WTM/SKM/CFD/ 45 /2021-22

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1) AND SECTION 11(2)(h) OF THE SEBI ACT READ WITH REGULATION 11(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011.

IN THE MATTER OF PROPOSED ACQUISITION OF SHARES AND VOTING RIGHTS IN –

TARGET COMPANY	**JAMMU AND KASHMIR BANK LIMITED**
ACQUIRER	**GOVERNMENT OF JAMMU AND KASHMIR**

BACKGROUND –

1. Jammu and Kashmir Bank Limited (hereinafter referred to as the "**Target Company**") is a Scheduled Bank having its Head Office at M. A. Road, Srinagar–190001, Jammu and Kashmir. The *Target Company* was incorporated on October 01, 1938. The shares of the *Target Company* are listed on the BSE Limited and the National Stock Exchange of India Limited.
2. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received an application dated July 15, 2021 (hereinafter referred to as the "**Application**") from the *Target Company* on behalf of its Promoter, i.e., the Government of Jammu and Kashmir (hereinafter referred to as the "**Proposed Acquirer**"), seeking exemption from the open offer obligation arising under Regulation 3(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as the "**Takeover Regulations**") due to the proposed/impending acquisition by the Proposed Acquirer.

3. The relevant facts, necessary for adjudging the Application are as below:

i. The Government of Jammu & Kashmir/*Proposed Acquirer*/Promoter, vide its letter dated March 31, 2021 to the *Target Company* has committed to infuse capital upto INR 500.00 crores towards equity infusion/recapitalization of the *Target Company*.

ii. Pursuant to the above letter, the *Target Company* in its Board Meeting held on June 04, 2021, had approved capital raising by issue of equity shares through preferential allotment to the *Proposed Acquirer* (hereinafter referred to as the "**Proposed Acquisition**").

iii. The aforesaid amount proposed to be infused by the *Proposed Acquirer* shall be utilized by the *Target Company* to meet the needs of its growing business, including long term capital requirements for pursuing its growth plans and to maintain its Capital Adequacy Ratio as per the regulatory guidelines/norms laid down by the Reserve Bank of India.

iv. The *Target Company* has conducted a Postal Ballot from June 22, 2021 to July 21, 2021 for seeking approval of its shareholders for the Proposed Acquisition by way of a Special Resolution.

v. The *Target Company* shall allot 16,76,72,702 equity shares at the issue price of INR 29.82 per equity share calculated in accordance with Chapter V of ICDR Regulations, 2018. The relevant date for the purpose of calculating the floor price for the issue of Equity Shares shall be June 21, 2021.

vi. During the Financial Year 2021-22, post the preferential allotment, the *Proposed Acquirer's* shareholding will increase from 68.18% to 74.24%, i.e., a change of 6.06%, which is in excess of 5% of the equity paid–up capital of the *Target Company*, thereby attracting the provision of Regulation 3(2) of the Takeover Regulations.

vii. The shareholding pattern in the *Target Company* prior to the Proposed Acquisition and subsequent to the Proposed Acquisition, is detailed as under –

TABLE I – SHAREHOLDING IN THE TARGET COMPANY (SOURCE: APPLICATION)			
CATEGORY	**PRIOR TO PROPOSED ALLOTMENT**	**PROPOSED ACQUISITION**	**SUBSEQUENT TO PROPOSED ALLOTMENT**
	NO. OF SHARES AND %	**NO. OF SHARES AND %**	**NO. OF SHARES AND %**
A. PROMOTER AND PROMOTER GROUP	48,64,25,578 [68.18%]	16,76,72,702 [8.95%]	65,40,98,280 [74.24%]
B. PUBLIC SHAREHOLDING	22,70,25,360 [31.82%]	–	227025360 [25.76%]
C. GRAND TOTAL (A + B)	**71,34,50,938 [100.00%]**	16,76,72,702 [8.95%]	**88,11,23,640 [100%]**

GROUNDS FOR SEEKING EXEMPTION

4. The Application lists, *inter-alia*, the following grounds for exemption from applicability of Regulation 3(1) of the Takeover Regulations:

   I. The *Proposed Acquirer*/Government of Jammu & Kashmir is the promoter and majority shareholder of the *Target Company* and presently holds 68.18% of the equity capital of the *Target Company*. The *Proposed Acquirer* for the purposes of the recapitalization of the *Target Company* vide its communication No. FD-VII-Gen(120)R&R/2029 dated March 31, 2021 has committed to infuse capital upto INR 500. 0,00,000 (INR Five Hundred Crores) equity infusion/ recapitalization of the *Target Company*.

   II. Pursuant to the receipt of the above letter/communication dated March 31, 2021 from the *Proposed Acquirer*, the *Target Company* in its Board Meeting held on June 04, 2021 approved capital raising by issue of equity shares through preferential allotment to the *Proposed Acquirer* for an amount upto INR 500,00,00,000 (INR Five Hundred Crore), in accordance with and subject to the

provisions of *inter alia* the Companies Act, 2013, the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (hereinafter referred to as the "**ICDR Regulations**") and the Takeover Regulations..

III. The aforesaid amount of equity capital proposed to be infused by the *Proposed Acquirer* in the *Target Company* is required and shall be utilized by the *Target Company* to meet the needs of its growing business, including long term capital requirements for pursuing its growth plans and to maintain its Capital Adequacy Ratio as per the regulatory guidelines/norms laid down by the Reserve Bank of India.

