

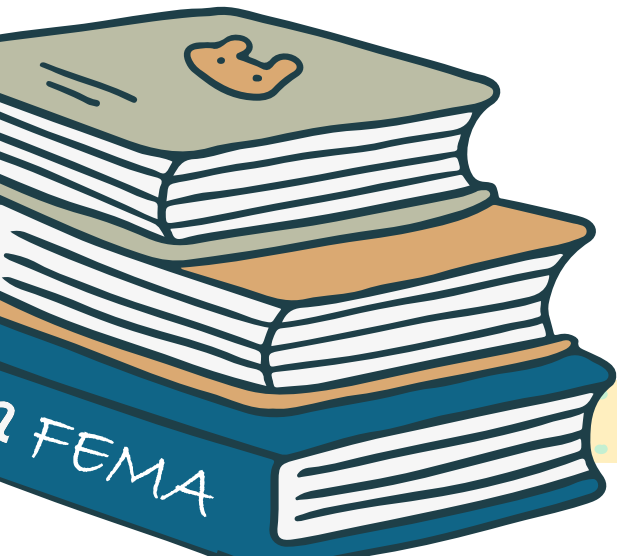
FEMA Ke Fundae

#FamiliarwithFEMA

CROSS BORDER
"OUTBOUND
MERGER"
(Part 2 of 2)


Date:05.02.2025

Issue no: 139





1. FEMA Regulations related to an inbound merger
2. Regulatory considerations related to an inbound merger
3. Restrictions on assets that the resultant company is not allowed to hold
4. Specific requirements for inbound mergers.



Topics already Covered in PART-1

For Part 1, refer the below link:-

Linkdin:

<https://www.linkedin.com/feed/update/urn:li:ugcPost:7290285959567327232/?actorCompanyId=31225427>

Website:- <https://jainshrial.com/cross-border-inbound-merger-part-1-of-2/>

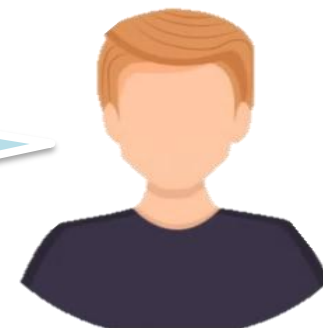




Mr. Rishabh
(Director of Indian Automobile
Manufacturing Co)

Hello! Mr. Fema Gyani, In previous conversation I got good grasp about Inbound merger but now we have also decided to enter into a deal with a manufacturing company in US company. Can you assist me in better understanding of related FEMA regulations?

Hi , you are absolutely correct that you have to comply with FEMA regulation but when a Indian company merges with overseas company it falls under cross border “**OUTBOUND MERGER**” and you need to comply with those regulation.



The FEMA Gyani



Mr. Rishabh

Okay! Mr. FEMA Gyani. I understood that we are entering into a cross border OUTBOUND MERGER. What regulations we need to comply with under such merger?

Under OUTBOUND MERGER, to start with these are three regulations you need to **must comply with**:



The FEMA Gyani

Issue or transfer of securities

- A Person Resident in India can **acquire or hold securities of the foreign resultant company**. This must be done in accordance with the Foreign Exchange Management Regulation (Transfer or Issue of Foreign Security) or the provision of the LRS as applicable.

Borrowings or debts

- The **resultant foreign company will be liable to repay any outstanding borrowings** according to the Scheme sanctioned by the NCLT under the Companies (Compromises, Arrangements, and Amalgamation) Rules, 2016 to ensure foreign company honors all the existing debts.

Assets

- **The resultant Foreign company can acquire and hold assets in India** if a Foreign Company is permitted to acquire such assets under Indian Laws.
- These assets can be managed or transferred till the transactions comply with FEMA Regulations.

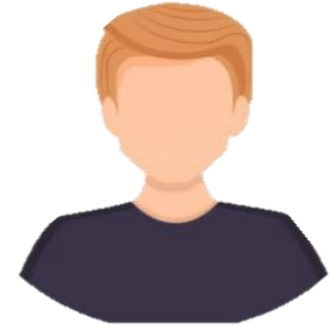




Mr. Rishabh

Okay! I will make sure to keep these regulation in mind as we proceed with this merger plan.

Great! But along with these also keep in mind the reporting objective and valuation norms specified for cross border merger:



The FEMA Gyani

REPORTING OBLIGATION

Any transaction arising due to such cross border merger shall be **reported to RBI.**

VALUATION NORMS

Valuation of the Indian and Foreign company for the purpose of the cross border merger shall be done as **per internationally accepted pricing methodology** for valuation of shares.



Mr. Rishabh

Definitely Mr. FEMA Gyani. But I have a concern what if the foreign company hold any assets or securities that it is not permitted to hold in India?

In such a case, the foreign company **must sell those assets and securities within 180 days from date of sanction of the cross border merger scheme** and also such proceeds must be repatriated outside India immediately through banking channels.



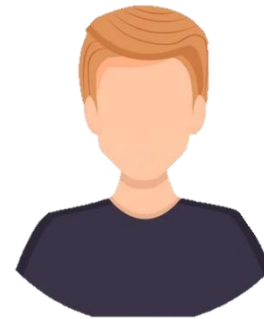
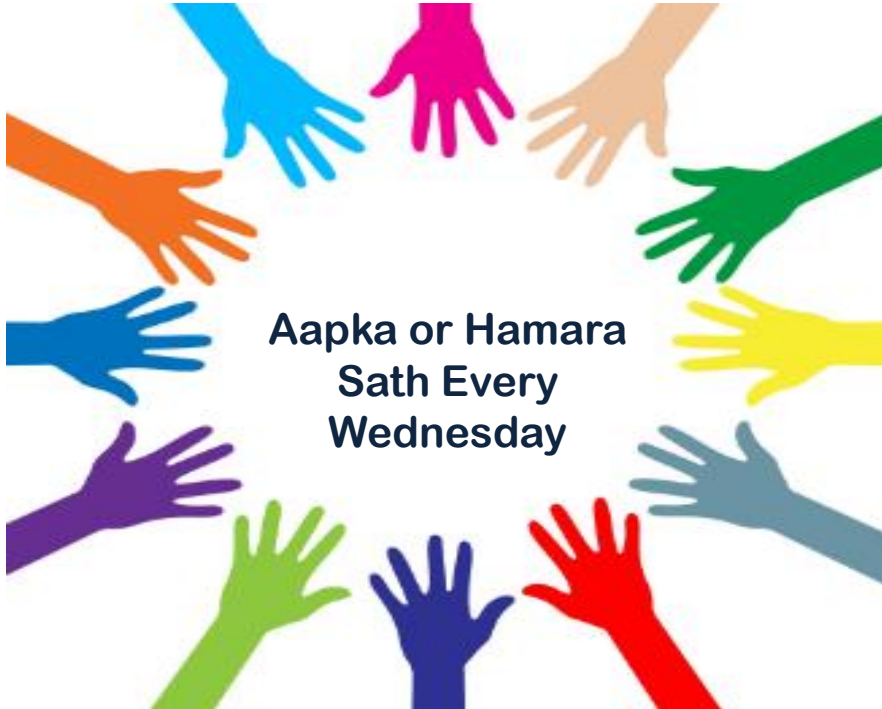
The FEMA Gyani



Mr. Rishabh

Alright. Mr. FEMA Gyani. Thank you so much for explaining. I'll now proceed with plan as now I have better understanding of regulation.

Thank You



The FEMA Gyani

Comments

Feedbacks

Suggestions



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

WEBSITE

<https://jainshrimal.com/>



International Tax Gyan
WhatsApp group



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