TAKEOVER PANORAMA

A Monthly Newsletter by Corporate Professionals

Year VII—Vol IV
April Edition

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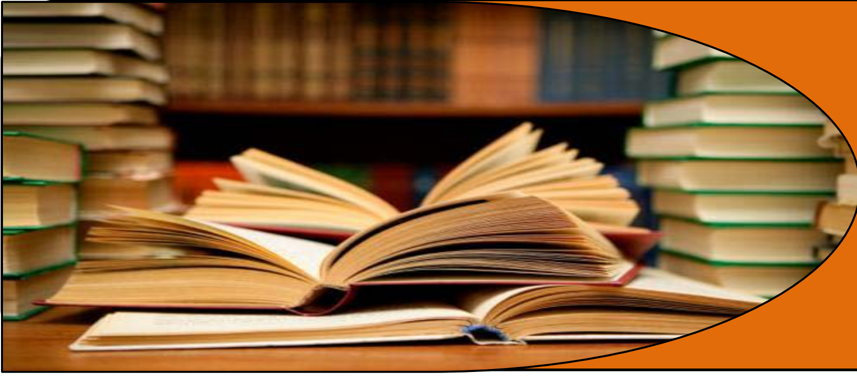

Exemption Order in the matter of M/s Prima Industries Limited

FACTS:

> Exemption granted where increase in shareholding of promoters is on account of forfeiture of shares by the Target Company.

1. Prima Industries Limited ('Target Company') is a company incorporated under the Companies Act, 1956 having its shares listed on the BSE Limited.
2. As per audited Balance Sheet dated March 31, 2011 of the Target Company, an amount of Rs. 1,25,59,500 was due from the shareholders and payable on 25,11,900 equity shares. The said amount was shown as calls in arrears.
3. The management of the Target Company has decided to recover the outstanding amount from the shareholders who have failed to make their shares fully paid up. Accordingly Reminder letters were issued to all such shareholders on December 16, 2011, January 13, 2012 and March 30, 2012. Despite the final reminder, shareholders holding 20,16,100 equity shares for Rs. 1,00,80,500 have failed to make the shares fully paid up. Therefore the Board of Directors of the Target Company decided to forfeit the shares of those shareholders who defaulted in making the payment.
4. After the proposed forfeiture, the percentage of voting rights of promoters would increase from 60.13% to 71.36% resulting into triggering of Regulation 3(2) of SEBI (SAST) Regulations, 2011.
5. Accordingly, the acquirers has filed the present application seeking exemption from the applicability of Regulations 3(2) of SEBI (SAST) Regulations, 2011 on the following grounds:

Grounds for exemptions:

1. There is no direct acquisition of voting rights or shares in the Target Company by the promoters and the increase in percentage of voting rights from the current holding of 60.13% to 71.36% will be on account of the forfeiture of shares by the Target Company.
2. The said shares have to be forfeited in the interest of the Target Company and its shareholders in accordance with the provisions of the Articles of Association and the Companies Act, 1956.
3. No change in management and control of the Target Company.
4. Minimum public shareholding will be maintained.

Decision:

After consideration all the above facts and circumstances of the case, SEBI granted exemption to the acquirers from the requirement of making Open Offer under Regulation 3 (2) of SEBI (SAST) Regulations, 2011 on the basis that the facts and statements given by the proposed acquirers are true and the acquirers will comply with other provisions of SEBI (SAST) Regulations, 1997, Listing Agreement or any other law as may be applicable.

Exemption Order in the matter of M/s Central Bank of India

Facts:

The Government of India (GoI) holds 79.15% Equity Share Capital and 100% of the PNCPSs in Central Bank of India (Target Company/Applicant) and further proposed to acquire 308,461,538 equity shares constituting 6.16% of the paid up share capital of the Target Company on a Preferential basis which would result into triggering of Regulation 3(2) of SEBI (SAST) Regulations, 2011 requiring GoI to make open offer. Thus, the Target Company on behalf of GOI has filed the present application with SEBI under Regulation 11(1) of SEBI (SAST) Regulations, 2011 seeking exemption from the applicability of provisions of Regulation 3 (2) of the said regulations

Exemption granted where preferential allotment is proposed to be made to GOI to maintain minimum 8% Tier I Capital to Risk-weighted Assets Ratio (CRAR) in the Target Company.

