



In the

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

Present

R. Subramanian
Regional Director

Date: October 18, 2017
C.A. HYD 222

In the matter of
M/s. The Biotechnology Venture Fund
(Represented by Ventureast Trustee Company Pvt Ltd)
Ventureast Plaza, Plot No.40 &41,
Behind ICICI Bank
Nanakramguda
Gachibowli Financial District
Hyderabad - 500 032
Telangana

(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 June 15, 2017 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 reporting receipt of foreign inward remittances and (ii) delay in submission of Form FC-GPR to the Reserve



Bank after issue of shares towards subscription to equity to the person resident outside India in terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) respectively of 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 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, represented by Ventureast Trustee Company Private Limited, is constituted as unit scheme of a Trust, registered with SEBI as a Venture Capital Fund on November 09, 2002. The applicant is a venture capital fund, formed to make equity and equity linked investments in early stage companies engaged in the biotechnology sector for the development of the sector. It primarily focused on life sciences related areas of health care, drug discovery, agriculture, dairy, environmental and industrial applications.

b) The applicant reported inward remittances as indicated below:-

Sl. No.	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	International Finance Corporation	56782250	09.11.2005	07.02.2012
2	International Finance Corporation	14314370	12.06.2006	07.02.2012
3	International Finance Corporation	21258072	18.07.2006	07.02.2012



4	International Finance Corporation	14281600	08.12.2006	07.02.2012
5	International Finance Corporation	16741125	13.07.2007	07.02.2012
6	International Finance Corporation	19286480	04.01.2008	07.02.2012
7	International Finance Corporation	14534520	09.04.2008	07.02.2012
8	International Finance Corporation	18481490	25.09.2008	07.02.2012
	TOTAL	17,56,79,907		

The applicant received remittances from overseas investor and reported remittances amounting to Rs.17,56,79,907/- to the Regional Office of Reserve Bank of India during the period from 09.11.2005 to 25.09.2008 as indicated above with delays ranging from 3 years 3 months 14 days to 6 years 1 month 30 days approximately beyond the prescribed period of 30 days. Whereas in terms of Paragraph 9 (1) (A) of Schedule 1 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.

c) The company allotted units and filed form FC-GPRs as indicated below:

SI No	Name of Investor	Date of allotment	Number of units	Amount for which units	Date of reporting
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		of units	allotted	allotted (INR)	
1	International Finance Corporation	13.03.2006	175880	56782858	07.02.2012
2	International Finance Corporation	29.06.2006		14314873.2	07.02.2012
3	International Finance Corporation	27.09.2006		21258615.6	07.02.2012
4	International Finance Corporation	28.12.2006		14281456	07.02.2012
5	International Finance Corporation	29.09.2007		16742017.2	07.02.2012
6	International Finance Corporation	13.03.2008		19287000.8	07.02.2012
7	International Finance Corporation	07.05.2008		14534723.2	07.02.2012
8	International Finance Corporation	30.09.2008		18481470.4	07.02.2012
	TOTAL			17,56,83,014.4	

The applicant filed form FCGPRs for issue of partly paid up units amounting to Rs.17,56,83,014.40/- as indicated above which were reported with delays ranging from 3 years 3 months 9 days to 5 years 9 months 26 days approximately beyond the stipulated period of 30 days. 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.



3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/578/14.66.003/2017-18 dated September 25, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant, represented by Shri Vishnu Kamalapuri, Associate Vice President and authorized signatory and Shri Ramesh Alur, General Partner and Fund Manager, appeared for personal hearing on October 09, 2017. The authorized representatives of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention and was on account of lack of clarity on the applicability of filing requirements to the units issued by the Fund. In view of the foregoing, the representatives 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 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of units amounting to Rs.17,56,79,907/- and the delay ranges from 3 years 3 months 14 days to 6 years 1 month 30 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 units to persons resident outside India and the contravention relates to an amount of Rs.17,56,83,014.40/- and the period of contravention ranges from 3 years 3 months 9 days to 5 years 9 months 26 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 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 contravention is to be compounded and I consider that an amount of Rs. 37,72,500/- (Rupees Thirty Seven Lakhs Seventy Two Thousand Five Hundred Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1) (A) 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 Rs. 37,72,500/- (Rupees Thirty Seven Lakhs Seventy Two Thousand Five Hundred 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.

Dated this 18th day of October 2017

Sd/-

(R. Subramanian)
Regional Director