



DAY 02 || Comprehensive Course on
Foreign Exchange Management, 1999

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Person Resident In India || Sec. 2(v)(i) || Example

- Mr. Henalal had resided in India during the financial year 2015-2016 for less than 182 days. He had come to India on April 1, 2016 for business. He intends to leave the business on April 30, 2017 and leave India on June 30, 2017. What would be his residential status during the financial year 2016-2017 and during 2017-2018 up to the date of his departure?

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Mr. Henalal will be considered as person resident in India' from 1st April 2016. As regards, financial year 2017-2018, Mr. would continue to be an Indian resident from 1st April 2017.

If he leaves India for the purpose of taking up employment or for business/vocation outside India, or for any other purpose as would indicate his intention to stay outside India for an uncertain period, he would cease to be person resident in India from the date of his departure.

It may be noted that even if Mr. Henalal is a foreign citizen, if he has not left India for any these purposes, he would be considered, 'person resident in India' during the financial year 2017-2018. Thus it will depend on the purpose of leaving India which will decide his status from 1st July 2017

Person Resident In India || Sec. 2(v)(i) || Example

Mr. Z had resided in India during the financial year 2015-2016. He left India on 1st August, 2016 for United States for pursuing higher studies for 3 years. What would be his residential status during financial year 2016-2017 and during 2017-2018?

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Mr. Z had resided in India during the financial year 2015-2016. He left India on 1st August, 2016 for United States for pursuing higher studies for 3 years. What would be his residential status during financial year 2016-2017 and during 2017-2018?

Answer: Mr. Z had resided in India during financial year 2015-2016 for more than 182 days. After that he has gone to USA for higher studies. In other words, he has not gone out of, or stayed outside India for or on taking up employment, or for carrying a business or any other purpose, in not circumstances as would indicate his intention to stay outside India for an uncertain period. Accordingly, he would be 'person resident in India' during the financial year 2016-2017.

RBI has however clarified in its AP circular no. 45 dated 8th December 2003, that students will be considered as non-residents. This is because usually students start working there to take care of their stay and cost of studies.

For the financial year 2017-2018, he would not have been in India in the preceding financial year (2016-2017) for period exceeding 182 days. Accordingly, he would not be person resident in India' during the financial year 2017-2018.

Person Resident In India || Sec. 2(v)(i) || Example

Miss Ann is an airhostess with the British Airways. She flies for 12 days in a month and thereafter takes a break for 18 days. During the break, she is accommodated in 'base', which is normally the city where the airways are headquartered. However, for security considerations, she was based on Mumbai.

During the financial year, she was accommodated at Mumbai for more than 182 days. What would be her residential status under FEMA?

Miss Ann stayed in India at Mumbai base' for more than 182 days in the preceding financial year.

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During the financial year, she was accommodated at Mumbai for more than 182 days. What would be her residential status under FEMA?

Miss Ann stayed in India at Mumbai base' for more than 182 days in the preceding financial year.

She is however employed in UK. She has not come to India for employment, business or circumstances which indicate her intention to stay for uncertain period.

Under section 2(v)(B), such persons are not considered as Indian residents even if their stay exceeds 182 days in the preceding year. Thus, while Miss Ann may have stayed in India for more than 182 days, she cannot be considered to be an Indian resident. If however she has been employed in Mumbai branch of British Airways, then she will be considered as Indian resident.

- Foreigner national deputed to India for employment:
- Does he become Resident in India?
- if so can he buy immovable property in India?

Press Release of Ministry of Finance dated 1st February 2009 - Government advice on acquiring land by persons resident outside India.

In case of foreign nationals, physical condition to stay for more than 182 days is mandatory for buying of Immovable Property.

Along with period of stay intention also needs to be established.

Travel related documents and nature of Visa can establish intention of a person.

Residential Status under FEMA

Section 2(v) Person resident in India means (cont'd.)

(ii) Any Person or body corporate registered or incorporated in India

(iii) An office, branch or agency in India owned or controlled by a person resident outside India

(iv) An office, branch or agency outside India owned or controlled by a person resident in India.

Section 2(w) - Person resident outside India (PROI)

Person resident outside India means a person who is not resident in India.

Person Resident In India || Sec. 2(v)(i) || Example

- Tooo Ltd. is a Japanese company having several business units all over the world. It has a robotic unit with its head quarter in Mumbai and has a branch in Singapore. Headquarter at Mumbai controls the branch of robotic unit. What would be the residential status of robotic unit in Mumbai and that of the Singapore branch?

Person Resident In India || Sec. 2(v)(i) || Example

- **Tooo Ltd. is a Japanese company having several business units all over the world. It has a robotic unit with its head quarter in Mumbai and has a branch in Singapore. Headquarter at Mumbai controls the branch of robotic unit. What would be the residential status of robotic unit in Mumbai and that of the Singapore branch?**
- **Answer:**
- Toooo Ltd. being a Japanese company would be a person resident outside India. (Section 2(w))
- Section 2(u) defines 'person'.

(u) "Person" includes-

(i) An individual,

(ii) A Hindu undivided family,

(iii) A company,

(iv) A firm,

(v) An association of persons or a body of individuals, whether incorporated or not,

(vi) Every artificial juridical person, not falling within any of the preceding sub-clauses, and

(vii) Any agency, office or branch owned or controlled by such person;

Person Resident In India || Sec. 2(v)(i) || Example

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- **Answer:**
- Toooo Ltd. being a Japanese company would be a person resident outside India. (Section 2(w))
- Section 2(u) defines 'person'. Under clause (viii) thereof person would include any agency, office or branch owned or controlled by such person'. The term such person' appears to refer to a person who is included in clauses (i) to (vi).
- **Accordingly, robotic unit in Mumbai, being a branch of a company, would be a person'.**
- Section 2(v) defines 'person resident in India'.
- Under clause (iii) thereof person resident in India' would include an office, branch or agency in India owned or controlled by a person resident outside India. **Robotic unit is in Mumbai** is owned or controlled by a person 'resident outside India'. Hence, it would be 'person resident in India'.
- However, robotic unit in Mumbai, though not owned controls Singapore branch, which is a person resident in India. Hence prima facie, it may be possible to hold a view that the Singapore branch is person resident in India.

Residential Status under FEMA – A Third Category

Not permanently resident in India



Q.4 What is meant by 'not permanently resident'?

Ans. Not permanently resident means a person resident in India for employment of a specified duration (irrespective of length) or for a specific job duration which does not exceed three years.

As per Regulation 5 of FOREIGN EXCHANGE MANAGEMENT (REMITTANCE OF ASSETS) REGULATIONS

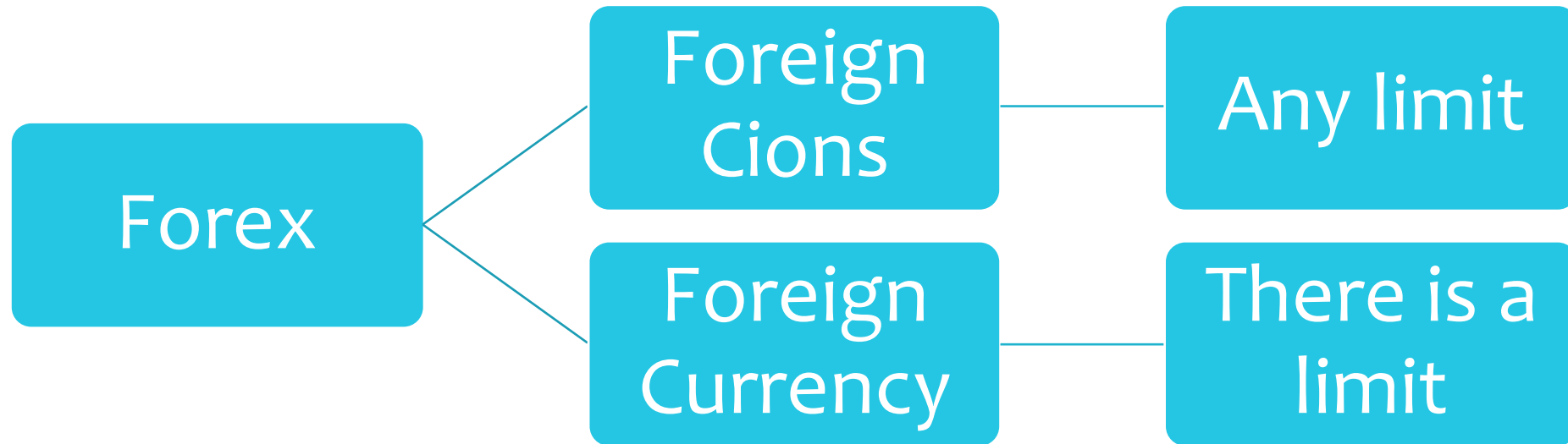
Not permanently resident means a person resident in India for employment of a specified duration (irrespective of length) or for a specific job duration which does not exceed three years.

Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015

'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

Residential Status under FEMA

- Possession of foreign currency



A person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act.

Residential Status under FEMA – A Third Category

Not permanently resident in India

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- **Remittance of salary**

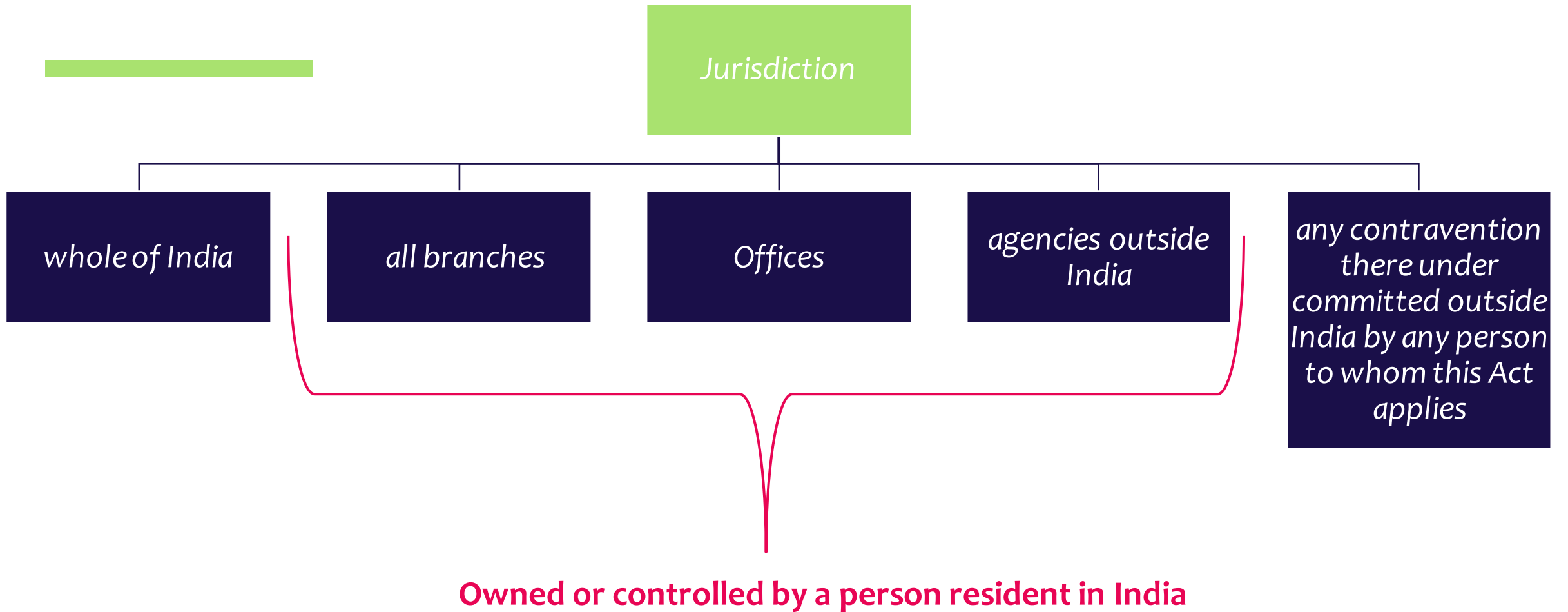
A person who is resident but not permanently resident in India and

- a. is a citizen of a foreign State other than Pakistan; or
- b. is a citizen of India, who is on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company, may make remittance up to his net salary (after deduction of taxes, contribution to provident fund and other deductions).
- Explanation: For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident.

