

HINESH. R. DOSHI & CO. LLP
CHARTERED ACCOUNTANTS

**SUMMARY OF FEW COMPOUNDING ORDERS OF YEAR 2020 PASSED BY RESERVE BANK OF INDIA (RBI) -
FOREIGN DIRECT INVESTMENT**

HRD-021/20-21
03.06.2020



RBI
Compounding
Orders

Contravention	- a breach of the provisions of the Foreign Exchange Management Act (FEMA), 1999 ('the Act) and rules/ regulations/ notification/ orders/ directions/ circulars issued thereunder.
Compounding	- the process of voluntarily admitting the contravention, pleading guilty and seeking redressal. RBI is empowered to compound any contravention as defined under section 13 of FEMA, 1999 except the contravention under section 3(a) .
General Penalty	- penalty levied can be up to 300% of the amount involved for any contravention under the Act and Regulations thereunder.
Compounding Fee	- varies for different offences and may include a fixed and a variable component depending on the circumstances of the case.

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Name of Applicant : M/s. Vihanga Labs Private Limited
Order Date: 12/02/2020

Regulation of Notification No. FEMA 20R/2000- RB :

- Paragraph 2(2) of Schedule 1

Requirement of above regulation:

- Shares are required to be allotted to the non-resident person, who has made such an investment, within 60 days from the date of receipt of consideration.

Contravention :

- Delay in allotment of shares to the foreign investor beyond 60 days from date of receipt of remittance .



Background of case & Matter Compounded:

- The applicant company, engaged in manufacturing and trading of bulk drugs and pharmaceutical preparations, had allotted shares for inward remittance received.
- However, the applicant **allotted shares after 60 days from the date of receipt of consideration.**

Period of Contravention	1 month 8 days
Amount Involved	Rs. 10,27,856/-
Compounding Fee	Rs. 55,139/-

***Kindly note that FEMA 20R/ 2017-RB has been superseded by FEM(Non-debt Instruments) Rules, 2019 effective from 17th October, 2019**

Name of Applicant : CS Laser LLP
Order Date: 12/02/2020

Regulation of Notification No. FEMA 20/2000 – RB:

- Paragraph 7(i) of Schedule 9
- Paragraph 7(iv) of Schedule 9

Regulation of Notification No. FEMA 20R/2017-RB:

- Regulation 13.1(3)

Requirement of above regulation:

- A LLP which has foreign inward remittance towards capital contribution or 'profit shares' must report details of such foreign investment to the RBI in **Form FDI- LLP(I) within 30 days from the receipt of such consideration.**
- An Indian Company which has received FDI, or a LLP which has received investment by way of capital contribution in the previous years including the current year, should submit **Form FLA** to the RBI on or before 15th July of each year.

Contravention :

- Delay beyond 30 days in submitting report in Form Foreign Direct Investment (FDI) – LLP(I).
- Delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) for the year 2016-17.
- Delay in filing the Annual Return in respect of the Foreign Liabilities and Assets (FLA Return) for the year 2017-18 and 2018-19.

Background of case & Matter Compounded:

- The applicant received foreign inward remittance from a non resident company as consideration towards capital contribution in the LLP for which Form FDI- LLP (I) was filed with a delay beyond the prescribed time frame.
- The applicant, also, delayed in filing FLA returns for three consecutive financial years.

Regulation	Para. 7(i) of Sch. 9	Para. 7(iv) of Sch. 9	13.1(3)
Period of Contravention	856 days	899 days	534/153 days
Amount Involved	Rs. 1,33,37,365/-	NA	NA
Compounding Fee	Rs. 1,61,000/-		

***Kindly note that FEMA 20R/ 2017-RB and 20/2000- RB has been superseded by FEM(Non-debt Instruments) Rules, 2019 effective from 17th October, 2019**

Name of Applicant : M/s K- Source Private Limited
Order Date: 19/02/2020

Regulation of Notification No. FEMA.20/2000-RB:

- Paragraph 9(1)(B), Paragraph 8 and Paragraph 9(2) respectively of Schedule 1.

