAD's World Investments Prospects Survey 2010–2012 on top-priority host economies for FDI places India at the second position globally.

India offers many advantages as a growth and profitability partner for foreign investors. The country's robust economic growth is driven largely by domestic demand and a rapidly widening consumer base with rising disposable income; India provides one of the largest markets for manufactured goods and services today.

Moreover, India enjoys a great demographic dividend in terms of the world's youngest workforce that is educated and skilled and relatively at ease with the English language, the language of business worldwide. According to UN estimates, in 2009, the mean age of the Indian population stood at 27.5 years, which is significantly younger than 36.8 in China. Further, the share of the working-age population is expected to continue rising in India due to its young and growing population, and is estimated to reach 67.0% of the population by 2020, as compared to 71.6% in China.

Gauging the importance of investment in infrastructure for sustainable and

inclusive growth of 9%–10% in the GDP over the next decade, the Planning Commission has envisaged investments of approximately US\$ 1 trillion for allocation in the Twelfth Five-Year Plan. 50% of these investments are expected to be from the private sector, which is a positive stimulant for private investment, especially in power, telecom and real estate (construction) projects. Similarly, the services sector, including financial services, promises phenomenal growth in future.

India's favorable investment climate is supported by a robust financial sector that includes vibrant equity and debt markets and prudent banking norms, guided by liberal and progressive policies.

In keeping with international practices, Indian regulatory structures are continually reformed to provide an enabling business environment. Convergence to the International Financial Reporting Standards (IFRS) from 2011 through 2014, the introduction of significant fiscal reforms through the proposed DTC and the Goods and Services Tax (GST), and initiatives to introduce new, progressive legislations such as the Competition Act and Limited Liability Partnerships Act are positive indicators of a favorable investment climate.

In the words of Tom Enders, CEO and President, Airbus S.A.S., "You can't be global without being in India."

Possible forms of business set up in India

India has become an attractive destination for foreign investors and it offers a number of different entry routes for the foreign investor. Each option involves a separate set of procedures, depending on the nature of business operations being established.

Possible forms of set up for doing business in India are:

❖ As an incorporated entity

1. Company

1.1. Incorporation of a company

Non-resident individuals or companies, including NRIs and PIOs, are permitted to incorporate a private limited or public company in India in accordance with the provisions of the Companies Act, 1956.

In case of a private limited company, at least two shareholders and paid-up capital of INR 100,000 is required.

In case of a public limited company, at least seven shareholders and paid-up capital of INR 500,000 is required.

1.2. Procedure of incorporation

To incorporate a company in India, the following measures need to be adhered to:

- (a) Obtain a Director Identification Number (DIN)
- (b) Obtain digital signatures of the directors
- (c) Process the name approval
- (d) Draft the memorandum and articles of association
- (e) File documents for incorporation
- (f) Process the Certificate of Incorporation.

❖ As an unincorporated entity

2. Liaison office (LO)/Branch office (BO)

2.1. Establishment of a liaison or branch office

- 2.1.1 A body corporate incorporated outside India (including a firm or other association of individuals) desirous of opening an LO or BO in India are required to obtain prior permission from the RBI. The RBI considers applications from such entities in the prescribed form under two routes:

- ❖ Automatic route

This route applies to cases where the principal business of the foreign entity falls under sectors where 100% FDI is permissible under the (automatic route) general permission given by the Government of India through the reserve bank of india (RBI).

- ❖ Government route

This route applies to cases where the principal business of the foreign entity falls under sectors where 100% FDI is not permissible under the automatic route. For entities falling under this category and those from non- government organizations or government bodies, the RBI considers applications in consultation with the Ministry of Finance, Government of India.

2.1.2 The RBI also considers the following additional criteria while sanctioning LOs and BOs of foreign entities:

- i) Track record

- ❖ For BOs, a profit-making track record in the immediately preceding five financial years in the home country

- ❖ For LOs, a profit-making track record in the immediately preceding three financial years in the home country.

- ii) Net worth

Net worth is the sum of paid-up capital and free reserves less intangible assets in accordance with the latest audited balance sheet or account statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name.

- ❖ For BOs, not less than US\$ 100,000 or its equivalent

- ❖ For LOs, not less than US\$ 50,000 or its equivalent.

2.1.3 Applicants who do not satisfy the eligibility criteria and are subsidiaries of other companies can submit a letter of comfort from their parent company, subject to the condition that the parent company satisfies the eligibility criteria.

2.2. Permissible activities

2.2.1 For LOs

An LO can only undertake liaison activities, i.e., it can serve as a channel of communication between the head office abroad and parties in India. It is not allowed to undertake any business activity or earn any income in India. An LO's expenses need to be met entirely through inward remittances of foreign exchange from the head office outside India. The role of such offices is, therefore, limited to collecting information on possible market opportunities and providing information on the company and its products to prospective Indian customers. Permission to set up such offices is initially granted for a period of three years, and this may be extended from time to time by an Authorized Dealer Category-I (AD) bank.

An LO can undertake the following activities in India:

- (i) Represent the parent company / group companies in India

- (ii) Promote export and import in India
- (iii) Promote technical or financial collaborations between parent or group companies and companies in India
- (iv) Serve as a communication channel between the parent company and Indian companies.

2.2.2 For BOs

BOs are permitted to represent their parent or group company and undertake the following activities in India:

- (i) Export and import goods
- (ii) Render professional or consultancy services
- (iii) Conduct research in areas that the parent company is engaged in
- (iv) Promote technical or financial collaborations between Indian companies and the parent or overseas group company
- (v) Represent the parent company in India and act as a buying or selling agent in the country
- (vi) Render services in IT and software development in India
- (vii) Render technical support to products supplied by parent/group companies
- (viii) Foreign airline or shipping company.

The following activities are specifically prohibited for BOs:

- ❖ Retail trading activities
- ❖ Direct or indirect manufacturing or processing activities in India.

Profits earned by BOs are freely remittable from India, subject to the payment of applicable taxes.

2.2.3 For BOs in special economic zones (SEZs)

The RBI has granted foreign companies general permission to establish branches/units in SEZs to undertake manufacturing and service activities. This general permission is subject to the following conditions:

- (i) Such units should be in those sectors where 100% FDI is permitted
- (ii) Such units comply with Part XI of the Companies Act, 1956 (Sections 592 to 602)
- (iii) Such units function on a stand-alone basis.

3. Project office (PO)

The RBI has granted general permission to foreign companies to establish project offices in India, provided they have secured a contract from an Indian company to execute a project in India, and they satisfy any one of the following conditions:

- (i) The project is funded directly by inward remittance from abroad.
- (ii) The project is funded by a bilateral or multilateral international financing agency.

- (iii) The project has been cleared by an appropriate authority.
- (iv) A company or entity in India awarding the contract has been granted a term loan by a public financial institution or a bank in India for the project.

However, if the criteria mentioned above are not satisfied, the foreign entity intending to establish a PO in India requires prior RBI approval.

Brief comparison between company, LO, BO and PO

S. No.	Particulars	Company	LO/ BO	Project office
1.	Permitted activities	<ul style="list-style-type: none"> A wide range of activities is allowed, subject to the requirements of the FDI policy. 	<ul style="list-style-type: none"> The scope of permissible activities is limited. 	<ul style="list-style-type: none"> Only activities relating and incidental to the project are allowed.
2.	Establishment Procedure	<ul style="list-style-type: none"> Foreign Investment Promotion Board (FIPB) approval is required in case activities are not permitted under the automatic route. Registration with RoC is required. Post facto filings are done with the RBI/ RoC on the issue of shares. 	<ul style="list-style-type: none"> RBI approval is required. RoC registration is required. 	<ul style="list-style-type: none"> Only a post facto report needs to be filed with the RBI (through the banker) in case the PO falls under the automatic route. Specific RBI approval is required in case the PO does not fall under the automatic route. RoC registration is required.
3.	Repatriation of temporary surplus/ surplus on completion	<ul style="list-style-type: none"> Repatriation of dividends is allowed subject to a transfer to reserves. 	<ul style="list-style-type: none"> Remittance of profits is permitted under the automatic route subject to the completion of prescribed filings with the banker. 	<ul style="list-style-type: none"> Surplus on completion can be remitted through the AD, subject to the completion of prescribed filings with the banker. Remittance of intermittent surplus is permitted under automatic route subject to furnishing the necessary documents/ undertaking to the banker.
4.	Exit route: remittance of winding-up proceeds	<ul style="list-style-type: none"> This is a time-consuming and cumbersome process and subject to court procedure. 	<ul style="list-style-type: none"> RBI approval is required for the remittance of winding-up proceeds. Prescribed documentation needs to be submitted to the RBI RoC filings are required. 	<ul style="list-style-type: none"> RBI intimation is required. RoC filings are required. Remittance of winding-up proceeds covered under the automatic route is required, subject to the completion of prescribed filings with the banker.

4. Partnership firm/Proprietary concern

4.1. NRIs or PIOs are permitted to invest by way of contribution to the capital of a firm or a proprietary concern in India on a non-repatriation basis, provided:

- (i) The amount is invested by inward remittance or out of NRE, FCNR (B) or NRO accounts maintained with ADs.
- (ii) The firm or proprietary concern is not engaged in any agricultural plantation or real estate business (i.e., dealing in land and immovable property with a view to earn profit or income) or the print media sector.
- (iii) The amount invested shall not be eligible for repatriation outside India.

Investment by NRIs or PIOs in proprietorship concerns or partnerships with repatriation benefits require prior permission of the RBI, which is decided in due consultation with the Government of India.

Investment schemes

❖ Overview

The FDI Policy, announced by the Department of Industrial Policy and Promotion (DIPP), and the provisions of the Foreign Exchange Management Act (FEMA), 1999 govern FDI in India.

FDI is freely permitted in almost all sectors. Under the Foreign Direct Investments (FDI) Scheme, NRIs, PIOs and NRs can make investments either by making fresh investments or by acquiring existing equity shares and compulsorily convertible preference shares (CCPS) or compulsorily convertible debentures (CCDs) of an Indian company under two routes — the automatic route and the government route.

Under the automatic route, the foreign investor or the Indian company does not require any approval from the RBI or the Government of India for the investment. Under the government route, prior approval of the FIPB is required.

In the event that the foreign investor has an existing venture or tie-up in India as on 12 January 2005 through an investment, a technical collaboration or a trade mark agreement in the same field in which the Indian company, whose shares are being issued, is engaged, they have to obtain prior permission of the FIPB. This restriction is, however, not applicable to:

- The issue of shares for investments to be made by venture capital funds (VCFs) registered with the Securities and Exchange Board of India (SEBI)
- Investments by multinational financial institutions
- Wherein in the existing joint venture (JV), investment by either party is less than 3%
- Where the existing JV / collaboration is defunct or sick
- For the issue of an Indian company's shares engaged in the IT or mining sectors, if the existing JV or technology-transfer or trademark agreement of the person to whom the shares are to be issued are also in the IT sector or in the mining sector for the same area or mineral.

The DIPP has issued a Consolidated FDI Policy Circular, which elaborates on the policy and the process in respect of FDI in India. The circular is available in the public domain and can be downloaded from the DIPP website for guidance on sector-specific investment limits and procedures in India.

❖ Prohibitions on investment in India

- Foreign investment in any form is prohibited in a company or a partnership firm, or a proprietary concern or any entity, whether incorporated or not (such as trusts) that is engaged, or proposes to engage, in the following activities:
 - Business of chit fund
 - Nidhi company
 - Agricultural or plantation activities
 - Real estate business or the construction of farm houses
 - Trading in transferable development rights (TDRs).

- It has been clarified that “real estate business” does not include the development of townships, the construction of residential or commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure or townships. It is further clarified that partnership firms or proprietorship concerns with investments in line with FEMA regulations are not allowed to engage in the print media sector.

In addition, investment in the form of FDI is also prohibited in certain sectors such as:

- a) Retail trading (except single-brand product retailing)
 - b) Atomic energy
 - c) Lottery business, including government and private lottery and online lotteries
 - d) Gambling and betting, including casinos
 - e) Business of chit fund
 - f) Nidhi company
 - g) Trading in TDRs
 - h) Activities or sectors not opened to private sector investment
 - i) Agriculture (excluding floriculture, horticulture, the development of seeds, animal husbandry, pisciculture and the cultivation of vegetables, mushrooms, etc. under controlled conditions and services related to agro and allied sectors) and plantations (other than tea plantations)
 - j) The manufacture of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.
- Foreign investments in trusts other than investments by SEBI-registered Foreign Venture Capital Investors (FVCI) in domestic VCFs are not permitted.

❖ Eligibility for investment in India

- A person resident outside India (other than a citizen of Pakistan) or an entity incorporated outside India, (other than an entity incorporated in Pakistan) can invest in India, subject to the FDI Policy.
- A citizen of Bangladesh or an entity incorporated in Bangladesh can invest in India under the FDI Scheme, with prior approval of the FIPB.
- The Overseas Corporate Body (OCB) has been de-recognized as a class of investors in India with effect from 16 September 2003. OCB means a company, partnership firm, society and other corporate body owned either directly or indirectly to the extent of at least 60% by NRIs and includes overseas trusts, in which not less than 60% beneficial interest is held by NRIs, either directly or indirectly, but irrevocably.

Erstwhile OCBs that were incorporated outside India and are not under the RBI's adverse notice can make fresh investments under the FDI Scheme as incorporated non-resident entities, with prior approval from the Government of India if the investment is through the government route and with the RBI's prior approval if the investment is through the automatic route.

❖ Type of instruments

Indian companies can issue equity shares, CCPS and CCDs subject to pricing guidelines or valuation norms prescribed under the FEMA Regulations. The pricing of shares / CCPS / CCDs needs to be determined upfront at the time of issuing instruments.

The issue of other types of preference shares such as non-convertible, optionally convertible or partially convertible is considered debt and accordingly needs to comply with the guidelines applicable for external commercial borrowings (ECBs). Since these instruments are denominated in rupees, the rupee interest rate will be based on the swap equivalent of London Interbank Offer Rate (LIBOR) and the spread permissible for ECBs of the corresponding maturity.

