Chapter - III

Investment Facilities for NRIS
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INVESTMENT FACILITIES FOR NRIS

India is the most fertile pasture for NRI investments. The Government of India has taken a special care to get increased participation of NRIs in the industrial development of the country. In the past two decades, several facilities and incentives have been announced for NRIs for encouraging them to invest in India on repatriation as well as non-repatriation basis. The various investment avenues can be studied under some broad categories, viz.,

I. Bank accounts
II. Direct investment in firms/companies
III. Portfolio investment
IV. Government securities/company deposits/mutual funds
V. Immovable property
VI. Other facilities

Overseas Corporate Bodies can invest in all these schemes except investment in National Plan Saving Certificate, commercial papers issued by Indian companies and in proprietary/partnership concerns. Investments by Pakistani or Bangladeshi nationals of Indian origin require prior approval of the Reserve Bank of India. A brief account on each broad category of investment avenues follows.

I. BANK ACCOUNTS

1. NON-RESIDENT (ORDINARY) RUPEE ACCOUNT (NRO ACCOUNT)

The bank account of any Indian citizen or person of Indian origin proceeding to any country other than Nepal and Bhutan for employment, business or vocation or indefinite stay abroad is designed as NRO A/C. This account can also be opened
with funds remitted from abroad and can be maintained in the form of savings/current/term deposit accounts. It can also be opened jointly by non-residents with their close relatives resident in India and the latter can operate it freely. The funds in the account are non-repatriable and can not be transferred to the NRE/FCNR accounts of the account holder except with the approval of RBI. Interest on the deposit is not exempt from Indian income-tax. The account can be credited with any inward remittances and local money legitimately due to the account holder. The account can be debited for any local disbursements and eligible investments without any ceiling. The account holder will, however, be required to submit suitable documentary evidence for all credits of Rs.10,000 and above. Loans/overdrafts can be granted against the security of NRO deposits to account holders themselves applying the provisions that are applicable to domestic depositors.

2. NON-RESIDENT (EXTERNAL) RUPEE ACCOUNT (NRE ACCOUNT)

Non-Resident (External) Rupee Accounts are opened and maintained as per the provisions of NRE account rules 1970, dated 10-02-1970. These can be opened in the names of non-resident Indians, persons of Indian origin or OCB’s. The accounts can be opened with remittances from abroad, transfer from other NRE/FCNR accounts of the depositor, proceeds of foreign currency notes, travellers’ cheques. NRE Accounts can be opened in the form of savings, current or term deposits in Indian Rupees. The NRE account holder can give a power of attorney to a person resident in India for operating the NRE A/c provided the attorney holder’s powers are restricted to withdrawals for local payments. Nomination facility is also available for NRE accounts. If the nominee wants to repatriate the funds abroad, prior approval of the RBI is necessary.

The funds in the account can be used for local disbursement, purchase of shares, securities, units of UTI on repatriable basis, payment of passage fare of

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1 M.C. Bhatt, "Facilities to Non-Resident of Indian Origin for Investment in India", Chartered Secretary. March 1982, p.187.
Benefits available to NRE account holders are as follows:

(i) Repatriation abroad without any limits of the balance in the account.

(ii) The interest earned on these accounts is exempt from Indian income-tax and balances held in the account are exempt from wealth-tax. Gift made out of NRE accounts to close relative is also exempt from gift-tax liability. However, these tax benefits are not available to the NRE accounts of OCB’s.2

(iii) Balances in NRE accounts can be utilised to open Resident Foreign Currency Account (RFC) when the account holder permanently returns to India.

3. FOREIGN CURRENCY (NON-RESIDENT) ACCOUNT (BANKS) SCHEME

A new scheme known as Foreign Currency (Non-resident) Account (Banks) scheme was introduced on 15-05-1995. The accounts are maintained in any one of the four specified foreign currencies, Viz., US dollar, Pound-Sterling, Deutsche mark and Japanese Yen. Repatriation of funds will be freely permitted in foreign currencies. The remittances in other currencies will be converted at the current exchange rate. Likewise, maturity proceeds/interest can also be remitted in a currency other than the currency of the deposits at the ruling exchange rate. Accounts can be opened by remittances from abroad and also by transfer of funds from the existing NRE/FCNR accounts of the non-resident account holders. The RBI will announce the interest rate from time to time. Interest rate differs according to currency.

