



In the

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

Present

Shri Eugene E Karthak
Regional Director

Date: August 29, 2017
C.A. BGL 225/2017

In the matter of

M/s Zipdial Mobile Solutions Private Limited
Unit 101, First Floor, Tower B
RMZ Infinity, Old Madras Road
Benniganahalli, Bengaluru 560 016

(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 April 03, 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 allotment of shares and delay in refund of excess amount received towards share application money, (iii) delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A), 8 and 9(1)(B) 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 (iv) delay in reporting the transfer of shares by resident to non-resident in terms of Regulation



10 A (b) (i) read with Paragraph 10 of Schedule 1 to Notification No. FEMA 20/2000-RB as amended vide AP (DIR Series) Circular No.63 dated 22, 2009.

2. The relevant facts of the case are as follows: M/s Zipdial Mobile Solutions Private Limited, was incorporated on July 29, 2010, under the Companies Act, 1956. The main business activity of the company is “to develop, maintain applications including software applications, web applications, web portal, mobile applications for product marketing, market research.” The applicant had received funds towards share application money from foreign investors, namely, Mr. Valerie W Rozycki, USA, Mr. Rajesh Mashruwala, USA, Mr. Steven Lurie, USA , M/s DS Growth Mauritius Ltd, Mauritius, M/s Marek Rozycki (P Rozycki & M Rozycki TTEE, USA), Mr. Stefan Wass Rozycki, USA, M/s W Wass & H Wass TTEE, USA, M/s 500 Startups II, LP, USA, M/s Jungle Ventures I Pte Ltd, Singapore, M/s Faktory Ventures Ltd, Mauritius, M/s DSG Consumer Partners, Mauritius, Ms. Helen Millison, USA, Ms. Katharine Sarah Norton, UK, Mr. Adam J Martin, USA, Mr. Narasimha Dutt (in favour of Mr.Sanjay, USA), M/s 500 Startups Incubator LLC and Oak Trust Ltd, Guernesy, as shown below:

Table - 1

Sr. No.	Date of Receipt	Total Amount (INR)	Date of Reporting to AD/RBI
1	24-12-2010	1,01,419.50	07-05-2011
2	27-05-2011	12,00,000.00	22-01-2015
3	11-05-2011	10,99,530.05	30-05-2011
4	20-05-2011	1,01,729.00	30-05-2011
5	20-04-2011	10,00,080.00	18-02-2015
6	29-12-2010	22,21,500.00	07-05-2011
7	29-12-2010	11,10,750.00	07-05-2011
8	30-12-2010	44,30,000.00	07-05-2011
9	22-10-2011	10,00,080.00	18-02-2015
10	19-09-2011	46,431.00	12-10-2011
11	03-10-2011	23,769.90	12-10-2011
12	19-09-2011	1,06,228.50	13-10-2011



13	11-02-2013	106,10,000.00	02-09-2013
14	05-03-2013	192,50,000.00	18-09-2013
15	12-09-2013	157,50,000.00	09-01-2014
16	13-12-2013	33,53,571.00	20-01-2014
17	13-12-2013	33,53,571.00	20-01-2014
18	11-08-2014	152,37,500.00	01-09-2014
19	25-08-2014	150,00,000.00	18-09-2014
20	27-08-2014	35,00,000.00	10-10-2014
21	27-08-2014	60,00,000.00	26-09-2014
22	04-12-2014	1,912.00	16-01-2015
23	30-12-2014	817.00	03-02-2015
24	30-12-2014	3,051.00	16-01-2015
25	18-02-2011	97,922.00	13-05-2011
26	07-08-2012	13,63,250.00	12-08-2013
	Total	1059,63,111.95	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from five days to three years and nine months approximately, beyond the stipulated time of 30 days in respect of remittances as indicated in Table-1 above at serial numbers 1, 2, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 20, 22, 23, 25 and 26. 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 had allotted equity shares to the foreign investors, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA.20/2000 RB dated May 03, 2000. Below mentioned are the instances, where company was not able to allot shares or refund the share application money within the stipulated time of 180 days.



(i) The company had received an inward remittance of **Rs.1,06,228.50** on September 19, 2011, and excess share application money of **Rs.4228.50** was refunded on July 23, 2015, to the non-resident investor, with prior approval from Reserve Bank of India. 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, provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian company to refund the amount of consideration received towards issue of security, if such amount of consideration is outstanding beyond a period of 180 days from the date of receipt. The amount of contravention is **Rs.4,228.50**, and delay is 3 years 4 months and 6 days approximately;

(ii) The company had received an inward remittance of **Rs.1,92,50,000.00**, from a non-resident, on March 05, 2013, and shares were allotted on September 04, 2013, beyond the stipulated period of 180 days from the date of receipt of funds without obtaining prior approval from Reserve Bank of India. The amount of contravention is **Rs.1,92,50,000.00**, and delay is 3 days approximately;

(iii) The company had received an inward remittance of **Rs.97,922.00**, on February 18, 2011, and the entire amount was refunded beyond 180 days from the date of receipt of fund to the non-resident investor, on August 26, 2011, without prior approval from Reserve Bank of India. The amount of contravention is **Rs. 97,922.00**, and delay is 9 days approximately;

(iv) The company had received an inward remittance of **Rs.13,63,250.00**, on August 07, 2012, and the entire amount was refunded beyond 180 days from the date of receipt of fund to the non-resident investor, on February 06, 2015, with prior approval from Reserve bank of India. The amount of contravention is **Rs.13,63,250.00**, and delay is 2 years and 3 days approximately.

