

Who is a Non-Resident Indian?

An Indian abroad is popularly known as Non-Resident Indian (NRI). The NRI status should be checked with two different authorities for different purpose. NRI is legally defined firstly under the Foreign Exchange Management Act, 1999 and secondly Income Tax Act, 1961 for applicability of respective laws.

NON-RESIDENTS UNDER FEMA, 1999

The definition under FEMA (Foreign Exchange Management Act) is explained in simple terms for individuals hereunder.

1. The residential status of a person leaving India shall be determined as under:

If a person leaves India for the purpose of employment, business or for any other purpose that indicates his intention to stay outside India for an uncertain period; then he becomes a non-resident from the day he leaves India for such purpose.

2. The residential status of a person returning to India will be determined as under:

If a person comes to India for the purpose of employment, business or for any other purpose that indicates his intention to stay in India for an uncertain period; then he becomes a resident from the day he comes to India for such purpose.

In the definition, requirement of physical stay for a period of 182 days in India is also stated. However, in our opinion, the period of stay does not affect determination of status as explained in (1) and (2) above.

Thus if a person comes as a tourist, or for any purpose (not for employment or business in India), AND, he comes for a fixed or certain period of time he shall continue to be a non-resident.

NRI UNDER THE INCOME TAX ACT, 1961

The term non-resident is negatively defined under section 6 of the Income-tax Act. An individual who is not a resident under the Income-tax Act is a non-resident (generally, termed NRI).

The status of a person as a resident or non-resident depends on his period of stay in India. The period of stay is counted in number of days for each financial year beginning from 1st April to 31st March (known as previous year under the Income-tax Act).

The definition is explained in simple terms as under:

If an individual who satisfies understated both the conditions of Section 6 of the Income-tax Act, then he becomes a non-resident.

	Condition	Status
1.	He is not in India for 182 days or more during the relevant previous year.	If yes, then he is a non-resident. (So check the next condition.)
2.	He is not in India for 60 days or more during the previous year and he is not in India for 365 days or more during the 4 years prior to the previous year.	If yes, then he is a non-resident.

If you are not satisfying above conditions to become non-resident, check whether following assists you to become a non-resident.

3.	In the case of an individual on visit to India or a member of the crew of an Indian ship or a person leaving India for employment outside India, the requirement of stay in India of 60 days in condition 2 above is extended to 182 days	Note: An Indian citizen who is a crewmember of an Indian Ship or an Indian citizen leaving India for employment is a non-resident in that year if he is in India for less than 182 days in the year in which he leaves. Non-resident individual who is an Indian citizen or a person of Indian origin who is on visit to India remains Non-resident for that year if he is in India for less than 182 days.
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An individual who is not becoming a non-resident as per the above provisions, there are provisions under section 6(6) of the Income-tax Act under which a special status of RESIDENT BUT NOT ORDINARILY RESIDENT (RNOR) is available to such individual, if he satisfies one of the following conditions:

	Condition	Status
1.	He is non - resident, as per the above provisions, for at least 9 out of 10 previous years prior to the previous year under consideration.	If yes, he is RNOR
2.	His stay in India during the 7 previous years prior to the previous year under consideration should be 729 days or less.	If yes, he is RNOR.

Note:

1. The status of RNOR renders certain income of such individual non-taxable.
2. A person may be resident under the Income Tax Act and non-resident under FEMA or vice-versa. The criteria for deciding residential status are different under both the Acts.

This information provided is general and requires proper guidance and advice before it is acted upon as certain provisions in case of complex facts are not explained here.

Who can open Bank Accounts?

Non Resident Indians (NRIs) including persons of Indian origin and overseas corporate bodies (OCBs) are permitted to open Bank accounts without prior approval of Reserve Bank of India (RBI). However, RBI permission is necessary to open accounts for Pakistanis & Bangladesh nationals, even if they may be covered under persons of Indian origin.

What are Overseas Corporate Bodies (OCBs)?

OCBs include companies, partnership firms, societies & other corporate bodies in which at least 60 % of the ownership is with NRIs of Indian nationality/origin.

Who is a Person of Indian Origin?

- A person holding Indian Passport at any time.
- A person with either of his parents or grand parents as Indian
- A person with either of his parents or grand parents as permanent resident of undivided India at any time is considered to be a person of Indian origin.
- A wife of a citizen of India or of a person of Indian origin is deemed to be of Indian origin even though she may be of Non-Indian parentage.
- A husband, not being an Indian national of Indian origin, who is married to a lady of Indian origin or individual, is also eligible to open NRI accounts.

What types of Bank Accounts an NRI can open?

Indian nationals and persons of Indian origin residing abroad can open the following types of accounts with authorised Banks out of the funds remitted from abroad or out of Foreign Exchange brought in from abroad or out of the funds legitimately due to them in India:

- Non-Resident (External) Rupee Account [NRE]
- Foreign Currency (Non-Resident) Accounts [FCNR]
- Non-Resident Non-Repatriable Rupee Deposit Accounts [NRNR]
- Resident Foreign Currency Account [RFC] for returning Indians
- Ordinary Non-Resident Rupee Accounts [NRO]
- Special Schemes viz. NRI Bonds, India Development Bonds

What is an NRE Account?