❖ Cases which require prior permission of the RBI

The following instances of transfer of equity shares / CCPS / CCDs from residents to NRs by way of sale require prior approval of the RBI:

- (i) Transfer of equity shares / CCPS / CCDs of an Indian company engaged in financial services sector (i.e., banks, NBFCs, asset reconstruction companies, Credit Information Companies, insurance companies, infrastructure companies in the securities market such as stock exchanges, clearing corporations and depositories and commodity exchanges).
- (ii) Transactions that attract the provisions of the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997.
- (iii) The activity of the Indian company whose capital instruments are being transferred falls outside the automatic route and the approval of the Government of India has been obtained for the transfer.
- (iv) The transfer is to take place at a price that falls outside the pricing guidelines specified by the RBI from time to time.
- (v) The transfer of equity shares / CCPS / CCDs where the non-resident acquirer proposes to defer paying the amount of consideration, prior approval of the RBI will be required, as hitherto.
- (vi) The transfer of capital instruments of companies engaged in sectors that fall under the government route from residents to NRs by way of sale or otherwise requires Government of India approval followed by permission from the RBI.
- (vii) The transfer of any equity shares / CCPS / CCDs by way of a gift to a person resident outside India.

❖ Investment opportunities for NRIs/PIOs

1. Investment on a repatriation basis

1.1 Investments under the FDI Scheme

NRIs and PIOs are permitted to invest under the FDI Scheme on a repatriation basis in equity shares/ CCPS / CCDs of an Indian company. FDI up to 100% for new and existing companies is permitted under the automatic route for all items and activities, except the following:

- ❖ Proposals that require compulsory industrial licensing

- ❖ Where the foreign collaborator has an existing venture or tie-up in India in the same field as on 12 January 2005, with the exception of the following cases that would not require prior FIPB approval:
 - ◆ Investment by a VCF is registered with the SEBI
 - ◆ The existing JV has less than 3% investment by either party
 - ◆ The existing joint venture is either defunct or sick
- ❖ The acquisition of shares from resident Indian shareholders of an existing Indian company is permitted in the following cases:
 - ◆ When the Indian company is engaged in the financial services sector
 - ◆ Where the activities of the Indian company fall under the government route
 - ◆ Where the SEBI (Substantial Acquisition of Shares and Takeover) Regulation, 1997 is triggered
- ❖ For proposals that fall outside notified sectoral policy/caps or sectors in which FDI is not permitted

In all other cases of foreign investment, where the project does not qualify for automatic approval, as given above, prior approval of the FIPB is required.

1.2 Investment under the Portfolio Investment Scheme (PIS)

Under the PIS, NRIs and PIOs are permitted the purchase or sale of equity shares/ CCPS/CCDs of Indian companies listed on Indian stock exchanges through a registered broker, subject to inter-alia the following conditions:

- ❖ The total paid-up value of shares or convertible debentures purchased by an NRI both on a repatriation and non-repatriation basis does not exceed 5% of the paid-up value of the Indian company's shares
- ❖ The aggregate paid-up value of shares or convertible debentures purchased by all NRIs in the Indian company does not exceed 10% of the paid-up value of the Indian company. The ceiling of 10% can be raised to 24% through a special resolution.

The sale proceeds of equity shares/CCPS/CCDs are permitted to be credited by the NRI to:

- ❖ His NRO account where the purchase was made out of the funds held in his Non Resident ordinary (NRO) account or where the purchase was on non-repatriation basis
- ❖ His NRE/FCNR/NRO account where the purchase was on a repatriation basis.

1.3 In addition, NRIs or PIOs are permitted to invest in the following on a repatriation basis:

- ❖ Government-dated securities or treasury bills
- ❖ Units of domestic mutual funds
- ❖ Bonds issued by a public sector undertaking (PSU) in India
- ❖ Non-convertible debentures of a company incorporated in India

- ❖ Shares in public sector enterprises being disinvested by the Government of India, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids
- ❖ Shares and convertible debentures of Indian companies under the FDI Scheme (including the automatic route and the FIPB)
- ❖ Shares and convertible debentures of Indian companies through the stock exchange under the PIS
- ❖ Perpetual debt instruments and debt capital instruments issued by banks in India.

2. Investment on a non-repatriation basis

- 2.1 NRIs and PIOs are allowed to purchase equity shares/CCPS/CCDs in an Indian company by way of public issue or private placement or rights issue, provided the transferee does not have a previous venture or tie-up in the same field in which the Indian company whose shares are being transferred is engaged.

The company in which the investment is proposed should not be engaged in the following:

- ❖ Chit fund/Nidhi company
- ❖ Agricultural/ Plantation activities
- ❖ Real estate business/Construction of farmhouses.

The amount invested under this scheme and the capital appreciation thereon is not permitted to be remitted abroad. However, any income from such investments can be repatriated.

- 2.2 In addition, NRIs and PIOs are allowed to invest in the following on a non-repatriation basis:

- ❖ Government-dated securities (other than bearer securities)/treasury bills
- ❖ Units of domestic mutual funds
- ❖ Units of money market mutual funds in India
- ❖ Non-convertible debentures of a company incorporated in India
- ❖ The capital of a firm or proprietary concern in India, not engaged in any agricultural or plantation activity or real estate business
- ❖ Deposits with a company registered under the Companies Act, 1956, including an NBFC registered with the RBI, or a body corporate created under an act of Parliament or State Legislature, a proprietorship concern or a firm out of rupee funds that do not represent inward remittances or a transfer from NRE/FCNR (B) accounts into the NRO account
- ❖ Commercial paper issued by an Indian company
- ❖ Shares and convertible debentures of Indian companies other than under the PIS.

Investment in real estate

❖ Overview

Transacting property in India can often be a herculean and cumbersome task, as several Central and State laws govern the process.

Some of the key Central laws governing real estate include the Transfer of Property Act 1882, the Registration Act 1908 and the Income Tax Act 1961. Further, some of the key State laws that govern planned development, rules for construction, floor area ratio and the formation of societies include rent laws and stamp duty laws.

The following section covers the tax and regulatory laws that impact the investment in immovable property by an NRI or PIO:

❖ Foreign exchange regulations

● Acquisition and transfer

NRIs and PIOs are permitted to acquire any immovable property in India other than agricultural property, plantation property and farmhouses. NRIs can also transfer such immovable property to a person resident in India or to another NRI or PIO.

● Inheritance and transfer

- NRIs and PIOs are allowed to acquire any immovable property, including agricultural property, plantations and farmhouses, by way of inheritance from any person resident in India or outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force or the FEMA regulations at the time of acquiring the property.
- NRIs can transfer agricultural land, plantation property or farmhouses acquired through inheritance to Indian citizens, NRIs and PIOs, whereas PIOs can transfer agricultural land, plantation property and farmhouses, only to Indian citizens permanently residing in India.

● Investment in companies engaged in the development of townships, housing, built-up infrastructure and construction-development projects.

NRIs and PIOs are allowed to invest in shares of companies engaged in the development of townships, housing, built-up infrastructure and construction development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional-level infrastructure) without attracting the following conditions applicable to any investments by NRs:

- The minimum area to be developed for serviced housing plots:-10 hectares for construction-development projects (50,000 sq.m)
- Minimum capitalization of US\$ 10 million for wholly owned subsidiaries and US\$ 5 million for JVs with Indian partners

- Lock-in period of three years for repatriation of investment
- Development of at least 50% of the project within a period of five years.
- Repatriation of sale proceeds

NRI and PIOs are allowed to repatriate the sale proceeds to their overseas bank accounts, subject to following conditions:

 - The amount to be repatriated should not exceed the amount paid for the purchase out of overseas funds received through normal banking channels or funds held in an FCNR account or out of domestic funds held in an NRE account
 - The repatriation of sale proceeds of residential property is restricted to two such properties.
- Rental income

NRI can also rent out immovable property and credit the amount of rent to their NRE/FCNR accounts.

❖ Tax implications

- Purchase of immovable property
 - The availability of deduction up to INR 100,000 on the repayment of principal (taken for immovable property) against total income
 - Reporting the transaction of purchase of immovable property in the tax return, if the amount of transaction exceeds INR 3,000,000
 - Payment of wealth tax if an individual's net wealth exceeds INR 3,000,000.
- Holding of immovable property
 - Inclusion of income from leasing out property after considering the deduction of interest on loan taken for the aforesaid property while determining the total income
 - Availability of deduction of up to INR 100,000 on the repayment of the principal amount (taken for immovable property) against the gross total income
 - Payment of wealth tax if the net wealth of an individual exceeds INR 3,000,000.
- Sale of immovable property
 - Inclusion of rental income from letting out of property after considering the deduction of interest on loan taken for the aforesaid property while determining the total income
 - Inclusion of capital gains arising on the sale of property
 - Capital gains arising from the sale of certain capital assets to be claimed exempt if gains or sale proceeds are reinvested in specified assets mentioned in table given below
 - Availability of deduction up to INR 100,000 on the repayment of principal (taken for immovable property) against the gross total income
 - Reporting of sale if the amount of transaction of exceeds INR 3,000,000.

Reinvestment schemes available for an NRI or PIO

Capital gain on the sale of:	Type of capital gain	Reinvestment of gains in:	Period and restrictions
Residential house property	Long term	Residential house property	<ul style="list-style-type: none">• Purchase within one year before or within two years after date of transfer or construct within three years.• Lock-in period for new asset: three years
Any long-term capital asset	Long term	Specified bonds (NABARD, NHAI, REC, SIDBI)	<ul style="list-style-type: none">• Purchase within six months of date of transfer.• Lock-in period for new asset: three years
Any long-term capital asset (other than residential house)	Long term	Residential house (net consideration to be invested and not gains)	<ul style="list-style-type: none">• Purchase within one year before or within two years after the date of transfer or construct within three years. The pending unutilized amount can be invested in a deposit account under the Capital Gains Accounts scheme.• Lock-in period for new asset: three years• No additional property (other than the new house) should be purchased within two years or constructed within three years from the date of share transfer.

SEZs in India

The Special Economic Zones (SEZs) Policy was announced in April 2000 to incentivize investment in infrastructure.

SEZs are special export-promotion areas comprising three segments - industries and commercial complexes; areas for trading and warehousing; and areas for residential, retail and other activities. As of May 2010, 353 SEZs have been notified, and the Board of Approvals has granted formal approvals to 578 SEZs.

India encourages SEZs to enable an internationally competitive and problem-free environment for export. The Government of India intends to make SEZs engines of economic growth supported by quality infrastructure. The policy was complemented by an attractive fiscal package, both at the Centre and the State level, with minimum possible regulations.

It is expected that this will trigger a significant flow of foreign and domestic investment in SEZs, in infrastructure and productive capacity, leading to the generation of additional economic activity and the creation of employment opportunities.

Further, SEZs are expected to attract the migrating rural population and augment the demand for housing and other commercial real estate. The Government of India has now allowed the access of ECBs for SEZ development under the approval route. This is expected to ease project financing.

FAQs

1. **Under the applicable foreign exchange regulations, who has general permission to purchase immovable property in India?**

General permission under the FDI policy is available to a person resident outside India who is a citizen of India (NRI) and to a PIO only for purchase of residential or commercial property in India.

2. **Is an NRI or PIO who has purchased residential or commercial property under general permission required to file any documents with the RBI?**

An NRI or PIO who has purchased residential or commercial property under general permission is not required to file any documents with the RBI.

3. **Is there any restriction on the number of residential or commercial property that an NRI or PIO can purchase under general permission?**

There is no restriction on number of residential or commercial property an NRI or PIO can purchase under general permission.

4. **Can a person resident outside India (i.e., an NRI or a PIO or a foreign national of non-Indian origin) purchase agricultural land, plantation property or a farmhouse in India?**

No. A person resident outside India cannot purchase agricultural land, plantation property or farmhouse in India.

5. **To whom can an NRI sell residential or commercial property without seeking any specific approval?**

An NRI can sell residential or commercial property in India to a person resident in India or to an NRI or a PIO.

6. **Can a PIO sell residential or commercial property without any prior approval?**

A PIO can sell residential or commercial property in India only to a person resident in the country. For transfer to any other person prior approval from the RBI is required.

7. **To whom can an NRI or a PIO transfer, through sale, his agricultural land, plantation property or farmhouse in India without any prior approval?**

Under general permission, NRI/PIO may sell his agricultural land/plantation property/farm house in India to a person resident in India who is a citizen of India.

8. **Can an NRI or a PIO transfer, through mortgage, their residential or commercial property to an authorized dealer or housing finance institution in India?**

Yes.

9. **Can an NRI or a PIO transfer by way of mortgage their residential and commercial property in India to a party abroad?**

No, prior approval of the RBI is required.

10. Under general permission available what is the payment mode for the purchase of residential or commercial property in India by an NRI or a PIO?

Under general permission, an NRI or PIO may purchase residential or commercial property in India out of funds remitted to India through the normal banking channel or funds held in his NRE/FCNR (B)/NRO account. No consideration shall be paid outside India.

11. Can the refund of application, earnest money or purchase consideration made by house-building agencies or sellers due to the non-allotment of flat/plot/cancellation of bookings/deals for the purchase of residential/commercial property together with interest, if any (net of income tax payable thereon) be credited to an NRE account?

Yes, it can, provided that the original payment was made through inward remittance or by debit to an NRE/FCNR (B) account. For this purpose, RBI permission is not required and the authorized dealer may be approached directly.

12. Can an NRI or a PIO take a loan from an authorized dealer against the security of funds held in their NRE Fixed Deposit account/FCNR (B) account for the purpose of acquisition of flat/house in India for his own residential use?

Yes, subject to certain terms and conditions as provided in the applicable provisions of the FEMA regulations.

13. Can an NRI or a PIO take a housing loan in Rupees from an authorized dealer or housing finance institution in India approved by the National Housing Finance Bank for the purchase of residential accommodation or for repairs/renovation/improvement of residential accommodation?