2 Economic and Other Legislations, Study Material, The Institute of Company Secretaries of India, 1992, p.35.
The deposits can be accepted for the following maturity periods:

(i) Six months and above but less than one year.
(ii) One year and above but less than two years.
(iii) Two years and above but less than three years.
(iv) Three years only.

The account holders enjoy all other facilities and tax benefits available to the NRE accounts. It has been decided to withdraw the erstwhile FCNR account scheme with effect from 15-05-1994. Deposits already accepted under the existing FCNR account scheme will, however, be allowed to continue only till their maturities and thereafter no renewals would be permitted. The FCNR (banks) account scheme has all the features of FCNR, excepting that exchange risk is borne by the banks themselves, instead of the RBI. Foreign Currency Ordinary Non-Repartriable Deposit scheme was also withdrawn with effect from 20-08-1994.

4. NON-RESIDENT (NON-REPARTRIABLE) RUPEE DEPOSIT SCHEME

With a view to providing wider option to non-resident Indians, persons of Indian origin and OCB’s a new scheme named Non-resident (Non-Repatriable) Rupee Deposit scheme was announced on 15-06-1992. Such deposits can be held jointly with other non-resident Indians or close resident relatives. The deposit with authorized dealers shall be of the funds in freely convertible foreign exchange transferred from outside or from Non-resident (External) Rupee Account/FCNR Account of the non-resident account holder at the market determined exchange rate at the time of placing the deposit or transferring from other accounts. These funds no longer be repartriable. However, it has now been decided that the interest accrued on the deposits held under the above referred scheme from the quarter beginning 01-10-1994 will be eligible for repartriatio. The principal amount of deposit is not repatriable outside India. The deposit will be allowed to be renewed as also transfer from one bank to another can be permitted. The interest from the deposit will be free from Indian income-tax. The deposit will also be free from gift-
tax for one time gifting in the case of non-residents only. The exemption from income-tax will not be available to the resident donees and those residents who being joint holders become owners of the deposit as survivors of the non-resident depositor. Loans can be raised against security of these deposits without any limit for purpose other than investment. Any investment out of the deposit will be allowed only on non-repatriation basis, including the proceeds out of such investments.

5. RESIDENT FOREIGN CURRENCY ACCOUNT (RFC A/C)

Hitherto non-resident Indians, returning to India for permanent settlement were required to close their foreign currency accounts maintained abroad, declare foreign securities held by them, obtain permission to hold immovable properties and to intimate to the authorised dealer about the change of status from non-resident to resident so that NRE/FCNR accounts are redesignated as resident account immediately upon return to India. In lieu, returning Indians were entitled under Returning Indians' Foreign Exchange Entitlement (RIFEE) Scheme to avail of foreign exchange upto 50% of the total amount of foreign exchange repatriated and NRE/FCNR balances, which could be used by them for certain approved purposes. Permission required for holding the foreign currency, shares, securities or immovable properties abroad, RBI used to give permission. The RIFEE scheme has been done away with and a new scheme has been announced by the RBI on 22-02-92 under which eligible persons, i.e., who are citizens of India or persons of Indian origin who having been residents outside India in the external group countries for a continuous period of not less than one year, have become persons resident in India on or after 18-04-1992 are eligible to open and maintain with authorised dealer in India one or more RFC Accounts in the form of current, savings and term deposit accounts. It can be maintained singly or jointly in the names of the eligible persons.

No amount other than the following shall be credited to the RFC account, namely,
(i) Remittances in permitted foreign currency from outside India through normal banking channel representing:

(a) Funds in bank accounts outside India forming part of the eligible assets.