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GROUNDS FOR EXEMPTIONS:

1. GoI desires that all Public Sector Banks should maintain minimum 8% Tier I Capital to Risk-weighted Assets Ratio (CRAR).
2. On March 31, 2012, Tier I CRAR under BASEL II of the Target Company was 7.79% and the total CRAR was 12.40%. Further on December 31, 2012, Tier I CRAR under BASEL II of the Target Company was 7.02% while the total CRAR was 10.75%.
3. Since the Target Company is away from reaching 8% Tier I CRAR as on December 31, 2012 and with probable increase in risk weighted assets as on March 31, 2013, it requires capital infusion.
4. The GoI, through Ministry of Finance, has informed the Target Company that it has decided to infuse capital to the tune of 2,406 crores in the Target Company against preferential allotment of equity in favour of GoI.
5. Shareholders of the Target Company have also approved the raising of additional equity capital and GoI has also approved it under section 3(2B) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the offer price of Rs. 78 has been fixed in accordance with the provisions of Regulation 76 of the SEBI (ICDR) Regulations, 2009.

DECISION:

SEBI observed that Target Company has proposed to allot upto 308,461,538 equity shares of Rs. 10/- each to the GoI on preferential basis at a price of Rs.78/- per equity share (premium of Rs. 68/-) in order to maintain the minimum level of 8% Tier I CRAR which has been approved by GoI and the shareholders of the Target Company. SEBI further noted that infusion of funds by the GoI would enable the Target Company to achieve the 8% Tier I CRAR in accordance with the BASEL II guidelines and the issue price of Rs. 78/- per equity share is found to be in accordance with regulation 76 of the ICDR Regulations. Further the Target Company has also undertaken that the capital raised through the preferential allotment to GoI would not be used by it for making investment in whatever form, in any of its subsidiaries, joint ventures etc. I also note that even after the increase in the shareholding of GoI in the Target Company pursuant to the proposed preferential allotment, the minimum public shareholding would be maintained in the Target Company in terms of rule 19A(3) of the Securities Contracts (Regulation) Rules, 1957.

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Thus after considering all facts and circumstances of the case, exemption granted to the Applicant subject to the fulfillment of the submissions made by the Applicants. Further Board clarified that the exemption is only limited to the requirements of making open offer under regulation 3(2) of the SAST Regulations and shall not extend to other obligations of the GoI/Target Company.

Informal Guidance in the matter of M/s D B Corp Ltd.

FACTS:

> Transfer of shares of promoter group companies amongst the promoters of the Target Company who are immediate relatives would be covered under Regulation 10(1)(a)(i) of SEBI (SAST) Regulations, 2011.

1. M/s. D B Corp Ltd. (Target Company) is a listed company engaged in the business of publication of newspapers and periodicals and operation of FM radio stations.
2. Mr. Ramesh Chandra Agarwal and his 3 sons including their wife namely, Mr. Sudhir Agarwal his wife Mrs. Jyoti Agarwal, Mr. Girish Agarwal his wife Mrs. Namita Agarwal, and Mr. Pawan Agarwal his wife Mrs. Nikita Agarwal (Agarwal Family) are the immediate relative and promoters of the Target Company.
3. Now it is proposed to transfer the shareholding of the promoter group companies, inter se amongst the promoters who are immediate relatives. The details of the transfers are as follows:

a. Mr. Ramesh Chandra Agarwal (Father) proposed to transfer their shares to Mr. Girish Agarwal, Mr. Sudhir Agarwal and Mr. Pawan Agarwal (Sons) in the six companies viz Bhaskar Infrastructure Ltd., Bhopal Financial Services Ltd., Chambal Trading Pvt. Ltd., Dev Fiscal Services Pvt. Ltd., Peocock Trading and Investment Pvt. Ltd., and Stitex Global Ltd. **(Father to Sons).**

b. Mr. Sudhir Agarwal and Mr. Girish Agarwal proposed to transfer their shares to Mr. Pawan Agarwal in Peocock Trading and Investment Pvt. Ltd. and Chambal Trading Pvt. Ltd. **(Between Brothers).**

c. Further Mrs. Namita Agarwal proposed to transfer their shares in Bhopal Financial Services Ltd. to Mr. Sudhir Agarwal and Mrs. Jyoti Agarwal proposed to transfer their shares in Dev Fiscal Services Pvt. Ltd. to Mr. Girish Agarwal. **(Sister-in-law to Brother-in-law)**

Issue:

Whether the proposed transactions, being an Inter se transfer amongst the promoters, are exempt from the Open Offer requirements?

Decision:

SEBI clarified the provisions of Regulation 10(1)(a)(i) of the SEBI (SAST) Regulation, 2011 and provides that the above transaction are covered under regulation 10(1)(a)(i) of the SEBI (SAST) Regulations, 2011.