Yes, subject to certain terms and conditions. The borrower can repay such loans through inward remittance through the normal banking channel or by debit to their NRE/FCNR (B)/NRO account or out of rental income derived from renting out such property. Such loan can also be repaid by the borrower's close relatives through their accounts in India by crediting the borrower's loan account.

14. Can an NRI avail of a 'Rupee' housing loan from his employer in India?

Yes, subject to certain terms and conditions.

15. Can an NRI or a PIO repatriate the sale proceeds of residential or commercial property in India acquired through inward remittance via the normal banking channel or by debit to an NRE/FCNR (B)/NRO account? If so, what is the quantum?

An NRI or a PIO may repatriate the sale proceeds of residential or commercial property in India acquired through inward remittance via the normal banking channel or by debit to an NRE/FCNR (B) account. The amount to be repatriated should not exceed the amount paid for the acquisition of residential or commercial property (a) in foreign exchange received through the normal banking channel or by debit to an FCNR (B) account or (b) the foreign currency equivalent, as on the date of payment, of the amount paid by debit to the NRE account. The sale proceeds of residential or commercial property in India acquired through debit to an NRO account cannot be repatriated and should be credited to the NRO account only.

- 16. The Rupee loan availed by an NRI for the purchase of residential accommodation was repaid either by inward remittance or by debit to the NRE/FCNR (B) account. Can the sale proceeds of such property be repatriated?**

Yes. Loan repayment in foreign exchange is considered equivalent to the foreign exchange received for the purchase of residential accommodation.

- 17. Is there any lock-in period for the sale of residential or commercial property purchased out of inward remittance/debit to NRE/FCNR (B) account?**

No lock-in period is applicable for the sale of such property.

- 18. Is there any restriction on the repatriation of sale proceeds of residential property purchased by an NRI or a PIO out of funds remitted to India through the normal banking channel or funds held in their NRE/FCNR (B) account?**

Yes. The repatriation of sale proceeds is restricted to not more than two residential properties.

- 19. Can an NRI or a PIO rent out residential or commercial property purchased out of foreign exchange/Rupee funds, if not required immediately?**

Yes. As current income, rent received may be credited to an NRO/NRE account or remitted abroad.

- 20. Can an NRI who had acquired immovable property - residential or commercial property, agricultural land, plantation property or a farmhouse - in India while he was a person resident in India continue to hold or transfer such immovable property? In which account should the sale proceeds be credited?**

Yes, under the provisions of Section 6 (5) of the Foreign Exchange Management Act, 1999, an NRI who had acquired immovable property in India while he was a person resident in India may continue to hold such property. Under general permission, he may transfer through sale or gift, agricultural land/ plantation property/farm house in India to a person resident in India who is a citizen of the country and may transfer, through sale or gift, residential/commercial property in India to a person resident in India or to an NRI or a PIO. The sale proceeds may be credited to an NRO account.

- 21. Can a PIO who had acquired immovable property - residential/commercial property/ agricultural land/plantation property/farm house - in India while he was a person resident in India continue to hold or transfer such immovable property? In which account should the sale proceeds be credited?**

Yes, under the provisions of Section 6 (5) of the Foreign Exchange Management Act, 1999, a PIO who had acquired immovable property in India while he was a person resident in India may continue to hold such property. Under general permission, he may transfer agricultural land, plantation property or a farmhouse in India through sale or gift, to a person resident in India who is a citizen of the country and residential or commercial property in India through sale to a person resident in India and through gift residential or commercial property in India to a person resident in India or to an NRI or a PIO. However, if a PIO is a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan, they should seek prior approval of the RBI for the transfer of such immovable property in India. The sale proceeds may be credited to an NRO account.

22. Is the benefit of indexation available to NRIs?

Yes, the benefit of indexation will be available to an NRI on income arising from the transfer of long-term capital assets, except income arising from the transfer of shares or debentures of an Indian company acquired in foreign exchange or on bonds/debentures (except capital-indexed bonds).

23. What will the cost of acquisition be in the case of inherited assets at the time of computing capital gains?

In case an asset is acquired through inheritance, the cost of acquisition means the cost at which the previous owner of the property acquired it. This cost will be increased by the cost of any improvement of the assets undertaken by the previous and present owners.

24. Does brokerage and stamp duty constitute part of the acquisition cost while computing capital gains?

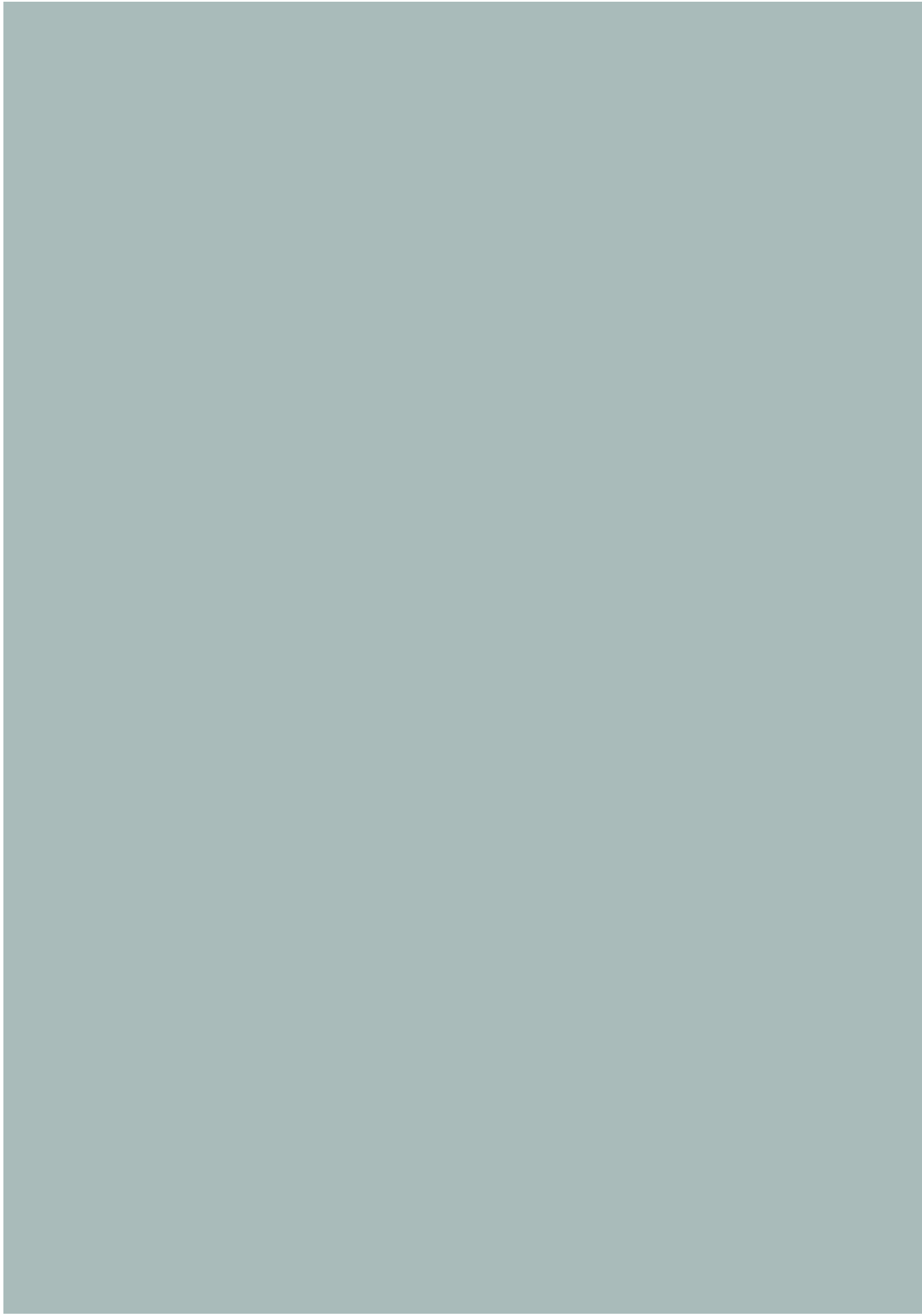
Brokerage and stamp duty paid on the purchase of capital asset is added to the cost of the capital asset. Further, the benefit of indexation is available on such cost while computing capital gains.

25. What happens if an individual is unable to reinvest the proceeds from the sale of a long-term capital asset up to the date of submission of income tax returns?

If the new asset is not acquired until the date of submission of Income Tax return to claim exemption of capital gains, the taxpayer will have to deposit the money into the Capital Gains Deposit Account Scheme with a nationalized bank until the proceeds remain unutilized. However, the new asset must be acquired by withdrawing from the account within the given time limit; otherwise, the unutilized amount will become chargeable to tax.

Starting up in India





Getting your PAN

A Permanent Account Number (PAN) is a 10-digit alphanumeric number allotted to citizens for tax identification.

❖ Persons who are required to obtain a PAN

- A person whose income exceeds the tax-free limit
- A person assessable with respect to some other person's income (representative assessee)
- A person who receives a sum from which tax has been deducted at source
- A person who intends to enter into economic or financial transactions where furnishing a PAN is mandatory.

❖ Procedure

To obtain a PAN, an individual has to furnish a duly filled Form 49A (application form) along with the following documents:

- A color photograph
- Proof of identity
- Proof of residence.

The documents required as proof of identity and proof of residence vary with an individual's citizenship. In this regard, the table below shows the documents that are accepted as a proof of identity and proof of residence for different categories of individuals:

Category of individuals	Proof of identity	Proof of residence
Citizen of India outside India	<ul style="list-style-type: none"> • Copy of passport 	<ul style="list-style-type: none"> • Copy of passport • Copy of bank account statement in country of residence • Copy of NRE bank account statement
Foreign citizen located in India	<ul style="list-style-type: none"> • Copy of passport • Copy of PIO card 	<ul style="list-style-type: none"> • Copy of passport • Copy of bank account statement in country of residence • Copy of NRE bank account statement • Copy of PIO card • Residential permit issued by State Police • Registration certificate issued by the Foreigners Regional Registration Office (FRRO) • Copy of visa application and visa granted with copy of appointment letter and certificate of Indian address issued by employer and copy of employer's PAN card
Foreign citizen outside India	<ul style="list-style-type: none"> • Copy of passport • Copy of PIO card • Copy of National ID attested or Apostilled by Indian Embassy/Consulate/High Commission 	<ul style="list-style-type: none"> • Copy of passport • Copy of PIO card • Copy of NRE Bank account statement duly attested or apostilled by the Indian Embassy/Consulate/High Commission • Copy of National ID attested or apostilled by the Indian Embassy/Consulate/High Commission • Copy of bank account statement in country of residence attested or apostilled by the Indian Embassy/Consulate/High Commission

- A PAN application can be submitted online as well, and the payment can be made through a demand draft, cheque, credit or debit card, or net banking.
- The fee varies basis the communication address furnished in the application.
- The tax authorities take 10 to 15 days to process the PAN application.

❖ Contact information

More information on PAN and related queries can be found on www.tin-nsdl.com.

FAQs

1. What does the 10-digit alphanumeric number in the PAN represent?

The PAN is a 10-digit alphanumeric number. All numbers except the fourth and fifth digit are random. The fourth digit represents the status of the assessee. The fifth digit represents the surname of individuals.

2. Is a PAN card a prerequisite for making investments in India?

To invest in any type of instrument in India, it is mandatory to have a PAN card.

3. What are the financial transactions which require quoting of PAN?

It is mandatory to quote PAN on all documents pertaining to financial transactions notified from time to time by the Central Board of Direct Taxes.

Some such transactions include:

- The sale and purchase of immovable property or vehicles
- Cash payments, exceeding INR 25,000, to hotels and restaurants or in connection with travel to any foreign country
- Transactions to obtain a telephone or cellular telephone connection.
- A time deposit exceeding INR 50,000 with a bank or post office.
- Cash deposits of INR 50,000 or more in a bank.

4. Who can apply on behalf of NRs and minors?

An NR or a minor may be represented through a Representative Assessee. In such cases, a Power of Attorney needs to be executed in the name of the representative assessee specifically, authorizing him to apply for the PAN.

5. Is there a need to apply for a new PAN in case of a change in address?

PAN is permanent by nature and does not change during a PAN holder's lifetime. However, change of address may change the assessing officer. Therefore, such changes need to be intimated to the Income Tax Department by making a request in a Request for New PAN Card or/and Changes in PAN data form. This form can also be filled and submitted online.

6. Can a person have more than one PAN?

No, a person cannot have more than one PAN. Possessing multiple PAN is against the law and may attract a penalty of up to INR 10,000.

7. Is proof of identity in a foreign language accepted by Income Tax?

The Income Tax Department has not clarified the need to have the document translated into English. However, practically, the authorities do not accept a document in a foreign language. The proof of identity has to be translated and duly attested / apostilled by the Indian Embassy/Consulate/High Commission.