(b) Income such as dividend, interest, profit and rent earned on eligible assets.

(c) Sale proceeds of eligible assets.

Eligible assets means foreign exchange assets acquired or held otherwise than in contravention of the Act by an eligible person while he was resident outside India in the form of deposits in banks outside India, investments in foreign currency shares or securities or immovable properties situated outside India or investment in business and so forth outside India and includes foreign exchange earnings through employment, business or vocation outside India.

(ii) Pension or other monetary benefits received from outside India, or any permitted currency through normal banking channels arising out of employment taken up outside India by the eligible person prior to his returning to India.

(iii) Interest earned on RFC accounts.

(iv) Foreign currency notes, travellers' cheques in any permitted currency brought into India by the eligible person provided where the amount tendered exceeds US $ 10,000 or its equivalent, they should have been declared on the currency declaration form.

(v) Transfer from other RFC account of the account holder.
(vi) Balance in any NRE/FCNR A/c in the name of the eligible person standing to his credit at the time of arrival in India.

(vii) Any other amount specifically permitted by the RBI.

The funds in the RFC A/c can be freely utilised by the account holder for any bonafide remittance outside India through normal banking channels. Local disbursements can be made only in Indian rupees. No loan / overdraft shall be permissible against balance in an RFC A/c. Rate of interest may be decided by the authorised dealer on the basis of market rates. RFC Accounts shall have the nomination facility as in the case of resident rupee accounts.

By the press release dated 1-10-1992, the RBI has announced that Indians who return to India after a minimum continuous stay abroad of one year can now maintain bank accounts abroad and / or hold other foreign currency assets abroad without surrendering declaration to the RBI. They will also be free to utilise / dispose of these balances / assets without any permission from the Reserve Bank. They can also acquire new assets abroad, out of the bank balances / income earned or sale proceeds of assets already held abroad. They can also maintain RFC A/c.

II DIRECT INVESTMENT IN FIRMS/COMPANIES

1. NON-REPARTIABLE DIRECT INVESTMENT FACILITIES

The Non-repatriation investment facilities available for NRIs are as follows:

(i) Direct investment on proprietary / partnership concerns.

NRIs may invest by way of capital contribution in any proprietary / partnership concern in India engaged in any industrial, commercial or trading activity on a non-repatriation basis. Investments in real estate business, that is dealing in
land and immovable property with a view to earning profit or earning income therefrom as well as investment in any proprietory / partnership concerns engaged in agricultural and plantation activity are however prohibited. There is no obligation on the NRI to associate any resident investor as partner.

The above investment can be made without prior permission of the RBI. Only a declaration in the specified form DIN giving particulars of NRI investment need to be filed by the proprietory / partnership concern within 90 days from the date of receipt of the investment. The profits due to the NRI investor may be credited to this NRO account in India or ploughed back into the business.

(ii) Subscription to the Memorandum and Articles of Association of Indian companies:

General permission has been granted to NRIs by the RBI to subscribe to the Memorandum and Articles of Association of any Indian company proposed to be set up for any industrial activity. The total face value of the shares subscribed for in this manner by the NRI should not exceed Rs. 10,000. The company should file a declaration in form DSS, with the RBI within 90 days of its incorporation giving full details of the shares acquired by the NRIs.3

(iii) Direct investment in new issues of shares / debentures of Indian companies:

The non-resident Indians are granted general permission by the RBI to take up or subscribe upto 100% on non - repatriation basis to the new issues of shares or convertible debentures including rights / bonus issues of any public or private limited company. There is no obligation on the investee company to associate any resident Indian in the equity / preference capital of the company at

any time. The investee company should not carry on agricultural/plantation activities and/or real estate business (excluding real estate development, that is development of property and construction of houses). The dividend or interest accruals and sale proceeds of share/convertible debentures with permission of the RBI whenever necessary will be credited to the NRO A/c.

