



In the

Reserve Bank of India
10/3/8, Nrupathunga Road
Bengaluru-560001

Present

Smt K S Jyotsna
General Manager

Date: June 13, 2018
C.A. BGL 290/2018

In the matter of

M/s Sea Funds Management India Private Limited
No.106, 106/1, Kodandarama Complex, 3rd Floor
Gandhi Bazar Main Road, Basavanagudi
Bengaluru - 560004
(Applicant)

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

ORDER

The applicant has filed a compounding application dated March 16, 2018, received at this office of Reserve Bank of India, Bengaluru on March 20, 2018, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA), and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances towards subscription to equity, (ii) refund of excess share application money to the foreign investors, beyond the prescribed period of 180 days from the date of receipt of the inward remittances, and (iii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A), 8 and 9(1)(B), respectively, of Schedule I 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 03, 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, M/s Sea Funds Management India Private Limited, was originally incorporated as M/s Indian Ocean Rim Asset Management (India) Private Limited on July 03, 2006, under the Companies Act, 1956 as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. Subsequently name of the company was changed to M/s Sanlam Equity Analytics India Private Limited with effect from October 14, 2009, and then again changed to M/s Sea Funds Management India Private Limited with effect from October 09, 2012, under the Companies Act, 1956 as per the certificate of incorporation issued by the Registrar of Companies, Karnataka. The company is engaged in the business of providing investment advice and equity research services. The applicant had received funds towards share application money from the foreign investors, namely, M/s Indian Ocean Rim Management Pty Limited, Australia, and M/s Sanlam Investment Management Pty Limited, Australia, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	07-06-2006	1,49,410.00	01-12-2006
2	09-08-2006	4,98,470.00	24-11-2006
3	20-09-2006	6,77,235.00	24-11-2006
4	23-10-2006	4,95,135.00	24-11-2006
5	14-11-2006	4,96,035.00	24-11-2006
6	13-12-2006	1,69,510.00	28-12-2006
7	19-12-2006	5,20,618.00	28-12-2006
8	18-01-2007	5,02,935.00	15-02-2007
9	20-02-2007	5,83,735.00	12-03-2007
10	20-03-2007	5,90,385.00	26-03-2007
11	16-04-2007	4,85,870.00	31-04-2007
12	30-04-2007	15,76,815.00	22-05-2007
13	24-05-2007	4,33,152.00	01-06-2007
14	19-06-2007	5,45,280.00	25-06-2007
15	20-07-2007	11,71,960.00	13-08-2007
16	01-08-2012	32,89,440.30	03-09-2012
	Total	1,21,85,985.30	



The applicant reported receipt of remittances to the Reserve Bank / Authorized Dealer Bank with a delay ranging from two days to four months and twenty four days approximately, in respect of remittances as indicated at serial numbers 1 to 4, and 16 in the Table-1 above. Whereas, in terms of paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations, should report to the Reserve Bank of India, as per the prescribed procedure, not later than 30 days, from the date of receipt of the amount of consideration.

3. The company had allotted equity shares to the foreign investors, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. In terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, read with A.P. (DIR Series) Circular No.20 dated December 14, 2007, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded, provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian company to refund the amount of consideration received towards issue of security, if such amount of consideration is outstanding beyond a period of 180 days from the date of receipt.

However, in the instances mentioned below, the company had neither allotted shares nor refunded the excess share application money within the stipulated period of 180 days.

(i) The company had received an inward remittance of **Rs.1,49,410.00**, on June 07, 2006, from M/s Indian Ocean Rim Asset Management Pty Limited, Australia. The company had allotted shares worth **Rs.1,00,000.00**, on July 03, 2006, and the excess share application money of **Rs.49,410.00**, was refunded on March 05, 2018, to the non-resident investor with prior approval from RBI. The company was given approval vide Reserve Bank's letter Ref No.FE.BG.FID.No.3273/21.06.330/2017-18 dated February 27, 2018. The amount of contravention is **Rs.49,410.00**, and the period of delay is 10 years 3 months and 4 days approximately; and



(ii) The Company had received inward remittances, amounting to **Rs.87,47,135.00**, from M/s Indian Ocean Rim Management Pty Ltd, Australia, during the period August 09, 2006, to July 20, 2007. The company had allotted shares worth **Rs.86,45,950.00**, on August 13, 2007, and the excess share application money of **Rs.1,01,185.00**, was refunded on November 21, 2017 to the non-resident investor with prior approval from RBI. The company was given approval vide Reserve Bank's letter Ref No.FE.BG.FID.No.1288/21.06.330 /2017-18 dated November 08, 2017. The amount of contravention is **Rs.1,01,185.00**, and the period of delay is 9 years 10 months 5 days approximately.

4. The applicant company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	03-07-2006	1,00,000.00	01-12-2006
2	13-08-2007	86,45,950.00	14-09-2007
3	28-01-2013	32,89,440.00	26-02-2013
		1,20,35,390.00	

The applicant filed the Form FC-GPRs, on allotment of shares, with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from two days to three months and twenty nine days approximately, in respect of the allotments as indicated in serial numbers 1 and 2 in Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No.FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to the Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.



5. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter FE.BG.FID (CEFA) No.4684/22.06.330/2017-18 dated June 05, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Amit Sankar Gupta, Director, and Mr. Deepak Ramaraju, Director, who appeared for the personal hearing on June 07, 2018, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not wilful or with malafide intention but was mainly due to inadvertence, and the same would not be repeated. In view of the above, they requested to take a lenient view 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.

6. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

(i) Paragraph 9 (1) (A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **Rs.51,09,690.30**, and the period of delay ranges from two days to four months and twenty four days approximately;

(ii) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, as the applicant has refunded the excess amount of **Rs.1,50,595.00**, received towards share application money, with a delay ranging from nine years ten months and five days to ten years three months and four days approximately as detailed in paragraph 3 above; and

(iii) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank after issue



of shares to persons resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **Rs.87,45,950.00**, and the period of delay ranges from two days to three months and twenty nine days approximately.

7. It has been declared in the compounding application dated March 16, 2018, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the undertaking dated March 16, 2018, furnished as part of the 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, 1999. 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.

8. 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 and 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, and I consider that an amount of **Rs.68,700.00 (Rupees Sixty Eight Thousand and Seven Hundred only)** will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB 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.68,700.00 (Rupees Sixty Eight Thousand and Seven Hundred only)**, which shall be deposited by the applicant with the Reserve Bank



of India, Foreign Exchange Department, 2nd Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru 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 of accordingly.

Dated this, the Thirteenth day of June, 2018.

Sd/-

(K S Jyotsna)
General Manager