Banking in India

❖ Permissible bank account for NRIs/PIOs

In accordance with the Foreign Exchange Management (Deposit) Regulations, 2000, NRIs and PIOs are permitted to open the following types of bank accounts in India:

1. Non-Resident (External) Rupee (NRE) Account

NRI/ PIOs (except individuals/entities of Bangladesh/Pakistan nationality/ownership) are permitted to open and maintain NRE accounts with AD Category-I banks (AD banks). Following are the important features of an NRE account:

- 1.1. The accounts may be maintained in any form, e.g., savings, current, recurring or fixed deposit account.
- 1.2. Permitted credits include:
 - ❖ Proceeds of remittances to India
 - ❖ Proceeds of personal cheques drawn by the account holder on their foreign currency account and of traveler's checks, bank drafts payable in any currency, including instruments expressed in Indian rupees, for which reimbursement will be received in foreign currency
 - ❖ Proceeds of foreign currency/bank notes tendered by the account holder during their temporary visit to India
 - ❖ Transfers from other NRE/FCNR accounts
 - ❖ Interest accruing on funds held in the account
 - ❖ Interest on government securities and dividend on units of mutual funds
 - ❖ Maturity proceeds of government securities, including a National Plan/Savings Certificate as well as proceeds of government securities and units of mutual funds sold on a recognized stock exchange in India
 - ❖ Refund of share/debenture subscriptions to new issues of Indian companies
 - ❖ Refund of application/earnest money/purchase consideration made by house-building agencies/seller on account of non-allotment of flat/plot/cancellation of bookings/deals for the purchase of residential/commercial property, together with interest, if any (net of income-tax payable thereon)
 - ❖ Any other credit if covered under general or special permission granted by the RBI.
- 1.3. Permitted debits:
 - ❖ Local disbursements
 - ❖ Remittances outside India

- ❖ Transfer to NRE/FCNR accounts of the account holder or any other person eligible to maintain such an account
 - ❖ Investment in the shares/securities/commercial paper of an Indian company or for the purchase of immovable property in India.
- 1.4. Interest rates on NRE savings deposits shall be at the rate applicable to domestic savings deposits. Currently, the interest rate is 3.5%.
 - 1.5. On the account holder's return to India for employment, conducting business or any other purpose indicating the holder's intention to stay in India for an uncertain period, NRE accounts are re-designated as resident accounts. Alternatively, funds held in these accounts need to be transferred to Resident Foreign Currency (RFC) accounts at the option of the account holder. Where the account holder is only on a short visit to India, the account may continue to be treated as an NRE account even during the stay.
 - 1.6. NRE accounts can be opened as joint accounts in the names of two or more NRIs/PIOs.
 - 1.7. Income from the interest on balances standing to the credit of NRE accounts is exempt from the applicability of income tax.

2. Foreign Currency (NR) Account (FCNR)

NRIs/PIOs (except individuals/entities of Bangladesh/Pakistan nationality/ownership) are permitted to open and maintain these accounts with AD banks. Following are important features of an NRE account:

- 2.1 FCNR accounts are permitted to be opened with funds remitted from outside India through normal banking channels or funds received in rupees by debit to the account of a non-resident bank or funds that are of repatriable nature or by the transfer of funds from existing NRE/FCNR accounts.
- 2.2 Remittances from outside India to open, or credit to, these accounts should be made in the designated foreign currency in which the account is desired to be opened and maintained. Presently, deposits can be placed in six specific foreign currencies — the US dollar, the Pound Sterling, the Euro, the Japanese Yen, the Australian dollar and the Canadian dollar.
- 2.3 These accounts may be opened only in the form of term deposits, with the maturity of such periods as may be specified by the RBI from time to time.
- 2.4 Rate of interest could be fixed or floating within the ceiling rate of LIBOR/SWAP rates for the respective currency/corresponding term minus 25 basis points. Interest on balances held in these accounts may be paid on a half-yearly or annual basis as the depositor desires.
- 2.5 In the event that an account holder becomes a person resident in India, deposits may be allowed to continue until the maturity period at the contracted rate of interest. However, except provisions relating to the rate of interest and reserve requirements for all other purposes, such deposits shall be treated as resident deposits from the date of the account holder's return to India.

3. Non-resident ordinary (NRO) Rupee account

Any person resident outside India, including an NRI/PIO (except individuals/entities of Bangladesh/

Pakistan nationality/ownership) are permitted to open an NRO account with AD banks to execute bonafide transactions in rupees not involving any violation of the FEMA provisions.

- 3.1 NRO accounts may be opened or maintained in the form of current, savings, recurring or fixed deposit accounts.
- 3.2 Permissible credits:
 - ❖ Proceeds of remittances received in any permitted currency from outside India through normal banking channels or any permitted currency tendered by the account holder during their temporary visit to India or transfers from rupee accounts of non-resident banks
 - ❖ Legitimate dues of the account holder in India.
- 3.3 Permissible debits:
 - ❖ All local payments in rupees, including payments for investment subject to compliance with the relevant regulations made by the RBI
 - ❖ Remittance of the account holder's current income in India when they are outside the country net of applicable taxes.
- 3.4 Balances in NRO accounts are not eligible for remittance outside India without the RBI's approval. Funds received through remittances from outside India in foreign exchange, which have not lost their identity as remittable funds, will only be considered by the RBI for remittance outside India.
- 3.5 NRO accounts may be held jointly with residents.
- 3.6 Change of the account holder's residential status:
 - ❖ From resident to non-resident

When a person resident in India leaves India for another country (other than Nepal or Bhutan) for employment, conducting business, or any other purpose, indicating intention to stay outside India for an uncertain period, his existing account should be designated as a Non-Resident (Ordinary) account.
 - ❖ From non-resident to resident

NRO accounts may be re-designated as resident rupee accounts on the account holder's return to India for employment, conducting business or any other purpose, indicating their 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 a non-resident account.

❖ Documents required for opening bank accounts

Following is a list of documents required for opening an NRE/FCNR/NRO account:

- Copy of the passport - pages containing the applicant's passport and personal details
- Copy of valid visa or work permit
- Passport-sized photograph of the applicant

- Proof of Indian or overseas residence
- Additionally, a secondary identification proof based on the applicant's country of residence (documents such as telephone bill, electricity bill, or cancelled paid cheque drawn on overseas bank/ driver's license).

While some banks accept self-attested copies of passports and resident ID proof, some require them to be duly attested by a banker, notary public, the Indian Embassy in the country of residence or a person known to the bank.

❖ Remittance of funds outside India

1. Remittance of current income

NRIs and PIOs can remit current income such as rent, dividend, pension and interest from the NRO account since it qualifies for permissible debit. NRIs and PIOs not maintaining an NRO account may repatriate current income (net of taxes) through AD banks.

2. Remittance of assets

NRIs and PIOs are permitted to remit an amount of up to US\$ 1 million per financial year out of the balances held in an NRO account or from the sale proceeds of assets (inclusive of assets acquired through inheritance or settlement), for all bonafide purposes, subject to the satisfaction of the AD bank, and on the production of an undertaking by the remitter and a certificate by a chartered accountant in the prescribed formats.

The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan.

The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.

3. Repatriation of sale proceeds of residential property purchased by NRIs and PIOs out of foreign exchange

The repatriation of sale proceeds of residential property purchased by an NRI or PIO is permitted to the extent of the amount paid for the acquisition of immovable property in foreign exchange received through banking channels. The facility is restricted to not more than two such properties. The balance amount can be credited to the NRO account and can be remitted under the previously mentioned US\$ 1-million facility.

NRIs and PIOs are permitted to repatriate amounts representing the refund of applications, earnest money, or purchase considerations made by house-building agencies or sellers on account of non-allotment of flats, plots, or the cancellation of bookings or deals for the purchase of residential and commercial property, together with interest, if any (net of income tax payable thereon) provided that the original payment was made out of NRE / FCNR (B) account of the account holder, or remittance from outside India through normal banking channels, provided that the AD bank is satisfied with the genuineness of the transaction.

4. Returning NRI/PIOs

Returning NRIs or PIOs are permitted to open, hold and maintain an RFC account with the AD bank to transfer balances held in NRE/FCNR (B) accounts. Proceeds of assets held outside India at the time of return can be credited to the RFC account. Funds in RFC accounts are free from all restrictions regarding the utilization of foreign currency balances, including any restriction on investment in any form outside India.

❖ Borrowings by NRIs

NRIs and PIOs are permitted to avail loans and advances from AD banks in accordance with the provisions of the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000. AD banks can grant loans and advances to NRIs and PIOs either against the security of shares or other securities held in the name of the NRI or against the security of immovable property (other than agricultural or plantation property or farm house), subject to the following conditions:

- Loans shall be utilized to meet borrowers' personal requirements or for business purposes.
- The loan amount shall not be credited to NRE/ SCNR/ NRNR account of the borrower.
- The loan amount shall not be remitted outside India.
- Loan repayments shall be made from remittances received from outside India through normal banking channels or debit to the NRO/NRSR/NRNR/NRE/FCNR account of the borrower or from the sale proceeds of the shares or securities or immovable property against which such a loan was granted.
- Loans shall not be utilized for:
 - Investment in capital markets, including margin trading and derivatives
 - Business of chit fund
 - Nidhi company
 - Agricultural or plantation activities or in the real estate business or the construction of farmhouses
 - Trading in Transferable Development Rights.

FAQs on permitted bank accounts for NRIs/PIOs

Particulars	FCNR	NRE	NRO
Who can open an account?	NRIs (Individuals / entities of Bangladesh/ Pakistan nationality/ownership require prior approval of the RBI)	NRIs (Individuals / entities of Bangladesh / Pakistan nationality/ownership require prior approval of the RBI)	Any person resident outside India (other than a person resident in Nepal and Bhutan) (Individuals / entities of Bangladesh / Pakistan nationality / ownership as well as erstwhile OCBs require prior approval of the RBI)
Joint account	In the names of two or more non-resident individuals	In the names of two or more non-resident individuals	May be held jointly with residents
Nomination	Permitted	Permitted	Permitted
Currency in which the account is denominated	Pound Sterling, US dollar, Japanese Yen, Euro, Canadian dollar and Australian dollar	Indian rupee	Indian rupee
Repatriable	Repatriable	Repatriable	Not repatriable except for the following in the account: 1) current income 2) up to US\$ 1 million per financial year (April–March), for any bonafide purpose out of the balances in the account / sale proceeds of assets in India acquired through inheritance / legacy inclusive of assets acquired out of settlement, subject to certain conditions.
Type of account	Term Deposit only	Savings, current, recurring, fixed deposit	Savings, current, recurring, fixed deposit
Period for fixed deposits	For terms not less than one year and not more than five years	At the discretion of the bank	As applicable to resident accounts

Particulars	FCNR	NRE	NRO
Rate of interest	<p>Subject to a cap:</p> <p>LIBOR/SWAP rates minus 75 basis points for the respective currency / corresponding maturities</p>	<p>Subject to a cap:</p> <p>Fixed deposits:</p> <p>LIBOR /SWAP rates, as on the last working day of the previous month, for the US dollar of corresponding maturities with effect from close of business on 24 April 2007</p> <p>Savings bank account</p> <p>Interest rate at the rate applicable to domestic savings account with effect from close of business in India on 17 November 2005</p>	<p>Banks are free to determine interest rates for term deposits</p>
Operations by Power of Attorney in favor of a resident by the non-resident account holder	<p>Operations by Power of Attorney are restricted to withdrawals for permissible local payments or remittance to the account holder through normal banking channels</p>	<p>Operations by Power of Attorney are restricted to withdrawals for permissible local payments or remittance to the account holder through normal banking channels</p>	<p>Operations by Power of Attorney are restricted to withdrawals for permissible local payments or remittance to the account holder through normal banking channels</p>

Building your portfolio in India

NRIs wanting to invest in Indian stock market should:

- Open a NRE/NRO savings bank account with a designated bank (AD) branch approved by the RBI for this purpose.
- Apply for a general approval for investment in the Indian stock market through a designated bank branch (PIS approval).
- Open a DEMAT account with a depository participant (DP) to hold their shares.
- Register with a broker to execute their buy/sell orders on the stock exchange(s).

❖ Portfolio Investment Scheme (PIS)

The PIS allows NRIs to acquire shares/debentures of Indian companies or units of domestic mutual funds through the stock exchange(s) in India.

Documents required for opening a PIS account:

Identity proof:

- PAN card copy
- Passport copy (relevant page where the photograph and address appears)
- In case an NRI is applying in India, a visa (on arrival) page where the immigration stamp appears, indicating the NRI's presence in the country
- PIO card/Passport of parents with Indian citizenship for proving PIO status.

Address proof:

For overseas and Indian residential or correspondence address-certified copy of any one of the following will be required:

- Recent bank statement or passbook (not more than two months old) is required. In case of a PAN application, an original bank statement for the residential address will be needed.
- Copy of driving license
- Electricity bills (not more than two months old)
- Residence telephone bills (not more than two months old).

Attestation:

- If applying in India:

Documents need to be self attested and attested by an employee of the bank in which the account is being setup.

- If applying from outside India:

To adhere to know-your-customer (KYC) norms, signature and photo in the account opening form, identity and address proofs, PAN card copy (if given) along with the proof of address should be attested by a notary public, local banker, or official of the Indian Embassy in the country of residence. The attestation is to the effect that copies have been “verified with the originals.” All documents have to be also self-attested.

❖ **DEMAT account**

DEMAT accounts not only facilitate the buying and selling of shares online but also help in mutual funds and IPO investments online.

Documents required for opening a DEMAT account:

- Completely filled and signed account-opening form
- Copy of PAN card
- Proof of Identity (Copy of passport is mandatory)
- Proof of PIO (in case of a PIO)
- Proof of address
- Proof of bank account (bank statement/passbook/cancelled cheque)
- Proof of DP (holding statement/delivery instruction slip)
- Photograph and signature of the nominee.

Requirement for the attestation of documents will be similar to that for PIS account mentioned above.

Gifts and Inheritance





Gifts

Gift refers to the transfer of certain existing movable or immovable property made voluntarily and without consideration, by one person to another.

It is very common for people to receive gifts from friends and relatives. However, one needs to be mindful of regulations governing gifts. Some of these are entailed below.

❖ Exchange control

1. Gift of shares/securities:

1.1. By NRs/NRIs/PIOs in favor of resident Indians

A person resident outside India can freely transfer equity shares/CCPS/CCDs by way of a gift to a person resident in India as under:

- ❖ Any person resident outside India, (not an NRI or an erstwhile OCB), may gift their shares/fully and mandatorily convertible debentures to any person resident outside India.
- ❖ NRIs may gift, their shares/convertible debentures to another NRI only, provided that the latter has obtained prior permission of the Central Government to acquire the shares if he has previous ventures or tie-ups in India through investments in shares or debentures, a technical collaboration or a trademark agreement or investment in the same or allied field in which the Indian company whose shares are being transferred is engaged.

- ❖ Any person resident outside India may transfer share/fully and mandatorily convertible debentures to a person resident in India by way of gift.