The Indian company proposing to issue shares as convertible debentures to NRIs on non-repatatriation basis need not seek the prior permission of the RBI for such issues any more. It has just to file with the RBI a declaration in form DIN within 90 days from the date of receipt of the funds together with -

(a) A non-repatriation undertaking from each (NRI)

(b) Bank certificates in support of consideration received by remittances from abroad or out of funds held in the NRE/FCNR Accounts of the NRIs.

(c) Where equity shares are issued to OCBs, a certificate in form OAC/OAC-1.

(iv) Purchase of existing shares of Indian companies by private arrangement:

NRIs may also be allowed by the RBI on application to purchase existing shares of Indian companies by private arrangement on the condition that the capital invested and income thereof would not be repatriable. Application to RBI is to be made by the investors in form FNC 3 along with undertaking for non-repatriation.

2. REPATRIABLE DIRECT INVESTMENT FACILITIES

Repatriable direct investment facilities available to NRIs are given below:
(i) Investment in new issues of Indian companies under the 40% scheme:

Under this scheme, non-resident Indians are permitted to make investment upto 40% with repatriation rights in new issues of shares or convertible debentures of any new or existing non-FERA company raising capital by means of a public issue through a prospectus. The investment will be permitted only in companies raising capital for setting up new industrial/ manufacturing projects or for expansion/diversification of existing industrial/ manufacturing activities.

Investments under this scheme may also be made in hospital projects, in the hotel industry (three star hotels and above) and new or existing companies engaged in the activities of shipping, development of computer software and oil exploration services. Application for permission is to be submitted by the Indian company concerned in form ISD to the RBI. Remittance of dividend/interest to non-resident would require prior approval of the RBI.

(ii) Investment upto 100% in high priority industries

NRIs may invest upto 100% equity with full repatriation benefits in priority industries detailed in Annexure III to the Statement of Industrial Policy 1991.4 These include metallurgical industries, boilers and steam generating plants, prime movers, electrical equipments, industrial machinery, agricultural machinery, chemicals, drugs and pharmaceuticals, printing machinery, all food processing industries other than milk food, hotels and tourism related industry and so forth. All such business proposals will be processed and automatically cleared by the RBI subject to the condition that capital goods imports, if any, are met from the NRI equity contribution. Such investment will be allowed in new as well as existing industrial undertakings. The above scheme also covers investments by individual NRIs in partnership firms. Application for permission is to be submitted by the Indian company in form ISD (R) to the RBI.

While approving the investment, the RBI will automatically grant the Indian company exemption from the provisions of sections 26 (7), 28, 29 and 31 of FERA. The non-resident investors need not make any separate applications to the RBI for the purpose of the above mentioned investment.

NRI direct investment upto 100% is also permitted in industries other than the 35 referred to above except the areas reserved for the public sector. However, such proposals will have no automatic clearance and they will be processed and cleared by the secretariat for Industrial approvals in the Ministry of Industry on a case to case basis. After obtaining the Ministry's clearance, the Indian company should seek the approval of the RBI for NRI investment by submitting form ISD (R).

Investment in industries reserved for small scale sector will be permitted provided the export obligation criterion prescribed for that industry has been met with. NRI equity holding upto 100% will be permitted in hotels and tourism related industry and hospitals, advanced diagnostic centres, shipping, export- oriented units, deep sea fishing industry and oil exploration services with full repatriation benefits. NRIs will also be permitted to import capital goods for the Indian industrial venture without any indigenous clearance provided the said goods are new goods, they are fully financed by the NRIs out of their own resources abroad and the goods are not restricted items under Export-Import Policy.

(iii) Investment in existing sick industrial units

NRIs will be permitted by RBI to undertake revival of sick industrial units by making bulk investment in them either by way of purchase of equity shares from existing shareholders or in the form of subscription to new equity issues for the sick units on the following basis:
(a) The bulk investment can be made on private placement basis upto 100% - of the equity capital of the sick company with full benefits of repatriation of capital invested and income earned thereon.