Informal Guidance in the matter of M/s OCL Iron & Steel Limited

Facts:

1. M/s OCL Iron & Steel Limited (Target Company) is a public limited company having paid up capital of Rs. 134,143,160. The Shares of the Target Company are listed on NSE and BSE.
2. M/s. Garima Buildprop Private Limited (GBPL) is a promoter, holding 75% of the equity share capital of the Target Company which in turn was promoted by M/s. Gateway Impex Private Limited (GIPL) holding 90% shareholding of GBPL.
3. The total shareholding of GIPL is held by other three body Corporates i.e. M/s. Alconic Holdings Private Limited (AHPL), Allianz International Private Limited (AIPL) and Dolphin Realtors Private Limited (DRPL). Further Mrs. Aarti Jain holds 21.57%, 24.92% and 28.40% of the share capital of the AHPL, AIPL and DRPL respectively and Mrs. Anjali Malhotra holds 23.53%, 19.93% and 28.40% of the equity shares capital of AHPL, AIPL and DRPL respectively. Mrs. Aarti Jain and Mrs. Anjali

> Transfer of shares of companies controlling the promoter company of the Target Company amongst the immediate relatives would be covered under Regulation 10(1)(a)(i) of SEBI (SAST) Regulations, 2011.

Malhotra together with the PAC and their relatives indirectly hold the control over Target Company.

4. Now, Mrs. Aarti Jain and Mrs. Anjali Malhotra desire to transfer their entire holding in AHPL, AIPL and DRPL to their brother by way of gift, who is not directly or indirectly part of the promoter group of Target Company and shareholder of any of the unlisted holding company..

ISSUES:

1. Whether the transfer of all the shares by the Mrs. Aarti Jain and Mrs. Anjali Malhotra unlisted limited companies i.e. AHPL, AIPL and DRPL by way of gift to their immediate relative i.e. brother (who is not directly or indirectly part of the promoter group of target company or share holder of any of the unlisted holding company) shall attract the provisions of Regulation 3, 4 and 5 of SEBI (SAST) Regulations, 2011?
2. Whether the above said transfer of shares by Mrs. Aarti Jain and Mrs. Anjali Malhotra in unlisted private limited companies i. e. AHPL, AIPL and DPRL respectively by way of gift to their immediate relative i.e. Brother shall be exempt from the provision of Regulation 3, 4 and 5 of SEBI (SAST) Regulations, 2011 under Regulation 10(1)(a) (i) subject to SEBI (SAST) Regulations, 2011
3. Whether for claiming exemption under Regulation 10(1)(a) (i) for the above said transfer, the individual promoters of AHPL, AIPL and DPRL i.e. Mrs. Aarti jain and Mrs. Anjali Malhotra and their immediate relative i.e. Brother will be deemed to be qualifying persons as stated in Regulations 10(1)(a) and further, we understand the aforesaid of SEBI (SAST) Regulations, 2011.

DECISION:

SEBI clarified the provisions of Regulation 3, 4 and 5 of the SEBI (SAST) Regulation, 2011 and held that by virtue of the proposed acquisition, the brother together with the PAC would attract the provisions of Regulation 3 and 4 of the SEBI (SAST) Regulation, 2011. However, the said transaction is being made amongst the relatives as covered under Regulation 10(1)(a)(i) of the SEBI (SAST) Regulation, 2011. Therefore the acquirer would be exempt from the obligation to make open offer subject to the compliance of Chapter V and Regulation 10(5), 10(6) and 10(7) of SEBI (SAST) Regulations, 2011.

Adjudicating/WTM orders

TARGET COMPANY	NOTICEE	REGULATIONS	PENALTY IMPOSED/ DECISION TAKEN
M/s KSK Energy Venture Ltd. and Bombay Rayons Fashion Ltd.	M/s. Axis Bank Ltd.	Regulation 3(i), 3A, 4 and Clauses 3 (3.1) and 4.0 (4.1 & 4.2) of Model Code of Conduct provided in Schedule I (Part B) read with Regulation 12 (1) of SEBI (PIT) Regulations, 1992, Regulation 24(5A) of SEBI (SAST) Regulations, 1997 and Regulation 26 and Clauses 11, 12 and 18 of Model Code of Conduct provided in Schedule III read with regulation 13 of SEBI (Merchant Bankers) Regulations, 1992.	Matter disposed off.
M/s GEE Ltd.	M/s. Vitro Commodities Pvt. Ltd.	Regulations 7(1) of SEBI (SAST) Regulations, 1997 and Regulations 13(1) of SEBI (PIT) Regulations, 1992.	Rs. 10,00,000/-
Ms. Sanguine Media Ltd	Mr. Bharath Chandan	Regulations 7(1) of SEBI (SAST) Regulations, 1997 and Regulations 13(1) & 13(3) of SEBI (PIT) Regulations, 1992.	Rs. 1,00,000/-
M/s Ganon Trading and Finance Company Ltd.	M/s Ganon Trading and Finance Company Ltd.	Regulation 8(3) of SEBI (SAST) Regulations, 1997	Rs. 2,50,000/-

