

Portfolio Investments By NRIs, Overseas Citizens

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In our previous write up we had discussed about Foreign Direct Investment as a source of investment for Non Resident Indian (NRI) and Overseas Citizen of India (OCI). In this article we shall throw some light on investment in listed entities.

An NRI is an individual resident outside India, but who is a citizen of India and an OCI is an individual resident outside India, who is registered as an Overseas Citizen of India Cardholder under the Citizenship Act, 1955.

As per Schedule 3 of the Foreign Exchange Management (Transfer or Issue of Security by

a Person Resident Outside India) Regulations, an NRI/OCI are permitted to purchase and sell the capital instruments (equity shares, debentures, preference shares and share warrants) of a company listed on a recognized stock exchange on repatriation basis. The following points should be kept in mind:

- There are no sectoral limits to the investment
- The investment can be made only upto 5 per cent of the total paid-up equity capital (on fully diluted basis (i.e. total number of shares that would be outstanding if all possible sources of conversion are exercised) of the investee company on per NRI/OCI basis or 5 per cent of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company on per NRI basis
- The overall investment by the NRI/OCI taken together should not exceed 10 per cent of the total paid-up equity capital on a fully diluted basis or shall not exceed ten per cent of the paid-up value of each series of debentures or preference shares or share warrants. However, the cap can be increased to 24 per cent by passing a special resolution by the company
- The NRI/OCI are required to open an NRI-PIS account with authorise dealer bank for the purpose of making investment in the stock market. The sale proceeds to the capital instrument sold will also be transferred to this account;
- Only a single account can be opened for making investment under this route
- Investment can be made out of the funds remitted to India through inward remittance from abroad through banking channels or out of funds held in a Non-Resident External (NRE) account

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- Income such as interest and dividend earned by NRI from portfolio investments acquired can be remitted abroad provided applicable taxes have been deducted/paid
 - The sale proceeds (net of taxes) of the capital instruments may be remitted outside India or may be credited to NRE (PIS) account of the person concerned
 - The NRI investor is not required to file any return or report with the RBI with regard to acquisition or sale of shares and/ or debentures in an Indian company
 - Care should be taken that the investment made on repatriation basis and non-repatriation basis are covered under different accounts
 - In case the status of a resident is changed to non resident, then in such a case the NRI can continue to hold the securities which he/she had purchased as a resident Indian, even after he/she has become an NRI, on a non-repatriable basis
 - In case the residential status of the NRI changes from non resident to resident, then in such a case he should inform the change of status to the designated authorized dealer branch and the depository participant with whom he/she has opened the demat account. Subsequently, a new demat account in the resident status will be opened and the securities should be transferred from the NRI demat account to resident account and then close the NRI demat account

Investment in stock market remains a very important mode of investment by NRIs/OCI and infact in order to boost the investment and simplify the process various recommendations have been made in the HR Khan Committee.

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