



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 14, 2018  
CA No 4655 / 2018

In the matter of

**Unitech Wireless (Tamilnadu) Private Limited**  
**Basement – 6, Community Centre**  
**Saket, New Delhi - 110017**

**(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 March 12, 2018 (received in the Reserve Bank on March 14, 2018), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The applicant has sought the compounding for delay in reporting the allotment of shares in Form-FCGPR pursuant to an amalgamation, beyond the stipulated time period of 30 days, in contravention of Regulation 7(1)(c) read with Paragraph 9(1)(B) of Schedule 1 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), further read with Section 6(3)(b) of FEMA, 1999.

2. The relevant facts are as under: The applicant was incorporated on August 10, 2007 under the Indian Companies Act, 1956. The CIN of the applicant company is U45400DL2007PTC166910. The company is engaged in the business of wireless telecommunications services. The applicant was granted permission by GOI vide letter dated November 13, 2009 for foreign investment to the extent of 74% by Telenor Asia Pte Ltd.(TAPL), Singapore, a wholly-owned subsidiary of Telenor ASA, Norway. During the year 2009-10, the applicant received foreign investment from TAPL amounting to Rs.541.82 crore in terms of the GOI approval and allotted the shares to the foreign investor. Pursuant to a scheme of amalgamation sanctioned by an order of Hon'ble Delhi High Court dated September 27, 2010 the following eight (nos.) companies were amalgamated with the applicant company:

- Unitech Wireless (North) Private limited
- Unitech Wireless (South) Private limited
- Unitech Wireless (Kolkata) Private limited
- Unitech Wireless (Delhi) Private limited
- Unitech Wireless (East) Private limited
- Unitech Wireless (Mumbai) Private limited
- Unitech Wireless (West) Private limited
- Unitech Long Distance Communications Services Private Limited

Pursuant to the amalgamation the applicant company issued 22,21,744 (nos.) shares amounting to Rs.2,22,17,440/- to TAPL on October 01, 2010. The applicant company further issued 6,45,62,084 (nos.) bonus shares amounting to Rs.64,56,20,840/- on October 01, 2010 to TAPL. The allotment of these shares was finally reported in the desired form in form FC-GPR to RBI on June 21, 2014.

The delay in reporting of the allotment of shares by the applicant company was in contravention of Regulation 7(1)(c) read with para 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB further read with Section 6(3)(b) of FEMA,



1999. The applicant was advised of these contraventions committed vide letter ND. FED. FID. No.5056/06.04.117/2016-17 dated June 08, 2017.

3. In terms of regulation 7(1)(c) of FEMA 20 'Where a Scheme of merger or amalgamation of two or more Indian companies or a reconstruction by way of de-merger or otherwise of an Indian company, has been approved by a Court in India, the transferee company or, as the case may be, the new company may issue shares to the shareholders of the transferor company resident outside India, subject to the condition that .... the transferee or the new company files a report within 30 days with the Reserve Bank giving full details of the shares held by persons resident outside India in the transferor and the transferee or the new company, before and after the merger / amalgamation / reconstruction'

Further, Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB, states that, "An Indian company issuing shares or convertible debentures 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, a report in the Form FC-GPR as specified by the Reserve Bank from time to time....".

Regulation 6(3)(b) of FEMA, 1999 provides for further regulation, prohibition or restriction on the transfer or issue of any security by a person resident outside India by the Reserve Bank of India.

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/682/15.20.67/2018-19 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 13, 2018 during which Shri Vikash Kukreti, Company Secretary and Legal Head, and Shri Pankaj Wadhwa, represented the applicant company. The two authorized representatives of the applicant company submitted that the contraventions of FEMA regulations were inadvertently committed by the applicant company and requested that a lenient view may be taken in the matter. The application is,



therefore, being considered based on the averments made in the application, the documents produced, and submissions made during the personal hearing. The applicant company has declared in the compounding application that it was issued a Show Cause Notice (SCN) No. T-4/2-D/2012/SCN/SDE, dated April 30, 2012 by the Directorate of Enforcement (DoE). RBI vide letter FE.CO.CEFA./7924/15.20.67/201718 dated March 22, 2018 had sought comments from DoE as to whether its investigation pertained to the contraventions sought to be compounded by the applicant and whether it had any objection to compounding by RBI. DoE vide its letter F.No.T-4/2-D/2012 dated April 12, 2018 has stated that it had no objection to compounding by the RBI provided that all the contraventions mentioned in the SCN were covered in the compounding proceedings. Accordingly, this Compounding Order is being issued after considering the comments offered by DoE and is without prejudice to any action which may be taken by any other authority under the extant laws.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing and thereafter. It was observed that the applicant has contravened the provisions of Regulation 7(1)(c) read with para 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB, further read with Section 6(3)(b) of FEMA, 1999. The amount of contravention is Rs. 66,78,38,280/- and the period of contravention is 3 years 8 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. Rs. 3,76,667/- (Rupees three lakh seventy six thousand six hundred and sixty seven 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 7(1)(c) read with para 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB further read with Section 6(3)(b) of FEMA, 1999, on payment of a sum of Rs. 3,76,667/- (Rupees three lakh seventy six thousand six hundred and sixty seven 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 fourteenth day of August, 2018

Sd/-

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