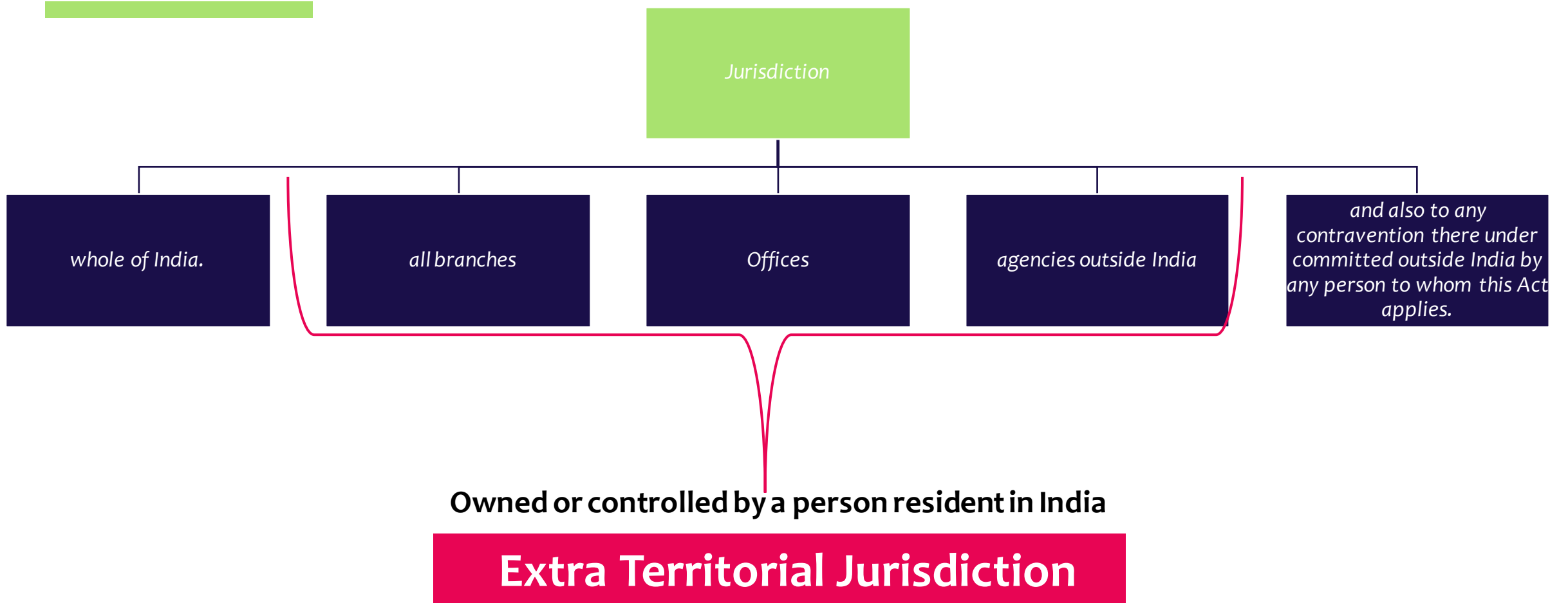
The Act



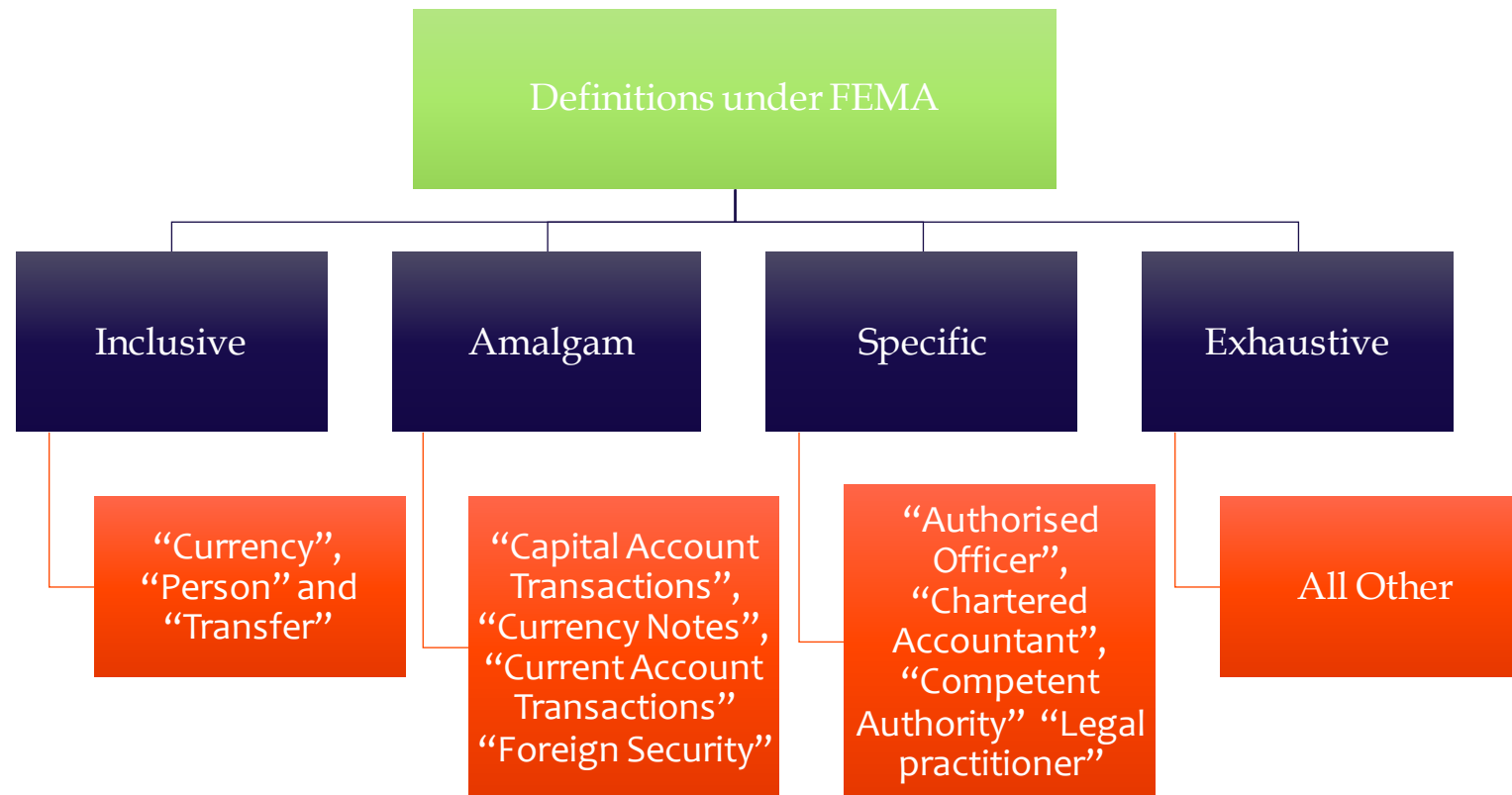
The Act



Framework of FEMA



Framework of FEMA || Definitions



Section 3 – Dealing in Foreign Exchange, etc.

Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, no person shall-

Section 3(a)

- deal in
- transfer
- any foreign exchange or foreign security
- to any person not being an authorized person;

Section 3(b)

- make any payment to
- for the credit
- of any person resident outside India in any manner;

Section 3(c)

- receive
- otherwise through an authorized person,
- any payment
- by order or on behalf
- of any person resident outside India in any manner.

Section 3(d)

- enter into any financial transaction in India
- as consideration for
- or in association with
- Acquisition or creation or transfer of
- a right to acquire,
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Section 3(a) deal in transfer any foreign exchange or foreign security to any person not being an authorized person;

- one of the party to the foreign exchange should be an Authorised person
- Deal in is a wide term and should include- purchase, acquire, borrow, sell or otherwise transfer or lend or to exchange with (FERA's corresponding section 8(1) had wide meaning with specifically included all these types of transactions)
- contravention under clause (a) of section 3 cannot be compounded by RBI but only by Directorate of Enforcement.

Section 3 – Dealing in Foreign Exchange, etc.

- Mr. Pradeep Kumar Awasthi, an NRI comes to India
- and would like to sell US\$ 2000 to his friend, Mr. Rakesh who is resident in India .
- Mr. Rakesh offers him the better rate than the banks.

Can this transaction be undertaken?

Section 3 – Dealing in Foreign Exchange, etc.

- Mr. Pradeep Kumar Awasthi, an NRI comes to India
- and would like to sell US\$ 2000 to his friend, Mr. Daga who is resident in India .
- Mr. Daga offers him the better rate than the banks.

This cannot be done as this will amount to dealing in Forex.

Section 3 – Dealing in Foreign Exchange, etc.

Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, no person shall-

Section 3(b) make any payment to or for the credit of any person resident outside India in any manner

- To the credit of NR
- For the credit of NR (on behalf of NR)
- Intention is to prohibit fulfilment of foreign exchange obligation of a NR by third party.
- Such third party could be Resident or Non resident

Section 3 – Dealing in Foreign Exchange, etc.

- Pradeep is an NRI.
- His brother Shyam is in India.
- Geetha is best friend of Pradeep and is an Person Resident in India
- Geetha is in financial stress and needs immediate money
- Pradeep being an affluent NRI now looks in the ways of helping her
- Pradeep proposes to buy her apartment in Mumbai from Geetha
- Pradeep has to pay to Geeta for buying an immovable property from her.
- Pradeep ask Shyam to make the payment.
- Shyam makes the payment.

If this transaction can be done?

Exceptions to Section 3(b)

Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016

Regulation 6(2) any person resident in India can make payment in rupees:

(i) in rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India;

(ii) by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;

(iii) a company or resident in India may make payment in rupees to its non whole time director who is resident outside India and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirement of any law, rules, regulations, directions applicable for making such payments are duly complied with.

Exceptions to Section 3(b)

Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016

Regulation 6(2) any person resident in India can make payment in rupees:

(iv) by credit to SNRR account maintained by a person resident outside India (overseas seller) with an Authorised Dealer or an Authorised Bank in India for imports into India, as specified in Foreign Exchange Management (Deposit) Regulations, 2016

(v) in rupees to SNRR account of the person resident outside India after ensuring that the underlying transactions are in conformity with the provisions of the Foreign Exchange Management Act, 1999 and the rules, regulations and directions issued thereunder.

Section 3 – Dealing in Foreign Exchange, etc.

Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, no person shall-

Section 3(c) receive otherwise through an authorized person, any payment by order or on behalf of any person resident outside India in any manner

