



RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office
Mumbai - 400 001

RBI/2012-13/179

A. P. (DIR Series) Circular No. 20

August 29, 2012

To

All Category-I Authorised Dealer Banks

Madam / Sir,

Non-resident guarantee for non-fund based facilities entered between two resident entities

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to [Notification No. FEMA 29 / 2000-RB dated September 26, 2000](#) viz. Payment to person resident outside India on invocation of guarantee, [A.P. \(DIR Series\) Circular No. 28 dated March 30, 2001](#) and [A.P. \(DIR Series\) Circular No. 5 dated August 1, 2005](#) relating to External Commercial Borrowings (ECB).

2. Borrowing and lending of Indian Rupees between two persons resident in India does not attract the provisions of the Foreign Exchange Management Act, 1999. In case where a Rupee loan is granted against the guarantee provided by a person resident outside India, there is no transaction involving foreign exchange until the guarantee is invoked and the non-resident guarantor is required to meet the liability under the guarantee. The Reserve Bank vide Notification No. FEMA 29/2000-RB dated September 26, 2000 has granted general permission to a person resident in India, being a principal debtor, to make payment to a person resident outside India, who has met the liability under a guarantee.

3. On a review, it has been decided to extend the facility of non-resident guarantee under the general permission for non-fund based facilities (such as Letters of Credit/guarantees/Letter of Undertaking (LoU) /Letter of Comfort (LoC)) entered into between two persons resident in India. The method of discharge of liability by the non-resident guarantor under the guarantee and the subsequent repayment of the liability by the principal debtor would continue, as hitherto, as detailed in A.P. (DIR Series) Circular No. 28 dated March 30, 2001.

4. It has also been decided to introduce a reporting format to capture such guarantees issued and invoked. Authorized Dealer Category-I banks are required to furnish such details by all its branches, in a consolidated statement, during the quarter, as per the format in Annex to the Chief General Manager, Foreign Exchange Department, ECB Division, Reserve Bank of India, Central Office Building, 11th floor, Fort, Mumbai – 400 001 (and in [MS-Excel](#) file through [email](#)) so as to reach the Department not later than 10th day of the following month.

5. The policy would be reviewed at an appropriate time based on the experience gained in this regard.

6. The modifications to the policy will come into force from the date of this circular. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Rashmi Fauzdar)
Chief General Manager