NRE Accounts are maintained in convertible rupees. The entire credit balance held in the account inclusive of interest earned can be repatriated & converted to any other foreign currency. The NRE accounts can be maintained either as a Savings Bank A/c

or Current A/c or Term Deposit A/c or Recurring Deposit A/c., in the name of the NRI or in joint names, provided all the persons are NRIs or in the names of minor who is represented by natural guardians. However, NRE accounts cannot be opened by NRIs jointly with residents.

What is an NRO Account?

These are Rupee dominated non-repatriable accounts and can be in the form of savings, current, recurring or fixed deposits. These accounts can be opened jointly with residents in India. When an Indian National /PIO resident in India leaves for taking up employment etc. outside the country, other than Nepal or Bhutan, his bank account in India gets designated as NRO account.

Who all can operate an NRE /NRO Account?

An NRE account can be operated by the following persons:

- By the account holder, in the case of single account.
- Either or survivor (both can operate individually);
- Former or survivor (only former can operate during his life time, the survivor only after the death of former);
- Latter or survivor (only latter can operate the account during the life time, the survivor only after death of latter).
- Jointly by two or more persons;
- By the mandate-holder through a letter of mandate signed by all the account holders who can be a resident also;
- By a power of attorney holder through a power of attorney [P.A.] who can be resident also. A resident PA holder or mandate holder has powers to operate the account for the purposes of making local payments only & is not allowed to repatriate funds under any circumstances.

What basic steps are required for an NRI to invest Indian stock Market?

1. NRI should open a NRE/NRO bank account with designated bank branch, which is approved by RBI (Reserve Bank of India) for the purpose.
2. Apply for a PAN Card.
3. Apply for a general approval for investment in Indian Stock Market through his designated bank branch, this is called PIS(Portfolio Investment Scheme).
4. Open a Demat Account with a Depository Participant to hold his shares.
5. Register with a broker to execute his buy/sell orders on the stock exchange(s).

****SMC provides a one stop shop for NRI's and can take care for all these steps for you; for no additional charges.**

What is a PAN card?

Permanent Account Number (PAN) is a ten-digit alphanumeric number, issued in the form of a laminated card, by the Income Tax Department.

It is mandatory to quote PAN on return of income, all correspondence with any income tax authority. From 1 January 2005 it is mandatory to quote PAN on challans for any payments due to Income Tax Department. Since the bank deduct TDS on your income it's mandatory to have this PAN card prior to any investment in Indian Stock Market.

What is a Portfolio Investment Scheme Account (PIS)?

In order to invest in Indian Secondary market, An NRI should open a special account, which is using only for the investments in shares. RBI has authorized a few banks to open and operate such accounts for NRIs. These accounts are called Portfolio Investment Scheme Accounts (PIS).

What is a designated bank / branch?

Reserve Bank of India (RBI) has authorised a few Banks and their select branches to conduct the business of Portfolio Management on behalf of NRIs. These branches are the main branches of major commercial Banks located close to the stock exchange/s. NRIs will have to route their applications through any of the designated bank branches who have authorization from RBI. The designated branches of Banks are also RBI licensed foreign exchange dealers.

What is a Depository?

A depository can be compared to a bank. A depository holds securities (like shares, debentures, bonds, Government Securities, units etc.) of investors in electronic form. Besides holding securities, a depository also provides services related to transactions in securities.

How can I avail the service of a depository?

A depository interfaces with the investors through its agents called **Depository Participants** (DPs). If an investor wants to avail the services offered by the depository, the investor has to open an account with a DP. This is similar to opening an account with any branch of a bank in order to utilize the bank's services. SMC is one of such Depository Participants and hold a membership with CDSL.

Which are the depositories in India?

There are two depositories in India which provide dematerialization of securities.

1. National Securities Depository Limited (NSDL)
2. Central Securities Depository Limited (CDSL).

What is a trading account?

To invest in Indian Secondary market, either you should be a share broker or you have to open an account with an existing broker. The account which is opened with the share broker by the investor is called trading account.

What is investment through Primary markets and investment through Secondary markets?

Investment made in Initial Public Offerings of shares/debentures of new or existing companies is called primary markets investments. Here, no individual permission of RBI is required, since the Companies offering shares/debentures normally take the permission. Applications can be made out of funds drawn from NRE/NRO a/c on repatriation/non- repatriation basis as may be specified in the terms of the NRI issue.

Buying and Selling of shares/debentures of Indian Companies through recognized stock exchanges is called investments through Secondary markets.

What is an Initial Public Offering (IPO)?

When an unlisted company makes either a fresh issue of securities or an offer for sale of its existing securities or both for the first time to the public is called IPO's. This paves way for listing and trading of the issuer's securities.

What is a Mutual Fund?

