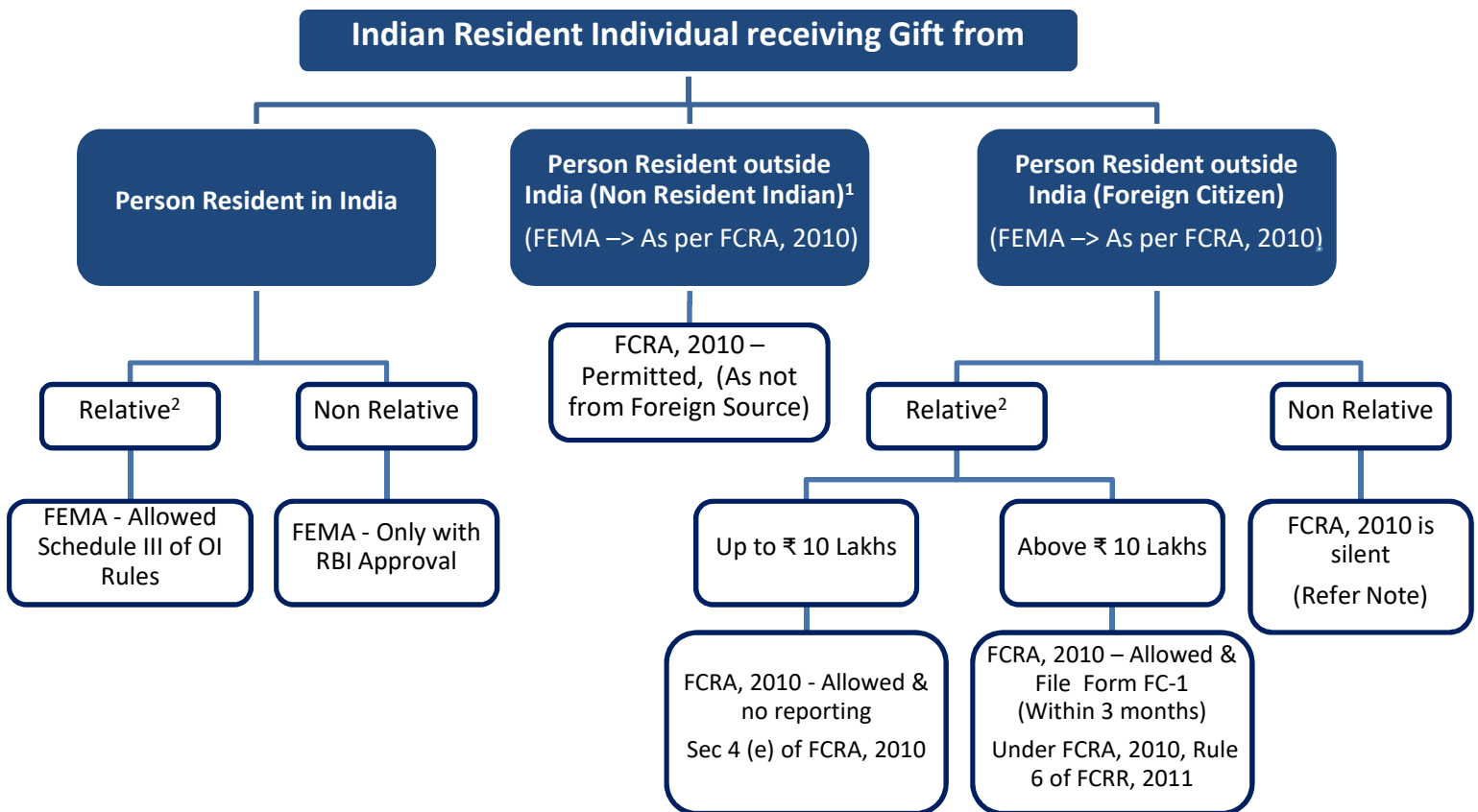


GIFT OF FOREIGN SECURITIES TO RESIDENT INDIVIDUAL IN INDIA

For ease of doing business overseas, Government of India in consultation with Reserve Bank of India (RBI) recently revamped the existing framework for overseas direct investment marked by new set of rules, regulations, and directions. While a plethora of changes have been unfurled in relation to overseas investment ([Refer our Article on Overseas Investments under FEMA – Comparative Analysis](#)), one such change is pertaining to gifting of foreign securities by non-residents to an Indian resident individual.

Schedule III of **Foreign Exchange Management (Overseas Investment) Rules, 2022, (OI Rules)** lays down modes of permissible acquisition of Foreign Securities by way of gift to a resident individual which are summarized in below chart:



RESIDENT INDIVIDUALS ARE NOT PERMITTED TO TRANSFER ANY OVERSEAS INVESTMENT BY WAY OF GIFT TO A PERSON RESIDENT OUTSIDE INDIA

Note: In case foreign securities are received as gift from a foreign citizen who is not a relative, Foreign Exchange Management (Overseas Investment) Rules, 2022, (OI Rules) directs a resident individual to acquire gift in accordance with the provisions of FCRA, 2010 and related Rules & Regulation. However, FCRA, 2010 is silent on such transaction. It also does not explicitly prohibit such transaction. Therefore, lack of any express language under the law may lead to diverse interpretations.

30th December, 2022

Disclaimer:

The information contained in this write up is to provide a general guidance to the intended user. The information is based on our interpretation of various prevailing laws, rules, regulations, pronouncements as on date mentioned below. The information should not be used as a substitute for specific consultations. The information has been provided in simplified manner for general reference of the public which can lead to interpretation not intended under law. Hence, we recommend that professional advice is sought before taking any action on specific issues before entering into any investment or financial obligation based on this Content. No part of this document should be distributed or copied by anyone without express written permission of the publisher.

¹ NRI does not satisfy the definition of "foreign source" as per sec 2 (j) of Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010). NRI is a person who is a Citizen of India & is a Non Resident.

² Relative – is defined as per sec 2(77) of Companies Act 2013 read with rule 4 of Companies Rules, 2014. It includes members of HUF, husband or wife, Father (Step-Father), Mother (Step-Mother), Son (Step- Son), Son's Wife, Daughter, Daughter's Husband, Brother (Step-Brother), Sister (Step-Sister).