



In the

**Reserve Bank of India**  
Foreign Exchange Department  
Mumbai Regional Office  
Main Building, 3rd floor  
Shahid Bhagat Singh Marg, Fort  
Mumbai 400 001

Present

**Shri S. V. Potphode**  
Assistant General Manager

**Date: December 06, 2017**

**C.A. No. 703/2017**

In the matter of

**Franklin Templeton Asset Management (India) Private Limited**  
Indiabulls Finance Center, Tower 2, 12<sup>th</sup> & 13<sup>th</sup> floor  
Senapati Bapat Marg, Elphinstone (W)  
Mumbai - 400 013

**(Applicant)**

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

**Order**

1. The applicant has filed the compounding application dated June 27, 2017 (received at the Reserve Bank on July 03, 2017) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contravention sought to be compounded is failure to obtain specific and prior Government (FIPB) approval for issue of shares to a person resident outside India under Government route in terms of paragraph 3 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 and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was originally incorporated on October 6, 1995 under the Companies Act, 1956 as Templeton Asset Management (India) Private Limited. The name was changed to Franklin Templeton Asset Management (India) Private Limited on March 15, 2004. Its main activity is 1. To carry on business (i) acting as managers, consultants, administrators, attorneys, agents or representatives or nominees of or for any mutual funds, unit trusts, investments funds or any other pool or portfolio of securities, properties, assets of investments of any kind, including any pension, provident fund, venture capital fund or superannuation fund set up, formed or established in India or any other country by the Company or any other person, or by any government state, local authority, association, institution (whether incorporated or not) or any other agency or organization; (ii) preparing, undertaking, executing, administering mutual fund schemes or unit trust schemes and to issue units or participation certificates therein to investors and distribute, redeem or revoke such funds and distribute the proceeds thereof amongst the investors, beneficiaries, pensioners or other persons entitled to it, of any proceeds of such funds including of any income, capital or annuity, property and assets and whether in money or specie, in furtherance of any discretion, obligation or permission; (iii) rendering and offering consultancy services and / or acting as advisors to banks, institutions, bodies corporate government or any other person for setting up mutual funds, investment pools etc. (iv) acting as settler, promoter, manager, adviser, sponsor or performing any other appropriate role in promoting, managing or operating venture capital fund or venture capital company.

2. To carry on the business of collecting, storing devising systems for retrieving, collating, analysing and distributing publishing disseminating and marketing data information and other inputs relating to financial services, unit trusts, mutual funds, venture capital funds and capital markets, leasing, factoring and other financial services including undertaking the work of credit investigation, market informants, credit rating sought after by the financial market place and government and non-government agencies and all policy makers in the government and private sectors. Provided that the company shall not carry on or undertake any business, which is in conflict with, the activities of the Mutual Funds or Funds promoted or arranged by it as stated in Clauses 1 & 2 above. The company is a wholly owned



subsidiary of Franklin Templeton Holding Limited, Mauritius. The company made a one-time downstream investment of Rs.5,00,000/- to subscribe to Equity Shares of MF Utilities India Private Limited (MFUI) in April 2014. When the investment was made, MFUI was planning to provide an order routing facility to enable investors in mutual fund products to buy and / or sell units directly from any of the mutual funds in India, registered with SEBI. At the time of investment, based on the legal advice received, the company was of the view that the activities of the MFUI fall under the Miscellaneous Services category for the purpose of FDI and therefore, any direct or indirect foreign investment in the MFUI will fall under automatic route. Subsequent to the above investment, the MFUI commenced activities as a registrar and obtained certificate of registration of SEBI. The activities of a registrar registered with SEBI was thought to be an administrative activity requiring no further approvals. However, the Government of India, Ministry of Finance, Department of Economic Affairs, FIPB Unit, New Delhi, vide, their letter F. No. 80/2016-FIPB dated September 12, 2016, observed that the activities of MFUI fall under 'Other Financial Services' and directed M/s Franklin Templeton Asset Management (India) Private Limited to obtain post facto approval of FIPB for indirect foreign investment in M/s MFUI. Accordingly, the company applied for post facto approval for the downstream investment in M/s MFUI. While according the post facto approval, the FIPB, vide, its letter No. 392(95)/194(95)-Amend dated March 30, 2017, directed the company for compounding by RBI for not obtaining prior Government approval for downstream investment by M/s Franklin Templeton Asset Management India Private Limited into M/s MFUI, for the contravention period from April 2014 i.e. month of downstream investment to September 9, 2016 i.e. the date of issuance of FEMA Notification No. 375/2016-RB. Whereas, in terms of paragraph 3 of Schedule 1 of Notification No. FEMA. 20/2000-RB dated May 3, 2000, an Indian company intending to issue shares to a person resident outside India in accordance with these Regulations directly against foreign inward remittance (or by debit to NRE account/ FCNR account) or against consideration other than inward remittance i.e., against royalty/ lump sum fee due for payment/ import of capital goods by units in SEZs/ ECBs (excluding those deemed as ECBs) shall obtain prior approval of the Foreign Investment Promotion Board (FIPB) of Government of India, if the Indian company ;

