

Companies Act, 1956

Section 370 - Loans, Etc., to Companies Under the Same Management

(1) No company (hereinafter in this section referred to as "the lending company") shall -

(a) make any loan to, or

(b) give any guarantee, or provide any security, in connection with a loan made by any other person to, or to any other person by,

any body corporate [1](#) [***] unless the making of such loan, the giving of such guarantee or the provision of such security has been previously authorised by a special resolution of the lending company:

[2](#) [Provided that no special resolution shall be necessary in the case of loans made to other bodies corporate not under the same management as the lending company where the aggregate of such loans does not exceed [3](#) [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed:]

Provided further that the aggregate of the loans made to all bodies corporate shall not exceed without the prior approval of the Central Government -

(a) [3](#) [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed] where all such other bodies corporate are not under the same management as the lending company;

(b) [3](#) [such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed] where all such other bodies corporate are under the same management as the lending company.

Explanation [4](#) [1]. -If a special resolution has been passed by the lending company authorising the making of loans up to the limit of [7](#) [the percentage of the aggregate specified in clause (a) or, as the case may be, the percentage of the aggregate specified in clause (b) of the second proviso] then, no further special resolution or resolutions shall be deemed to be necessary for the making of any loan or loans within such limit.

[5](#) [Explanation 2. -If a special resolution has been passed by the lending company authorising the Board of Directors to give any guarantee or provide any security up to a limit specified in the resolution, then, no further special resolution or resolutions shall be deemed to be necessary for giving any guarantee or providing any security within such limit.]

[6](#) [(1A) Where the lending company -

(a) makes any loan to, or

(b) gives any guarantee, or provides any security, in connection with a loan made by any other person to, or to any other person by,

a firm in which a partner is a body corporate under the same management as the lending company -

(i) the loan shall be deemed to have been made to, or

(ii) the guarantee or the security shall be deemed to have been given or provided in connection with the loan made by such other person to, or to such other person by,

a body corporate under the same management.]

7 (1B) 8 [For the purpose of sub-section (1) and (1A)] two bodies corporate shall be deemed to be under the same management -

(i) if the 9 [***] managing director or manager of the one body, 9 [***] is -

(a) 9 [***] managing director or manager of the other body; or

(b) 9 [***]

(c) 9 [***]

(ii) if a majority of the directors of the one body constitute, or at any time within the six months immediately preceding constituted, a majority of the directors of the other body; 10 [or]

6 [(iii) if not less than one-third of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individual or body corporate; or

(iv) if the holding company of the one body corporate is under the same management as the other body corporate within the meaning of clause (i), clause (ii) or clause (iii); or

(v) if one or more directors of the one body corporate while holding, whether by themselves or together with their relatives, the majority of shares in that body corporate also hold, whether by themselves or together with their relatives, the majority of shares in the other body corporate.]

6 [(1C) Every lending company shall keep a register showing -

(a) the names of all bodies corporate under the same management as the lending company and the name of every firm in which a partner is a body corporate under the same management as the lending company; and

(b) the following particulars in respect of every loan made, guarantee given or security provided by the lending company 11 [in relation to any such body corporate] under this section -

(i) the name of the body corporate to which the loan has been made whether such loan has been made before or after that body corporate came under the same management as the lending company,

(ii) the amount of the loan,

(iii) the date on which the loan has been made,

(iv) then date on which the guarantee has been given or security has been provided in connection with a loan made by any other person to, or to any other person by, any body corporate or firm referred to in sub-section (1) or (1A) together with the name of the person, body corporate or firm.

(1D) Particulars of 12 [every loan, guarantee or security referred to in sub-section (C)] shall be entered in the register aforesaid within three days of the making of such loan, or the giving of such guarantee or the provision of such security or in the case of any loan made, guarantee given or security provided before the commencement of the Companies (Amendment) Act, 1960 (65 of 1960), within three months from such commencement or such further time not exceeding six months as the company may by special resolution allow.

(1E) If default is made in complying with the provisions of sub-section (1C) or (1D), the company and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees and also with a further fine which may extend to fifty rupees for every day after the first during which the default continues.