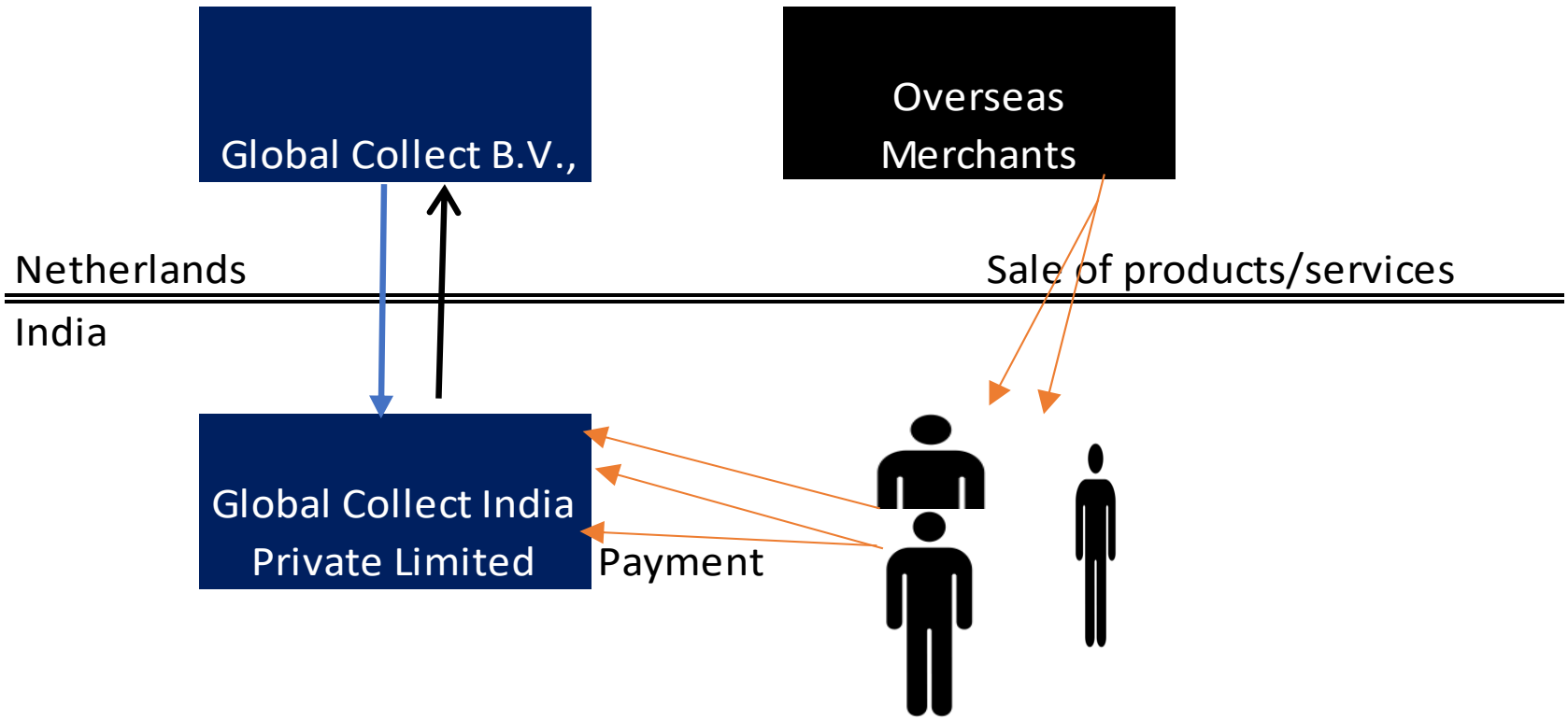
- Explanation.- For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorized person) **without a corresponding inward remittance** from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorized person;

Section 3 – Dealing in Foreign Exchange, etc.

- Mr. Reddy, an NRI comes to India.
- He goes to shop in Connaught place at Delhi to buy an antique.
- He says that I don't have cash. "Please accept 200 USD".

Can the shopkeeper do that?

Compounding order



Section 3 – Dealing in Foreign Exchange, etc.

Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, no person shall-

(d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

- Explanation.-For the purpose of this clause, "**financial transaction**" means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt."
 - making any payment to of any person
 - making any payment for the credit of any person,
 - receiving any payment for any person,
 - receiving any payment by order or on behalf of any person,
 - or drawing, issuing or negotiating any bill of exchange or promissory note,
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Section 3 – Dealing in Foreign Exchange, etc.

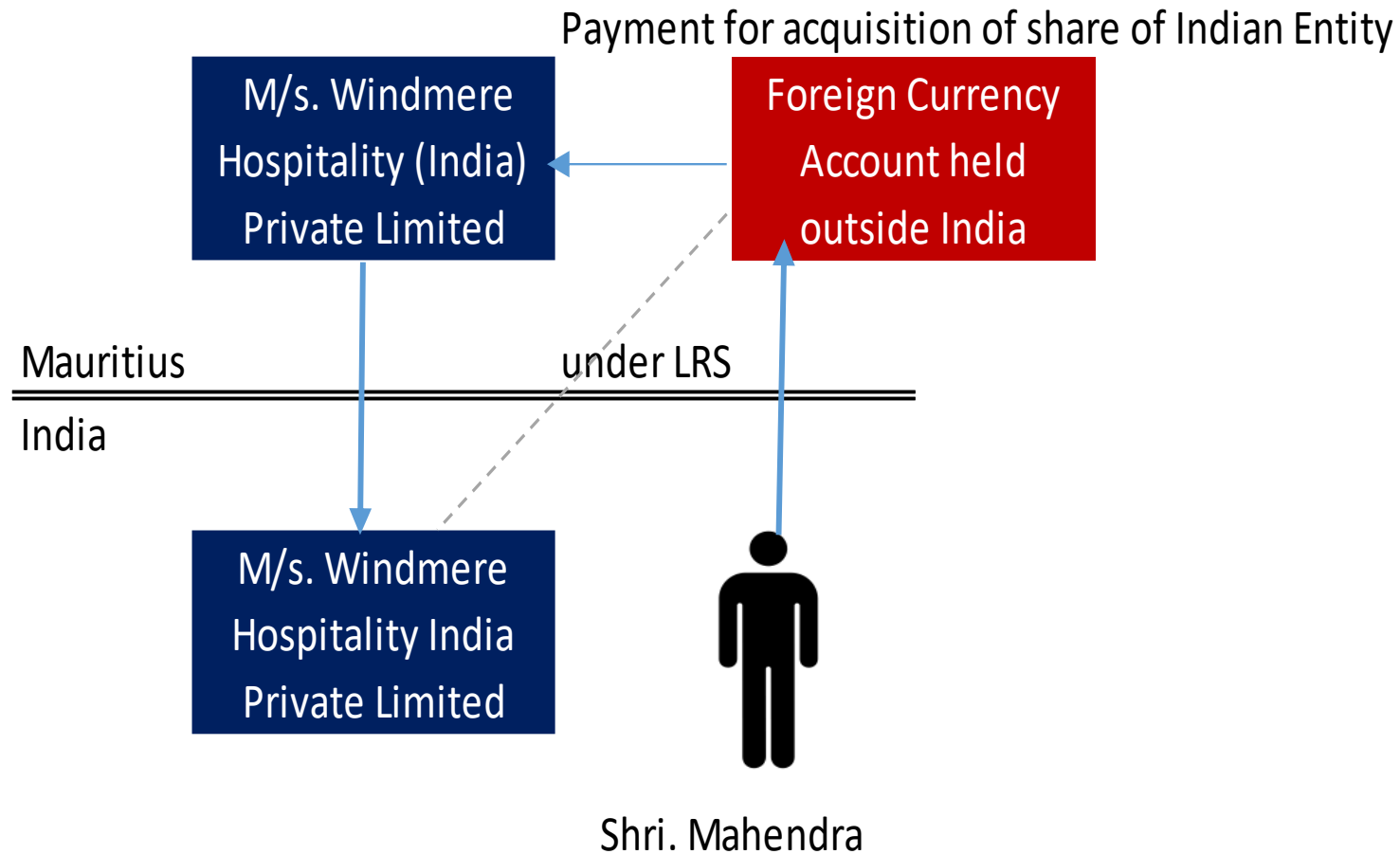
- Mr. Anil, an Indian resident gives INR 200000 in cash to another Indian resident Mr. Bhanu Prasad.
- For this transaction Mr. Anil Brother – Mr. Alok who is in Dubai will get the same amount paid in Dubai in USD.

Whether this transaction is allowed?

Section 3 || *Your thoughts...*

- A, an NRI, has property in UK and he wants to transfer the same to B, a Resident, and B wants to make the payment of same to the parents of A in India. Although there is payment from Resident (B) to Resident (Parent of A in India). Can this be done?
- If A is a person resident in India and is relative of B, where B is an NRI. B entered into general power of attorney with A. A sold the land of B to XYZ LTD, a company incorporated in India. B request A to receive the sale consideration of sale of land from XYZ LTD. XYZ LTD makes the payment to A on the instruction of and for the credit of B. A receives the sale consideration of sale of land by B in India.
- A, is resident. B is Non resident. A receives the money on behalf of B. C has to pay to B. Instead of B. C pays to A through Bank. A receives the payment on behalf of B. Whether doable?

Compounding Order



Section 4

- *"Holding of foreign exchange, etc.- Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India"*

Save as otherwise provided in this Act, resident person shall not:

- ❖ acquire
- ❖ hold
- ❖ own
- ❖ possess; or
- ❖ transfer
 - (i) any foreign exchange,
 - (ii) foreign security; or
 - (iii) any immovable property situated outside India.

Section 4

- (n) "Foreign exchange" means foreign currency and includes,-
 - (i) Deposits, credits and balances payable in any foreign currency,
 - (ii) Drafts, traveller's cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,
 - (iii) Drafts, traveller's cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency;
- (o) "foreign security" means any security, in the form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency and includes securities expressed in foreign currency, but where redemption or any form of return such as interest or dividends is payable in Indian currency;

Section 42 || Contravention by companies.

(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

- Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

- Explanation.— For the purposes of this section—
 - (i) company means any body corporate and includes a firm or other association of individuals; and
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Accounts || Accounts || Accounts

By Residents and Non residents



Investment by NRI

Bank Accounts

Foreign Exchange Management (Deposit) Regulations, 2016

Investment in Immovable property

Foreign Exchange Management (Acquisition and Transfer of Immovable Property India) Regulations, 2015

Amended now

Foreign Exchange Management (Non debt instruments) Rules, 2019

Investment in Share and other securities

Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000

Amended now

Foreign Exchange Management (Non debt instruments) Rules, 2019

Borrowing and lending by NRI

Foreign Exchange Management (Borrowing and lending) 2018

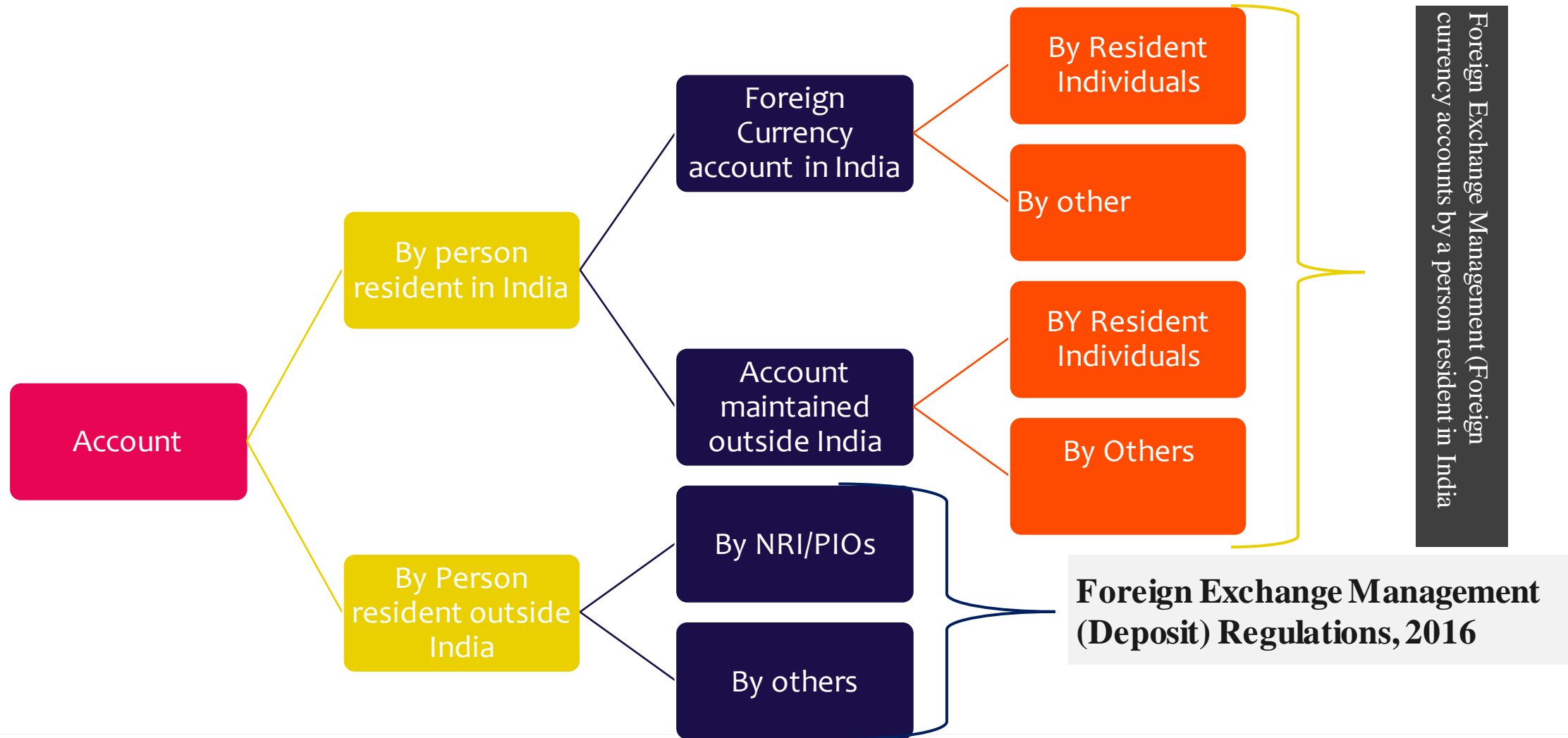
Capital contribution in any proprietary or partnership concern in India