(b) Repatriation of capital brought into India for revival of the sick company will be permitted after a minimum period of five years on merit of individual cases after taking into account the future payment liabilities of the investee company.

(c) Issue / transfer of equity shares should be approved by the existing shareholders of the company through a special resolution.

For the purpose of investment under the scheme, a company is considered sick only if (a) public financial institution or a consortium has already formulated a plan for its rehabilitation / revival or (b) public financial institution / bank providing credit facilities to the company has classified it as a sick unit on the basis of losses made consecutively for atleast two years in the previous three years and the market price of its share has been below par value for atleast two years.

Application for permission for issue / transfer of equity shares to non-resident should be made by the Indian company concerned in form RSP to the central office of RBI together with the particulars / documents specified in the application form.

III PORTFOLIO INVESTMENT

NRIs are permitted to make portfolio investment in shares (equity as well as preference) and debentures (convertible and non convertible) of Indian companies both with or without the benefit of repatriation of capital invested and income earned thereon provided the purchase of shares / debentures through stock exchanges is arranged only through authorised dealers at the ruling market price. While authorising the specific bank, the NRI should specify the name of the
share broker through whom the portfolio investments will be made since the bank cannot directly purchase and sell shares / debentures. NRIs should send application to seek permission from the RBI through authorised dealers where the investment is on non-repatriation basis. Application to RBI is to be submitted in form NRI in case the applicant is an individual and in form NRC in case the applicant is a corporate body / trust; where the investment is on repatriation basis application to RBI is to be submitted in form RPI; in case the applicant is an individual and in form RPC in case the applicant is a corporate body / trust.

Investment Limit

Investments made by all eligible non-resident investors in any Indian company should not exceed (i) 5% of the total paid up equity capital of the company and (ii) 5% of the total paid up value of each series of convertible debentures issued by the company both on repatriation and non-repatriation basis.

This overall ceiling 5% can be increased upto 24% if the company so resolved through a general body resolution. This would apply in case of investment on repatriation as well as non-repatriation basis.

In case of portfolio investment with repatriation benefits, one additional condition is also applicable, i.e., investments made by any single non-resident investor in equity / preference shares and convertible debentures of any listed Indian company should not exceed 1% of its total paid up equity / preference capital or 1% of the total paid up value of each series of convertible debentures issued by it. The lock in period of one year stipulated for the repatriation of sale proceeds of shares / debentures has been withdrawn. Dividend / interest on such investments may be paid either by remittance to abroad or by credit to the investors' NRE / FCNR accounts or if it is non-repatriable, it can be credited to their NRO accounts.
IV. COMPANY DEPOSITS / COMMERCIAL PAPER / MUTUAL FUNDS / GOVT. SECURITIES

1. COMPANY DEPOSITS:

NRIs are permitted to place funds with public limited companies in India including government undertakings with full repatriation benefits subject to the following conditions:

(i) The deposits are made in conformity with the prevailing rules and within the limits prescribed for acceptance of deposits by such corporate bodies.

(ii) The deposit is kept for a period of three years. Where such deposits are on non-repatriation basis, the funds lying in the NRI's NRO A/C may be used.

Any company proposing to accept deposits from NRIs whether on repatriation or non-repatriation basis should submit an application to RBI giving details of its deposit scheme. The NRIs need not seek separate permission in such cases.

2. COMMERCIAL PAPERS (CPs)

The RBI has formulated a scheme for the issue of commercial papers by highly rated corporate borrowers in India so as to provide them avenues for short term borrowing. RBI has granted general permission to Indian companies to issue CPs to NRIs in accordance with the terms and conditions stipulated by the RBI, provided the amount invested and income earned thereon are not repatriated. The CPs issued to NRIs shall not be transferable. OCBs are not eligible to invest in CPs. The NRI investors need not make a separate application to the RBI for the investment in CPs. The Indian company should forward to the office of the RBI under whose jurisdiction the registered office of the company is situated, a
statement in form ICP, showing details of the CPs issued duly counter signed by
the bank which mobilized the subscription within a period of 10 days from the
closure of the subscription to the CPs issue.