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M/s Fact Enterprises Ltd.	Mr. Mukesh Saboo	Regulation 7(1) and 7(2) of SEBI (SAST) Regulations, 1997	Rs. 1,00,000/-
M/s Pyramid Saimira Theatre Ltd	Mr. P.S. Saminathan	Regulation 7(1A) read with 7(2), 10 & 11(1) of SEBI (SAST) Regulations, 1997	Rs. 7,50,000/-
M/s Quintegra Solutions Ltd.	M/s. Sainath Herbal Care Marketing Pvt. Ltd.	Regulation 7(1) of SEBI (SAST) Regulations, 1997 and Regulations 13(1) & 13(3) of SEBI (PIT) Regulations, 1992.	Rs. 3,00,000/-
M/s. MTZ Polyfilms Ltd.	Mr. Sanjay Bajranglal Sharma	Regulation 7(1) read with (2) of SEBI (SAST) Regulations, 1997 and Regulations 13(3) read with 13(5) of SEBI (PIT) Regulations, 1992.	Rs. 5,00,000/-
M/s. Natraj Financial and Services Ltd.	M/s. Natraj Financial and Services Ltd.	Regulation 8(3) of SEBI (SAST) Regulations, 1997	Rs. 5,00,000/-

HINT OF THE MONTH

Merely furnishing a Non Disposal Undertaking (NDU) by promoters to the lenders will not be covered under the scope of disclosures of "Encumbrance" under SEBI (SAST) Regulations, 2011. However if NDUs are given along with side-agreements which may entail the risk of shares held by the promoters being appropriated or sold by a third party, directly or indirectly, the same needs to be disclosed.

{As substantiated from FAQ of SEBI on SEBI (SAST) Regulations, 2011}

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Latest Open Offers

Target Company
M/s Mahesh Agricultural Implement And Steel Forgings Limited

Registered Office
Nagpur

Net worth of TC
131.15 Lakhs (30.09.2012)

Listed At
BSE and CSE

Industry of TC
Iron & Steel

Acquirers
Mr. Chandrashekhar B. Panchal, Mr. Balkrishna J. Panchal and Ms. Nehal C. Panchal

Triggering Event: Preferential Allotment of 5,00,000 Equity Shares (41.34%) and control over Target Company.

Details of the offer: Offer to acquire 3,14,470 (26%) Equity Shares at a price of Rs. 22 per fully paid up equity share.

Target Company
M/s Raaj Medisafe India Limited

Registered Office
Pithampur

Net worth of TC
(88.49) Lakhs (30.09.2012)

Listed At
BSE and MPSE

Industry of TC
Medical Equipment

Acquirer
M/s. Sushen Remedies Private Limited

Triggering Event: SPA for the acquisition of 15,31,480 (30.85%) equity shares and control over Target Company.

Details of the offer: Offer to acquire 13,10,400 (26.40%) Equity Shares at a price of Re. 1/- per share for the fully paid up equity shares and Rs. 0.50 per share for partly paid up equity shares payable in cash.

Target Company
M/s Tak Machinery & Leasing Limited

Registered Office
Mumbai

Net worth of TC
Rs. 1,497.26 Lakhs (31.12.2012)

Listed At
BSE and ASE

Industry of TC
Trading and Distributing

Acquirers
Mr. Meghraj. S. Jain, Mr. Ajit S. Jain, Mr. Sohanlal V. Jain and Mrs. Kankubai S. Jain

Triggering Event: Preferential allotment of 5,00,000 (31.66%) equity shares and control over Target Company

Details of the offer: Offer to acquire 4,10,553 (26.00%) Equity Shares at a price of Rs. 220/- per equity share payable in cash.

Target Company
M/s Inland Printers Limited

Registered Office
Mumbai

Net worth of TC
Rs. (191.87) Lacs (31.12.2012)

Listed At
BSE, ASE and DSE

Industry of TC
Printing & Stationary

Acquirer
M/s Tigerstone Trading Private Limited

Details of the offer: Offer to acquire 19,21,530 (26.00%) Equity Shares at a price of Rs. 3/- per share payable in cash.

Triggering Event: Agreement pursuant to MoU for the acquisition of 31,24,500 (42.28%) equity shares and control over Target Company.