Foreign Exchange Management (Investment in firm or proprietary concern in India) Regulations, 2000 vide Notification No. FEMA 24 /2000-RB dated 3rd May 2000

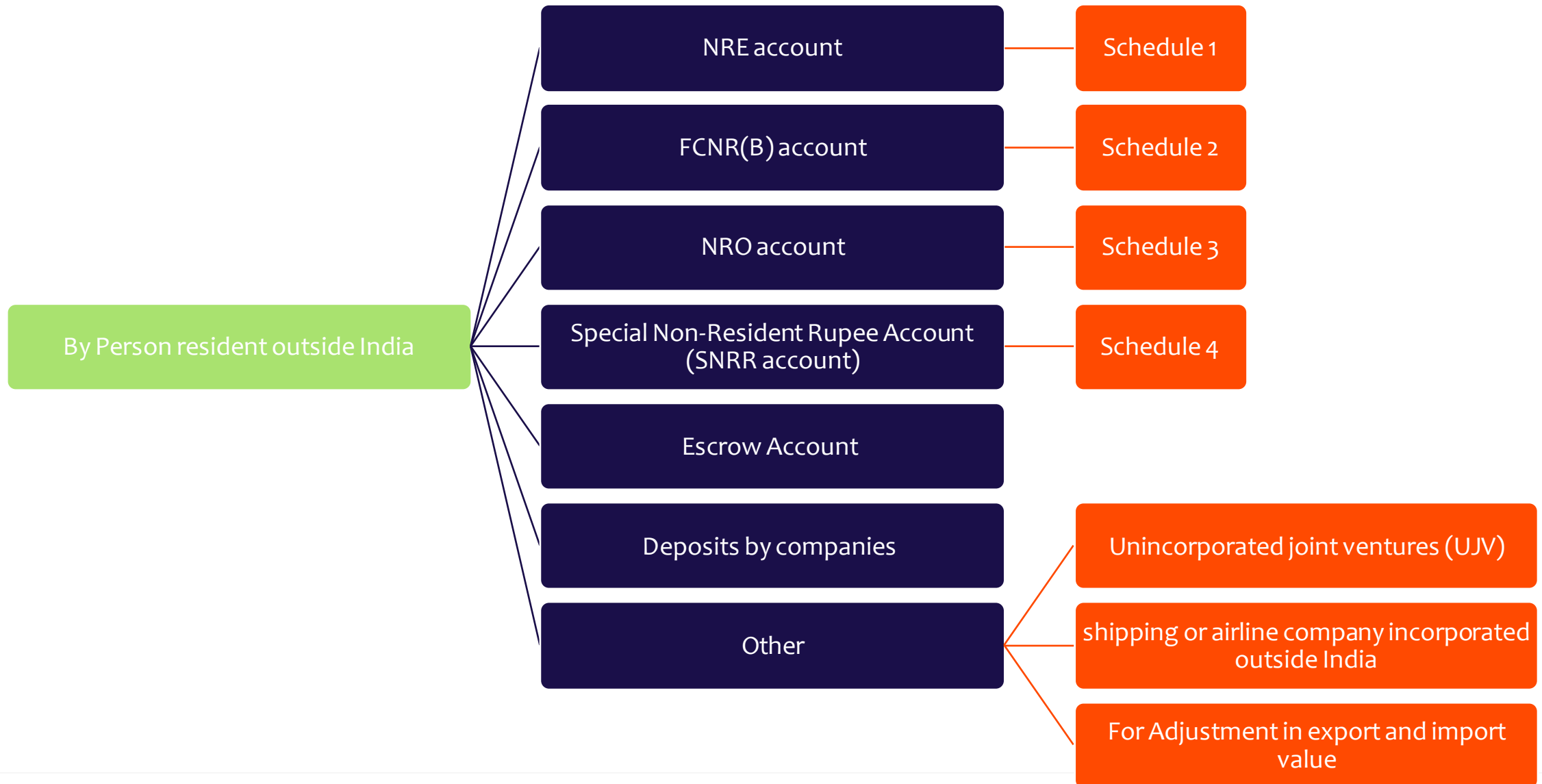
Remittance of Assets

Foreign Exchange Management (Remittance of Assets) Regulations, 2016

Accounts by Person resident outside India

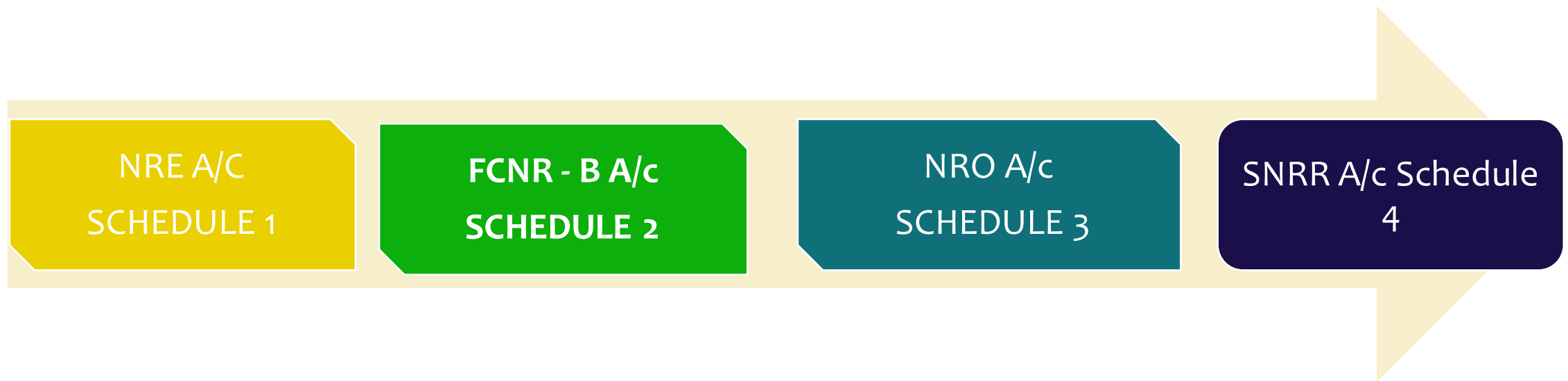


Foreign Exchange Management (Deposit) Regulations, 2016



Foreign Exchange Management (Deposit) Regulations, 2016

- Regulations – FEMA 5/2000-RB on Foreign Exchange Management (Deposit) Regulations, 2016 amended from time to time.



NRE Account vs. FCNR(B) Account vs. NRO Account

| Particulars | NRE Account | FCNR(B) Account | NRO Account |
|----------------------------------|--|---|--|
| Who can open an account | <ul style="list-style-type: none"> NRIs and PIOs (Individual of Pakistan & Bangladesh require prior approval of RBI) | <ul style="list-style-type: none"> NRIs and PIOs (Individual of Pakistan & Bangladesh require prior approval of RBI) | <ul style="list-style-type: none"> Any person resident outside India (including NRI/PIO) (Individual/Entities of Pakistan & Bangladesh require prior approval of RBI) |
| Who is authorized to open | <ul style="list-style-type: none"> Authorised Dealer Authorised Banks (including co-op bank other than AD) | <ul style="list-style-type: none"> Authorised Dealer Authorised Banks (including co-op bank) Regional Rural Bank | <ul style="list-style-type: none"> Authorised Dealer Authorised Banks (including co-op bank other than AD) |
| Currency | <ul style="list-style-type: none"> INR | <ul style="list-style-type: none"> Forex (Any foreign currency which is freely convertible) | <ul style="list-style-type: none"> INR |
| Type of Account | <ul style="list-style-type: none"> Savings Current Recurring/Fixed Deposit | <ul style="list-style-type: none"> Term Deposit only | <ul style="list-style-type: none"> Savings Current Recurring/Fixed Deposit |
| Period for fixed deposits | <ul style="list-style-type: none"> From 1 to 3 years (However, banks are allowed to accept NRE deposits > 3 years from their AL point of view) | <ul style="list-style-type: none"> Between 1 to 5 years | <ul style="list-style-type: none"> As applicable to resident accounts (eg: even 6 months) |
| Rate of Interest | <ul style="list-style-type: none"> As per guidelines issued by the Department of Banking Regulations | | |

NRE Account vs. FCNR(B) Account vs. NRO Account

❖ NRE & FCNR (B) account

• Permitted Credits

- a) Inward remittances from o/s India through banking channels
- b) Personal cheques of FCA outside India / travellers cheques / bank drafts deposited by the account holder in person during temporary visit to India
- c) Tender of foreign currency / bank notes during temporary visit to India
- d) Transfers from other NRE/ FCNR(B) accounts
- e) Interest accruing on the funds held in the account
- f) Current income in India due to the account holder, subject to payment of applicable taxes in India (like rent, dividend, pension, interest)
- g) Maturity or sale proceeds of any permissible investment in India which was originally made from NRE/FCNR(B) a/c or out of inward remittances from o/s India thru banking channels
(FEMA Notf. 21/2000 - Sale of immovable property in India: Credit to NRE a/c restricted to 2 properties during lifetime and also restricted to the amount of investment made from NRE a/c)
- a) Refund of share/ debenture subscriptions to new issues of Indian companies or portion thereof, if subscription amount was paid from NRE/ FCNR(B) a/c of the account holder or out of inward remittances from o/s India thru banking channels
- b) Refund of application / earnest money / purchase consideration made by the house building agencies / seller on account of non-allotment of flat / plot / cancellation of bookings / deals for purchase of residential / commercial property, together with interest, if any (net of income tax payable thereon), was paid from NRE / FCNR(B) a/c of the account holder or out of inward remittances from o/s India thru banking channels and AD is satisfied about the genuineness of the transaction

NRE Account vs. FCNR(B) Account vs. NRO Account

❖ NRE & FCNR (B) account

•Permitted Debits

- a) Local disbursements
- b) Remittances outside India
- c) Transfer to NRE/ FCNR(B) accounts of the account holder *or* any other person eligible to maintain such account
- d) Investment in shares/ securities/ commercial paper of an Indian company or for purchase of immovable property in India provided such investment/ purchase is covered by the regulations made, or the general/ special permission granted by RBI

•FCNR(B): If inward remittance is in currency other than designated currency, currency conversion costs for conversion into designated currency to be borne by remitter. Fully covered swap is permitted in such cases.