3. MUTUAL FUNDS:

NRIs are permitted to invest in all Mutual Fund Schemes floated by public
sector/private sector institutions through primary or secondary market on fully
repatriable basis subject to the condition that investments are made either through
remittance of foreign exchange or through other repatriable resources of NRIs
like funds from NRE/FCNR Accounts. Application for the purpose should be made
to the RBI in form ISD by the bank/institution concerned. The non-resident investors
do not need separate approval from the RBI.

4. GOVERNMENT SECURITIES AND UNITS OF UTI

NRIs may freely purchase units of UTI central and state government
securities and National Plan/Savings certificates by effecting remittances from
abroad or by withdrawing funds from their NRE/FCNR A/cs. The dividend/interest
income from the investment as well as the sale proceeds/ maturity proceeds of
securities purchased by remittances from abroad can be remitted outside India or
may be credited to the investor’s NRE/FCNR accounts with prior approval of the
RBI which is granted freely. The entire income from the units of UTI and National
Savings Certificates purchased by remittances from abroad or out of funds held in
NRE/FCNR accounts is exempt from Indian income-tax. Investment in National
Saving Certificate is additionally exempt from gift-tax.

The UTI offers to NRI investor a number of Unit schemes to choose from
namely, Unit Scheme 1964, Re-investment Plan, Capital Gains Unit Scheme,
Children’s Gift Growth Fund, Parents’ Gift Growth Fund, Master Shares, and so
forth.
NRIs can also invest on non-repatriation basis in bonds issued by the public sector undertakings. Investment in government securities and units of UTI can also be made on non-repatriation basis. Dividend/interest may be credited to NRO A/cs.

V. IMMOVABLE PROPERTY

Overseas Indians of Indian Nationality can acquire residential property in India for their bonafide use subject to local laws and without RBI’s permission. NRIs having immovable property in India may open NRO Accounts jointly with their close relatives in India for depositing rentals and making payments towards taxes and upkeep of the property.

The RBI has granted general permission to persons of Indian origin whether resident in India or outside to acquire, hold, transfer or dispose of by way of sale or inheritance of immovable property situated in India provided where such property is acquired by way of purchase, it shall be for the bonafide residential purpose and the consideration for such property is met out of foreign exchange remitted to India through normal banking channels or out of funds held in the purchaser's FCNR/FCNR A/c (bank) scheme in India. The transaction covered by the general permission will be purely on non repatriation basis. Any income from the property or sale proceeds thereof, if sold at a later date and income on investment of the sale proceeds will not be allowed to be repatriated outside India, in any manner, at any time in future. It is however necessary for the purchaser to declare the property to the RBI within a period of 90 days from the date of purchase in the prescribed form IP1-7.

The RBI has also granted general permission to NRIs to let out their residential property in cases where on account of the owner’s residence out of India for the time being, the property is not required for his immediate residential purpose. The rental income from the property will not be allowed to be repatriated outside India and should be credited to the owner’s NRO account.
As a further incentive, the RBI has now allowed repatriation of original investment in equivalent foreign exchange on residential properties after obtaining prior approval subject to a maximum of two houses subject to the following conditions:

1. The residential properties are purchased on or after 26th May, 1993.

2. The properties are not transferred or disposed of by way of sale for a period of three years from the date of the final purchase deed or from the date of payment of final instalment where the agreement for purchase so provides.

3. Only the amount of sale proceeds equivalent to the original investment in foreign exchange if sold after three years will be allowed to be repatriated outside India and the balance amount of sale proceeds of the property should be credited to seller’s NRO A/C.

**Investment in housing and real estate development**

The RBI has liberalised investment opportunities for new companies engaged or proposed to engage financing to housing development, real estate development, namely, development of property, construction of roads, bridges and the like. These companies are permitted to issue equity shares / convertible debentures to NRIs. The issue will be on non-repatriation basis and could go upto 100% of the new issues.