- a. is engaged or proposes to engage, in any activity specified in Annex A to this Schedule; or



- b. proposes to issue shares to a person resident outside India beyond sectoral limits or the activity of the Indian company falls under the FIPB route, as stipulated in Annex B to this Schedule; or
  - c. proposes to issue shares to a person resident outside India against import of capital goods/ machinery/ equipment (including excluding second-hand machinery) subject to compliance with the conditions specified by the Government of India and the Reserve Bank from time to time; or
  - d. proposes to issue shares to a person resident outside India against pre-operative/ pre-incorporation expenses (including payments of rent etc.), subject to compliance with the conditions specified by the Government of India and the Reserve Bank from time to time.
3. The applicant was given an opportunity for personal hearing vide e-mail dated November 6, 2017, for further submission in person /or for producing documents, if any, in support of the application. The applicant appeared for personal hearing on November 7, 2017, during which Shri Jayaram Subramaniam, Director; Shri Vitthal Dehadray, VP- Finance and Corporate Accounts and Shri Mahesh Kumar C M Pillai, VP- Legal and Company Secretary represented the applicant in the Meeting Room of Foreign Exchange Department, Mumbai Regional Office. The representatives of the applicant admitted the contravention for which compounding has been sought. During the hearing it was submitted that contravention was inadvertent and unintentional. The representatives of the applicant requested that in view of the foregoing, a lenient view may be taken in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during personal hearing and thereafter.
4. I have given my careful consideration to the documents on record submissions made by the applicant during the personal hearing thereafter. Accordingly, I hold that the applicant has contravened the FEMA provisions issued in terms of Paragraph 3 of Schedule 1 of Notification No. FEMA. 20/2000-RB dated May 3, 2000 for failure to obtain specific and prior Government (FIPB) approval as detailed in para. 2 above. The contravention relates to an amount of Rs.5,00,000/- (Rupees Five Lakh only) with the contravention period being two years five months eight days, approximately.



5. In terms of section 13 of the 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. However, taking into account the relevant facts circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded I consider that an amount of Rs.53,000/- (Rupees Fifty Three Thousand only) will meet the ends of justice.

6. Accordingly, I compound the admitted contravention namely, the contraventions of Paragraph 3 of Schedule 1 of Notification No. FEMA. 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs.53,000/- (Rupees Fifty Three Thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Mumbai Regional Office, Main Building, 3rd floor, Shahid Bhagat Singh Marg, Fort, Mumbai-400001 by a demand draft drawn in favour of the "Reserve Bank of India" payable at Mumbai 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.

7. The above order is passed only in respect of contravention of Paragraph 3 of Schedule 1 of Notification No. FEMA. 20/2000-RB dated May 3, 2000 and does not restrict the right of any other authority to proceed against the Company for any other violations/contraventions noticed at any point of time.

The application is disposed of accordingly.

Dated: December 06, 2017

**Compounding Authority**

**Sd/-**

**(S. V. Potphode)**  
Assistant General Manager