A Mutual Fund is a trust that pools the savings of a number of investors who share a common financial goal. The money thus collected is then invested in capital market instruments such as shares, debentures and other securities. The income earned through these investments and the capital appreciation realized is shared by its unit holders in proportion to the number of units owned by them. Thus a Mutual Fund is the most suitable investment for the common man as it offers an opportunity to invest in a diversified, professionally managed basket of securities at a relatively low cost.

What is secondary market?

Secondary market refers to a market where securities are traded after being initially offered to the public in the primary market and /or listed on the stock exchange. Majority of the trading is done in the secondary market. Secondary market comprises of equity markets and the debt markets.

What is rolling Settlement?

Under rolling settlement all open positions at the end of the day are bound to result in payment or delivery after 'n' number of days. Currently trades in rolling settlement are settled on T+2 bases where T is the trade day and 2 working days there after.

For example, a trade executed on Monday is bound to settle by Wednesday (considering two working days from the trade day). The funds and securities pay-in day and pay-out day are carried out on T+2 days.

What is pay-in day and pay-out day?

Pay-in is the day when the securities sold are delivered to the exchange by the sellers and funds for the securities purchased are made available to the exchange by the buyers.

Pay-out is the day when the securities purchased are delivered to the buyers and the funds for the securities sold are given to the sellers by the exchange.

At present the pay-in and the pay-out happens on the 2nd working day after the trade is executed on the stock exchange.

What are the different types of transactions in secondary market?

There are generally two types of transactions in Indian Secondary Market:-

1. Delivery Based transactions

Delivery based trades can not be squared off during the day; all purchased or sold positions during the days will get into physical settlement and delivery and payment will commence of T+2 Basis.

For example; if you buy 100 shares of reliance on Monday at a price of 595, you will receive a delivery of 100 shares by Wednesday and you will pay the exchange an amount of 59,500.

2. Intraday transactions.

Intraday transactions are allowed to square off all the open positions during the same day market session. Such transaction never generates a delivery but will generate profit or loss to be settled in cash. **NRI are not allowed to do intra day business.**

For example; if you buy 100 shares of reliance on Monday at 595 and sold them at 600 on Monday it-self, its called position squared off and no delivery will commence. Only the profit of 500 rupees will come on T+2 bases.

What is Futures & Option contract in derivative market?

A futures contract is an agreement between two parties to buy or sell an asset at a certain time in the future at a certain price. Futures contracts are special types of forward contracts in the sense that the former are standardized exchange traded contracts, such as futures of the Nifty index.

An option is a contract which gives the right, but not an obligation, to buy or sell the underlying at a stated date and price. While the buyer of an option pays the premium and buys the right to exercise his option, the writer of an option is the one who receives the option premium and therefore obliged to sell / buy the asset if the buyer exercises it on him. Options are two types – calls and put options.

What is a derivative?

Derivative is a product whose value is derived from the value of one or more basic variables, called underlying. The underlying asset can be equity, index, foreign exchange, commodity or any other asset.

Derivative products emerged as hedging devices against fluctuations in the corresponding underlying asset.

What are the formalities involved in repatriation of the sale proceeds?

The designated Bank through whom the RBI permission is obtained does the repatriation of sale proceeds. The Bank immediately repatriates the sale proceeds if they are equal to the cost of or less than the cost of investment. In case the sale proceeds are more than the cost of investments, there is a profit. This profit can be repatriated as follows:

- If the profit is a long term gain (when the difference in buying and selling is above 365 days), there is no long term capital gain tax for NRIs and you can withdraw your full money.
- If the profit is a short term gain, it is added to the other income of the investor in India and the funds can be repatriated after settling the tax liability in India by obtaining tax clearance certificates

Are there any limits to non-resident investments in the Indian Capital Markets?

For portfolio Investment by NRIs the earlier ceiling limiting total NRI/OCB equity holdings in an Indian company up to 5%, is now raised to 24%, whereas a single NRI/OCB can hold up to 1% of the equity of an Indian Company.

What are the taxes applicable on Non-resident Indian profits?

- Short Term Capital Gains: arises when a non resident Indian investor sells his investment within one year of his acquiring the same. STCG will be added to the regular income & taxed as per the existing Income Tax laws applicable to residents.
- Long Term Capital Gain: arises when a non resident Indian investor sells an investment which he has held for more than one year. In case of LTCG, a flat tax of 0% is applicable for individuals and corporate.

Are there any tax concessions for NRIs?

Yes, there are tax concessions for NRIs. In case the sale proceeds are reinvested within a period of 6 months, no capital gains would be charged provided that such investments are held for a period of 3 years.

Where do I start to investment in Indian Stock Market?

SMC is a one stop shop for Investment in Indian Stock Market, as well as commodities in global markets. We are:

- Member of NSE, BSE, F&O, NCDEX, MCX in India and DGCX in Dubai
- Clearing Member in NSE Derivative, BSE Derivative Segment & DGCX
- ISO 9001: 2000 certified Depository Participants for shares
- MCX & NCDEX empanelled Depository Participants for commodities
- Category 1 SEBI approved Merchant banker
- Insurance Broker (Life & Non-Life)
- Distributors of IPO's & Mutual Funds

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