



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
Secretariat Road  
Saifabad, Hyderabad 500 004

Present

R. Subramanian  
Regional Director

Date: February 06, 2017  
C.A. HYD 162

In the matter of

M/s. Aurobindo Pharma Limited  
Plot No. 2, Maitrivihar  
Ameerpet  
Hyderabad 500038

**(Applicant)**

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

**Order**

The applicant has filed the compounding application dated September 20, 2016 received on September 22, 2016 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in submission of Form FC-GPR within 30 days of the issue of shares and (ii) failure to obtain the specific and prior approval of the Government before issue of ESOP to person resident outside India in terms of Paragraph 9 (1) (B) and paragraph 3 respectively of Schedule 1 to Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 of Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a



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Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA.20/2000-RB dated 3rd May 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:

(a) The applicant is a resident company incorporated on 26.12.1986 under Companies Act, 1956. The company is engaged in the business of manufacturing of pharmaceutical products

(b) The company allotted equity shares and filed Form FC-GPRs as indicated below:

Sl No	Name of Investor	Date of allotment of shares	Number of equity share allotted	Amount for which shares allotted (₹)	Date of reporting
1	Templeton Strategic Emerging Markets Fund LDC	14.04.2002	10,00,000	22,60,00,000	23.04.2002
2	Templeton Strategic Emerging Markets Fund LDC	27.09.2002	10,00,000	22,60,00,000	08.10.2002
3	Merlion India Fund I Ltd	18.02.2004	23,70,000	88,87,50,000	01.03.2004
4	Mathews India Fund	11.07.2007	3,74,046	19,52,65,478	06.08.2007
5	Morgan Stanley Mauritius Company Ltd.	04.11.2009	83,121	4,33,92,154	09.12.2009
6	Credit Industrial ET Commercial	06.01.2010	1,03,902	5,42,40,584	29.01.2010
7	Barclay's		6,64,973	34,71,39,845	



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	Capital Mauritius Ltd.				
8	Deutsche Bank AG		1,66,243	8,67,84,831	
9	Barclay's Capital Mauritius Ltd.		83,121	4,33,92,154	
10	Goldman Sachs Investments (Mauritius) I Ltd		83,121	4,33,92,154	
11	Deutsche Bank AG		24,936	1,30,17,489	
12	Kotak Mahindra International Ltd		16,624	86,78,326	
13	Morgan Stanley Mauritius Company Ltd.		5,153	26,90,051	
14	Elara India Opportunities Fund Ltd	01.02.2010	4,987	26,03,393	15.02.2010
15	Elara India Opportunities Fund Ltd		40,729	2,12,62,004	
16	VCM Ltd Mauritius		22,442	1,17,15,532	
17	Credit Industrial ET Commercial	24.02.2010	27,928	1,45,79,421	05.03.2010
18	Goldman Sachs Investments (Mauritius) I		83,121	4,33,92,154	



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	Ltd				
19	Morgan Stanley Mauritius Company	12.03.2010	29,092	1,51,87,071	25.03.2010
20	Credit Industrial ET Commercial		41,560	2,16,95,816	
21	Goldman Sachs Investments (Mauritius) Ltd.		1,66,243	8,67,84,831	
22	Goldman Sachs Investments (Mauritius) I Ltd.		1,66,243	8,67,84,831	
23	Morgan Stanley Mauritius Company	20.04.2010	41,560	2,16,95,816	13.05.2010
24	Brookedate India Value Fund Ltd		2,90,925	15,18,73,323	
25	Deutsche Bank AG	18.05.2010	2,25,592	11,77,67,145	24.05.2010
26	Mathew India Fund	08.06.2010	1,66,243	8,67,84,831	17.06.2010
27	Kumar Markand Kumar Desai and Jahnvi Kirat Desai	27.07.2010	8,312	43,39,163	06.08.2010
28	Ramesh		8,312	43,39,163	



