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LOAN BY NRI TO A RESIDENT INDIAN

AS PER THE FOREIGN EXCHANGE MANAGEMENT (BORROWINGS AND LENDING) REGULATIONS, 2018

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1. Loans in Indian Rupees (INR) and Foreign Currency (FC) – Non-Repatriable Basis:

- ***Key Provisions:***

  - ***Legal Status:***
    - All loans from NRIs/PIOs to resident individuals are classified as **non-repatriable** under RBI Master Directions.
    - There is **no legal difference** in provisions for loans to **family or non-family** individuals; all are subject to the same RBI rules.
  - ***Source of Funds:***
    - Loan must be received via **inward remittance from abroad** or,
    - **Debit from NRE/NRO/FCNR(B)/NRNR/NRSR accounts** of the lender, maintained with an authorised bank in India.
    - No limit is specified on the amount of the loan.
  - ***Tenure:***
    - Maximum period of loan: **3 years**.
    - Minimum tenure is not prescribed explicitly in the circular. *(considered 1 year as per general banking practices)*
  - ***Interest Rate:***
    - Rate of interest **cannot exceed 2% above the Bank Rate** prevailing on the date of loan availing.
    - Loan may also be **interest-free**.
  - ***Repayment:***
    - Principal and interest **must be credited only to the NRO account of the lender**.
    - Free remittance abroad is **not allowed**.

2. Loans in Foreign Currency (FC) - Repatriable Basis:

- A resident individual can borrow **only from a close relative** *(*as defined in the Companies Act, 2013)* residing outside India.
- The loan amount cannot exceed **USD 250,000**.
- The loan must be **interest-free**.
- The minimum maturity period is **1 year**.
- The **principal is repatriable** and can be sent abroad.
- The loan must be received via **inward remittance** in free foreign exchange or by **debit to the NRI lender's NRE/FCNR account.**

- **This provision is currently active, but all other loans from NRIs to resident individuals are generally non-repatriable unless they meet these specific conditions.**

3. Restrictions on Use of Funds:

✓ *Loan proceeds **cannot** be used for:*

- Agricultural or plantation activities
- Construction of farm houses
- Real estate business (except permissible projects like townships, roads, commercial/residential premises)
- Trading in transferable development rights (TDRs)
- Nidhi or Chit Fund Activities
- On-lending or investment in unrelated businesses

✓ *Loan proceeds **may be used for:***

- Borrower's own business (excluding prohibited sectors above)
- Fixed deposits pending utilisation for permissible end-uses
- Infrastructure sector projects (with RBI approval)

4. Legal Hack:

✓ ***Legal Provision:***

- Under the RBI Master Directions, personal loans from NRIs to resident individuals are not treated as repatriable unless the specified conditions (as set out above) are satisfied.

✓ ***Practical Note:***

- While personal loans are non-repatriable, **NRIs may still repatriate funds from their NRO account up to USD 1 million per financial year**, subject to tax compliance and bank approval.
- That remittance facility is independent of the loan's legal character and does not convert a non-repatriable loan into a repatriable one.

**As per Section 2(77) of the Companies Act, 2013, a "relative" refers to anyone related to another person if they are members of a Hindu Undivided Family (HUF), husband and wife, or are related in a manner prescribed by law. The Companies (Specification of Definitions Details) Rules, 2014, expand on this by specifying that relatives include parents (and step-parents), sons (and step-sons), sons' wives, daughters (and step-daughters), daughters' husbands, brothers (and step-brothers), and sisters (and step-sisters).*