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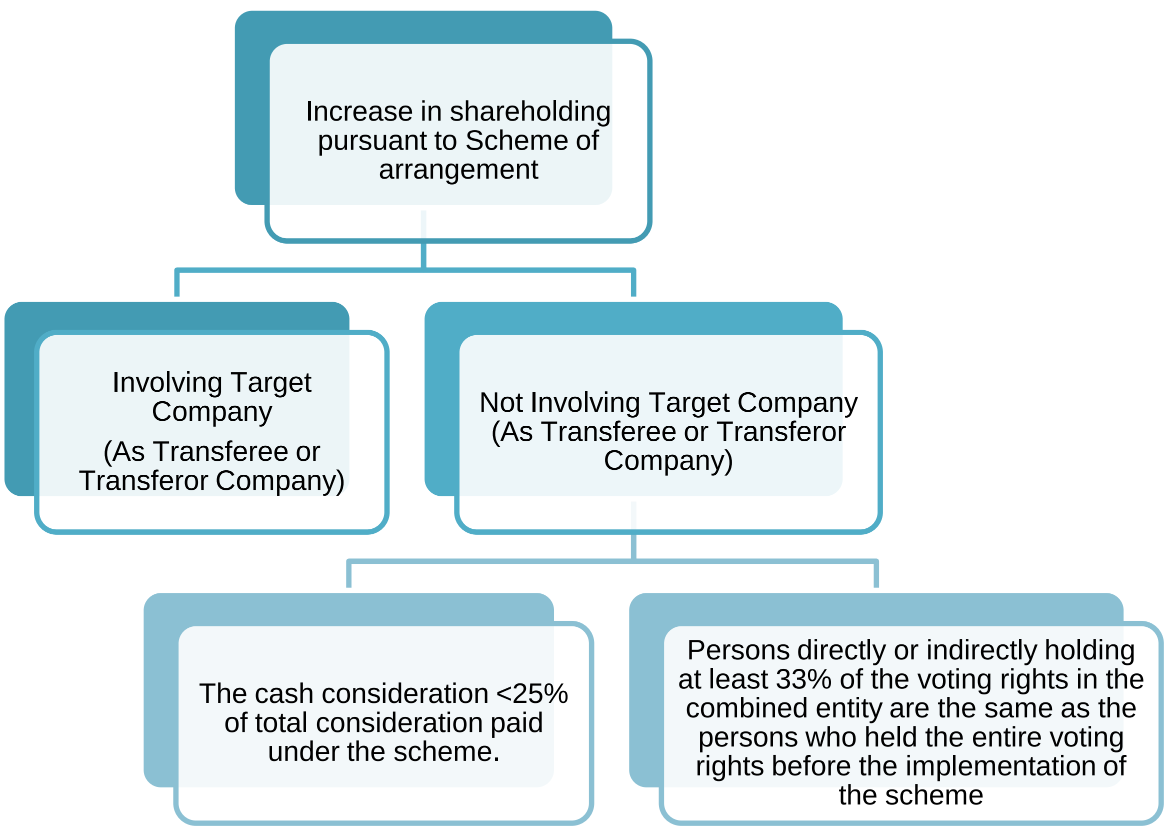
Regular section

ACQUISITION PURSUANT TO A SCHEME OF ARRANGEMENT

Regulation 10 of SEBI (SAST) Regulations, 2011 (SEBI Takeover Code) provides the provisions relating to automatic exemption to the acquirer from complying with the provisions of regulation 3 and 4 of the SEBI Takeover Code requiring Open Offer be made to the shareholders of the Target Company subject to the compliance of the conditions as prescribed thereunder. An analysis of the provision relating to exemption available in case of increase in voting rights pursuant to a scheme of arrangement as contained in regulation 10(1)(d) is detailed below:



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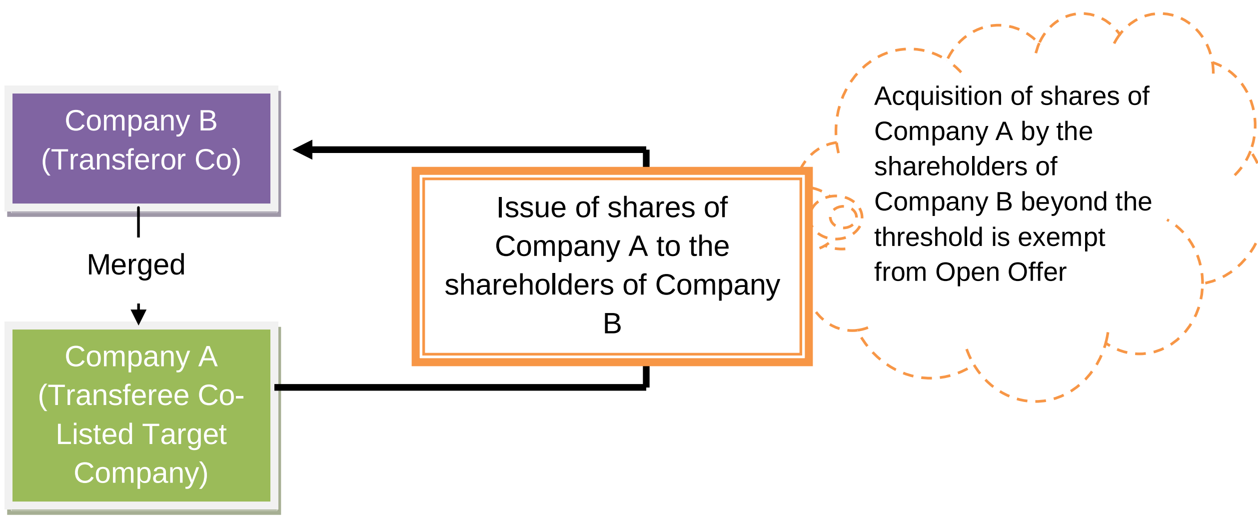
Regulation 10 (1) (d) (ii)