1.2 By resident Indians in favor of NRs/NRIs/PIOs

A person resident in India who proposes to transfer security by way of gift to a person resident outside India [other than erstwhile OCBs] shall apply to the Central Office of the Foreign Exchange Department, RBI, furnishing the following information:

- ❖ Name and address of the transferor and the proposed transferee
- ❖ Relationship between the transferor and the proposed transferee
- ❖ Reasons for making the gift
- ❖ In the case of government-dated securities, treasury bills and bonds, a certificate issued by a chartered accountant on the market value of such securities
- ❖ In case of units of domestic mutual funds and units of money market mutual funds, a certificate from the issuer on the net asset value of such security
- ❖ In the case of shares/fully and mandatorily convertible debentures, a certificate from a chartered accountant on the value of such securities according to the guidelines issued by the SEBI or the discounted cash flow (DCF) method with regard to listed companies and unlisted companies, respectively
- ❖ Certificate from the Indian company concerned certifying that the proposed transfer of shares/convertible debentures, by way of gift, from resident to the non-resident, shall not breach the applicable sectoral cap/FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5% of the paid-up capital of the company.

The transfer of security by way of gift may be permitted by the RBI, provided that:

- ❖ The donee is eligible to hold such security in accordance with the FEMA regulations made there under.
- ❖ The gift does not exceed 5% of the paid-up capital of the Indian company/ each series of debentures/ each mutual fund scheme.
- ❖ The applicable sectoral cap/FDI limit in the Indian company is not breached.
- ❖ The donor and the donee are relatives as defined in Section 6 of the Companies Act, 1956.
- ❖ The value of security to be transferred by the donor, together with any security transferred to any person residing outside India as gift in the calendar year, does not exceed the rupee equivalent of US\$ 25,000.
- ❖ Such other conditions as considered necessary in public interest by the RBI.

2. Gift of immovable property

- 2.1. An NRI or PIO may acquire residential or commercial property by way of gift from a person resident in India or an NRI or a PIO except agricultural land/plantation property/farmhouse. NRs are not permitted to acquire immovable property by way of gift from a person resident in India.
- 2.2. An NRI can transfer agricultural land/farm house/plantation property in India as a gift to a person resident in India who is a citizen of India or to another NRI or PIO.
- 2.3. A PIO can transfer any immovable property other than agricultural land, plantation property or a farmhouse in India as a gift to a person resident in India or an NRI or a PIO.

❖ Tax implications

It is important to note that gifting is accompanied with several tax implications.

1. Gifts received in cash

Gifts of money received by an individual of an amount exceeding INR 50,000 in aggregate (subject to some exceptions) in one financial year would be taxable in the hands of the recipient.

2. Gifts received in kind

Gift received in kind subject to some exceptions are taxable as follows:

Movable property

- Fair market value of Movable property including shares and securities, jewelry, archeological collections, drawings, paintings, sculptures, or any work of art received without consideration and where the aggregate fair market value of the gift exceeds INR 50,000.
- Difference between the aggregate fair market value and consideration is chargeable to tax if Movable property (as described above) is received for a consideration that is less than the fair market value by an amount that exceeds INR 50,000.

Immovable property

- Any immovable property received without consideration where the stamp duty value of the property exceeds INR 50,000. The stamp duty value of the property will be chargeable to tax.
- Difference between stamp duty value and consideration is chargeable to tax if any immovable property received for a consideration less than the stamp duty value.

3. However, certain gifts are not taxable; these include:

- i) Gifts from relatives

Relatives of the recipient includes spouse, brother, sister, brother or sister of parents, brother or sister of spouse, any lineal ascendant or descendant, any lineal ascendant or descendant of spouse, or the spouse of any individual

- ii) Gifts received on marriage

However, gifts received on other occasions such as birthdays, anniversaries, festivals and engagements will be chargeable to tax

- iii) Gift received under a will or by way of inheritance, or in contemplation of death of the payer
- iv) Gift received on certain other events
- v) Any gift received from any local authority, fund or foundation, university or other educational institution, or hospital or other medical institution or any trust/institution, as specified.

4. Income from gifts

- There is no capital gain if the property is transferred through gift. However, the income accruing from the gifted property will be taxed in the hands of the donor, in accordance with the Income Tax Act.
- If the donee plans to sell the gifted property, he has to pay capital gains tax. For this, the cost of acquisition will be the cost at which the previous owner acquired the property.

❖ Stamp duty and registration

- Gifts received are fairly prone to litigation. Hence, it is advisable that the gift is made through a registered document signed by the giver of the gift and attested by at least two witnesses.
- Gifts also attract stamp duty and registration charges as applicable to a sale deed. However, gifts to family members attract a relatively low rate of stamp duty. The stamp duty rates vary in different States.

Inheritance

Technically, any individual is entitled to receive, including by inheritance, property situated in India regardless of his residency or citizenship. However, the transfer of ownership and the holding of the property must adhere to the following regulations:

❖ Foreign exchange regulations

- NRIs and PIOs are permitted to acquire any immovable property in India by way of inheritance from a person resident outside India who acquired such property in accordance with the provisions of the foreign exchange law in force at the time of the acquisition or from a person resident in India.
- PIOs may acquire any immovable property in India by way of inheritance from a person resident in India or a person resident outside India who acquired such property in accordance with the provisions of the foreign exchange law in force.
- The PIO may transfer agricultural land, plantation property or a farmhouse in India acquired by way of inheritance, by way of sale or gift to person resident in India who is a citizen of India.
- A person resident outside India may hold any immovable property in India acquired by way of inheritance from a person resident outside India, with prior approval of the RBI, provided the bequestor had acquired such property in accordance with the provisions of foreign exchange law in force at the time of acquisition.

❖ Tax implications

- There is no capital gain if the property is transferred through inheritance. However, any income generated out of these inheritances is added to taxable income, for example, rent, equity gains or interest on fixed deposits.
- If the individual plans to sell the inherited property, he has to pay capital gains tax. For this, the cost of acquisition will be the cost at which the previous owner acquired the property including the cost of improvement.

❖ Stamp duty and registration

Stamp duty implication, as also described in the case of gifts, will arise if the property is transferred during the lifetime of the bequestor. The person who inherits property must ensure that the documents of title of property are in order. These documents are critical, especially if one intends to sell the property further.

FAQs

1. **Can an NRI or a PIO acquire residential or commercial property by way of gift under general permission?**

Yes. Under general permission, an NRI or a PIO may acquire residential or commercial property by way of gift from a person resident in India or an NRI or a PIO.

2. **Can a foreign national of non-Indian-origin resident outside India acquire residential or commercial in India by way of gift?**

No. Under Section 2 (ze) of the Foreign Exchange Management Act, 1999 “transfer” includes, among others, “gift”. Therefore, a foreign national of non-Indian-origin resident outside India cannot acquire residential or commercial property in India by way of gift.

3. **Can a person resident outside India (i.e., an NRI or a PIO or a foreign national of non-Indian origin) acquire agricultural land/plantation property/farm house in India by way of gift?**

No. A person resident outside India cannot acquire agricultural land/plantation property/farm house in India by way of gift.

4. **Can a person resident outside India (i.e., an NRI or a PIO or foreign national of non-Indian origin) hold any immovable property in India acquired by way of inheritance from a person resident in India?**

Yes. According to the provisions of Section 6(5) of the Foreign Exchange Management Act, 1999, a person resident outside India can hold immovable property acquired by way of inheritance from a person resident in India.

5. **Can a person resident outside India (i.e., an NRI or a PIO or foreign national of non-Indian origin) hold any immovable property in India acquired by way of inheritance from a person resident outside India?**

With specific RBI approval a person resident outside India may hold any immovable property in India acquired by way of inheritance from a person resident outside India, provided the bequestor acquired such property in accordance with the provisions of foreign exchange law in force at the time of acquisition or under the FEMA regulations.

6. **Under general permission available can NRI/PIO transfer his residential/commercial property by way of gift?**

Yes. An NRI or a PIO may transfer by way of gift residential or commercial property in India to a person resident in India or to an NRI or a PIO.

7. **Under general permission to whom can an NRI or a PIO transfer by way of gift agricultural land, plantation property or a farmhouse in India?**

Under general permission, an NRI or / a PIO may transfer by way of gift land/, plantation property/ or a farm house in India to a person resident in India who is a citizen of the country.

8. Can a foreign national of non-Indian origin outside India transfer by way of gift agricultural land, plantation property or a farmhouse acquired by them in India?

No. A foreign national of non-Indian origin resident outside India will need to seek prior approval of the RBI for transfer, by way of gift, of agricultural land, plantation property or a farmhouse acquired by him in India.

9. In which account can the sale proceeds of residential or commercial property received by way of gift by an NRI/PIO be credited?

The sale proceeds of residential or commercial property received by way of gift by an NRI or a PIO should be credited to an NRO account only.

10. Can sale proceeds of any immovable property inherited by an NRI or a PIO or any other person from a person resident in India be remitted abroad?

Yes. An amount not exceeding US\$ 1 million per calendar year, subject to the production of documentary evidence in support of an inheritance and a no objection certificate from an Income Tax authority to the authorized dealer for remittances. However, if such person is a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China or Iran, such a person should seek prior approval of the RBI with documentary evidence in support of an inheritance and no objection certificate from an Income Tax authority. This remittance facility is not available to a citizen of Nepal or Bhutan.

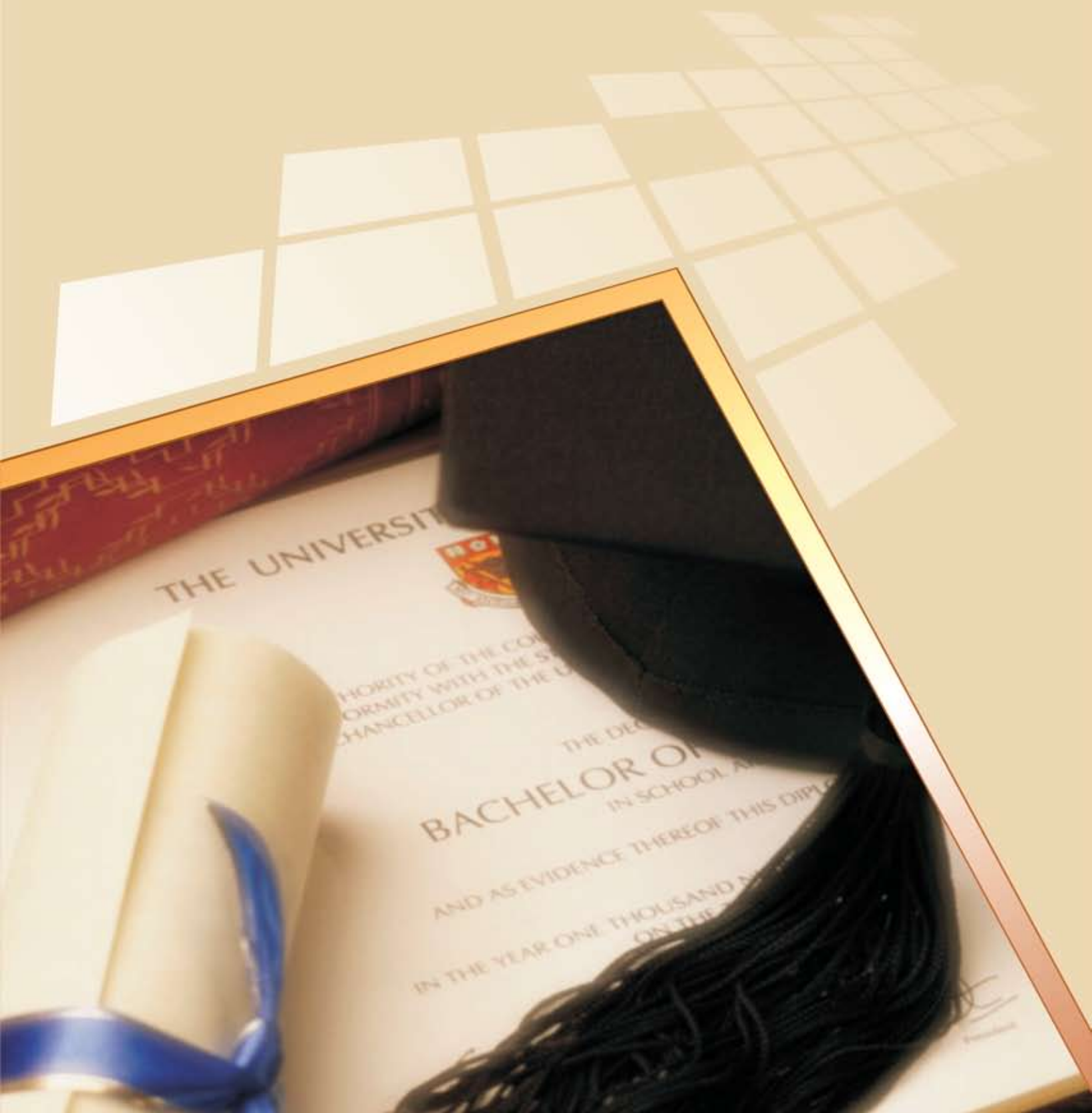
11. Can sale proceeds of any immovable property in India, inherited by a foreign national of non-Indian origin resident outside India, from a person resident in India, be repatriated by him?

Yes. An amount not exceeding US\$ 1 million per calendar year, subject to the production of documentary evidence in support of an inheritance and a no objection certificate from an Income Tax authority to an authorized dealer for remittances. However, a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China or Iran shall seek prior approval of the RBI, with documentary evidence in support of an inheritance and a no objection certificate from an Income Tax authority. This remittance facility is not available to a citizen of Nepal or Bhutan.

12. Can sale proceeds of any immovable property in India, inherited by a person resident outside India (i.e., an NRI or a PIO or foreign national of non-Indian origin outside India), from a person resident outside India be repatriated by him or his successor?

No. He needs to seek prior approval of the RBI with documentary evidence in support of an inheritance and a no objection certificate from an Income Tax authority.

Privileges for Overseas Indians in the area of education





Education: nurturing new India

❖ Overview

The education sector of a country plays a crucial role in its overall growth and development. In India, education as a service sector is not only relevant to the national GDP but also important because of the quantum of white-collar workforce it generates to fire the engine of growth at the macro level.