NRE Account vs. FCNR(B) Account vs. NRO Account

❖ NRO account

• Permitted Credits

- a) Inward remittances from o/s India thru banking channels
- b) Tender of any permitted currency during his temporary visit to India
- c) Legitimate dues in India of the account holder
- d) Transfers from other NRO accounts
- e) Rupee gift / loan made by a resident to a NRI / PIO relative within the limits prescribed under LRS

• Permitted Debits

- a) All local payments in rupees including payments for investments subject to compliance with the relevant regulations made by RBI
- b) Remittance outside India of current income in India of the account holder net of applicable taxes
- c) Transfers to other NRO accounts
- d) Remittances abroad/ Transfer to NRE Account under USD 1 Million Scheme, subject to conditions
- e) Settlement of charges on International Credit Cards issued by AD in India to NRIs or PIOs, up to USD 1 Million per financial year

NRE Account vs. FCNR(B) Account vs. NRO Account

| Particulars | NRE Account | FCNR(B) Account | NRO Account |
|-----------------------|---|---|---|
| Repatriability | <ul style="list-style-type: none"> • Repatriable | <ul style="list-style-type: none"> • Repatriable | <ul style="list-style-type: none"> • Not repatriable except for all current income. • Individual: Balances in an NRO account of NRIs/PIOs are remittable up to USD 1 (one) million per financial year (April-March) along with their other eligible assets. • Entities: RBI permission |
| Taxability | <ul style="list-style-type: none"> • Exempt | <ul style="list-style-type: none"> • Exempt | <ul style="list-style-type: none"> • Taxable |
| Joint account | <ul style="list-style-type: none"> • Jointly with two or more NRIs/PIOs • Jointly with resident relative on 'former or survivor' basis (relative as defined in Companies Act, 2013) • The resident relative can operate the account as a Power of Attorney holder during the lifetime of the NRI/PIO account holder. | | |

NRE Account vs. FCNR(B) Account vs. NRO Account

| Particulars | NRE Account | FCNR(B) Account | NRO Account |
|--|---|-----------------|---|
| Operations by resident POA holder | <p><u>Permitted</u></p> <ul style="list-style-type: none"> • Withdrawal for local payments • Make investments in India • Remittance to account holder himself thru banking channels <p><u>Prohibited</u></p> <ul style="list-style-type: none"> • Remittance outside India to other than account holder himself • Make payment by gift to resident | | <p><u>Permitted</u></p> <ul style="list-style-type: none"> • Withdrawal for local payments • Make investments in India • Remittance outside India of current income, net of taxes <p><u>Prohibited</u></p> <ul style="list-style-type: none"> • Remittance outside India to other than account holder himself • Make payment by gift to resident |
| Loans outside India (Secured) | <ul style="list-style-type: none"> • AD may allow their branches/ correspondents o/s India to grant loans to NRI/PIO or to Third Parties for bona fide purpose against the security of funds held in the NRE/ FCNR (B) accounts in India, subject to usual margin requirements. • The term “loan” shall include all types of fund based / non-fund-based facilities | | <ul style="list-style-type: none"> • Not permitted |

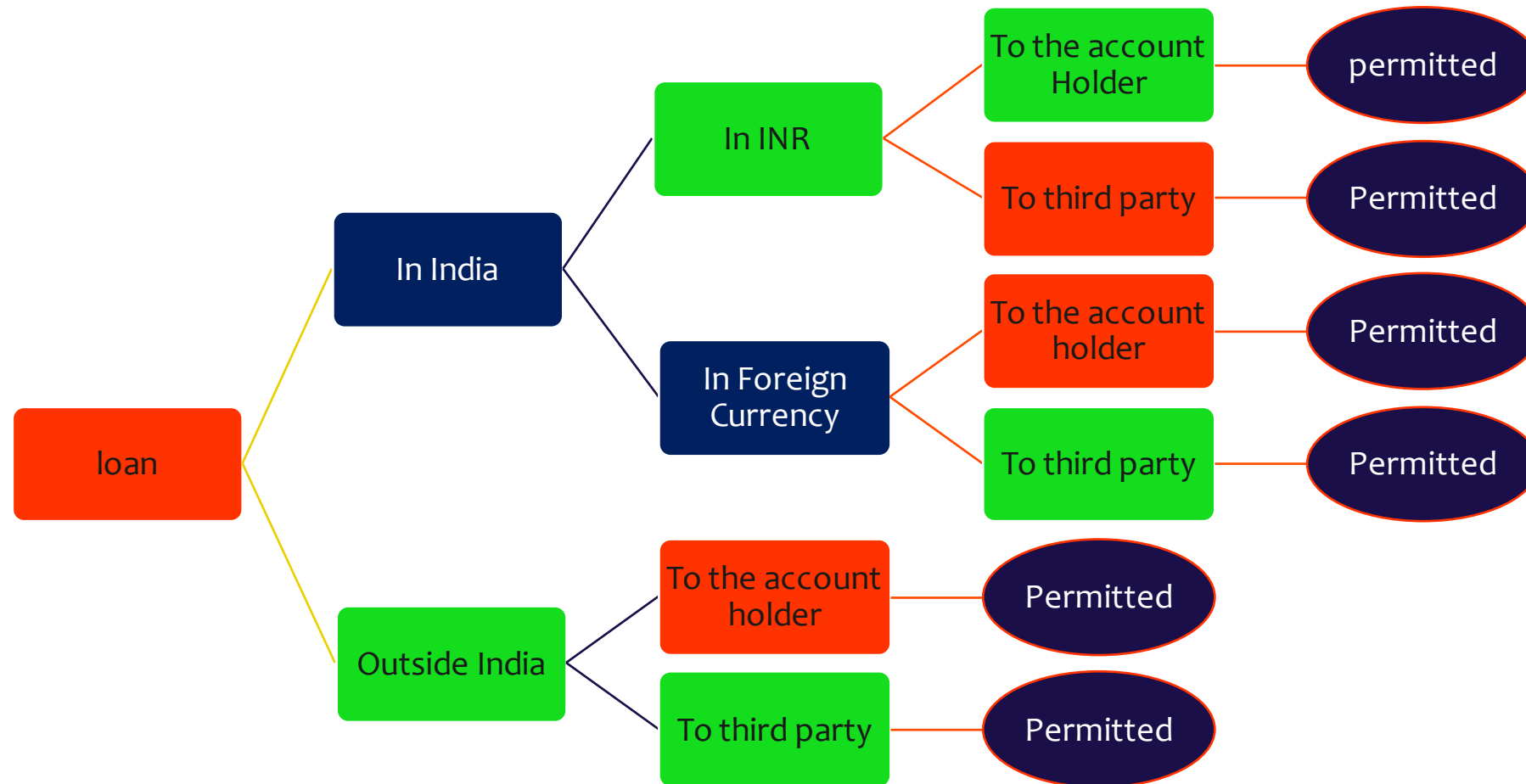
Loan Against the Deposit



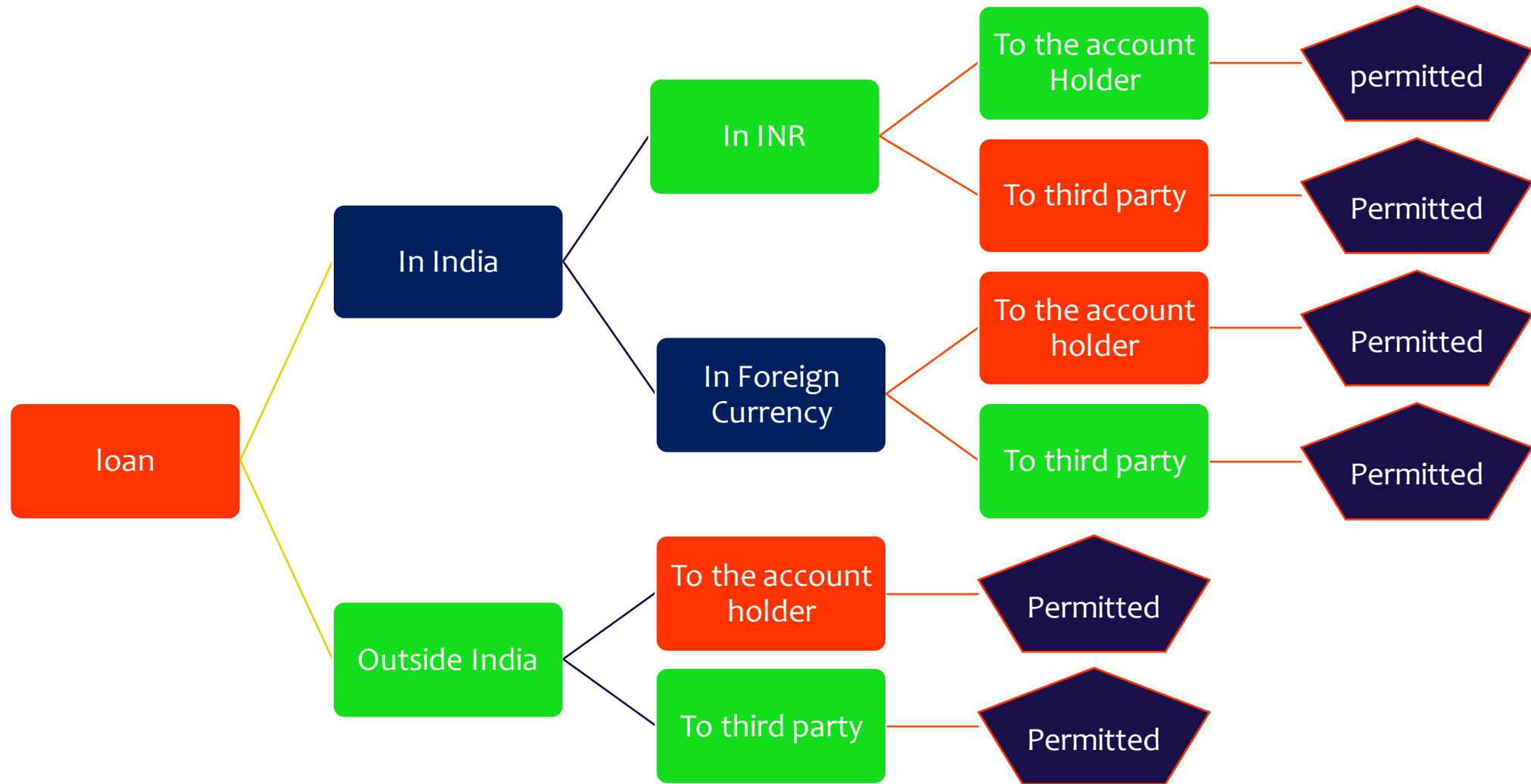
NRE Account vs. FCNR(B) Account vs. NRO Account

| Particulars | NRE Account | FCNR(B) Account | NRO Account |
|-----------------------|---|-----------------|--|
| Loans in India | <ul style="list-style-type: none"> AD can sanction loans in India to NRI/PIO/ third parties without any limit, subject to usual margin requirements. The proceeds of loan cannot be repatriated outside India Should be used only for personal purposes or business purposes (excluding relending, carrying on agricultural/ plantation activities or investment in real estate business) In case of loans sanctioned to a third party, there should be no direct/indirect forex consideration for NRI/PIO agreeing to pledge his deposits to enable the resident individual/firm/company to obtain such facilities In case of the loan sanctioned to the account holder, it can be repaid either by adjusting the deposits or through inward remittances from o/s India thru banking channels or out of self NRO a/c The facility for premature withdrawal of deposits not be available in such cases The <u>term “loan” includes all types of fund based/non-fund-based facilities</u> | | <ul style="list-style-type: none"> Loans against the deposits can be granted in India to the account holder or third party subject to usual norms and margin requirement. The loan amount cannot be used for relending, carrying on agricultural/ plantation activities or investment in real estate business. The <u>term “loan” includes all types of fund based/non-fund-based facilities</u> |