"Acquisition Pursuant to a scheme of arrangement involving the target company as a transferor company or as a transferee company, or reconstruction of the target company, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign;"

The takeover offer is not triggered in case of acquisition of shares pursuant to any arrangement as per the provisions of the Companies Act, 1956 & in accordance with the foreign law, if any applicable involving the Target Company as transferor or as transferee company. The regulation specifically mentions amalgamation, merger & demerger. Therefore, if any of the acquirer acquires shares or voting rights pursuant to a scheme of amalgamation beyond the threshold limit prescribed then the acquirer is allowed to go beyond the prescribed limit without takeover offer.



Regulation 10 (1) (d) (iii)

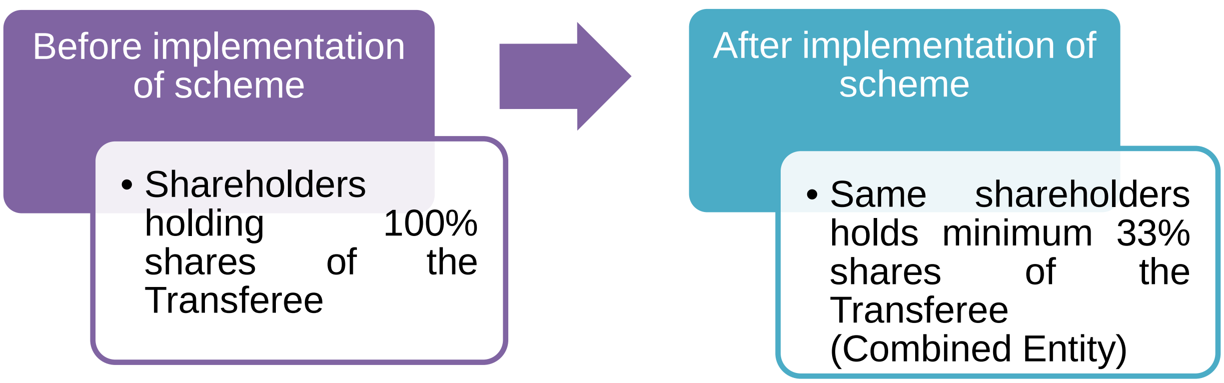
"Acquisition Pursuant to a scheme of arrangement not directly involving the target company as a transferor company or as a transferee company, or reconstruction not involving the target company's undertaking, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign, subject to,—

(A) the component of cash and cash equivalents in the consideration paid being less than twenty-five per cent of the consideration paid under the scheme; and

(B) where after implementation of the scheme of arrangement, persons directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme.

Acquisition of voting rights beyond the threshold pursuant to scheme of arrangement not involving the Target Company would also be exempt from the requirement of Open Offer provided that following conditions are complied with:

- Component of Cash and Cash Equivalent **< 25%** of total consideration paid under the scheme.
- The persons who are holding 100% voting rights of the Transferee before the implementation of the scheme should directly or indirectly hold atleast 33% of voting rights in the Transferee (Combined entity after the Merger) after the implementation of the scheme.



COMPLIANCES FOR AVAILING THE EXEMTION

Scheme of Arrangement involving Target Company	Scheme of Arrangement not involving Target Company
Regulation 10(6) – Any acquirer seeking exemption shall file a report with the stock exchanges **not later than four working days** from the date of acquisition.	**Regulation 10(6) –** Any acquirer seeking exemption shall file a report with the stock exchanges **not later than four working days** from the date of acquisition.
-	**Regulation 10(7) -** The Acquirer shall file **a report to SEBI within 21 working days** of the date of acquisition along with supporting documents to the Board giving all details in respect of acquisitions and **fee of Rs 25,000.**

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AO Order in respect of Axis Bank Limited

THE NOTICEE: Axis Bank Limited

TARGET COMPANIES:

- **KSK Energy Venture Ltd.** (KEVL/Target Company-1/Acquirer-K)
- **Bombay Rayons Fashion Ltd.** (BRFL/Target Company-2/Acquirer-B)

BACKGROUND OF THE CASE

I. Securities and Exchange Board of India (SEBI) had received a complaint against Axis Bank Limited (Noticee) stating that the Noticee had traded in the shares of KSK Energy Venture Ltd. and Bombay Rayons Fashion Ltd. at the time when it was acting as a Merchant Banker for the open offer of KEVL and BRFL under SEBI (SAST) Regulations, 1997 (SAST Regulations).

