



In the  
**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
6, Sansad Marg  
New Delhi - 110001

Present  
**V. G. Sekar**  
**Chief General Manager**  
Date: December 26, 2019  
CA No. NDL 509/2019

In the matter of  
**Aspiring Minds Assessment Private Limited**  
24, Pusa Road, 1st Floor, New Delhi - 110005  
**(Applicant)**

In exercise of the powers under Section 15(1) of Foreign Exchange Management Act, 1999 and the Regulations/ Rules/ Notifications/ Orders made thereunder, I pass the following Order.

#### **ORDER**

The applicant has filed the compounding application dated August 1, 2019 (received at Reserve Bank of India, New Delhi on August 2, 2019) and addendums dated October 3, 2019 and December 12, 2019 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are those of (i) delay in reporting foreign inward remittances received for issue of shares, (ii) delay in filing Form FC-GPR after issue of shares, and (iii) delay in issue of shares to person resident outside after receipt of the amount of consideration and delay in refund of excess share application money, in terms of paragraphs 9(1)(A), 9(1)(B) and 8 respectively of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 (hereinafter referred to as FEMA 20/2000-RB), as then applicable.



2. The relevant facts of the case are as follows:

(a) The applicant company, incorporated on April 15, 2008, is engaged in the business of creating own centres for assessment and evaluation of candidates of various streams and backgrounds and also distributing franchise for assessment and training centres.

(b) The applicant had reported receipt of foreign inward remittance on five occasions from August 12, 2008 to April 20, 2012. On three occasions, the applicant had reported the remittances received from its foreign investors with delay ranging from 1 day to 1 year, 11 months and 10 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

| Sl. No. | Date of Receipt | Amount (₹)             | Date of Reporting |
|---------|-----------------|------------------------|-------------------|
| 1       | 12.08.2008      | 84,150.00              | 21.08.2010        |
| 2       | 20.08.2008      | 65,51,694.00           | 17.03.2009        |
| 3       | 22.08.2011      | 10,75,20,000.00        | 22.09.2011        |
|         | <b>Total</b>    | <b>11,41,55,844.00</b> |                   |

Whereas, in terms of paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares or convertible debentures or warrants, a report in Advance Reporting Form as specified by Reserve Bank from time to time along with documents prescribed therein.

(c) The applicant had reported the issue of shares on six occasions from August 12, 2008 to March 30, 2016. On five occasions, the applicant had reported the issue of shares with delay ranging from 1 day to 3 years and 25 days beyond the prescribed period, as detailed below, in contravention of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable.

| Sl. No. | Date of Issue | Amount (₹)             | Date of Reporting |
|---------|---------------|------------------------|-------------------|
| 1       | 12.08.2008    | 81,920.00              | 21.08.2010        |
| 2       | 12.02.2009    | 64,99,494.00           | 17.03.2009        |
| 3       | 22.08.2011    | 10,75,19,998.37        | 22.09.2011        |
| 4       | 04.05.2012    | 1,07,62,598.97         | 06.06.2012        |
| 5       | 30.03.2016    | 1,30,41,270.00         | 24.05.2019        |
|         | <b>Total</b>  | <b>13,79,05,281.34</b> |                   |



Whereas, in terms of paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures or warrants in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares or convertible debentures or warrants, a report in Form FC-GPR as specified by the Reserve Bank from time to time together with documents prescribed therein.

(d) The applicant had refunded the excess share application money to its foreign investors through its AD bank, without RBI approval, with a delay of 1 year, 7 months & 6 days and 1 year, 11 months & 26 days beyond the prescribed period, as detailed below, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable.

| Sl. No. | Date of Receipt | Amount (₹)      | Date of refund |
|---------|-----------------|-----------------|----------------|
| 1       | 12.08.2008      | 2230.00         | 03.02.2011     |
| 2       | 20.02.2009      | 1820.00         | 25.03.2011     |
|         | <b>Total</b>    | <b>4,050.00</b> |                |

Further, the applicant had received ₹65,51,694.00 on August 20, 2008 from its foreign investor, Shri Dharmesh Ajitsinh Khimji, Sultanate of Oman. The applicant issued 900 equity shares for a consideration of ₹64,99,494.00 on February 12, 2009. The balance share application money of ₹52,200.00 along with other remittance received, was utilised with a delay of 12 days for issue of 2412 equity shares on February 28, 2009, without the approval of RBI, beyond the prescribed period, in contravention of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, as then applicable. Whereas, in terms of paragraph 8 of Schedule 1 to FEMA 20/2000-RB, equity instruments should be issued within 180 days of the receipt of inward remittance. In case, the equity instruments are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received should be refunded immediately to the non-resident investor. Provided that the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt.

(e) Thus, there are contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 of FEMA 20/2000-RB, as then applicable.



3. The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application. Shri Puneet Juneja, Associate Vice President-Finance and Accounts and Shri Ankit Singhi, Corporate Professional Partner, appeared for personal hearing on December 24, 2019 on behalf of the applicant. The representatives admitted the contraventions committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that the contraventions were without any *malafide* or wilful intention but were mainly due to lack of awareness about FEMA compliances. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions:

(a) Paragraph 9(1)(A) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in reporting foreign inward remittance received for issue of shares as detailed in paragraph 2(b) above. The contraventions relate to an amount of ₹11,41,55,844.00 (Rupees Eleven Crore Forty One Lakh Fifty Five Thousand Eight Hundred and Forty Four only) and the period of delay ranges from 1 day to 1 year, 11 months and 10 days.

(b) Paragraph 9(1)(B) of Schedule 1 to FEMA 20/2000-RB, as then applicable, on account of delay in filing Form FC-GPR after issue of shares as detailed in paragraph 2(c) above. The contraventions relate to an amount of ₹13,79,05,281.34 (Rupees Thirteen Crore Seventy Nine Lakh Five Thousand Two Hundred Eighty One and Paise Thirty Four only) and the period of delay ranges from 1 day to 3 years and 25 days.

(c) Paragraph 8 of Schedule 1 to FEMA 20/2000-RB, on account of delay in issue of shares after receipt of inward remittance and delay in refund of share application money against which shares were not issued, as detailed in paragraph 2(d) above. The contraventions relate to an amount of ₹52,200.00 (Rupees Fifty Two Thousand and Two Hundred only) for delay in issue of shares and ₹4,050.00 (Rupees Four Thousand and Fifty only) for delay in refund of share application money and the period



of contravention for delay in issue of shares is 12 days and for delay in refund of share application money are 1 year 7 months & 6 days and 1 year 11 months & 26 days.

5. It has been declared in the compounding application dated August 1, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has also been declared in the declaration furnished with compounding application that the applicant was not under any enquiry/ investigation/ adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/ investigation/ adjudication proceedings against it, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this Order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/ or incorrect.

6. In terms of Section 13 of FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to compound the contraventions, in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹2,03,228.00 (Rupees Two Lakh Three Thousand Two Hundred and Twenty Eight only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contraventions of paragraphs 9(1)(A), 9(1)(B) and 8 of Schedule 1 of FEMA 20/2000-RB, as then applicable, by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹ 2,03,228.00 (Rupees Two Lakh Three Thousand Two Hundred and Twenty Eight only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi within a period of 15 days



from the date of this Order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this the 26<sup>th</sup> day of December 2019.

Sd/-  
**(V.G. Sekar)**  
**Chief General Manager**