



In the

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

Present

Gopal B Terdal
Assistant General Manager

Date: April 12, 2017
C.A. BGL 222/2017

In the matter of

M/s Instasafe Technologies Private Limited
C 1003, Salarpuria Symphony House Road
Electronic City P.O
Bengaluru - 560100
(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 17, 2017 (received at the Reserve Bank on March 20, 2017), 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) 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, 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 Instasafe Technologies Private Limited was incorporated on November 22, 2012, under the Companies Act, 1956. The company is engaged in the business of building products and providing services in the field of information technology, information security and technology enabled applications through cloud computing, etc. The applicant received funds towards share application money from two foreign investors, viz., Mr. Inder Singh, USA and Mr. Murali Vasan Sundarlingam, Canada as shown below:

Sl. No	Date of Receipt	Amount (Rs.)	Date of Reporting
1	10.09.2015	2,90,970.00	18.01.2017
2	13.10.2015	2,42,739.77	28.11.2016
	Total	5,33,709.77	

The applicant reported receipt of remittances to the Authorized Dealer bank with a delay ranging from one year and sixteen days to one year three months and eight days approximately, beyond the stipulated time of 30 days in respect of all the remittances received. 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	15.09.2015	2,87,288.16	25.01.2017
2	20.11.2015	2,40,179.08	12.01.2017
Total		5,27,467.24	

The applicant filed both the Form FC-GPRs with a delay ranging from one year and twenty three days to one year three months and ten days approximately beyond the prescribed period of 30 days in respect of allotment of shares. 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. The company had received an inward remittance of Rs.2,90,970/- on September 10, 2015, an excess share application amount of Rs. 3,681.84 was refunded on March 15, 2017 with a 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.3,681.84 vide our letter No. FE.BG.FID.No.5586/21.10.193/2017-18 dated March 13, 2017. The company had also received an inward remittance of Rs. 2,42,739.77 on October 13, 2015, an excess share application amount of Rs. 2,560.69 was refunded on March 14, 2017 with a 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.2,560.69 vide our letter No. FE.BG.FID.No.5588/21.10.193/2017-18 dated March 13, 2017. 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 November 13, 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. 5953/22.10.193/2016-17 dated April 11, 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 April 12, 2017 and Shri Sudheer K.V, CFO 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. 5,33,709.77** and the duration ranges from one year and sixteen days to one year three months and eight 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. 5,27,467.24** and the duration ranges from one year and twenty three days to one year three months and ten 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. 6,242.53** with a delay beyond the stipulated period of 180 days and the period of delay ranges from eleven months and four days to one year and 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. 25,500/- (Rupees Twenty Five Thousand and Five 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. 25,500/- (Rupees Twenty Five Thousand and Five 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 twelfth day of April 2017.

Sd/-

(Gopal B Terdal)
Assistant General Manager