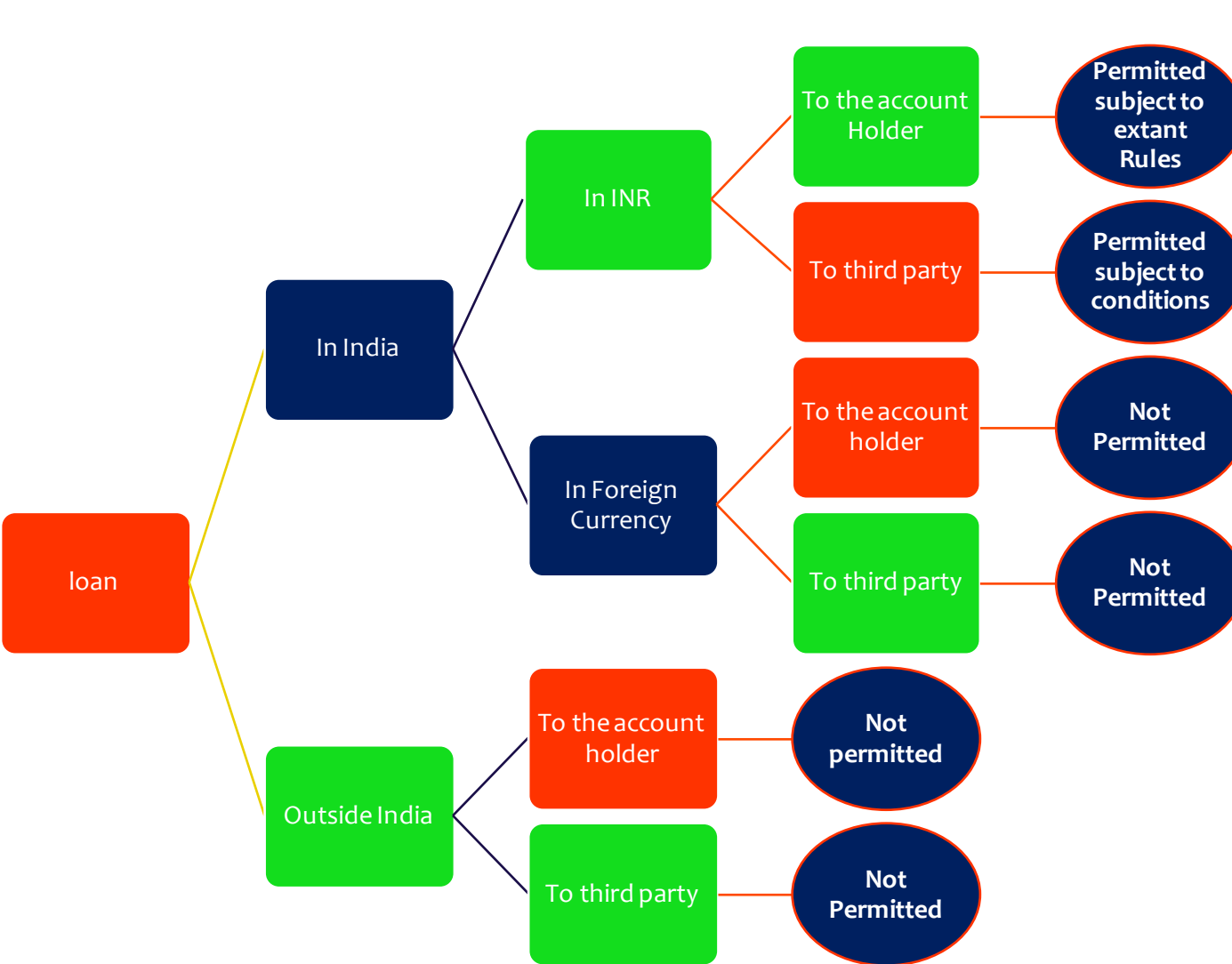
LOAN AGAINST DEPOSIT IN NRE A/C



LOAN AGAINST DEPOSIT IN FCNR (B) Account



LOAN AGAINST DEPOSIT IN NRO A/C



To the account holder

- Personal requirement and / or business purpose.*

To third party

- Personal requirement and / or business purpose*

* The loans cannot be utilised for the purpose of on-lending or for carrying on agriculture or plantation activities or for investment in real estate business.

Resident individual to lend to a Non-resident Indian (NRI)/ Person of Indian Origin (PIO) close relative [means relative as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer.

The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c;

PURPOSE OF LOAN –IN CASE OF NRE A/C AND FCNR (B) A/C

To the Account holder

- i) Personal purposes or for carrying on business activities*
- ii) Direct investment in India on non-repatriation basis by way of contribution to the capital of Indian firms / companies
- iii) Acquisition of flat / house in India for his own residential use.

To Third Party

- Fund based and / or non-fund based facilities for personal purposes or for carrying on business activities *.

Abroad

- Fund based and / or non-fund based facilities for bonafide purposes.

**The loans cannot be utilised for the purpose of on-lending or for carrying on agriculture or plantation activities or for investment in real estate business.*

LOAN AGAINST DEPOSIT IN NRO A/C

To the
account
holder

- Personal requirement and / or business purpose.*

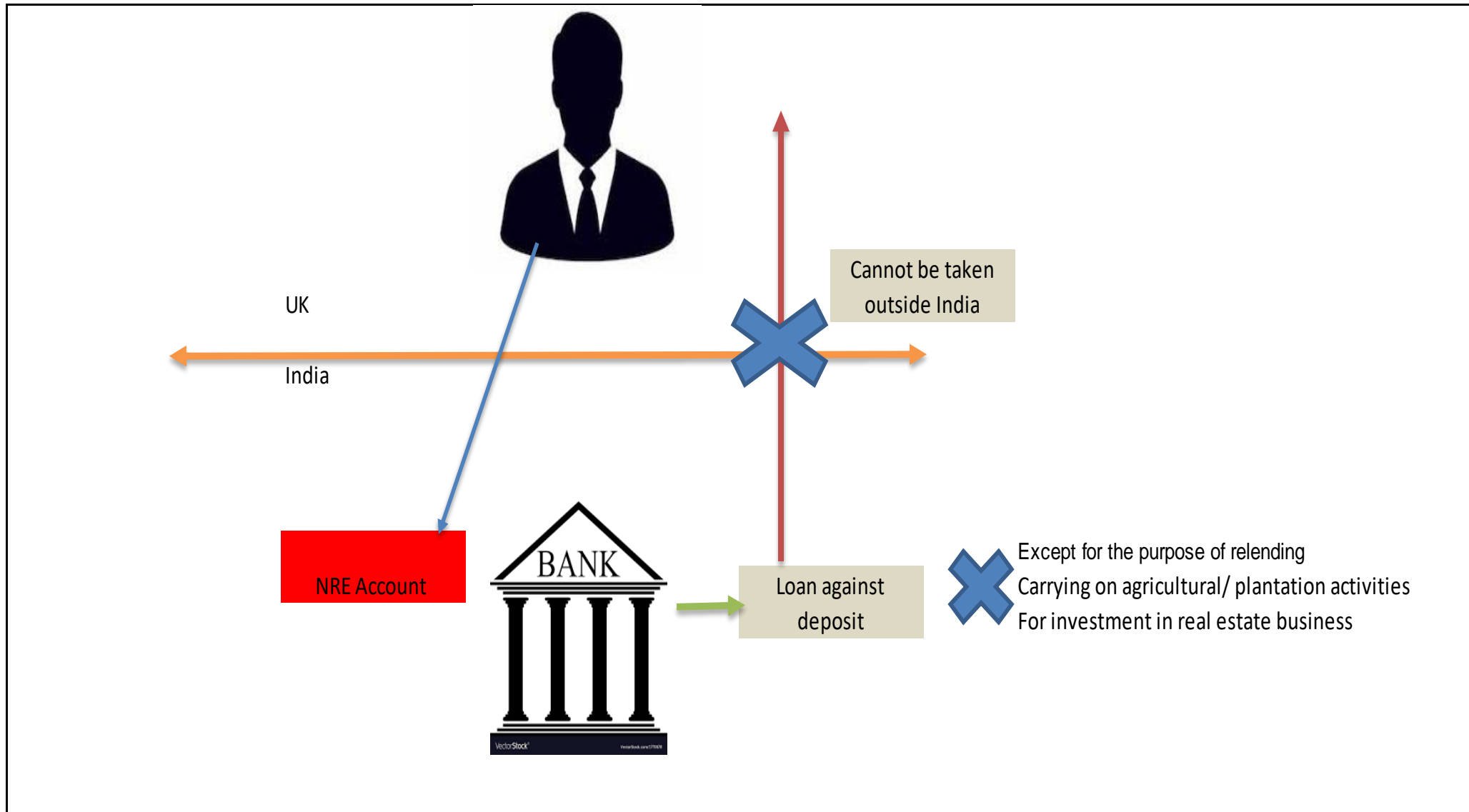
To third
party

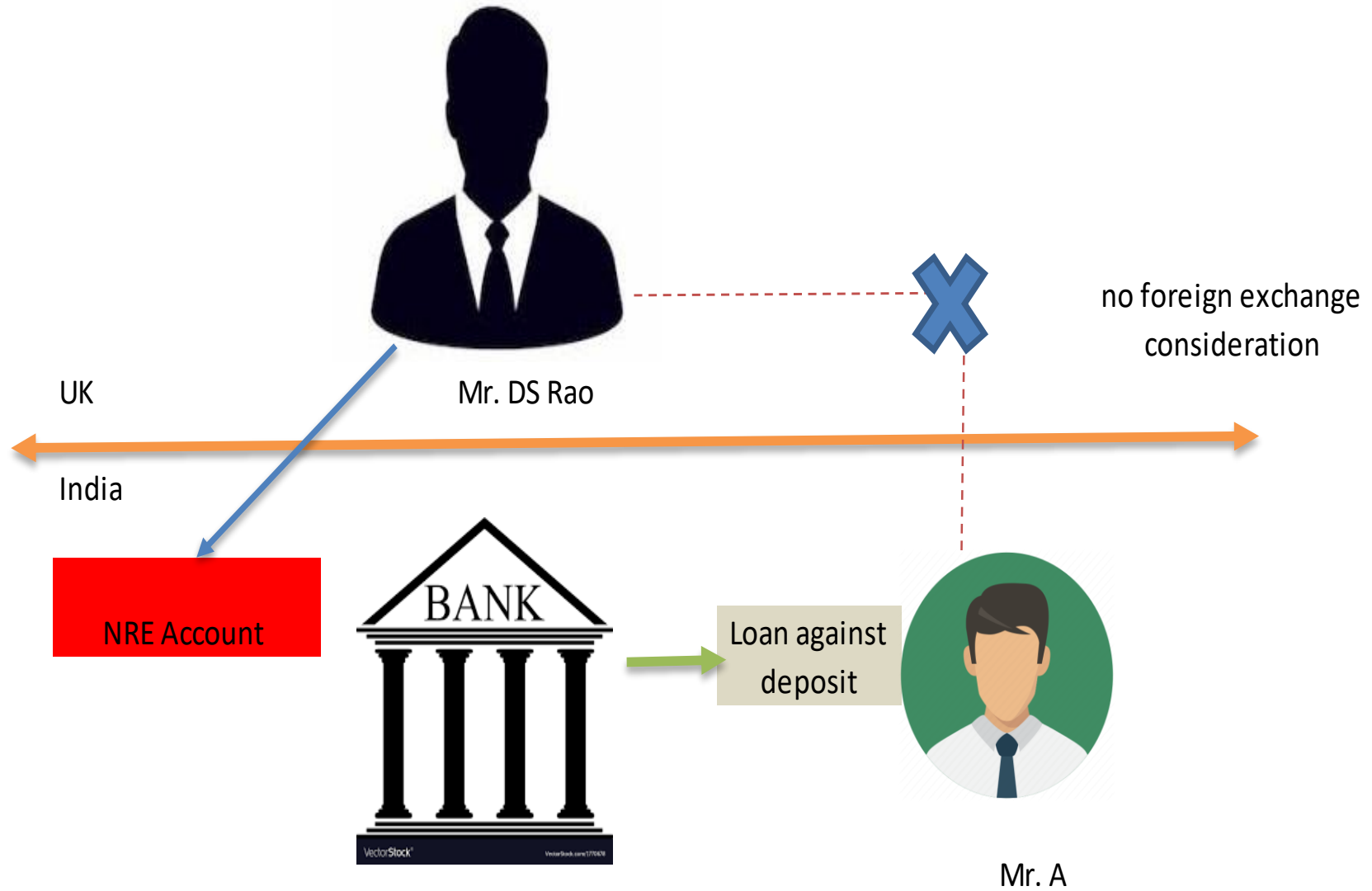
- Personal requirement and / or business purpose*

