

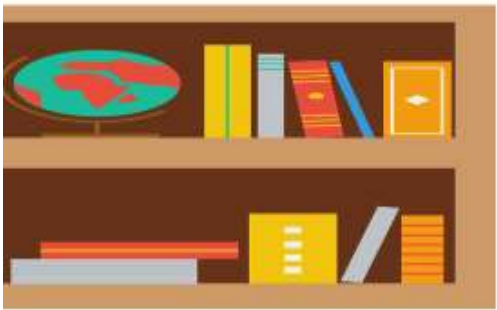
FEMA Ke Fundae

#FamiliarwithFEMA

**Can a Resident
Individual give loan to
a Foreign Company?**

Issue No : 60

Date : 2nd August, 2023





Nikita
(Indian Investor)

Hello, Mr. FEMA Gyani. I have invested in a US Company in 2022 and now I want to give loan to the US Co.? I wish to know, if I can do the same as per FEMA laws.

Hi Nikita! As per the Overseas Investment Directions, a resident individual shall not make financial commitment by way of debt to its overseas subsidiary that means you cannot give loan to your US Company.



The FEMA Gyani



Nikita
(Indian Investor)

Ohh! But my US Co. is in need of funds. Is there any other way-out?



There is one way out. Do you have any Indian entity which holds stake in the US Co?



The FEMA Gyani

No. Mr. FEMA Gyani! I am the 100% stakeholder in foreign company. But I do have an entity in India.



**Nikita
(Indian Investor)**

Okay, then you can transfer your stake in the US company to your Indian entity.



The FEMA Gyani



Nikita
(Indian Investor)

Okay Mr. FEMA Gyani! I will transfer my stake to the Indian company. But I don't understand why are we doing the same? Isn't it just possible to extend the loan without all such transferring formalities.



No Nikita! As per the Overseas Investment Directions, an Individual is not allowed to extend loan to the foreign entity but an Indian Company can give loan to the foreign entity subject to the condition that such loans are duly backed by a loan agreement and the rate of interest shall be charged on an arm's length basis.



The FEMA Gyani



Oh.. Got it. That's nice. What do we exactly mean by "arm's length basis? "

It means that the rate of interest and other conditions related to loan between related parties should be similar as if they were unrelated.



The FEMA Gyani



Okay Got it Mr. FEMA Gyani! Thank you so much for your explanation.

Nikita
(Indian Investor)

Thank You



The FEMA Gyani

Comments

Feedbacks

Suggestions



<https://in.linkedin.com/company/jscoca>

WEBSITE

<https://jainshrimal.com/>



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