

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai – 400 001**

Notification No. FEMA 21(R)/2018-RB

March 26, 2018

**Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India)
Regulations, 2018**

In exercise of the powers conferred by clause (i) of sub-section (3) of Section 6, sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in supersession of [Notification No. FEMA 21/2000-RB dated May 3, 2000](#), as amended from time to time, the Reserve Bank of India makes the following regulations, namely: -

1. Short title and commencement:-

- i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2018.
- ii) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions:-

In these Regulations, unless the context otherwise requires -

- (a) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
- (b) An 'Authorised Dealer' means a person authorised as an authorised dealer under sub- section (1) of section 10 of the Act;
- (c) 'Non-Resident Indian (NRI)' means a person resident outside India who is a citizen of India;
- (d) 'Overseas Citizen of India (OCI)' means a person resident outside India who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955;
- (e) 'Repatriation outside India' means the buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through banking channels or crediting it to an account denominated in foreign currency or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency;
- (f) The words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Acquisition and Transfer of Property in India by a Non-Resident Indian or an Overseas Citizen of India:-

An NRI or an OCI may

- (a) acquire immovable property in India other than agricultural land/ farm house/ plantation property:

Provided that the consideration, if any, for transfer, shall be made out of (i) funds received in India through banking channels by way of inward remittance from any place outside India or (ii) funds held in any non-

resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder.

Provided further that no payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause.

(b) acquire any immovable property in India other than agricultural land/ farm house/ plantation property by way of gift from a person resident in India or from an NRI or from an OCI, who in any case is a relative as defined in section 2(77) of the Companies Act, 2013;

(c) acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property (a) in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations or (b) from a person resident in India;

(d) transfer any immovable property in India to a person resident in India;

(e) transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI.

4. Acquisition of Immovable Property for carrying on a permitted activity:-

A person resident outside India who has established in India in accordance with the Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016, as amended from time to time, a branch, office or other place of business for carrying on in India any activity, excluding a liaison office, may -

(a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity;

Provided that

(i) all applicable laws, rules, regulations or directions for the time being in force are duly complied with; and

(ii) the person files with the Reserve Bank a declaration in the form IPI as prescribed by Reserve Bank from time to time, not later than ninety days from the date of such acquisition.

(b) transfer by way of mortgage to an authorised dealer as a security for any borrowing, the immovable property acquired in pursuance of clause (a).

Provided no person of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Hong Kong or Macau or Nepal or Bhutan or Democratic People's Republic of Korea (DPRK) shall acquire immovable property, other than on lease not exceeding five years, without prior approval of the Reserve Bank.

5. Purchase/ sale of Immovable Property by Foreign Embassies/ Diplomats/ Consulate Generals:-

A Foreign Embassy/ Diplomat/ Consulate General may purchase/ sell immovable property in India other than agricultural land/ plantation property/ farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/ sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channels.

6. Joint acquisition by the spouse of an NRI or an OCI:-

A person resident outside India, not being a Non-Resident Indian or an Overseas Citizen of India, who is a spouse of a Non-Resident Indian or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse.

Provided that

- (i) The consideration for transfer, shall be made out of (i) funds received in India through banking channels by way of inward remittance from any place outside India or (ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank;
- (ii) No payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- (iii) Provided that the marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property;
- (iv) Provided further that the non-resident spouse is not otherwise prohibited from such acquisition.

7. Acquisition by a Long-Term Visa holder:-

A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who is residing in India and has been granted a Long Term Visa (LTV) by the Central Government may purchase only one residential immovable property in India as dwelling unit for self-occupation and only one immovable property for carrying out self-employment subject to the following conditions:

- (a) the property should not be located in and around restricted/ protected areas so notified by the Central Government and cantonment areas;
- (b) the person submits a declaration to the Revenue Authority of the district where the property is located, specifying the source of funds and that he/ she is residing in India on LTV;
- (c) the registration documents of the property should mention the nationality and the fact that such person is on LTV;
- (d) the property of such person may be attached/ confiscated in the event of his/ her indulgence in anti-India activities;
- (e) a copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP)/ Foreigners Registration Office (FRO)/ Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division);
- (f) such person shall be eligible to sell the property only after acquiring Indian citizenship. However, transfer of the property before acquiring Indian citizenship shall require prior approval of DCP/FRO/FRRO concerned.

8. Repatriation of sale proceeds:-

(a) A person referred to in sub-section (5) of Section 6 of the Act, or his successor shall not, except with the general or specific permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section;

(b) In the event of sale of immovable property other than agricultural land/ farm house/ plantation property in India by an NRI or an OCI, the authorised dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

- (i) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of his acquisition or the provisions of these Regulations;
- (ii) the amount for acquisition of the immovable property was paid in foreign exchange received through banking channels or out of funds held in Foreign Currency Non-Resident Account or out of funds held in Non-Resident External account;
- (iii) in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

(c) In the event of failure in repayment of external commercial borrowing availed by a person resident in India under the provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, as amended from time to time, a bank which is an authorised dealer may permit the overseas lender or the security trustee (in whose favour the charge on immovable property has been created to secure the ECB) to sell the immovable property on which the said loan has been secured only to a (by the) person resident in India and to repatriate the sale proceeds towards outstanding dues in respect of the said loan and not any other loan.

9. Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries:-

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong or Macau or Democratic People's Republic of Korea (DPRK) without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Provided this prohibition shall not apply to an OCI.

Explanation: For the purpose of this regulation the term "citizen" shall include natural persons and legal entities.

10. Prohibition on transfer of immovable property in India:-

Save as otherwise provided in the Act or Regulations, no person resident outside India shall transfer any immovable property in India:-

Provided that

- (i) The Reserve Bank may, for sufficient reasons, permit the transfer, subject to such conditions as may be considered necessary.
- (ii) A bank which is an authorised dealer may, subject to the directions issued by the Reserve Bank in this behalf, permit a person resident in India or on behalf of such person to create charge on his immovable property in India in favour an overseas lender or security trustee, to secure an external commercial borrowing availed under the provisions of the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, as amended from time to time.
- (iii) An Authorized Dealer in India being the Indian correspondent of an overseas lender may, subject to the directions issued by the Reserve Bank in this regard, create a mortgage on an immovable property in India owned by an NRI or an OCI, being a director of a company outside India, for a loan to be availed by the company from the said overseas lender.

Provided

- (a) the funds shall be used by the borrowing company only for its core business purposes overseas;
- (b) in case of invocation of charge, the Indian bank shall sell the immovable property to an eligible acquirer and remit the sale proceeds to the overseas lender.

(iv) A person resident outside India who has acquired any immovable property in India in accordance with foreign exchange laws in force at the time of such acquisition or with the general or specific permission of the Reserve Bank may transfer such property to a person resident in India provided the transaction takes place through banking channels in India and provided that the resident is not otherwise prohibited from such acquisition.

11. Miscellaneous:-

Any transaction involving acquisition or transfer of immovable property under these regulations shall be undertaken:

- (a) through banking channels in India;
- (b) subject to payment of applicable taxes and other duties/ levies in India.

12. Saving:-

Any existing holding of immovable property in India by a person resident outside India made in accordance with the policy in existence at the time of such acquisition would not require any modifications to conform to these regulations.

(Jyoti Kumar Pandey)
Chief General Manager

Foot Note:-

Published in the Official Gazette of Government of India – Extraordinary – Part-II, Section 3, Sub-Section (i) dated 26.3.2018- G.S.R.No. 280 (E)