



In the

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

Present

**Eugene E Karthak0000000**  
**Regional Director**

Date: March 31, 2017  
**C.A. BGL192/2016**

In the matter of

**M/s Criticalog India Private Limited**  
#79, K R Colony, Domlur Layout,  
Bengaluru - 560071  
**(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 October 28, 2016 (received at the Reserve Bank on November 3, 2016), 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 and (ii) delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to a person resident outside India and (iii) refund of share application money to the foreign investor and non-issue of equity instruments to the foreign investor, a person resident outside India beyond 180 days of the receipt of the inward remittance in terms of paragraphs 9(1) (A), 9(1) (B) and 8 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. Criticalog India Pvt. Ltd., was incorporated on May 13, 2013, under the Companies Act, 1956. The company is engaged in the business to provide courier services, warehousing and transportation. The applicant received funds towards share application money from three foreign investors viz. Mr. Lloyd B Sanford, USA, M/s. Logon Investments Gmbh, Switzerland and Mr. Charles Antoine Gondrand, Switzerland as shown below:

Sl. No	Date of Receipt	Total Amount	Date of reporting
1	07.06.2013	1,52,52,500.00	02.07.2013
2	18.06.2013	8,774.15	08.07.2013
3	18.06.2013	2,86,048.95	08.07.2013
4	06.11.2013	33,03,932.32	11.12.2013
5	13.11.2013	2,45,985.00	27.11.2013
6	13.01.2014	34,02,500.00	03.02.2014
7	07.02.2014	55,28,000.00	28.02.2014
8	07.03.2014	72,050.00	05.06.2014
9	15.05.2014	39,46,417.12	03.11.2014
10	30.06.2014	30,98,100.00	10.07.2014
11	03.09.2014	39,26,406.11	28.10.2014
12	05.10.2015	68,87,502.00	15.10.2015
	<b>Total</b>	<b>4,59,58,215.65</b>	

The applicant reported receipt of remittances to the Authorized Dealer bank with delay ranging from five days to four months and twenty days approximately, beyond the stipulated time of 30 days in respect of remittances indicated at Sr Nos 4, 8, 9 and 11. 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 allotted equity shares and filed FC-GPRs as indicated below:

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting
1	19.06.2013	1,48,43,732.00	18.09.2013
2	31.03.2014	1,28,41,350.00	25.06.2014
3	05.05.2014	1,59,610.00	01.12.2014
4	13.07.2014	70,43,154.00	01.12.2014
5	10.10.2014	39,26,406.00	09.02.2015
6	24.11.2015	68,87,502.00	22.12.2015
<b>Total</b>		<b>4,57,01,754.00</b>	

The applicant filed the Form FC-GPRs on allotment of shares with the Authorized Dealer bank, with a delay ranging from one month and twenty six days to five months twenty seven days approximately beyond the prescribed period of 30 days in respect of allotment of shares indicated at Sr. No. 1-5. Whereas in terms of Paragraph 9(1) (B) of Schedule I 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 persons resident outside India.

4. Shares application amount to the extent of Rs.7,523.08 received on June 18, 2013 was refunded on October 31, 2014 with delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration. The company was given the approval to refund the excess share application money of Rs.7,523.10 vide our letter No.FE.BG.FID.No.2298/21.08.640/2014-15 dated



September 22, 2014 and the company refunded the excess share application of Rs.7,523.08 on October 31, 2014 beyond the stipulated period given for approval, hence may be considered as refund without approval of Reserve Bank. The company had received an inward remittance of Rs.1,52,52,500/- on June 7, 2013 and shares were allotted for Rs. 1,45,56,432/- on June 19, 2013 and the remaining excess share application amount of Rs.6,96,068/- was utilized for following subsequent allotment done on March 31, 2014 with delay beyond the stipulated period of 180 days from the date of receipt of amount of consideration. Whereas in terms of paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB, 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 to the person concerned, provided the Reserve Bank may, on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by A Person Resident outside India) (Third Amendment) Regulations, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13<sup>th</sup> November, 2007 in the official Gazette of the Government of India. Further, in terms of paragraph 5 of A.P. (Dir Series) Circular No. 20 dated December 14, 2007, in all cases where, as on November 28, 2007, 180 days have elapsed since receipt of funds and the equity instruments have not been issued, the companies are required to approach the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through their AD Category – I bank with a definite action plan either for allotment of equity instruments or for refund of the advance, with full details, for specific approval.

**5.** The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No. FE.BG.FID (CEFA) No. 5515/22.08.640/2016-17 dated March 7, 2017 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on



March 9, 2017 and Shri Sujoy Guha, Director of the company, represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in paragraphs 2, 3 and 4 above committed by the applicant, for which compounding has been sought. The representative of the applicant requested that as the contraventions were not intentional and were beyond the control of the applicant, 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.

6. 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 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. 1,12,48,805.55** and the duration ranges from five days to four months and twenty days approximately;
- (b) 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 and the contravention relates to an amount of **Rs. 3,88,14,252/-** and the duration ranges from one month and twenty six days to five months and twenty seven days approximately.
- (c) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB as the applicant refunded share application money to an extent of **Rs. 7,523.08** with a delay beyond the stipulated period of 180 days and the period of delay is ten months and sixteen days approximately and allotment of share to an extent of **Rs.6,96,068/-** with a delay beyond the stipulated period of 180 days and the period of contravention is three months and twenty seven days approximately.



7. 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. 75,400/- (Rupees Seventy Five Thousand Four Hundred only)** will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1) (A), 9(1) (B) and 8 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. 75,400/- (Rupees Seventy Five Thousand Four Hundred only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> 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 thirty first day of March 2017.

Sd/-

(Eugene E Karthak)  
**Regional Director**