Over the last decade, the education sector has seen tremendous growth. This trend can be primarily attributed to the changing macroeconomic trends taking shape in the economy from the demand side. These include increasing expenditure on education, new categories of students, willingness to pay for academic quality, the growing demand for global education and the demand for employability-linked education.

Firstly, the move toward a service-driven economy has generated demand for a large skilled workforce. This has driven enrolments in higher education and has also influenced the composition and preference of students. New trends include new categories of customers, such as students from the underserved sections of the population and professionals, and increased spending by existing customers. The willingness to pay for academic quality is now visible among the Indian population, as also the availability of finance for students has become easy.

Secondly, Government spending on education has substantially increased. The Government of India has augmented supply by setting up new institutes and by aggressively increasing its expenditure to improve infrastructure for higher education.

These trends have driven the need for additional requirement of investment worth INR 5,071,280 million in this sector. To meet this growing demand, the Government of India has passed several bills in Parliament to ease regulatory procedures for entry of foreign educational institutions. Further, privatization and globalization have impacted the industry. While established players are expanding, many new players have also entered the market. Thus, the education sector has featured among the top three investment destinations for private equity (PE) investors and has attracted PE investments worth US\$10 billion till November 2010.

With close to 504 universities and university-level institutes and around 25,951 colleges, the Indian education sector is becoming increasingly attractive as a destination for students and faculty from abroad. New doors have opened up for foreign investors in new spheres, including “diversity” - in mode of delivery and types of institutes and courses - and “collaboration” with existing players. Technology-enabled learning and distance learning are defining new modes of delivery. The investment opportunity in affordable and specialized education segments is, therefore, significant. Vocational and new-age courses such as fashion designing and animation have opened up new vistas for players. Collaboration for course delivery, course design, research, and faculty exchange is expected to go a long way in improving the quality of the education system in the country.

With dynamic change defining the current education landscape in the country, the industry is seemingly well-poised to transform into a hotspot for investment.

❖ Opportunities for Diaspora students

Following privileges are available to Diaspora students

Scholarship Programme for Diaspora Children (SPDC)

The Ministry of Overseas Indian Affairs (MOIA) introduced this program in the academic year of 2006–07, for PIOs and NRIs to help them pursue higher and technical education in India. Educational Consultants India Limited (EdCIL), a Government of India enterprise, is the designated nodal agency for implementing the program, under which financial assistance (towards tuition fee, admission fee and post-admission services) is provided for applicable undergraduate, professional and general courses.

Under the SPDC, scholarships are provided to 100 select students, with 50 in the NRI category and 50 in the PIO category. In the event that there is no availability of suitable PIO candidates, unfilled slots can be offered to NRI candidates.

Direct Admission to Students Abroad (DASA)

DASA is a Government of India-run scheme that provides deserving foreign nationals/ PIOs/ NRIs direct admission to undergraduate programs. EdCIL administers the scheme, which offers students the opportunity to pursue programs at the National Institute of Technology and other centrally funded institutes (other than the Indian Institutes of Technology, or IITs).

Reservation for NRIs at Indian educational institutions

The Government of India has approved a scheme to enable a supernumerary quota of 15% seats at all higher education institutes for foreign nationals/ PIOs/ children of Indian workers in the Gulf countries. There shall be no NRI fee and, in fact, the children of Indian workers in the Gulf countries shall be treated as equal to resident Indian citizens.

❖ Opportunities for Diaspora faculty

Recruitment of PIOs at IITs

The Ministry of Human Resource Development (MHRD) recently permitted the IITs to hire PIOs as permanent faculty.

Central and State Government initiatives for Overseas Indians





Central and State Government initiatives for Overseas Indians

Both the Centre and the States in India are committed to the common interests and concerns of NRIs. Various programs have been initiated for the engagement and welfare of the NRI community.

❖ Initiatives:

Facilitating investment in India

The MOIA and the CII have set up the Overseas Indian Facilitation Centre (OIFC) for the following:

- To promote Overseas Indian investments in India and facilitating business partnerships
- Establishing and maintaining a Diaspora knowledge network
- Assisting States in India to project investment opportunities for Overseas Indians and
- Offering a host of advisory services to PIOs and NRIs.

The governments of Gujarat, Karnataka, Kerala, Orissa and Punjab have partnered with the OIFC to apprise the Diaspora of investment opportunities in their respective States.

Indian Community Welfare Fund (ICWF)

The Government of India has set up a community welfare fund in 48 Indian missions abroad to facilitate the Diaspora community in times of difficulty. It is expected that this assistance will be extended to all missions around the world.

The ICWF is aimed at providing “onsite” welfare services on a means-tested basis in the most deserving cases. This includes:

- Boarding and lodging for distressed NRI workers in Household / domestic sectors and unskilled laborers
- Extending emergency medical care to NRIs
- Providing air passage to stranded NRIs
- Providing initial legal assistance to NRIs in deserving cases
- Expenditure on incidentals and on airlifting mortal remains to India or the local cremation or burial of the deceased NRI in such cases where there is no one to bear the cost.

Know India Program (KIP)

The KIP is a three-week orientation program for Diaspora youth in the age group of 18–26 years. It provides awareness around the diverse facets of the country and the progress the country has made in various fields. These are conducted in partnership with one or two State Governments.

The participants, PIOs, are selected based on recommendations received from heads of Indian missions and posts abroad. As part of the program they get the opportunity to interact with high dignitaries as well as faculty and students at prestigious institutions. 90% of the cost of air ticket is refundable on the successful completion of the program.

Scholarship Programme for Diaspora Children

Under this scheme, 100 PIO and NRI students are awarded scholarships of up to US\$ 3,600 per annum for undergraduate courses in engineering, technology, humanities, liberal arts, commerce, management, journalism, hotel management, agriculture and animal husbandry, among other courses. The scheme is being implemented through EdCIL (India) Ltd. It is open to NRIs and PIOs from more than 40 countries with a substantial Indian population.

Tracing their roots

PIOs who want to trace the roots of their ancestors in India can apply through the Indian mission or post in the country of their residence.

Reservation of seats at Indian educational institutions

The government has approved a scheme enabling the supernumerary quota of 15% seats in all institutions of higher education or universities offering higher and technical courses for foreign nationals, or PIOs and children of Indian workers in the Gulf countries.

It has also been envisaged that one-third of the 15% supernumerary quota shall be reserved across different disciplines for the children of Indian workers in the Gulf countries.

Further, the concerned State Government or Union Territory shall notify the tuition and other fee for candidates to be admitted under the foreign national/ PIO category. There shall be no NRI fee. The children of Indian workers in the Gulf countries shall be treated at par with resident Indian citizens.

❖ Special facilities offered by the OIFC Partner States to NRIs

Government of Gujarat

❖ Initiatives:

Facilitating investment

- Industrial Extension Bureau (iNDEXTb), Gujarat: INDEXTb is the Gujarat's investment promotion agency. It provides a single point of contact for all investment-related activities in the State. The INDEXTb's broad areas of functioning include investment promotion both in industrial and infrastructure projects; promoting NRIs and Foreign Investments; and coordinating with various departments of the Centre and the States.
- Non Resident Gujaratis Foundation (NRGF): The Government of Gujarat established the NRGF in 1998. The foundation offers the following types of assistance:
 - Assistance in legal disputes

Non Resident Gujarati (NRG) District Committees have been set up to resolve any issues that NRI Gujaratis may face, including those related to property in their native homes in the state. NRG centers have been established to assist NRGs in resolving their problems at the local level.
 - Gujarati language cultural support

NRGF has initiated a project to develop educational CD ROMs on Gujarati, distribute books and other material for self-instruction of Gujarati and create awareness around Gujarat and its past and present.
 - The Gujarat Card

Through the Gujarat Card, NRGs can avail of several rebates and discounts on products and services.
 - Honorary representatives

The Government of Gujarat has decided to appoint suitable individuals or organizations of eminence from the NRG community as its honorary representatives to contribute their suggestions and ideas on the State's development policy.
 - Philanthropy/Donations

The Government of Gujarat has floated several schemes for the development of the State. Donations from the public are accepted for these schemes. Vatan Seva, a book on different schemes for service to the country is published and distributed among NRGs/NRIs. Several NRGs attached to their homeland have offered donations for the development of local infrastructure.

Useful contacts:

Industrial Extension Bureau (iNDEXTb)

Block No. 18, 2nd floor

Udyog Bhavan, Sector 11, Gandhinagar - 382 017

Ph: +91 79 2325 6009, 23250492

E-mail: indextb@indextb.com, Website: www.indextb.com

Gujarat State Non-Resident Indian Department

General Administration Department

Block No.7/1st floor, Sardar Bhavan

Sachivalaya, Gandhinagar - 382 010

Ph: +91 79 23250474, 23250478

Email: dsnri@yahoo.in, Website: www.nri.gujarat.gov.in

Gujarat State Non-Resident Gujaratis' Foundation

Block No.16, 3rd floor, Udyog Bhavan,

Gandhinagar - 382 011

Ph: +91 79 23238278, 23251314

Email: nrgfoundation@yahoo.co.in

Website: www.nri.gujarat.gov.in

For more information, log on to www.gujarat.gov.in

Government of Karnataka

❖ Initiatives:

Facilitating investment

The Government of Karnataka has set up Karnataka Udyog Mitra, a single contact point for all investors looking to set up businesses in the State. As the nodal agency, Karnataka Udyog Mitra's role is to facilitate investments and execute initiatives to enable smooth transition from receiving an investment proposal to eventual project implementation.

In addition, the State Government has set up the NRI Forum to promote and assist NRIs in their investment activities in Karnataka. Since its inception, the NRI Forum has served as a facilitator and assisted entrepreneurs in starting up industrial units, infrastructure, solar and tourism projects throughout Karnataka. The forum serves as a single interface between the Government and the potential NRI investor. Further, the forum regularly follows up at various levels of governance to expedite implementation and approval.

Legal assistance

The NRI Forum assists NRIs in their property matters, including litigations. Additionally, the forum registers, responds to and monitors complaints and liaises with stakeholders.

The Forum is constantly in touch with local district administration, especially on issues related to NRIs of the Gulf countries. This responsibility has been assigned to one officer each appointed at the District level in this regard.

Awareness and training

The NRI Forum conducts training and skill-development programs through the Karnataka Vocational Training and Skill Development Corporation. Training and internship facilities can also be availed of in the State's professional education institutions.

The Forum intends to set up a knowledge skill bank, a web-based application, to facilitate networking and knowledge exchange with academic and research institutions in the state. Migration Facilitation Centers' are also being planned and are being set up in close association with the MOIA at select places to hold pre-departure training and orientation programs for overseas job seekers to protect them from unnecessary exploitation.

Other initiatives

Karnataka has initiated the Adoption Scheme wherein philanthropic NRIs are influenced to adopt or assist schools, health care facilities, villages in the State in collaboration with the Government in the State's social welfare programs.

- The Government of Karnataka has maintained a 15% quota for the children of NRIs/PIOs at all professional educational institutions in the State. Opportunities are available based on merit and vacancy.

- The Government of Karnataka offers adequate opportunities for NRIs/PIOs, doctors and surgeons in various hospitals.
- The NRI Forum proposes to register all agencies recruiting for overseas placements to prevent unscrupulous agents exploiting gullible job seekers.

Useful contacts:

Karnataka Udyog Mitra

3rd floor, South Block, Khanija Bhavan,
Race Course Road, Bengaluru - 560 001,
Ph: +91 80 2228 2392, 2228 5659
Email: md@kumbangalore.com
Website: www.kumbangalore.com

NRI Forum Karnataka

Nos. 6 & 7, Vikasa Soudha,
Bengaluru - 560 001
Ph: +91 80 22034057, 22034058
Email: info@nriforumkarnataka.org
Website: www.nriforumkarnataka.org

For more information, log on to www.karnataka.gov.in

Government of Kerala

❖ Initiatives:

Facilitating investment

Government of Kerala has set up Kerala State Industrial Development Corporation Ltd. (KSIDC), for the promotion and development of medium and large scale units in the state. As the nodal agency for foreign and domestic investments in Kerala, the KSIDC provides investors with support, processes various incentive schemes and facilitates constant interaction between the government and the industrial sector. The agency also assists NRI investors in developing business ideas, identifying viable projects and providing financial assistance and assistance for implementation.

In a nutshell, the KSIDC is a single-point contact for investments to the State and serves as a brand ambassador for the State, spreading its industrial ethos and as an interface between Kerala and the rest of the world.

Assistance in property-related disputes

NRIs residing abroad have to face property related disputes both in and out of the family. Non-Resident Keralites' Affairs Department (NORKA), ensures timely intervention of concerned authorities for speedy redressal of legal disputes.

NORKA is also planning to introduce fast track system for settling the issues relating to revenue, police and legal services.

Extending financial assistance

Various funds have been established to provide financial assistance to Non-Resident Keralites (NRKs).

- The Non-Resident Keralites Welfare Fund grants relief, pension, medical and educational assistance. It promotes companies, co-operative societies and other institutions of NRKs for their welfare.
- The Santhwana Scheme and Chairman Fund have been used to extend financial help to low-income group returnee NRKs in case of extreme financial needs.
- The Karunyam Fund is established to meet the expenditure incurred on the repatriation of mortal remains of those NRKs who die abroad.

Awareness and training

Kerala has a population of 2.2 million emigrants. Migration mainly occurs due to the search for employment. NORKA is involved in creating awareness among job seekers to address the issue of illegal recruitment and visa cheating. It holds Pre-Departure Orientation Programmes to spread awareness around visa, emigration rules, employment contracts, and travel formalities among overseas job aspirants.

It also sources candidates for overseas employers according to their stipulations. In this regard, the job portal, www.jobsnorka.gov.in, is an open platform for both employers and jobseekers.

Other initiatives

- Certificate attestation services of the Government of Kerala, the Ministry of External Affairs and embassies and consulates are being provided from a single office for job seekers Government of India abroad.
- NRK Identity Cards

Special cards called NRK Identity Cards are issued to NRIs. Through these cards, NRIs can avail facilities such as insurance, rebates and discounts on products and services.