II. Brief details of the facts of the each offer are as follows:

- **Open offer made to the shareholders of KEVL**

KSK Energy Venture Ltd.	
Date of Negotiation started	April 18, 2011
Date of Memorandum of Understanding (MoU)	May 16, 2011
Date of Open Offer Made	May 16, 2011

- The Noticee acquired 6,05,412 shares of the KEVL during the period starting from August 20, 2010 to April 04, 2011 and acquired 7,65,260 during the period from April 25, 2011 to May 10, 2011 on BSE.
- Further, it acquired 19,99,959 shares of the KEVL during the period starting from January 20, 2011 to April 13, 2011 and acquired 10,17,740 during the period from April 25, 2011 to May 10, 2011 on NSE.

- **Open offer made to the shareholders of BRFL**,

Bombay Rayons Fashion Ltd.	
Date of Negotiation started	February 21, 2011
Date of Memorandum of Understanding (MoU)	March 31, 2011
Date of Open Offer Made	April 07, 2011

- During the period starting from November 29, 2010 to February 11, 2011, Noticee acquired 6,48,600 shares and sold 13,100 shares of the BRFL on BSE and acquired 12,69,400 shares and sold 2,54,900 shares on NSE.

ISSUES:

Whether the noticee has violated the provisions of Regulation 3(i), 3A, 4 and Clauses 3 (3.1) and 4.0 (4.1 & 4.2) of Model Code of Conduct provided in Schedule I (Part B) read with Regulation 12 (1) of SEBI (PIT) Regulations, 1992, Regulation 24(5A) of SEBI (SAST) Regulations, 1997 and Regulation 26 and Clauses 11, 12 and 18 of Model Code of Conduct provided in Schedule III read with regulation 13 of SEBI (Merchant Bankers) Regulations, 1992.

CONTENTIONS:

1. The Noticee has a blemish-less track record for over 18 years since its inception as UTI Bank Ltd. and it has a long standing history of servicing over 170000 investors as shareholders without any adverse regulatory history. As MB, the Noticee is fully aware of its role under the various Regulations of SEBI.
2. In the case of the said companies, the only material relied upon by SEBI to specify the dates of initiation of negotiation and conclusion of MoU was the Noticee's letter dated September 28, 2011 which was in response to the information sought by SEBI about the dates of interaction with the clients.
3. Relying on the fact that the Noticee was the Lead Manager to the IPOs of KEVL and BRFL in 2005 and 2008 and "it is possible" that it would have "prior knowledge" of the upcoming open offers by these two companies is clearly and completely in the realm of conjectures and premises.
4. No dealings have been taken place in the shares of both KEVL and BRFL after its appointment as MB.

5. The equity trading function of the Noticee is distinct and separate from its investment banking function and there are clear ***Chinese Walls*** between the two divisions and in any event information flow, access and usage of information across the organization is strictly on a need-to- know basis.
6. There is not a whisper of an allegation in the SCN about the employees of the merchant banking division having communicated any ***unpublished price sensitive information*** to the independent equities trading function.
7. There was no breakdown in the system of the Noticee and the Noticee is squarely covered by each of the defences available in Regulation 3B of the PIT Regulations.
8. The negotiation which had taken place between the Target Companies and the Noticee was with regard to fees payable to the MB to the offer and the terms of engagement of the MB for handling the mandate. There is nothing sacrosanct about the negotiation period.

AO OBSERVATIONS:

I. Charge of Insider Trading

In respect of shares of BRFL, AO Observed that Noticee had altogether purchased 6,48,600 shares and sold 13,100 shares during the period starting from November 29, 2010 to February 11, 2011 on BSE. On NSE, the Noticee had altogether purchased 12,69,400 shares and sold 2,54,900 shares during the period starting from November 29, 2010 to February 11, 2011. However, the first meeting of the Noticee with Acquirer-B was held on February 21, 2011 and the Noticee had not traded in the shares of BRFL either during the period of negotiation or after taking up the assignment. Therefore, it does not appear that the Noticee has traded in the shares of BRFL while in possession of unpublished price sensitive information (UPSI).