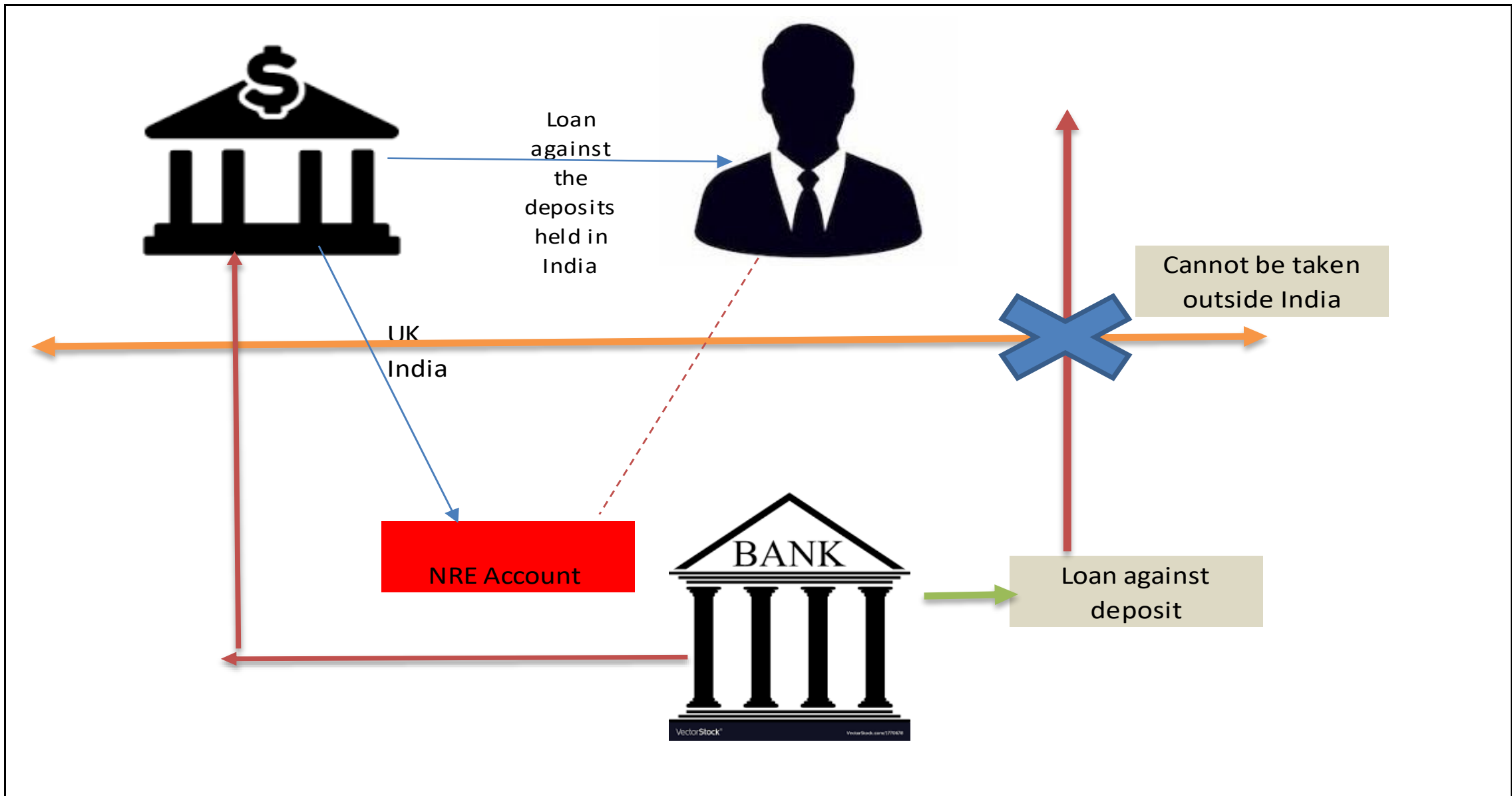
** The loans cannot be utilised for the purpose of on-lending or for carrying on agriculture or plantation activities or for investment in real estate business.*

Resident individual to lend to a Non-resident Indian (NRI)/ Person of Indian Origin (PIO) close relative [means relative as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer.

The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c;







NRE Account vs. FCNR(B) Account vs. NRO Account

| Particulars | NRE Account | FCNR(B) Account | NRO Account |
|---|--|---|---|
| Change in residential status from Non-resident to resident | <ul style="list-style-type: none">• NRE accounts should be re-designated as resident accountsor• Funds held in these accounts may be transferred to the RFC accounts immediately upon change of residential status | <ul style="list-style-type: none">• FCNR (B) deposits allowed to continue till maturity at the contracted rate of interest• AD should convert the FCNR(B) deposits on maturity into resident rupee deposit accounts or RFC account | <ul style="list-style-type: none">• <u>Change in status from PROI to PRI</u>: Immediately designated as resident accounts• <u>Change in Status from PRI to PROI</u>: Immediately designated as NRO account |

Change in Residential Status

Change of Residential Status

from Non resident to resident

From resident to non resident

NRE Account becomes RFC Account

NRO Becomes the regular account

FCNR (B) can continue maturity- then RFC Account

Regular account becomes NRO account

RFC Account becomes NRE Account

Case Study 1- Change in Residential Status

- Mr. XG is an Indian Resident.
- In April 2019 he takes up employment in USA
- As on date, he maintains the following Bank Accounts / Deposits in Bank of Baroda
- The account is held jointly with his close relatives:

| Nature of Deposit | Type of Holding | Amount |
|--|-----------------|---------------|
| Fixed Deposit | First Name | Rs. 20,00,000 |
| Current Account | First Name | Rs. 50,00,000 |
| Resident Foreign Currency Account – RFC(D) | First Name | US \$ 150,000 |
| Savings Account | Second Name | Rs. 45,00,000 |

- Kindly advise Mr. XG about action required by him upon change in his residential status

Case Study 2- Change in Residential Status

- Mr. XG served in USA for 10 years
- Now he wants to return to India permanently.
- He currently operates following Bank Accounts / Deposits jointly with close relatives:

| Nature of Deposit | Amount |
|---------------------|------------------|
| FCNR (B) | US \$. 30,00,000 |
| NRE Fixed Deposit | Rs. 280,00,000 |
| NRO Savings Account | Rs. 35,00,000 |

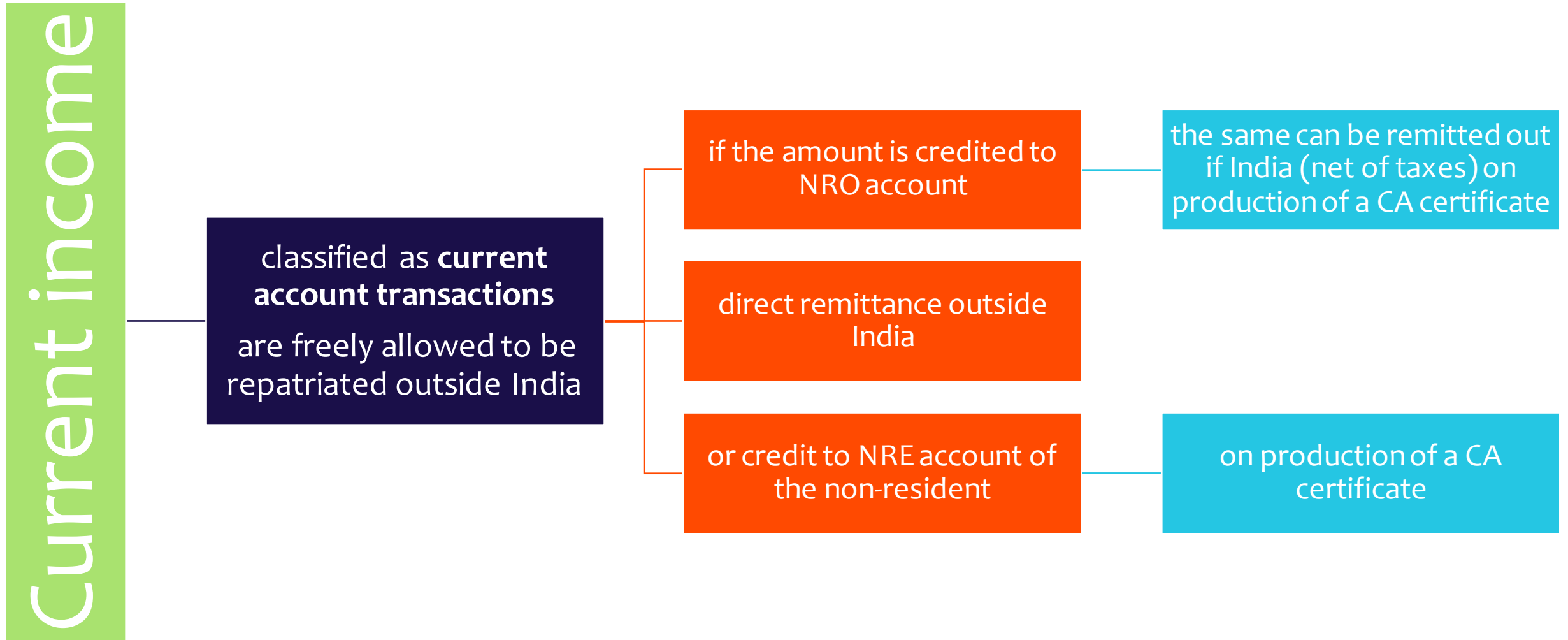
- Kindly advise Mr. XG about the actions required by him upon change in his residential status



Remittance of Assets



Remittance of Current Income || like rent, dividend, pension, etc.



Person who is Resident but not Permanently Resident in India

- and who is on deputation to an office or a branch of a foreign company or subsidiary or joint venture in India of such foreign company, is allowed to remit net salary (after deduction of taxes, contribution to provident fund and other statutory deductions)

Foreign nationals

- who came to India for employment and became resident are permitted to re-designate their existing resident account as NRO account on leaving the country after their employment to receive their legitimate dues in India subject to certain conditions.

Remittance of Assets

- Repatriation of sale proceeds of residential property purchased by NRIs / PIO out of foreign exchange
 - Permitted for immovable property acquired in foreign currency remitted from abroad and received through normal banking channels or out of funds raised by them by way of loans from authorized dealer banks / housing finance institutions to the extent such loan/s are repaid by them out of foreign inward remittances or from their NRE / FCNR(B) accounts
 - The repatriation facility in respective foreign currency is restricted to not more than two house properties.
- Repatriation of amount paid for booking of flat upon cancellation of flat allowed

Remittance under \$ 1 Million per Financial Year

Remittance of Assets – Notification No. 13(R)

\$ 1 million per year

- balances in NRO
- sale proceeds of assets held in India in accordance with the provisions of FEMA
- assets acquired in India by way of inheritance/ legacy; or a deed of settlement made by either of his/ her parents or a relative as defined in Companies Act, 2013 to be effected on death of the settler;
- in respect of assets acquired under a deed of settlement made by either of his / her parents or a relative as defined in Companies Act, 2013- The settlement should take effect after death of the settler

NRI/PIO to provide declaration to the AD Bank confirming that -

- Remittance is out of balances held in NRO account arising from his / her legitimate receivables in India
- Remittance is not out of borrowing from any other person
- Remittance is not out of funds transferred from NRO account of any other person



ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY IN INDIA

Acquisition and transfer of property in India by a NRI or an OCI

A NRI or an OCI may -

- acquire immovable property in India other than an agricultural land or farm house or plantation property following consideration, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- acquire any immovable property in India other than agricultural land or farm house or 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 clause (77) of section 2 of the Companies Act, 2013;
- acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land or farm house or plantation property to an NRI or an OCI.

Acquisition and transfer property in India by NRI or an OCI

A NRI or an OCI may -

- acquire immovable property in India **other than an agricultural land or farm house or plantation property** following consideration, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- acquire any immovable property in India other than agricultural land or farm house or 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 clause (77) of section 2 of the Companies Act, 2013;
- acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land or farm house or plantation property to an NRI or an OCI.

Acquisition and transfer property in India by NRI or an OCI

A NRI or an OCI may -

- acquire immovable property in India other than an agricultural land or farm house or plantation property following **consideration**, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- acquire any immovable property in India other than agricultural land or farm house or 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 clause (77) of section 2 of the Companies Act, 2013;
- acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land or farm house or plantation property to an NRI or an OCI.

Acquisition and transfer property in India by NRI or an OCI

A NRI or an OCI may -

- acquire immovable property in India other than an agricultural land or farm house or plantation property following consideration, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- acquire any immovable property in India other than agricultural land or farm house or plantation property **by way of gift from a person resident in India or from an NRI or from an OCI, who is a relative as defined in clause (77) of section 2 of the Companies Act, 2013;**
- acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land or farm house or plantation property to an NRI or an OCI.

Acquisition and transfer property in India by NRI or an OCI

A NRI or an OCI may -

- acquire immovable property in India other than an agricultural land or farm house or plantation property following consideration, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- acquire any immovable property in India other than agricultural land or farm house or 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 clause (77) of section 2 of the Companies Act, 2013;
- acquire any immovable property in India **by way of inheritance from a person resident outside India** who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- transfer any immovable property in India to a person resident in India;
- transfer any immovable property other than agricultural land or farm house or plantation property to an NRI or an OCI.

