

CORPORATE CONNECT

FOREIGN EXCHANGE MANAGEMENT (GUARANTEE), REGULATIONS 2026

1. Background

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 (“**New Guarantee Regulations**”). The New Guarantee Regulations supersede the erstwhile, Foreign Exchange Management (Guarantees) Regulations, 2000 (“**Old Guarantee Regulations**”) and provides a comprehensive framework for issuance, receipt, modification, invocation and management of guarantees involving persons resident in India and persons resident outside India.

2. Overview of Key Provisions Under the New Guarantee Regulations:

(a) Definitions

The New Guarantee Regulations introduce certain additional definitions which were not included in the Old Guarantee Regulations. The terms such as “guarantee”, “principal debtor”, “surety”, and “creditor” have been clearly defined under the New Guarantee Regulations.

(b) Prohibition

The New 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 other permitted under the FEMA, rules, regulations, or directions issued under the FEMA; or by the Reserve Bank of India through general or special permission.

(c) Exemptions

The New Guarantee Regulation shall not apply on the following: -

- (a) Guarantees undertaken by branches of Authorised Dealer Banks (“**AD Bank**”) outside India or in an IFSC, provided no other party to the guarantee is a person resident in India.
- (b) an Irrevocable Payment Commitment issued by an AD Bank 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.
- (c) Guarantees given in accordance with the Foreign Exchange Management (Overseas Investment) Regulations, 2022.

(d) Permission to act as surety or principal debtor

A Person Resident in India may act as surety or principal debtor for guarantees, provided –

- (i) The underlying transaction is not prohibited under FEMA or related regulations.
- (ii) Lending/ borrowing between surety and principal debtor is permitted under the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 subject to the following exceptions:-

- (1) Guarantees given by AD Bank and covered by counter guarantee or issued against 100 % collateral in form of deposit, from a person resident outside India;
- (2) Guarantee under statutory obligation by agents in India on behalf of foreign shipping or airline companies; and
- (3) Where both surety and the principal debtors are resident in India.

(e) Permission to obtain guarantee as Creditor

A person resident in India being a creditor may arrange or obtain a guarantee in its favour, subject to the condition that where the principal debtor and surety both are persons resident outside India, the creditor shall ensure that the underlying transaction is not prohibited under the FEMA, or rules or regulations or directions issued under the FEMA.

(f) Reporting requirement

The New Guarantee Regulations has imposed reporting responsibility upon the surety, principal debtor or creditor, requiring reporting of issuance of guarantee, subsequent changes and invocation of guarantees. The said persons are mandated to undertake quarterly reporting in Form GRN to AD Bank within fifteen calendar days from the end of the respective quarter for onward submission to Reserve Bank of India.

(g) Late submission fee

Delayed reporting attracts a late submission fee of $\text{INR } 7,500 + 0.025 \% \times \text{Amount involved} \times \text{Number of years of delay}$ (rounded up to the nearest month and hundred rupees).

DISCLAIMER: The material contained in this publication is solely for information and general guidance and not for advertising or soliciting. The information provided does not constitute professional advice that may be required before acting on any matter. While every care has been taken in the preparation of this publication to ensure its accuracy, Vaish Associates Advocates neither assumes responsibility for any errors, which despite all precautions, may be found herein nor accepts any liability, and disclaims all responsibility, for any kind of loss or damage arising on account of anyone acting/ refraining to act by placing reliance upon the information contained in this publication.

©2026, India. All Rights Reserved with Vaish Associates Advocates

OUR OFFICES

DELHI

1st, 9th & 11th Floor,
Mohan Dev Building,
13, Tolstoy Marg,
New Delhi - 110001, India,

TEL: +91 11 42492525,
delhi@vaishlaw.com

MUMBAI

106, Peninsula Centre,
Dr. S. S. Rao Road, Parel,
Mumbai - 400012, India,

TEL: +91 22 42134101,
mumbai@vaishlaw.com

BENGALURU

Bhive Premium
Ramanashree (MG Road) No. 2/1,
Brunton Road, Off MG Road
Opposite Old Passport Office
Bengaluru - 560001, India

TEL: +91 80409 03588/ 89
bangalore@vaishlaw.com



CORPORATE, TAX AND BUSINESS ADVISORY LAW FIRM