Useful contacts:

Kerala State Industrial Development Corporation Ltd.

T.C.XI/266, Keston Road, Kowdiar,
Thiruvananthapuram - 695 003
Ph: +91 471 2318922
Email: ksidc@vsnl.com
Website: www.ksidc.org

NORKA Department

Government Secretariat
Thiruvananthapuram - 695 001
Ph: +91 4712518182, 2518061
Email: ds@norka.kerala.gov.in
Website: www.norka.gov.in

NORKA-ROOTS

4th Floor, Centre Plaza
Vazhuthacaud
Thiruvananthapuram - 695 014
Ph: +91 471 2332416, 2332452
Email: mail@norkaroots.net
Website: www.norkaroots.net

The Kerala Non Resident Keralites Welfare Fund Board

Manikanta Towers, Near Tennis Club
Jawahar Nagar, Kowdiar PO
Thiruvananthapuram - 695 003
Ph: +91 471 3013401, 3013402
Email: ceonrk@pravasiwelfarefund.org
Website: www.pravasiwelfarefund.org

For more information, log on to www.kerala.gov.in

Government of Orissa

❖ Initiatives:

Facilitating investment

The Government of Orissa has taken proactive measures to attract investments by creating the concept of Team Orissa, which encompasses the broad institutional framework of the Government which is engaged in industrial facilitation and investment promotion in key areas of economic growth. Team Orissa provides the following support:

- Guidance and assistance to entrepreneurs to set up industries in the state
- One-point contact solution to investors through the single-window (SW) clearance mechanism
- Investment promotional activities at the State, National and International level
- Investment climate improvement exercises
- Necessary assistance and feedback in policy formulation for industrial progress
- Design growth strategies for industrial sectors that are key drivers of the State economy.

Other initiatives

The Non Resident Oriya Facilitation Center (NROFC) is an organization that works in liaison with the Non Resident Oriya (NO) Cell of Government of Orissa help non-resident NOs in the following ways:

- Collection of information on NOs and the creation of a database, mailing lists, and a discussion forum
- Information exchange with NOs, the Government and people of the locality and representation of members' interests, including providing information
- Voluntary gathering of all Oriyas residing outside Orissa and abroad interested in the development of the state
- Organization of designated events such as Pravasi Oriya Divas and the Annual Orissa Development Symposium
- Facilitation of NO projects by providing relevant information and helping with Government interface
- All other related activities with active support of the Government via the NO cell in Government Departments.

Useful contacts:

Team Orissa

IPICOL House, Janpath
Bhubaneswar - 751 022
Orissa (India)
Ph: +91 674 2542601/02/03
E-mail: info@teamorissa.org
Website: www.teamorissa.org

Non-resident Oriya Facilitation Center

D-3, B.J.B. Nagar
Bhubaneswar - 751 014
Ph: +91 674 2432251, +91 93371 03542
Email: sahadevas@yahoo.com
Website: www.nrofc.org

For more information, log on to www.orissa.gov.in

Useful Contacts

Confederation of Indian Industry	The Mantosh Sondhi Centre 23 Institutional Area Lodi Road New Delhi - 110 003 Phone : +91 11 24629994-7 Fax : +91 11 24626149 /24633168 Website: www.cii.in
Ministry of Overseas Indian Affairs	Akbar Bhawan Chanakyapuri New Delhi - 110 021 Phone: +91 11 24197900 Fax: +91 11 24197919 website: www.moia.gov.in
Overseas Indian Facilitation Centre	C/o Confederation of Indian Industry 249- F, Sector 18, Udyog Vihar, Phase IV Gurgaon -122 015 Phone: +91 124 4014055 Fax: +91 124 4309446 Website: www.oifc.in
Ministry of External Affairs	A - Wing Shastri Bhavan New Delhi - 110 001 Phone: +91 11 23383371 / 23383373 Website: www.meanindia.nic.in
Ministry of Finance	North Block New Delhi - 110 001 Phone: +91 11 23092947 Website: www.finmin.nic.in
Department of Industrial Policy & Promotion	Udyog Bhawan New Delhi - 110 011 Phone: +91 11 23061222 Fax : +91 11 23062626 Website: www.dipp.nic.in

Reserve Bank of India	Central Office Building 17th Floor Shahid Bhagat Singh Road Mumbai - 400 001 Website: www.rbi.org.in
Passport Office	Hudco, Trikoo-3 Bhikaji Cama Place RK Puram New Delhi - 110 066 Phone: +91 11 26166292 / 26187075 Website: www.passport.gov.in
National Securities Depository Limited	3rd Floor, Sapphire Chambers Near Baner Telephone Exchange Baner, Pune - 411 045 Phone: +91 20 2721 8080 Fax: +91 20 2721 8081 Website: www.tin-nsdl.com
Ministry of Home Affairs	North Block Central Secretariat New Delhi - 110 001 Phone: +91 11 23092011 / 23092161 Fax: +91 11 23093750 / 23092763 Website: www.mha.nic.in
Office of the Director General of Income Tax (Systems)	E-2 ARA Center, Ground Floor, Jhandewalan Extension New Delhi - 110 055 Phone: +91 124 2438000 Website: www.incometaxindiaefiling.gov.in
Securities Exchange Board of India	Plot No.C4-A, 'G' Block, Bandra Kurla Complex Bandra(East) Mumbai - 400 051 Phone: +91 22 26449000 / 40459000 Fax : +91 22 26449016-20 / 40459016-20 Website: www.sebi.gov.in
Ministry of Corporate Affairs	'A' Wing, Shastri Bhawan Rajendra Prasad Road New Delhi - 110 001 Phone : +91 11 23384158 / 23384660 / 23384659 Website : www.mca.gov.in

Department of Commerce	Udyog Bhawan New Delhi - 110 011 Phone: +91 11 23063664 Website: www.commerce.nic.in
Insurance Regulatory and Development Authority	3rd Floor Parisrama Bhawan, Basheerbagh Hyderabad Phone: +91 40 23381100 Website: www.irdaindia.org
Foreign Investment Promotion Board	Department of Economic Affairs Ministry of Finance North Block New Delhi - 110 001 Phone: +91 11 2309 4905 Website: www.finmin.nic.in

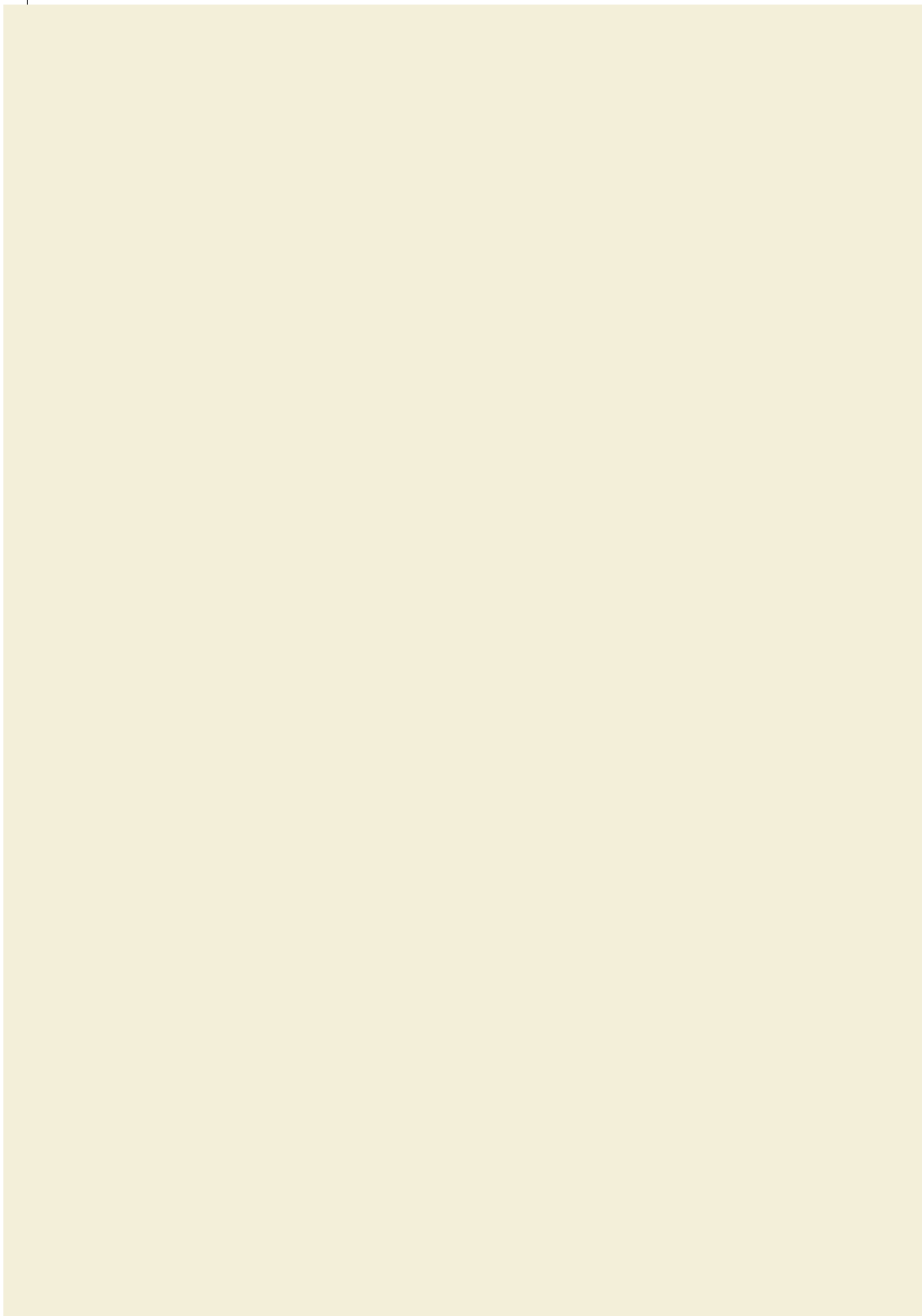
List of frequently used abbreviations

AD	Authorized Dealer
BO	Branch Office
CCD	Compulsorily Convertible Debentures
CCPS	Compulsorily Convertible Preference Shares
CIC	Credit Information Company
CII	Confederation of Indian Industry
DASA	Direct Admission to Students Abroad
DIPP	Department of Industrial Policy and Promotion
DP	Depository Participant
DTAA	Double Tax Avoidance Agreement
DTC	Direct Taxes Code
ECB	External Commercial Borrowing
EdCIL	Education Consultants India Limited
FCNR	Foreign Currency (Non Resident) Account
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FIPB	Foreign Investment Promotion Board
FRRO	Foreigner Regional Registration Office
FVCI	Foreign Venture Capital Investors
GDP	Gross Domestic Product
GDR	Global Depository Receipts
GST	Goods and Services Tax
ICWF	Indian Community Welfare Fund
IFRS	International Financial Reporting Standards
iNDEXTb	Industrial Extension Bureau
IT	Information Technology
JV	Joint Venture
KIP	Know India Program
KSIDC	Karnataka State Industrial Development Corporation
KYC	Know Your Customer
LO	Liaison Office
LIBOR	London Interbank Offer Rate
MHRD	Ministry of Human Resource Development
MOIA	Ministry of Overseas Indian Affairs

List of frequently used abbreviations

NBFC	Non Banking Financial Corporation
NO	Non Resident Oriyas
NORKA	Non Resident Keralites Affairs Department
NR	Non Resident
NRE	Non Resident External account
NRG	Non Resident Gujaratis
NRGF	Non Resident Gujaratis Foundation
NRI	Non Resident Indian
NRK	Non Resident Keralites
NRNR	Non Resident Non Repatriable account
NRO	Non Resident Ordinary Rupee account
NROFC	Non Resident Oriya Facilitation Centre
NRSR	Non Resident Special Rupee account
OCB	Overseas Corporate Body
OCI	Overseas Citizen of India
OIFC	Overseas Indian Facilitation Centre
PAN	Permanent Account Number
PE	Private Equity
PIO	Person of Indian Origin
PIS	Portfolio Investment Scheme
PO	Project Office
RoC	Registrar of Companies
RBI	Reserve Bank of India
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SPDC	Scholarship Programme for Diaspora Children
STT	Securities Transaction Tax
TDR	Transferable Development Rights
TRC	Tax Residency Certificate
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
VCF	Venture Capital Fund

* Words denoting one gender include all genders, unless specified.





The Ministry of Overseas Indian Affairs is a young ministry established in May 2004. It is the focal Ministry for all matters relating to Overseas Indians comprising Persons of Indian Origin (PIO), Non-Resident Indians (NRIs) and Overseas Citizens of India (OCI).

Vision:

Foster sustainable, symbiotic and strategic engagement between India and Overseas Indians across the economic, social and cultural space that will best serve India as an emerging global power and meet the expectations of the overseas Indian community as a significant constituency around the world.

