



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Ajay Kumar Misra**  
**Chief General Manager**

Date: August 6, 2018  
CA No 4721 / 2018

In the matter of

**Aditya Birla Idea Payments Bank Limited**  
**A4, Aditya Birla Centre**  
**S.K. Ahire Marg, Worli**  
**Mumbai - 400030**

**(Applicant)**

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

**Order**

The applicant has filed the application dated June 07, 2018 (received in the Reserve Bank on June 08, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is, delay in meeting the minimum capitalization norms beyond the stipulated time period. The above amounts to the contravention of Regulation 5(1) read with Paragraph 24.2(1)(ii) (applicable from 25.11.2013 to 26.08.2014) and Paragraph F.8.2(1)(iii) (applicable from 27.08.2014 to 26.04.2016) of Annex B of Schedule I of 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 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant company was incorporated as Aditya Birla Idea Payments Bank Limited on February 19, 2016, under the Companies Act, 2013 (CIN: U65923MH2016PLC273308). It is engaged in the business of banking, i.e., to accept deposits from individuals, small businesses, other entities and public, as permitted by the Reserve Bank of India from time to time.

Currently, Idea Cellular Limited (Idea) and Grasim Industries Limited (Grasim), hold 49% and 51% stake in the applicant, respectively. The applicant is the successor entity of Idea Mobile Commerce Services Limited (IMCSL). Until March 2014, IMCSL (wholly owned subsidiary of Idea) was a business correspondent for a private sector bank in India. Pursuant to authorization dated 25 November 2013, granted by RBI, IMCSL was engaged in the business of issuing prepaid payment instruments (PPIs). As per the extant guidelines, the activity of issuing PPIs is covered under the 18 permitted NBFC activities where foreign investment is permitted under 100% automatic route subject to complying with minimum capitalization norms.

On 10 January 2007, Idea had obtained an approval of the erstwhile Foreign Investment Promotion Board (FIPB) for foreign equity participation of up to 74% in its paid-up capital, by virtue of which it was now a foreign owned and controlled company, and thus, its WOS, IMCSL also became foreign owned and controlled. IMCSL was thus required to comply with the minimum capitalization norms of USD 5 million. However, there was a delay in meeting these norms, in contravention of Regulation 5(1) read with Paragraph 24.2(1)(ii) (applicable from 25.11.2013 to 26.08.2014) and Paragraph F.8.2(1)(iii) (applicable from 27.08.2014 to 26.04.2016) of Annex B of Schedule I of Notification No. FEMA 20/2000-RB. The norms were finally met on April 26, 2016, when the applicant completed bringing in the deficit amount of Rs. 26,79,00,000/- thereby fulfilling the shortfall amount in meeting the capitalization requirement of Rs. 31,29,00,000 (USD 5 million).



3. Regulation 5(1) of Notification No. FEMA 20/2000-RB permits purchase of shares by certain persons resident outside India under Foreign Direct Investment Scheme, subject to terms and conditions specified in Schedule I. Further, Paragraph 24.2(1)(ii), later renamed as Paragraph F.8.2(1)(iii) of Annexure B of Schedule I of Notification No. FEMA 20/2000-RB specifies the minimum capitalization norms subject to which foreign investment in NBFC is allowed under the automatic route. It specifies the same as “US \$5 million for foreign capital more than 51% and up to 74% to be brought up front.”

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/670/15.20.67/2018-19 dated August 01, 2018 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on August 02, 2018 during which Shri Pankaj Kapdeo, GCRCS, Idea Cellular, Shri Neelsesh Sarda, Chief Compliance and Risk Officer, Aditya Birla Idea and Payments Bank and Ms. Ayesha Bharucha, Managing Associate, Bharucha and Partners, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations due to ignorance and requested that a lenient view may be taken in the matter.

It has also been declared in the compounding application dated June 07, 2018, that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been subsequently declared in the declaration dated June 11, 2018, furnished along with 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. 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.

The application is, therefore, being considered on the basis of the averments made in the application, the documents produced, and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 5(1) read with Paragraph 24.2(1)(ii) (applicable from 25.11.2013 to 26.08.2014) and Paragraph F.8.2(1)(iii) (applicable from 27.08.2014 to 26.04.2016) of Annex B of Schedule I, of Notification No. FEMA 20/2000-RB. The amount of contravention is Rs. 26,79,00,000/- and the period of contravention is 2 years 4 months approximately.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 16,57,400/- (Rupees sixteen lakhs fifty seven thousand four hundred only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Regulation 5(1) read with Paragraph 24.2(1)(ii) (applicable from 25.11.2013 to 26.08.2014) and Paragraph F.8.2(1)(iii) (applicable from 27.08.2014 to 26.04.2016) of Annex B of Schedule I, of Notification No. FEMA 20/2000-RB, on payment of a sum of Rs. 16,57,400/- (Rupees sixteen lakhs fifty seven thousand four hundred only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and



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.

The application is disposed accordingly.

Dated this the sixth day of August, 2018

Sd/-

**(Ajay Kumar Misra)**  
**Chief General Manager**