

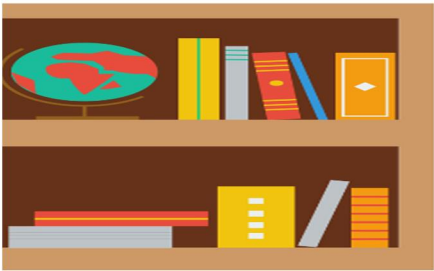
# FEMA Ke Fundae

#FamiliarwithFEMA

**External Commercial  
Borrowing (ECB)  
Part 1 of 4**

Issue No : 75

Date :15th November, 2023





**Abhishek**  
Director of an Indian  
Company

Hello, Mr. FEMA Gyani. Our Company is in need of funds for working capital. One of our company's foreign shareholder wishes to provide loan to our company. I am curious to know whether our company can borrow funds from foreign shareholder?



**Yes** Abhishek, your company can borrow funds from foreign shareholder if he is a recognized non-resident lender through **External Commercial Borrowings (ECBs)** mechanism.



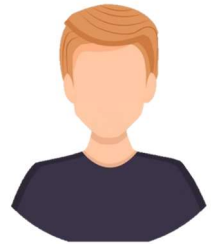
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**Abhishek**  
Director of an Indian  
Company

What is this **External Commercial Borrowings (ECBs)**?

ECBs are commercial Loans raised by resident entities from recognized non-resident lender.



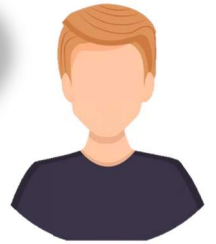
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**Abhishek**  
Director of an Indian  
Company

You have mentioned that loan can be raised from that share holder if he is a recognized non-resident lender. What does it mean ?

Under ECB mechanism, the category of the recognized non-resident lender is specified that's means those persons who can provide funds under ECB. **Following are those recognized lenders:-**



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✓ Should be resident of FATF or IOSCO Compliant Country

✓ Foreign branches/ subsidiaries of Indian Banks are permitted as lender only for Foreign currency ECB

✓ Multilateral and regional financial instruments where India is a member country

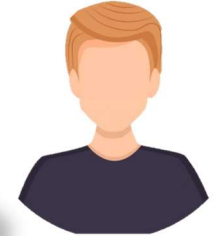
✓ Individual as Foreign equity holders.

✓ Individuals who subscribe to bonds and debentures listed abroad



**Abhishek**  
Director of an Indian  
Company

Okay. That's means we can raise funds from our foreign share holder because he is a recognized non resident lender as per ECB.



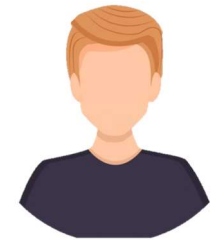
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Yes Abhishek. But remember specific share holding is required whenever funds borrowed from foreign shareholder.



**Abhishek**  
Director of an Indian  
Company

What is that holding requirement of Foreign shareholder?



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### Foreign Equity Holder

Direct Equity holding with minimum 25% in the borrowing entity



Indirect equity holder with minimum 51%



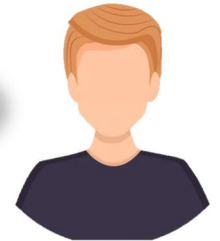
Group company with common overseas parent.



**Abhishek**  
Director of an Indian  
Company

Ohh great!! Because at present our foreign holder has 30% direct stake in our company.

Okay, that's means he is eligible and can provide the funds to your company.



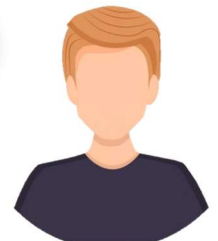
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**Abhishek**  
Director of an Indian  
Company

But FEMA Gyani, that foreign shareholder is thinking of transfer his 10% stake to another shareholder in few days. After that he will have only 20% stake in our company. Can he do so while giving funds under ECB mechanism?

No Abhishek, foreign equity holder will not be permitted to sell his holding during tenure of loan (ECB).



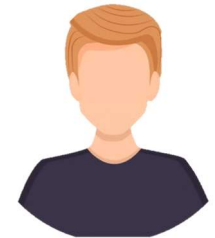
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**Abhishek**  
Director of an Indian  
Company

Okay got it. Can we raise the funds in foreign currency or is there any currency denomination requirement?

ECB can be raised in both currency –  
✓ **Foreign currency denominated ECB, or**  
✓ **Indian Rupee denominated ECB**



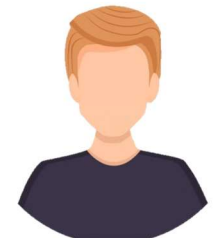
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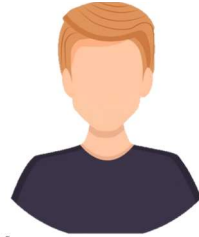
**Abhishek**  
Director of an Indian  
Company

Okay got it. I have one more question that I also require funds for my personal expenses. Can I borrow the same through ECB from one of my foreign friend?

No, criteria for eligible borrowers is also specified. That's means who can raise funds through ECB is mentioned. But the eligibility is depends on the denomination of ECB.



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### Eligible Borrowers

#### FCY denominated ECB \$

- ✓ All entities eligible to receive FDI.
- ✓ Port Trusts
- ✓ Units in SEZ
- ✓ SIDBI
- ✓ EXIM Bank of India.

#### INR denominated ECB ₹

- ✓ All entities eligible to receive FDI.
- ✓ Port Trusts
- ✓ Units in SEZ
- ✓ SIDBI
- ✓ EXIM Bank of India
- ✓ Registered entities engaged in micro-finance activities.



Abhishek  
Director of an  
Indian Company

Okay, Thank you FEMA Gyani.





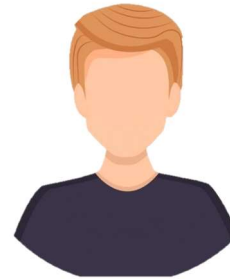
In the next part, we will discuss All in ceiling cost, Limit & Leverage and Minimum Average Maturity Period

**To be continued  
next WEDNESDAY...**





# Thank You



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Comments

Feedbacks

Suggestions



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

WEBSITE

<https://jainshrimal.com/>



International Tax Gyan      
WhatsApp group



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