Regulation of Notification No. FEMA 20(R) /2017-RB:

- Regulation 13.1(3)

Requirement of above regulation:

- An Indian Company issuing shares has to submit **Form FCGPR** along with the other prescribed documents **within 30 days from the date of issue of shares** to a person resident outside India.
- As per the regulation, the shares have to be issued within **180 days** from the **date of receipt of inward remittance**.
- An Indian Company which has received FDI, or a LLP which has received investment by way of capital contribution in the previous years including the current year, should submit **Form FLA** to RBI on or before 15th July of each year.

Contravention :

- Delay in submission of Form FC-GPR to the Reserve Bank.
- Delay in receipt of consideration after allotment of shares.
- Delay in filing of FLA returns.

Background of case & Matter Compounded:

- The applicant company, engaged in providing software support and maintenance to the clients, received remittance from a non resident company towards share subscription of the applicant company.
- The applicant company filed Form FCGPR for the allotment of shares with a delay of approximate 4 years.
- Moreover, the aforementioned shares were allotted towards subscription to MOA for which the **inward remittance was received after allotment of shares**.
- The applicant had also delayed in filing of FLA Returns for 4 years.

Regulation	Para 9(1)(B) of Sch.1	Para 8 of Sch. 1	13.1(3)
Period of Contravention	4 years 5 months 16 days	1 year 3 months 11 days	4 years 6 months 6 days
Amount Involved	Rs. 99,990/-		NA
Compounding Fee	Rs. 77,375/-		

***Kindly note that FEMA 20/ 2000-RB and 20R/ 2017-RB has been superseded by FEM(Non-debt Instruments) Rules, 2019 effective from 17th October, 2019**

Name of Applicant : M/s Euroschool Properties & Infrastructure Pvt Ltd
Order Date: 07/01/2020

Regulation of Notification No. FEMA 20/2000-RB:

- Regulation 14(6)(ii)(a)

Requirement of above regulation:

- An Indian company/ LLP which has made downstream investment is required to submit to the RBI the details of such investment in **Form DI within 30 days of making such investment.**

Contravention :

- Delay in filing Form DI to the RBI after making Downstream Investment.



Background of case & Matter Compounded:

- The applicant company, engaged in the business of providing assets on lease rental to educational institutions, made two downstream investments for which it filed Form DI.
- However, the applicant company filed Form DI for one of these investments with a delay of approximate 2 years from the date of investment.

Period of Contravention	2 years 3 months 20 days
Amount Involved	Rs. 29,99,91,786 /-
Compounding Fee	Rs. 2,43,333/-

Name of Applicant : Spotline Software Solutions Private Limited
Order Date: 03/01/2020

Regulation of Notification No. FEMA 20(R) /2017-RB:

- Paragraphs 2(2) and 2(3) of Schedule 1

Requirement of above regulation:

- An Indian company accepting FDI has to **receive share application money prior to the issue of shares** and the **shares have to be issued within 60 days from the date of receipt of consideration.**
- Where the shares are not issued within 60 days from the date of receipt of consideration (**excess money** in this particular case), the same shall be **refunded within 15 days from the date of completion of 60 days.**

Contravention :

- Issue of shares to a person resident outside India prior to receipt of consideration.
- Delay in refund of excess share application money.

Background of case & Matter Compounded:

- The applicant company, engaged in software consultancy and managing all back office work, issued equity shares to the subscriber (US based company) to its Memorandum of Association.
- The consideration for the said shares was **received after the issue of shares.**
- Moreover, the share application received by the applicant company was in excess and the same was refunded with a delay beyond the stipulated period.

Schedule 1	Paragraph 2(2)	Paragraph 2(3)
Period of Contravention	8 months 21 days	1 month 26 days
Amount Involved	Rs. 9,99,990/-	Rs. 31,318.80/-
Compounding Fee	Rs. 55,532/-	

***Kindly note that FEMA 20(R)/ 2017-RB has been superseded by FEM(Non-debt Instruments) Rules, 2019 effective from 17th October, 2019**