4. The applicant company allotted equity shares and filed FC-GPRs with Reserve Bank/AD Bank as indicated below:



Table - 2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	10-03-2011	1,00,000.00	21-08-2012
2	31-05-2011	12,00,000.00	18-02-2015
3		12,00,000.00	21-08-2012
4	25-06-2011	10,00,080.00	18-02-2015
5		22,21,440.00	21-08-2012
6		11,10,720.00	21-08-2012
7		44,29,920.00	21-08-2012
8	15-11-2011	10,00,080.00	18-02-2015
9		1,02,000.00	21-08-2012
10		44,640.00	21-08-2012
11		22,080.00	21-08-2012
12	04-08-2013	106,09,416.84	25-09-2013
13	04-09-2013	192,49,334.10	08-10-2013
14	14-02-2014	157,49,957.16	20-03-2014
15		33,53,569.17	20-03-2014
16	28-03-2014	33,53,572.83	22-04-2014
17	13-08-2014	150,00,016.64	25-09-2014
18	19-09-2014	150,00,016.64	11-12-2014
19		35,00,390.88	11-12-2014
20		59,99,840.80	11-12-2014
21	09-01-2015	1,912.00	18-02-2015
22		3,051.00	18-02-2015
23		817.00	18-02-2015

The applicant filed the Form FC-GPRs on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay ranging from four days to three years seven months and nineteen days approximately, beyond the prescribed period of 30 days in respect of all allotments of shares indicated in Table-2 above, except at serial number 16. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to the 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.

5. A resident, had transferred 20,000 Equity Shares of the Company to a non-resident, on October 29, 2013, against a consideration of **Rs.1,57,152.00** (USD 2400). In terms of A.P. (DIR Series) Circular No. 63 dated April 22, 2009, the form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India. The form FC-TRS was submitted to AD Bank, on March 18, 2015, with a delay of one year two months and twenty days approximately, over and above 60 days stipulated period.

6. The applicant was given an opportunity for personal hearing, vide the Reserve Bank's letter FE.BG.FID (CEFA) No. 485/22.08.338/2017-18 dated August 22, 2017, for further submission in person, and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing held on August 29, 2017. Shri Raja Mahendra Varma, Sr. Manager-Finance, and Shri Biswajit Ghosh, Authorized Consultant, represented the applicant. The authorized representatives of the applicant admitted the contraventions as stated in paragraphs 2, 3, 4 and 5 above committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not wilful or with a malafide intention, and it was mainly due to inadvertence, and the same will not be repeated. In view of the above, they 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 as other documents and submissions made in this context by the applicant during personal hearing and thereafter.

7. I have given my careful consideration to the documents on record and submission made by the applicant during the personal hearing. 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.6,83,44,872.50** and the period of delay ranges from five days to three years and nine months approximately;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000- RB due to-

- i) Delay in refund of amount of consideration received with prior approval from RBI as detailed in paragraph 3 (i) & (iv) above. The amount of contravention is **Rs.13,67,478.50**, and delay ranges from 2 years and 3 days to 3 years 4 months and 6 days approximately;
- ii) Allotment of shares with a delay, without prior approval of RBI as detailed in paragraph 3 (ii) above. The amount of contravention is **Rs.1,92,50,000.00**, and delay is 3 days approximately;
- iii) Delay in refund of amount of consideration received without prior approval from RBI as detailed in paragraph 3 (iii) above. The amount of Contravention is **Rs.97,922.00**, and delay is delay is 9 days approximately.

(c) 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, as detailed in paragraph 4 above. The contravention relates to an amount of **Rs.10,08,99,282.23**, and the period of delay ranges from four days to three years seven months and nineteen days approximately;

(d) Paragraph Regulation 10A (b)(i) read with paragraph 10 of Schedule I to FEMA 20/2000-RB due to delay in reporting of allotment of shares as detailed in paragraph 5 above. The amount of contravention is **Rs.1,57,152.00**, and the period of delay is one year two months and twenty days approximately.



8. 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.3,11,200.00** (Rupees Three Lakh Eleven Thousand and Two Hundred only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8, 9(1)(B) and Regulation 10 A (b) (i) read with Paragraph 10 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.3,11,200.00** (Rupees Three Lakh Eleven Thousand and Two 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 Twenty Ninth day of August, 2017.

Sd/-

(Eugene E Karthak)
Regional Director