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	Ramchand Lulla and Bimal Ramesh Lulla				
29	Raju Kevalram Chhugani and Chandra Raju Chhugani		24,936	1,30,17,490	
30	Goldman Sachs Investments (Mauritius) I Ltd.		41,560	2,16,95,816	
31	Deutsche Bank AG		2,49,364	13,01,76,985	
32	Merril Lynch Capital Markets		6,64,973	34,71,39,845	
33	Credit Suisse (Singapore) Ltd		1,66,243	8,67,84,831	
34	Merrill Lynch Capital Markets		2,90,925	15,18,73,323	
35	Deutsche Bank AG		83,121	4,33,92,154	
36	Goldman Sachs Investments (Mauritius) I Ltd	02.08.2010	2,03,648	10,63,11,588	06.08.2010
37	Lavezi Maurizio	19.07.2010	5,000	18,13,000	16.08.2010
38	Robert George Cunard	17.01.2015	98,700	90,40,920	16.02.2015



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39	Ronald F Quadrel		20,000	18,32,000	
40	V Muralidharan	12.03.2015	3,000	4,83,900	19.09.2016
41	Various investors (bonus issue)	22.07.2015	8,73,24,593	8,73,24,593	20.08.2015
	Total		9,64,74,592	387,04,34,005	

The applicant filed Form FC-GPRs for issue of shares amounting to ₹ 4,38,76,054/- with a delay ranging from 5 days to 1 year 5 months 8 days approximately beyond the prescribed limit. Whereas in terms of paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

(c) The applicant issued ESOPs of the company to non-resident employees without obtaining prior approval of FIPB, Government of India. The amount of contravention is ₹ 2,68,23,000/- and the period of contravention ranges from 2 years 9 months 14 days to 4 years 6 months 2 days as detailed under:

Sr No	Name of the employee	Date of issue of ESOP	Number of ESOP issued	Value of Options issued (₹)	Date of obtaining FIPB approval
1	Robert George Cunard	16.12.2011	2,00,000	2,19,84,000	17.06.2016
2	Ronald F Quadrel		40,000		
3	Robert George Cunard	22.07.2015	1,01,300 (Bonus ESOP)		



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4	Ronald F Quadrel		20,000 (Bonus ESOP)		
5	V Muralidharan	09.08.2013	30,000	48,39,000	23.05.2016
6	V Muralidharan	22.07.2015	27,000 (Bonus ESOP)		
<b>Total</b>				<b>2,68,23,000</b>	

The company had filed application number 4046 dated 20.01.2016 and application number 4083 dated 16.02.2016 seeking post facto approval for grant of 361300 ESOPs amounting to ₹ 2.19 crore and 57000 ESOPs amounting to ₹ 48.39 lakhs respectively to non-resident employees of the company which was approved post-facto vide FIPB No. FCII 09 (2015)/185 (2014) dated 17.06.2016 and FC 1109(2015)/185 (2014) dated 23.05.2016 subject to compounding by Reserve Bank of India

Whereas in terms of paragraph 3 of Schedule 1 of Notification FEMA 20/2000-RB, a company in India proposing to issue shares or convertible debentures under this Schedule to a person resident outside India shall obtain prior approval of Foreign Investment Promotion Board (FIPB) read with Regulation 8 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulation, 2000 as amended from time to time.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No.HY.FE.FID/1441/14.66.003/2016-17 dated January 27, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on February 02, 2017 during which Shri B Adi Reddy, Company Secretary and Shri Salgunan K.C, Senior Manager - Legal & Secretarial represented the applicant. The authorized



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representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the contraventions were neither willful nor with a malafide intention and they have wrongly interpreted FEMA Regulations under approval route. In view of the foregoing, the representative of the applicant 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 the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 3 of schedule 1 of Notification No. FEMA 20/2000-RB as the applicant had not obtained prior and specific approval from the FIPB, Government of India for issue of ESOPs amounting to ₹ 2,68,23,000/- and the duration of contravention ranges from 2 years 9 months 14 days to 4 years 6 months 2 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ 4,38,76,054/- and the period of contravention ranges from 5 days to 1 year 5 months 8 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 upto 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 contravention is to be compounded and I consider that an amount of ₹ 2,48,422/- (Rupees Two Lakhs Forty Eight Thousand Four Hundred Twenty Two Only) will meet the ends of justice.





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6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 3 and paragraph 9 (1) (B) of Schedule 1 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 ₹ 2,48,422/- (Rupees Two Lakhs Forty Eight Thousand Four Hundred Twenty Two Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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.

7. The application has been considered for compounding of the admitted contraventions without prejudice to any action that the Directorate of Enforcement may take based on their detailed investigations.

Dated this 06<sup>th</sup> day of February 2017

Sd/-

(R. Subramanian)  
Regional Director