



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

RBI/2008-09/438

A. P. (DIR Series) Circular No.62

April 20, 2009

To

All Category-I Authorised Dealer Banks

Madam / Sir,

**External Commercial Borrowings Policy – Liberalisation
Issue of Guarantee for operating lease**

Attention of Authorized Dealer Category – I (AD Category –I) banks is invited to [A. P. \(DIR Series\) Circular No. 24 dated March 1, 2002](#), in terms of which AD Category – I banks have been permitted to allow payment of lease rentals, opening of letters of credit towards security deposit, etc. in respect of import of aircraft / aircraft engine / helicopter on operating lease basis subject to conditions mentioned therein. Further, in terms of [A. P. \(DIR Series\) Circular No.01 dated July 11, 2008](#), as a measure of rationalization of the existing procedures, AD Category - I banks have been allowed to convey 'no objection' under the Foreign Exchange Management Act (FEMA), 1999 for creation of charge on immovable assets, financial securities and issue of corporate or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised by the borrower, subject to compliance of prescribed conditions.

2. As a further measure of rationalization, it has been decided to allow AD Category – I banks to convey 'no objection' from the Foreign Exchange Management Act (FEMA), 1999 angle for issue of corporate guarantee in favour of the overseas lessor, for operating lease in respect of import of aircraft / aircraft engine / helicopter.

3. The 'no objection' to the Indian importer for issue of corporate guarantee under FEMA, 1999 may be conveyed after obtaining -

- (i) Board Resolution for issue of corporate guarantee from the company issuing such guarantees, specifying names of the officials authorised to execute such guarantees on behalf of the company.
- (ii) Ensuring that the period of such corporate guarantee is co-terminus with the lease period.

4. AD Category – I banks may invariably specify that the ‘no objection’ is issued only from the foreign exchange angle under the provisions of FEMA, 1999 and should not be construed as an approval by any other statutory authority or Government or any other laws / regulations. If further approval or permission is required from any other regulatory / statutory authority or Government under the relevant laws / regulations, the applicant should take the approval of the authority concerned before undertaking the transaction. Further, the ‘no objection’ should not be construed as regularizing or validating any irregularities, contravention or other lapses, if any, under the provisions of FEMA or any other laws or regulations.

5. This shall come into force with immediate effect and will be subject to review from time to time.

6. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. Necessary amendment to the [Notification No. FEMA 8/2000-RB dated May 3, 2000](#) [Foreign Exchange Management (Guarantees) Regulations, 2000] is being issued separately.

8. 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 is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

Salim Gangadharan

Chief General Manager-in-charge