



February 2026

Revamp of Foreign Exchange Management (Guarantee) Regulations

The Reserve Bank of India, on January 6, 2026, in exercise of the powers conferred under the Foreign Exchange Management Act, 1999 (“**FEMA**”), notified the Foreign Exchange Management (Guarantees) Regulations, 2026 (“**Guarantee Regulations**”). The Guarantee Regulations supersede the erstwhile, Foreign Exchange Management (Guarantees) Regulations, 2000¹ (“**Erstwhile Regulations**”) which had governed cross-border guarantees since June 1, 2000. They provide a comprehensive framework for the provision of guarantees involving foreign exchange by persons resident in India.

Key provisions

Definitions

The Guarantee Regulations introduce certain key definitions which were not included in the Erstwhile Regulations:

1. guarantee including a counter-guarantee means a contract, by whatever name called, to perform the promise, or discharge a debt, obligation or other liability (including a portfolio of debts, obligations or other liabilities), in case of default by the principal debtor;
2. principal debtor means a person in respect of whose default the guarantee is given; and
3. surety means a person who gives a guarantee.

Prohibition

The Guarantee Regulations impose a general prohibition on persons resident in India from being a party as principal debtor, surety, or creditor to a guarantee where any other party to a guarantee (i.e. principal debtor, surety or a creditor) is a person resident outside India, unless:

1. the guarantee is permitted under the FEMA, rules, regulations, or directions issued under the FEMA; or
2. the guarantee is specifically permitted by the Reserve Bank of India through general or special permission.

¹ Notification No. FEMA 8/2000-RB

Applicability and exemptions

The Guarantee Regulations apply to guarantees where any party in the capacity either as a principal debtor, surety or a creditor is a person resident in India.

The Guarantee Regulations do not apply to:

1. a guarantee undertaken by a branch of an Authorised Dealer Bank (“**AD Bank**”) outside India or in an International Financial Services Centre, unless any of the other parties to the guarantee is a person resident in India;
2. an irrevocable payment commitment issued by an authorised dealer in its capacity of a custodian bank, where the principal debtor is a registered foreign portfolio investor and the creditor is an authorised central counterparty in India; and
3. a guarantee given in accordance with the Foreign Exchange Management (Overseas Investment) Regulations, 2022.

Permission to act as a surety or a principal debtor

A person resident in India may act as a surety or a principal debtor for a guarantee, provided it fulfils the below criteria:

1. the underlying transaction is not prohibited under the FEMA or rules or regulations or directions issued under the FEMA; and
2. the surety and the principal debtor are eligible to lend to and borrow from each other, under the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018.

A person resident in India need not fulfil the condition provided in para (2) above: (a) if the guarantee is given by an AD Bank and covered by a counter-guarantee or issued against 100% collateral in the form of a deposit, from a person resident outside India; or (b) if the guarantee is given by an agent in India of a shipping or airline company incorporated outside India on behalf of such company in connection with its obligation or liability owed to any statutory or Government authority in India; or (c) where both the surety and the principal debtor are persons resident in India.

Permission to obtain a guarantee as a creditor

A creditor who is a person resident in India, may arrange or obtain a guarantee in its favour, provided that if both the principal debtor and surety are residents outside India, the underlying transaction is not prohibited under the FEMA, rules, regulations, or directions issued under the FEMA.

Reporting obligations

Depending on the resident status of the parties to the guarantee, the Guarantee Regulations cast an obligation on the surety, principal debtor and/or the creditor to report the Guarantees to the AD Bank as set out below:

1. the surety must report the guarantee where he is a person resident in India;
2. the principal debtor must report the guarantee where he has arranged the guarantee and where the surety is a person resident outside India; and
3. the creditor must report the guarantee where the surety and the principal debtor both are persons resident outside India or where the creditor has arranged the guarantee.

The aforesaid reporting must be done in Form GRN on a quarterly basis within 15 (fifteen) calendar days from the end of the respective quarter. The AD Bank is further required to submit the returns received as above, within 30 (thirty) calendar days from the end of the respective quarter. The person having the obligation to report the guarantee must

report details such as issuance of guarantee, any subsequent change in guarantee terms, namely the guarantee amount, extension of period or pre-closure, and invocation of guarantee, if any and such other details as required under the said form.

Late submission for delayed reporting

The Guarantee Regulations allow for delayed reporting by the surety or principal debtor or the creditor, as the case may be, along with the late submission fee or the payment of late submission fee where such reporting is done with a delay.

The late submission fee is INR 7,500 (Indian Rupees seven thousand five hundred) added by 0.025% of $A \times N$, rounded upwards to the nearest hundred, where 'N' is the number of years of delay in submission, rounded-upwards to the nearest month and expressed up to 2 (two) decimal points; and 'A' is the amount involved in the delayed reporting in INR.

Key changes from the Erstwhile Regulations

Under the Erstwhile Regulations, guarantees were permitted only in specified circumstances, broadly classified into 2 (two) categories: (a) guarantees which may be given by the authorised dealer; and (b) guarantees which may be given by persons other than an authorised dealer. The Erstwhile Regulations contained specific permitted guarantee transactions, differentiated based on:

1. the nature of the underlying transaction (exports, imports, commodity hedging, external commercial borrowings, overseas projects, set-up of joint venture/wholly owned subsidiary outside India);
2. the status of the guarantor (authorised dealer *versus* non-authorised dealer); and
3. monetary caps, counter-guarantee requirements, and approval thresholds.

Whereas the Guarantee Regulations provide a shift in presentation and the manner in which permissions are granted to persons resident in India. Some of the key changes between the Erstwhile Regulations and the Guarantee Regulations are as follows:

1. the Erstwhile Regulations did not include a definition of guarantee. Instead, it listed transactions that were permissible by the authorised dealer and persons other than the authorised dealer. The Guarantee Regulations, on the other hand, includes a definition of guarantee and explicitly includes counter guarantee, portfolio of debts, obligations and other liability;
2. the Erstwhile Regulations provided for an enumerated specific set of permitted transactions which were narrow and fragmented whereas the Guarantee Regulations are principle/rule based. The primary principles are based on the eligibility of the guarantor and the principal debtors to borrow and lend to each other and the permissibility of a person to act as surety or a principal debtor or obtain a guarantee as a creditor if the underlying transaction is not prohibited under the FEMA, rules, regulations, or directions issued under the FEMA;
3. the Guarantee Regulations now provide for clear and structured reporting obligations. The obligation of reporting under the Guarantee Regulations is based on the residency of the parties to the guarantee, namely the principal debtor, surety, and creditor, as applicable; and
4. the Guarantee Regulations clearly provides for penalties for late reporting in the form of a late submission fee, which is directly linked to an incremental fee based on the number of days of delay.

Conclusion

The Guarantee Regulations have been notified with the aim of rationalising the framework governing guarantees under the FEMA and facilitating cross-border transactions to enhance ease of doing business. It allows persons

resident in India to act as surety or a principal debtor or obtain a guarantee as a creditor subject to the prescribed condition. The Guarantee Regulations provide for reporting obligations based on the status of residency of the parties to the guarantee which provides clarity and fixes responsibility on the relevant persons. Further, with the introduction of late submission fees, stakeholders involved in cross-border guarantees will need to carefully evaluate residency positions and comply with the prescribed reporting obligations to ensure compliance under the Guarantee Regulations.

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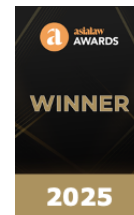
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