(1F) The register aforesaid shall be kept at the registered office of the lending company and-

(a) shall be open to inspection at such office, and

(b) extracts may be taken therefrom or copies thereof may be required,

by any member of the company to the same extent and in the same manner and on the payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.

[13](#) [(1G) A company, which has defaulted in the repayment of any deposit referred to in section 58A or past thereof or interest thereupon in accordance with the terms and conditions of such deposit, shall not make any loan or give guarantee under this section till the default is made good.]

[14](#) [(2) Nothing contained in the foregoing provisions of this section shall apply to -

(a) any loan made -

(i) by a holding company to its subsidiary, or

(ii) [9](#) [***]

[15](#) [(iii) by a banking company, or an insurance company, in the ordinary course of its business;[16](#) [or]

(iv) by a private company, unless it is a subsidiary of a public company;[16](#) [or]

(v) by a company established with the object of financing industrial enterprises;]

(b) any guarantee given or any security provided -

(i) by a holding company in respect of any loan made to its subsidiary, or

(ii) [9](#) [***]

[17](#) [(iii) by a banking company, or an insurance company in the ordinary course of its business; or

(iv) by a private company, unless it is a subsidiary of a public company; or

(v) by a company established with the object of financing industrial enterprises.]

(3) Nothing in this section shall apply to a book debt unless the transaction represented by the book debt was from its inception in the nature of a loan or an advance.

(4) For the purposes of this section, any person in accordance with whose directions or instructions the Board of directors of a company is accustomed to act shall be deemed to be a director of the company.]

[18](#) [(5) Where before the commencement of the Companies (Amendment) Act, 1965, any loan, guarantee or security has been made, given or provided by a company which could not have been made, given or provided under this section as amended by that Act, and such loan, guarantee or security is outstanding at such commencement the company shall, within six months from such commencement enforce the repayment of the loan made or, as the case may be, revoke the guarantee given or the security provided, notwithstanding any agreement to the contrary:

Provided that the aforesaid period of six months may be extended by the Central Government on an application made to it in that behalf by the company.]

[19](#) [(6) Nothing contained in this section shall apply to a company on and after the commencement of the Companies (Amendment) Act, 1999.

[20](#) [Explanation.- For the purposes of this section, "loan" includes any deposit of money made by one company with another company, not being a banking company.]

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1. The words "which is under the same management as the lending company" omitted by Act 31 of 1965, Section 46 (w.e.f. 1-4- 1967).
 2. Added by Act 31 of 1965, Section 46 (w.e.f. 1-4-1967).
 3. Substituted by Act 31 of 1988, Section 51, for certain words (w.e.f. 17-4-1989).
 4. Explanation renumbered as Explanation 1 by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 5. Inserted by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 6. Inserted by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 7. Explanation numbered and lettered as sub-section (1B) by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 8. Substituted by Act 65 of 1960, Section 135, for "for the purposes of this sub-section" (w.e.f. 28-12-1960).
 9. Provisions relating to managing agents, secretaries and treasurers have ceased to have effect by Act 17 of 1967, Section 6 (w.e.f. 3-4-1970).
 10. Added by Act 65 of 1960, Section 135 (w.e.f. 28-12-1960).
 11. Inserted by Act 31 of 1965, Section 46 (w.e.f. 1-4-1967).
 12. Substituted by Act 31 of 1965, Section 46, for "every such loan, guarantee or security" (w.e.f. 1-4-1967).
 13. Inserted by Act 5 of 1997, Section 7 (w.e.f.1-3-1997).
 14. Substituted by Act 65 of 1960, Section 135, for sub-section (2) (w.e.f. 28-12-1960)
 15. Substituted by Act 31 of 1965, Section 46, for sub-clauses (iii) (w.e.f. 1-4-1967).
 16. Inserted by Act 34 of 1966, Section 3 (w.e.f. 1-4-1967).
 17. Substituted by Act 34 of 1966, Section 3, for sub-clause (iii) (w.e.f. 1-4-1967).
 18. Inserted by 31 of 1965, Section 46 (w.e.f. 31-10-1998).
 19. Inserted by Act 21 of 1999, Section 17 (w.e.f. 31-10-1998).
 20. Inserted by Act 31 of 1988, Section 51 (w.e.f. 28-12-1960).
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