Mission:

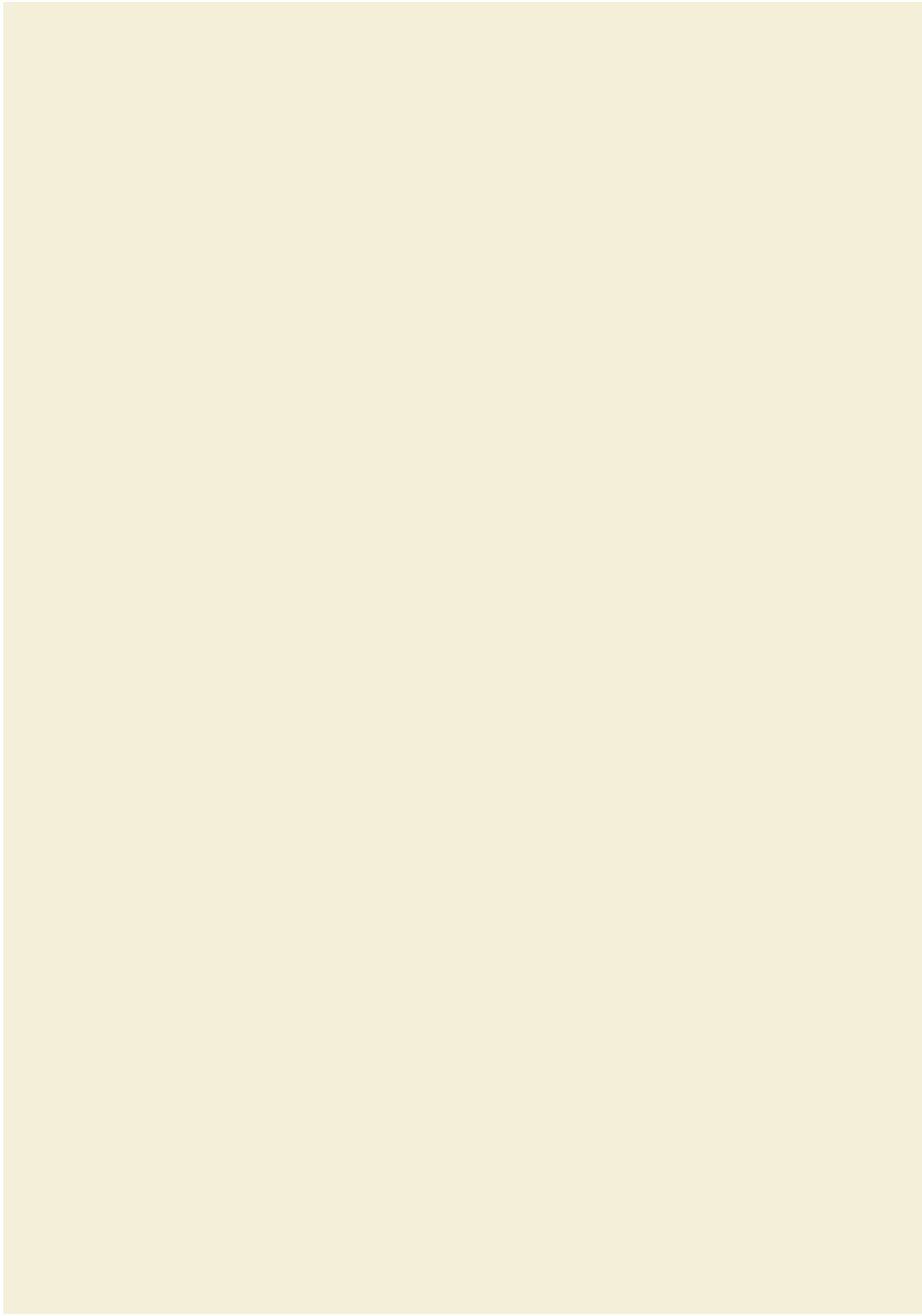
Establish a robust and vibrant institutional framework to facilitate and support mutually beneficial networks with and among overseas Indians to maximize the development impact for India and enable overseas Indians to invest in and benefit from the opportunities in India.

Objectives:

- i Facilitate sustained interaction of overseas Indians with India and offer them a wide variety of services in economic, social and cultural matters.
- ii Extend institutional support for individual initiatives and community action to harness the knowledge, skills and investible resources of overseas Indians to supplement the national development efforts.
- iii Strengthen the bond between India and its diaspora by recognizing and celebrating its success and achievements.
- iv Transform migration management into an orderly process through appropriate domestic interventions and international cooperation.

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Confederation of Indian Industry
Since 1895

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the growth of industry in India, partnering industry and government alike through advisory and consultative processes.

CII is a non-government, not-for-profit, industry led and industry managed organisation, playing a proactive role in India's development process. Founded over 115 years ago, it is India's premier business association, with a direct membership of over 8100 organisations from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 90,000 companies from around 400 national and regional sectoral associations.

CII catalyses change by working closely with government on policy issues, enhancing efficiency, competitiveness and expanding business opportunities for industry through a range of specialised services and global linkages. It also provides a platform for sectoral consensus building and networking. Major emphasis is laid on projecting a positive image of business, assisting industry to identify and execute corporate citizenship programmes. Partnerships with over 120 NGOs across the country carry forward our initiatives in integrated and inclusive development, which include health, education, livelihood, diversity management, skill development and water, to name a few.

CII has taken up the agenda of "Business for Livelihood" for the year 2010-11. Businesses are part of civil society and creating livelihoods is the best act of corporate social responsibility. Looking ahead, the focus for 2010-11 would be on the four key Enablers for Sustainable Enterprises: Education, Employability, Innovation and Entrepreneurship. While Education and Employability help create a qualified and skilled workforce, Innovation and Entrepreneurship would drive growth and employment generation.

With 64 offices and 7 Centres of Excellence in India, and 7 overseas offices in Australia, China, France, Singapore, South Africa, UK, and USA, as well as institutional partnerships with 223 counterpart organisations in 90 countries, CII serves as a reference point for Indian industry and the international business community.

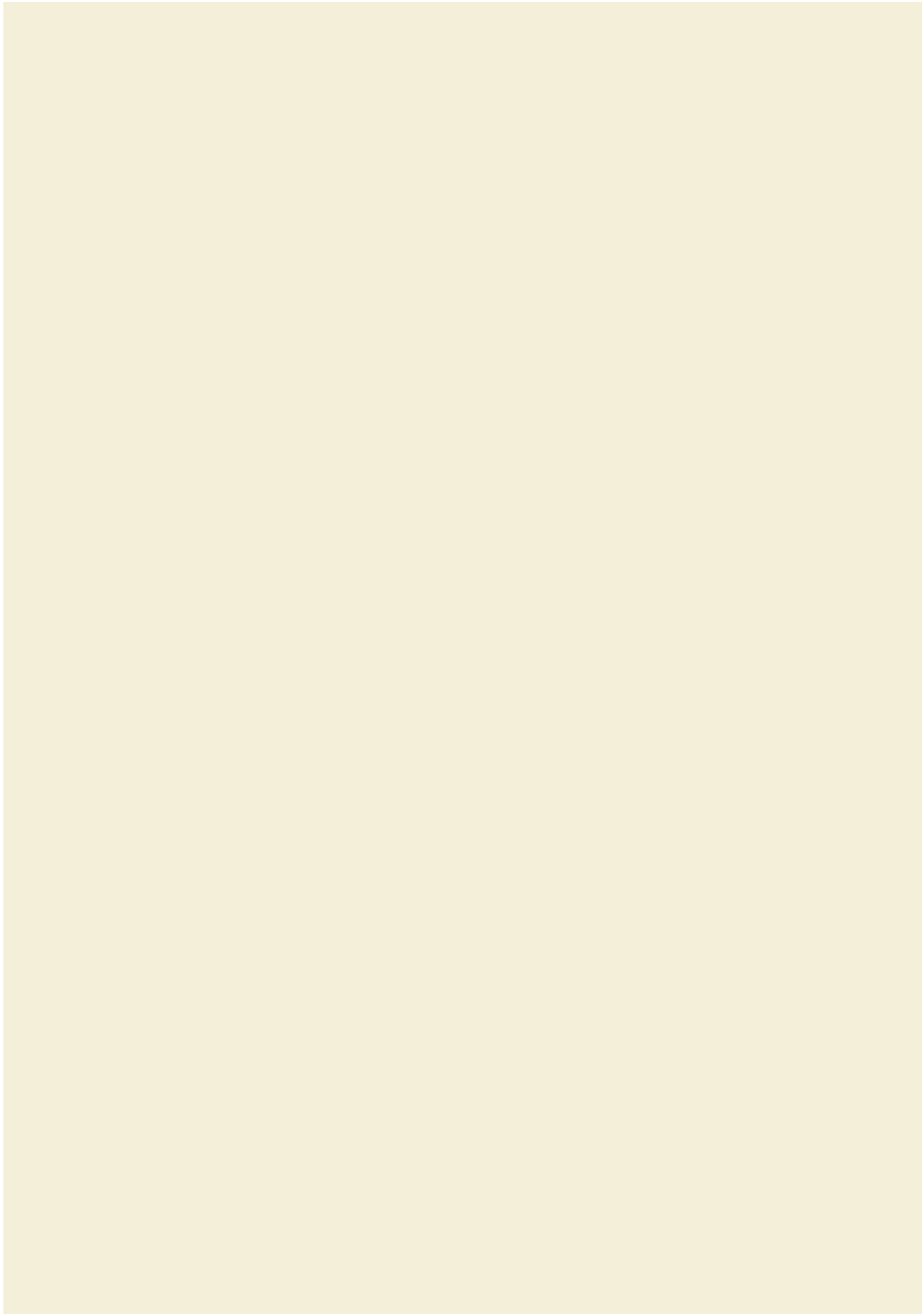
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❖ Ernst & Young

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Ernst & Young India has offices in Ahmedabad, Bangalore, Chennai, Gurgaon, Hyderabad, Kolkata, Mumbai, New Delhi, NOIDA and Pune. Its workforce of over 7,500** people work towards the firm's vision of being a trusted business advisor that contributes to the success of its clients by creating confidence and value.

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** (The numbers include personnel from other member firms of Ernst & Young Global, in India)

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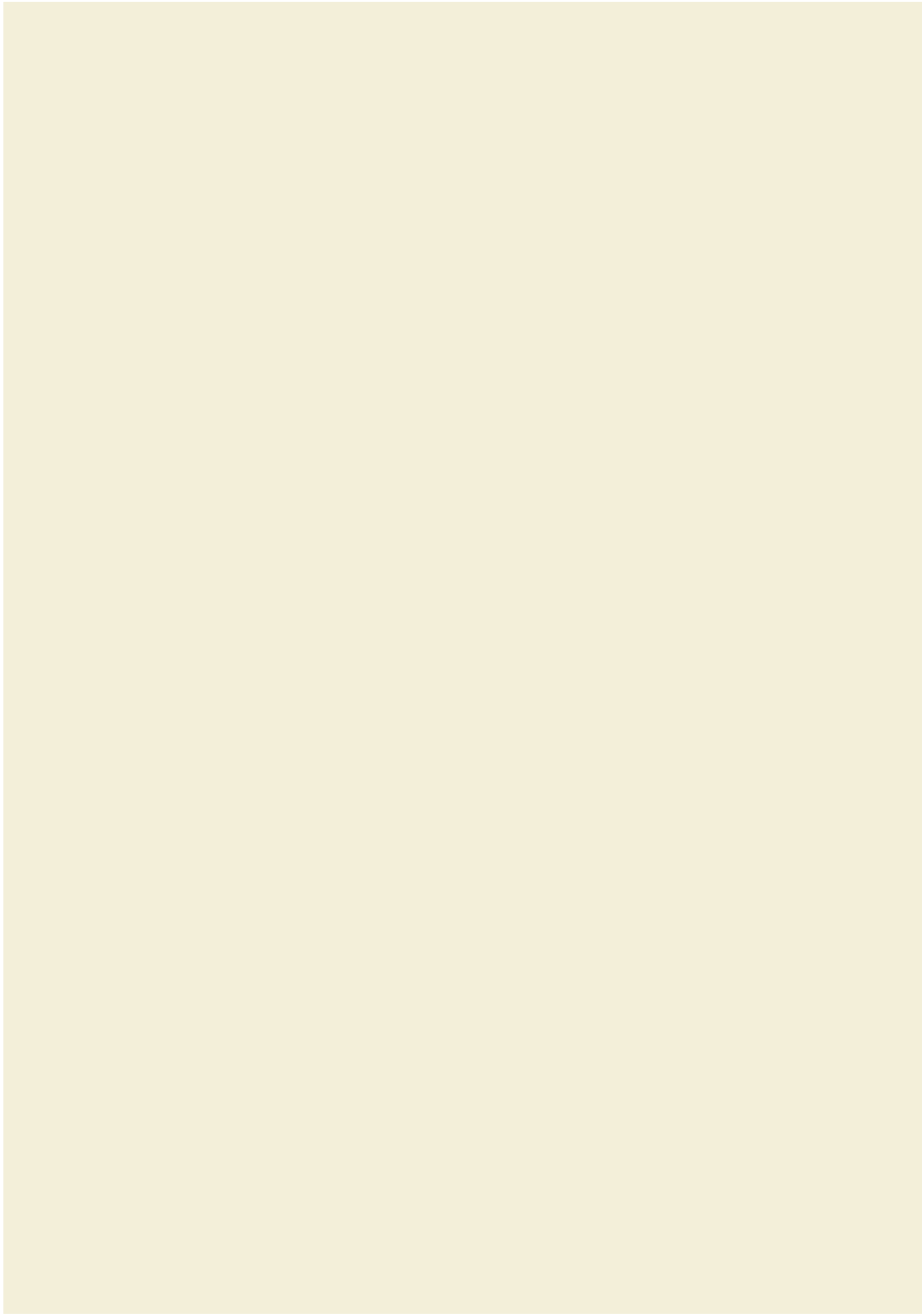
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Overseas Indian Facilitation Centre (OIFC), a not for profit public private initiative of the Ministry of Overseas Indian Affairs (MOIA) and the Confederation of Indian Industry (CII), was established in 2007, with a mandate of: promoting overseas Indian investments into India and facilitating business partnerships; establishing and maintaining a diaspora Knowledge Network; assisting States in India to project investment opportunities to overseas Indians; and, to provide a host of advisory services to PIO's and NRI's. The OIFC is governed by a Council of prominent overseas Indians, Industry leaders and senior policy makers of the Government.

OIFC has been providing investment know-how and business facilitation services to the NRIs, with the active support of its State Government Partners and Knowledge Partners specializing in the areas of foreign investment consulting, regulatory approvals, market research, joint venture partner identification, taxation, portfolio investments and others.

Currently OIFC's activities include, query addressal on various issues faced by the NRI's & PIO's, a robust online business networking portal, projection of member States' projects, 20 X 5 live facilitation services, Road Shows through Investors Interactive Meets in various countries, Market Place forums in India and overseas, and a Global Indian Network of Knowledge portal. More details are available on www.oifc.in.

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