Acquisition and transfer property in India by NRI or an OCI

A NRI or an OCI may -

- ❑ acquire immovable property in India other than an agricultural land or farm house or plantation property following consideration, if any, for transfer, shall be made out of :
 - funds received in India through banking channels in form of inward remittance from any place outside India ; or
 - funds held in any non-resident account maintained in accordance with the provisions of the Act, rules or regulations framed thereunder. Further, no payment for any transfer of immovable property shall be made either by traveller's cheque or by foreign currency notes or by any other mode other than those specifically permitted under this clause;
- ❑ acquire any immovable property in India other than agricultural land or farm house or 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 clause (77) of section 2 of the Companies Act, 2013;
- ❑ acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property:-
 - in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these rules ;or
 - from a person resident in India;
- ❑ **transfer any immovable property in India to a person resident in India;**
- ❑ **transfer any immovable property** other than agricultural land or farm house or plantation property **to an NRI or an OCI.**

Joint acquisition by the spouse of a NRI or an OCI

A person resident outside India, not being an NRI or an OCI, who is a spouse of an NRI or an OCI **may acquire one immovable property** (other than agricultural land or farm house or plantation property), jointly with his or her NRI or OCI spouse :

- Provided that –
- consideration for transfer, shall be made out of –
 - ✓ funds received in India through banking channels by way of inward remittance from any place outside India; or
 - ✓ funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank;
- the marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the acquisition of such property.
- the non-resident spouse is not otherwise prohibited from such acquisition.

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,-
- all applicable laws, rules, regulations, for the time being in force are duly complied with; and
 - the person files with the Reserve Bank a declaration in the Form IPI as specified by the 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) of rule 26:

Provided that 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.

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, namely :-
 - the property shall not be located in and around restricted or protected areas so notified by the Central Government and cantonment areas;
 - 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 or she is residing in India on LTV;
 - the registration documents of the property shall mention the nationality and the fact that such person is on LTV;
 - the property of such person may be attached or confiscated in the event of his or her indulgence in anti-India activities;
 - a copy of the documents of the purchased property shall be submitted to the Deputy Commissioner of Police (DCP) or Foreigners Registration Office (FRO) or Foreigners Regional Registration Office (FRRO) concerned and to the Ministry of Home Affairs (Foreigners Division);
 - 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 or FRO or FRRO concerned.

Repatriation of sale proceeds

- ❑ 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.

- ❑ In the event of sale of immovable property other than agricultural land or farm house or 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:-
 - the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition or the provisions of these rules;
 - 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;
 - in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

Repatriation of sale proceeds

- ❑ 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.

Prohibition on transfer of immovable property in India

- ❑ Save as otherwise provided in the Act or rules, no person resident outside India shall transfer any immovable property in India: Provided that:-
 - the Reserve Bank may, for sufficient reasons, permit the transfer subject to such conditions as may be considered necessary;
 - 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 of 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;
 - an authorised 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 further that :-
 - the funds shall be used by the borrowing company only for its core business purposes overseas;
 - 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.
- ❑ 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 further that the resident is not otherwise prohibited from such acquisition.

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 that this prohibition shall not apply to an OCI.

Explanation: For the purpose of this rule, the term “citizen” shall include natural persons and legal entities.

Miscellaneous and Saving

Miscellaneous

- ❑ Any transaction involving acquisition or transfer of immovable property under these rules shall be undertaken:-
 - through banking channels in India;
 - subject to payment of applicable taxes and other duties or levies in India.

Savings

- ❑ 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 rules.

- A Builder company has taken advance against flat booking from NRI in foreign exchange now the NRI customer wants to cancel the flat booking, can the builder refund the booking amount in Foreign Exchange?

- **A Builder company has taken advance against flat bookin from NRI in foreign exchange now the NRI customer wants to cancel the flat booking, can the builder refund the booking amount in Foreign Exchange?**
- Refund of application//earnest money//purchase consideration made by the house building agencies//seller on account of non-allotment of flat//plot//cancellation of bookings//deals for purchase of residential//commercial property, together with interest, if any (net of income tax payable thereon) may be allowed by the Authorised Dealers by way of credit to NRE/FCNR(B) account, provided the original payment was made out of NRE//FCNR(B) account of the account holder or remittance from outside India through normal banking channels and the Authorised Dealer is satisfied about the bona fides of the transaction.

Investment in Real Estate by NRIs/OCI (Other than FDI)

(under Chapter IX- Foreign Exchange Management (Non-debt Instruments) Rules, 2019)

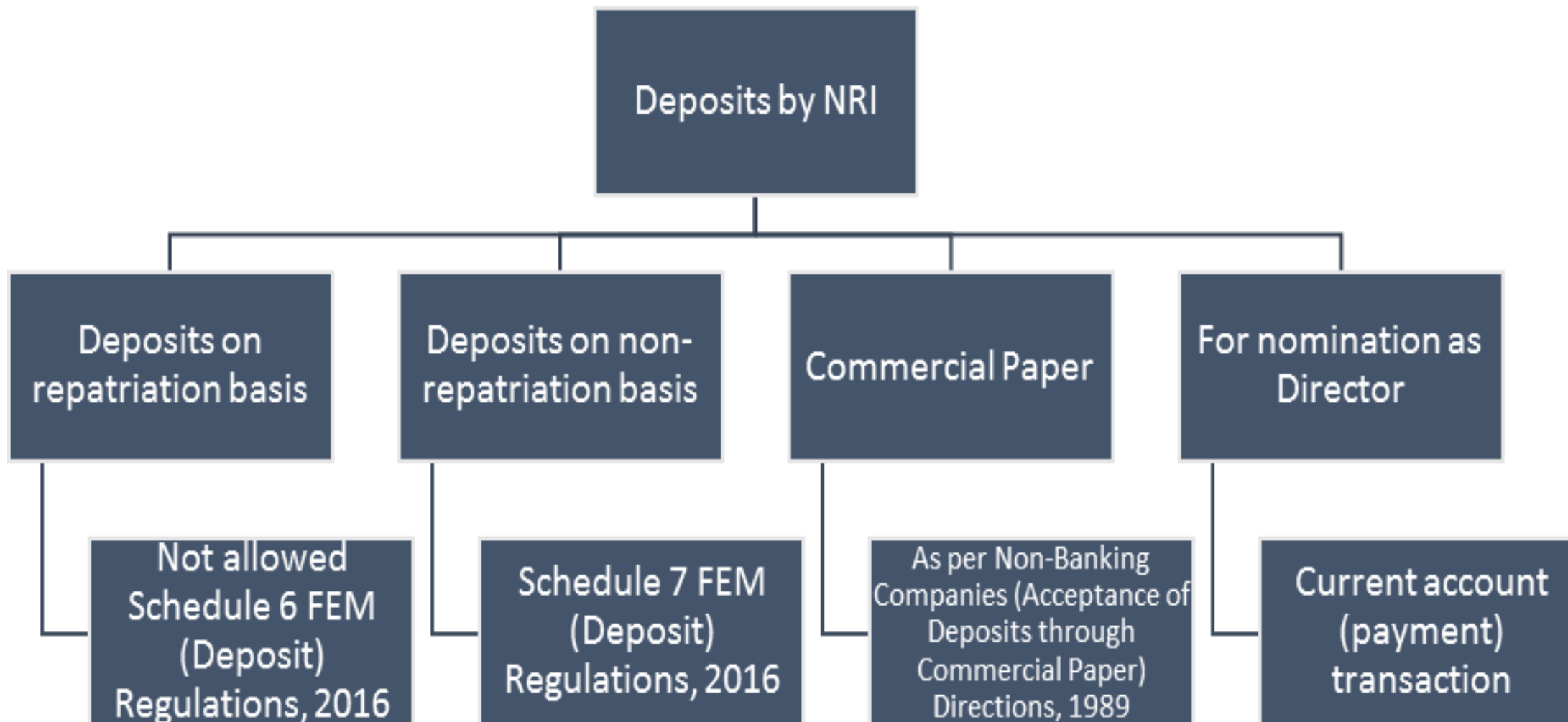
| Transaction Type | Rule | NRIs/OCIs |
|---|--|--|
| Repatriation for property acquired in accordance with the foreign exchange law | 29 | Investment in FC in property other than agricultural land or farmhouse or plantation property in India (Residential Property- Maximum for 2 houses) Inherited Property - under US \$ 1 Million Scheme |
| Repatriation of purchase consideration on account of non-allotment of flat/ plot/ cancellation of bookings / deals for purchase of residential/ commercial property, when property is not allotted, or booking / contract is cancelled | Schedule-1/ Notification 5 (R) – Deposits | Refund of application/ earnest money/ purchase consideration, together with interest, if any (net of income tax payable thereon), provided the original payment was made out of NRE/ FCNR(B) account of the account holder or remittance from outside India through banking channels and the AD is satisfied about the genuineness of the transaction. |



BORROWING & LENDING



Deposits by NRI



Deposits from NRI / PIO

❖ Deposit from NRI/PIO on repatriation basis:

An Indian company including NBFC registered with the Reserve Bank **cannot accept fresh deposits on repatriation basis**. It can, however, renew the deposits it had accepted in accordance with the terms and conditions mentioned in Schedule 6 of the Foreign Exchange Management (Deposit) Regulations, 2016.

❖ Deposit from NR towards Directorship:

Keeping deposits with an Indian company by persons resident outside India, in accordance with section 160 of the Companies Act, 2013, is a current account (payment) transaction and, as such, does not require any approval from the Reserve Bank. All refunds of such deposits, arising in the event of selection of the person as director or getting more than twenty five percent votes, shall be treated similarly.

Deposits from NRI/PIOs on Non-repatriation basis

❖ Deposit from NRI/PIO on non-repatriation basis:

| Particulars | Deposit on non-repatriation basis |
|----------------------------|--|
| Who can accept the deposit | Proprietorship concern, firm, Indian company (including NBFC) |
| Mode | Private arrangement or public deposit scheme |
| Credit rating | If NBFC, then credit rating is required |
| Maturity | < 3 years |
| Interest | As prescribed under Companies (Acceptance of Deposits) Rules, 2014 → 12.5 % |
| Investment | Debit to NRO a/c only. Inward remittance and transfer from NRE/FCNR(B) a/c prohibited. |
| End use restriction | Amount cannot be used for relending, carrying on agricultural/ plantation activities or investment in real estate or investment in any other entity engaged in above |
| Repatriability | Not allowed |

❖ Indian companies can also accept deposits from NRIs or PIOs by issue of a commercial paper subject to conditions.

Borrowings & Lending (Notification 3R)

Provisions applicable to Individuals:

- An individual resident in India can borrow up to USD 250,000/- or its equivalent from his/her non-resident relatives outside India and subject to such terms and conditions as specified by the Reserve Bank from time to time in consultation with the Government of India.
- An individual resident in India studying abroad is allowed to raise loan outside India not exceeding USD 250,000/- or its equivalent for payment of education fees abroad and maintenance subject to terms and conditions as specified by the RBI from time to time in consultation with the GOI.
- A person resident in India, not being a company incorporated in India, is allowed to borrow in Indian Rupees from his NRI/Relatives who are OCI Cardholders outside India, subject to such terms and conditions as may be specified by the Reserve Bank from time to time in consultation with the Government of India. The borrower should ensure that the borrowed funds are not used for restricted end uses. RBI has so far not specified any terms and conditions for this purpose.

Borrowings & Lending (Notification 3R)

❖ 'Relative' means a 'relative' as defined under the Companies Act, 1956 / 2013

| Act of 1956 (schedule IA) | | Act of 2013 (As prescribed) |
|------------------------------------|----------------------------------|----------------------------------|
| Father | Son's daughter | Father (including step-father) |
| Mother (including step-mother) | Son's daughter's husband | Mother (including step-mother) |
| Son (including step-son) | Daughter's husband | Son (including step-son) |
| Son's wife | Daughter's son | Son's wife |
| Daughter (including step-daughter) | Daughter's son's wife | Daughter |
| Father's father | Daughter's daughter | Daughter's husband |
| Father's mother | Daughter's daughter's husband | Brother (including step-brother) |
| Mother's mother | Brother (including step-brother) | Sister (including step-sister) |
| Mother's father | Brother's wife | |
| Son's son | Sister (including step-sister) | |
| Son's son's wife | Sister's husband | |

Borrowings & Lending (Notification 3R)

- Restrictions on on-lending of borrowed funds will apply to only following activities
 - Real estate activities.
 - Investment in capital market.
 - Equity investment.
 - Working capital purposes {except from foreign equity holder}.
 - General corporate purposes {except from foreign equity holder}
 - Repayment of Rupee loans {except from foreign equity holder}



Thankyou !!
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