By way of further liberalisation, it has been decided to allow existing or new companies (private/public limited) engaged in or proposed to engage in the following activities to issue equity shares/convertible debentures to NRIs upto 100% of the new issues with repatriation basis:

(i) Development of serviced plots and construction of built up residential premises.
(ii) Real estate covering construction of residential and commercial premises including business centres and offices.

(iii) Development of townships.

(iv) City and region level urban infrastructure facilities including roads and bridges.

(v) Manufacturing of building materials.

(vi) Financing of housing development.

Repatriation of original investment will be allowed with prior permission of the RBI only after a lock-in-period of three years from the date of issue of shares/convertible debentures.\(^5\)

VI. OTHER INVESTMENT FACILITIES

1. INVESTMENT IN EXPORT AND TRADING HOUSES:

With a view to bringing in more non-resident Indian investments and to giving access to international markets, NRI investment in equity upto 100% will be allowed by the RBI for Export House Trading, Star Trading or Super Star Trading Houses. The certification is being governed by the following criteria:

The average net foreign exchange earning in the preceding three licensing years should not be less than Rs.6 crores for Export House certification, Rs.30 crores for Trading House certifications, Rs.125 crores for Star Trading House certification, and 400 crores for Super Star Trading House certification. Such

\(^5\) RBI Circular No: 17, dated August 19, 1994, Chartered Secretary, October 1994, p. 926.
certifications will also be granted if the minimum net foreign exchange earning in the immediately preceding licensing year is not less than Rs. 12 crores, Rs.60 crores, Rs.150 crores and Rs.600 crores as the case may be. Automatic approval is granted by the RBI after registration of the unit with the Director General of Foreign Trade.

2. INVESTMENT IN 100% EXPORT ORIENTED UNITS AND UNITS IN EXPORT PROCESSING ZONES

NRIs are allowed to invest upto 100% equity for establishing 100% export oriented units or units in an export processing zone. There are seven free trade and export processing zones in the country. Each zone provides basic infrastructural facilities like developed land, standard design factory building, built up sheds, roads, power, water supply and drainage, custom clearance facilities, banks, post offices and clearing agents are also available. The other incentives for units in free trade zones and export oriented units include:

(i) 100% tax holiday for a block of five years in the first eight years of operation.

(ii) Duty free import of capital goods, raw materials and components.

(iii) Exemption from payment of central excise duty and other central levies.

(iv) Repatriation benefits in respect of profits/dividends.

(v) 100% export oriented units located in Export Processing Zones generating net foreign exchange earnings will be allowed to raise foreign currency loans freely from banks, international financial institutions, foreign/NRI collaborators or other foreign/NRI individuals and corporate entities abroad.
3. INVESTMENT IN POWER SECTOR

NRIs have been allowed to invest in the power sector upto 100% of equity with the right of repatriation of investment and income earned on it. Foreign investors can also invest upto 51% and balance 49% by NRIs. Such proposals are first negotiated with the State Electricity Boards before approaching FIPB for investment approvals through SIA, New Delhi in the prescribed form FC.

4. INVESTMENT IN SERVICE SECTOR

Foreign equity investment including NRI investment is permitted in Indian companies which are engaged in or proposed to be engaged in the following non-banking financial services:

(i) Merchant Banking
(ii) Underwriting
(iii) Portfolio Management Services
(iv) Investment Advisory
(v) Financial consultancy
(vi) Stock Broking
(vii) Asset Management Companies
(viii) Venture Capital
(ix) Custodial Services
(x) Factoring
(xi) Credit Reference Agencies
(xii) Leasing.