In respect of shares of KEVL, AO observed that Noticee has acquired the shares of KEVL during the belowmentioned period:

- From August 20, 2010 to April 04, 2011,
- April 25, 2011 to May 10, 2011
- January 20, 2011 to April 13, 2011

The Merchant Banking Division/Investment Banking Division of the Noticee commenced its discussions/meetings with Acquirer-K from April 18, 2011 onwards which resulted in the Noticee being appointed as MB for open offer of KEVL shares. However, the final MoU was signed on May 16, 2011 and the Noticee has not traded in the shares of KEVL after May 16, 2011.

Further as contented by Noticee that the said trading had been done by the Debt Capital Market and Equity Trading Division (**Trading Division**) of the Noticee in the proprietary account of the Noticee since August 2010 and it continued trading till May 10, 2011. The Noticee has further contended that the trading division and the merchant banking division of the Noticee have been physically segregated and the officials of the merchant banking division have no role to play in the proprietary trades of the Noticee. There were no signs of any breakdown in its system and hence it is squarely covered by each of the defences available in Regulation 3B.

Furthermore, the AO observed that the Noticee had traded in the shares of KEVL when its merchant banking division was holding meetings with Acquirer-K regarding the terms of open offer. It is also clear that the Noticee has not traded in shares of the said companies after formally signing of the MoU. Further, as per material available on record, the Noticee has traded in shares of KEVL since August 2010 which was well before the time when negotiation regarding the proposed open offer was initiated.

Therefore after considering the material available on record AO is of the view that the Noticee can be given the benefit of doubt as regards the allegation of violation of the provisions of Insider Trading Regulations.

II. <u>Regulation 24 (5A) of the SEBI (SAST) Regulations, 2011</u>

AO observed that the Noticee did not deal in BRFL shares after February 11, 2011 and in KEVL shares after May 10, 2011. Further there is no material to show that the Noticee had traded during the 15 days period from the date of closure of the offer and hence, there is no violation of Regulation 24 (5A) of the SEBI (SAST) Regulations, 2011.

III. <u>Allegation in respect of charge of Code of conduct provided in Schedule III read with Regulation 13 of the MB Regulations</u>

AO does not find any conclusive evidence to show the failure in the system put in place by the Noticee and therefore a benefit of doubt has been given to the Noticee in respect of violations of the MB Regulations as mentioned in the SCN.

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CONCLUSION:

The benefit of doubt has been given to Axis Bank in respect of all the allegations under Insider Trading Regulations, SEBI Takeover Regulations and SEBI Merchant Bankers Regulations considering the fact that it has put in place proper system that clearly demarcate the activities of other division with the Merchant Banking division and that there are clear Chinese walls between the divisions.

Market Updates

Fabindia acquired substantial stake in Organic India

Fabindia has acquired 40% stake in Organic India, a North Indian organic food & supplement firm, with a view to merge the Fabindia's organic division with Organic India and an infusion of Rs 15 crores into it.

Facor Alloys acquired majority stake in Dillenburg Bergen NH Realty

Facor Alloys Limited, producer and exporters of Ferro Alloys, has acquired majority (51%) stake in Dillenburg Bergen NH Realty B.V. (DBR) through its overseas subsidiary, Facor Minerals (Netherlands) B.V. for the total consideration of $10 Million.

Quadria Capital acquired Milestone Religare Investment Advisors

Milestone Religare Investment Advisors Pvt. Ltd., a JV between Religare Enterprises and Milestone Capital Advisors, has entirely been acquired by Quadria Capital. After the acquisition Milestone Religare Investment Advisors will be renamed as "Quadria Investment Advisors Pvt. Ltd" and will continue to supervise the fund in its existing form and shape.

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PLAY The QUIZ

TEST YOURSELF

The name of winners of the quiz will be posted on our website Takeovercode.com and will also be mentioned in our next edition of **Takeover Panorama**. So here are the questions of this edition:

Question: 1

What is the timing of making public announcement in case where the Open Offer has been triggered pursuant to preferential allotment of Equity Shares?

A. Date of approval of preferential allotment by BODs

B. Date of Special Resolution

C. Date of Allotment of Equity Shares

D. Date of Receipt of In-principal approval

Mail your answer at ruchi@indiacp.com

Question: 2

What is the time period after which the acquirer becomes eligible to make Voluntary delisting offer where his shareholding has exceeds the maximum permissible non-public shareholding, pursuant to an open offer under SEBI (SAST) Regulations, 2011?

A. 6 months
B. 18 months
C. 12 months
D. No time prescribed

Mail your answer at ruchi@indiacp.com

Winners of Quiz – March 2013-edition

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