All investment proposals in the above areas are considered on a case by case basis by FIPB. The proposals received in FIPB are referred to DEA which in turn obtains comments/advice of the SEBI or RBI depending upon the nature of service involved. On the basis of the recommendations/ views of SEBI, RBI and DEA, the proposals are considered and approved by FIPB.
There is no minimum investment requirement in cases involving direct foreign equity investment upto 51%. Foreign equity investment beyond 51% but upto 75% is allowed on merits of the case provided the foreign parties contribute minimum of US $5 million of the net worth of the joint venture. Participation upto 100% is considered only in case of holding companies provided the minimum investment is $50 million. Apart from the Government’s approval, registration requirement with SEBI is necessary and clearance from RBI under FERA, provisions is required to be obtained by the investors.

Existing or new public limited or private limited companies engaged or proposed to engage in finance, hire purchase, leasing, trading and other services have been allowed to issue shares/convertible debentures to NRIS on repatriation basis, provided the aggregate allocation does not exceed 24 percent of the new issues.

Banking service: Foreign direct investment is also now permitted upto 20% and in the case of NRIs upto 40% in the banking service sector subject to the guidelines or norms stipulated by the RBI.

5. AIR-TAXI OPERATION

Government of India announced open sky policy with liberalised measures to attract private investments for operating air-taxis. Under this, NRIs will be allowed to set up Indian companies with 100% equity participation for carrying on air-taxi operations in terms of the guidelines issued by the Director General of Civil Aviation for air-taxi operation. Applications for the purpose should be made to RBI (Central office) in form ISD(R). Repatriation of the investment and or remittance of dividend will be permitted only after the expiry of five years of operation of the air-taxi scheme and only out of accumulated net foreign exchange earnings.
6. NRI BONDS/INDIA DEVELOPMENT BONDS

The first NRI bond was issued by SBI Capital Markets Ltd., a subsidiary of the State Bank India on November 14, 1988.6 The main features of these bonds were:

(a) The bonds exclusively meant for NRIs were issued in denomination of Rs. 500, Rs. 5,000 and Rs. 10,000.

(b) The bonds have a maturity period of seven years but they are both encashable and transferable within this period.

(c) Interest in the bonds at 11.5% p.a will be compounded half yearly in dollars and be paid on maturity along with the principal in Indian rupees at the rate of exchange prevailing at that time.

(d) The bonds are free from Income-Wealth-Gift-taxes and these tax concessions will be available even if the bond-holder returns to India before the maturity period. The tax concessions will also be available to the transferee's survivors and donees. The tax benefit ceases only on the encashment of bonds.

(e) Rupee loans at 13.5% may be raised to the extent of 75% of the face value of the bond for investments or other bonafide requirements of the bondholders.

The total subscription to the first NRI Bond issued was about US $75 million. Response to the issue came mostly from the U.S.A., Saudi Arabia, and Kuwait.

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In 1990, SBI Capital Market Ltd., issued the second series of seven years non-repatriable NRI bonds carrying interest at 11% p.a. The NRI could apply for the bonds jointly with any individual of Indian nationality including a resident Indian. The total amount realised by this issue was US $260 million.

THE INDIA DEVELOPMENT BOND 1991

The State Bank of India issued India Development Bond from October 1, 1991. The 5 year 9.5% bond qualifies for all such tax benefits and immunities. It incorporated all the attractive features of the NRI Bond second series and quite a few new features as well. For instance, both principal and interest are fully repatriable. OCBs are also eligible to purchase these bonds. For non-resident holders, the face value and the interest thereon are repatriable with exchange rate protection. The first gift of these bonds to residents during their life will be exempt from gift-tax. The resident donee will be entitled to exchange rate protection. But the proceeds will be paid only in Indian rupees. IDBs were originally offered in denomination of US $500, $5000, $10,000 and $50,000. Later, bonds were issued in sterling pounds as well. The sterling bonds were made available in denominations of pound sterling 250, 500, 1,000, 5,000, 10,000 and 20,000 carrying interest at 13.5% p.a. The response to the issue was encouraging and timely. According to the RBI Annual Report for 1991-92, the sale of IDBs realised Rs.442 crores.

Dr. T.V. Ramachandran, NRI Investment Policy, Guidelines and Procedures, 1994, p.45.