IV. The *Target Company* is proposing to issue and allot on preferential allotment basis, 16,76,72,702 equity shares of face value INR 1/- each of the *Target Company* to the *Proposed Acquirer* for a price of INR 29.82 (INR Twenty Nine and Eighty Two Paisa Only) per share, which has been determined in accordance with the relevant provisions of Chapter V of the ICDR Regulations, aggregating to a total of INR 499,99,99,973.64 (INR Four Hundred Ninety-Nine Crore Ninety Nine Lacs Ninety Nine Thousand Nine Hundred Seventy Three and Sixty Four Paisa Only). The *Target Company* has conducted a Postal Ballot (from June 22, 2021 to July 21, 2021) for seeking the approval of its members/shareholders for the Proposed Acquisition, by way of a special resolution.

V. The *Target Company*, pursuant to the completion of the Proposed Acquisition, shall however remain compliant with the Minimum Public Shareholding requirement in accordance with the provisions of Regulation 38 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as 25.76% of the shareholding of the *Target Company* shall continue to be held by shareholders in the category of public shareholders.

VI. Pursuant to the completion of the Proposed Acquisition by the Proposed Acquirer, its current shareholding in the *Target Company*, i.e., 68.18% which is already in excess of 25%, shall increase by another 6.06% during the current financial year, which is in excess of 5%, thereby triggering/attracting the provisions of Regulation 3(2) of the Takeover Regulations.

VII. In view of the above and in order to remain compliant with the provisions of the Takeover Regulations, the present application has been filed seeking exemption from the applicability of Regulation 3 (2) of the Takeover Regulations.

CONSIDERATION

5. Before I proceed with my consideration, I find it appropriate to quote the relevant regulatory provisions of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act, 1992**") and Takeover Regulations, for facility of reference.

SEBI Act, 1992

Functions of the Board

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for –

….

(h) regulating substantial acquisition of shares and take over of companies;

"***3. Substantial acquisition of shares or voting rights.***

(1) ….

(2). No acquirer, who together with persons acting in concert with him, has acquired and holds in accordance with these regulations shares or voting rights in a target company entitling them to exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, unless the acquirer makes a public

announcement of an open offer for acquiring shares of such target company in accordance with these regulations:

Provided that such acquirer shall not be entitled to acquire or enter into any agreement to acquire shares or voting rights exceeding such number of shares as would take the aggregate shareholding pursuant to the acquisition above the maximum permissible non-public shareholding."

Exemptions by the Board.

11.(1) The Board may for reasons recorded in writing, grant exemption from the obligation to make an open offer for acquiring shares under these regulations subject to such conditions as the Board deems fit to impose in the interests of investors in securities and the securities market."

6. I have considered the Application and other material available on record. After considering all the material available on record as well as the extant regulatory framework, I observe the following:

   i. Due to the Proposed Acquisition, the shareholding of the *Proposed Acquirer* will increase from 68.18% to 74.24%, whereas, the public shareholding shall reduce from 31.82% to 25.76%. Thus, even after execution of the Proposed Acquisition, the *Target Company* shall remain compliant with the applicable provisions prescribing Minimum Public Shareholding of 25% in a listed company.

   ii. The resultant change in shareholding on account of the allotments indicated at paragraph (i) above, will increase the concentration of the holding of the *Proposed Acquirer* in the *Target Company* by 6.06% during the Financial Year 2021-22 i.e., more than 5%, thereby attracting the provisions of Regulation 3(2) of the Takeover Regulations.

   iii. The *Proposed Acquirer* are the promoter and in control of the *Target Company* Proposed. There will be no change in control of the *Target Company* pursuant to the Proposed Acquisition as the change will only be in the quantum of holding

the shares by the *Proposed Acquirer* who infact is the Promoter of the *Target Company*, will remain promoter and entity in control of the *Target Company*

iv. The infusion of additional capital by the *Proposed Acquirer* is stated to be utilized to improve the capital adequacy and to fund general business needs of the *Target Company*.

7. In light of the aforesaid discussion, I find that this is a fit case to exercise the power conferred under Regulation 11 (1) of the Takeover Regulation and grant the exemption sought by the *Proposed Acquirer*/Promoter, however, subject to the conditions stated herein.

ORDER –

8. I, in exercise of the powers conferred upon me under Section 19 read with Section 11(1) and Section 11(2)(h) of the SEBI Act, 1992 and Regulation 11(1) of the Takeover Regulations hereby grant exemption to the *Proposed Acquirer*, viz., **the Government of Jammu and Kashmir**, from complying with the requirements of Regulation 3(2) of the Takeover Regulations with respect to the Proposed Acquisition of **6.06%** equity shares in the *Target Company* viz., **Jammu and Kashmir Bank Limited** during the Financial Year 2021-22, through the proposed preferential allotment as mentioned in the Application.

9. The exemption being granted is based on the premise that the statements/ averments made or facts and figures mentioned in the Application are true and correct. The exemption is granted subject to the following conditions:

i. The Proposed Acquisition shall be in accordance with the relevant provisions of the Companies Act, 2013 and any other applicable law (s) and the *Target Company*/*Proposed Acquirer* shall comply with the disclosure requirements under Securities laws.

ii. The *Proposed Acquirer/Target Company* shall ensure compliance with the statements and disclosures made in the Application.

iii. On completion of the proposed acquisition, the *Proposed Acquirer* shall file a report with SEBI within a period of 21 days from the date of such acquisition, as provided in the Takeover Regulations

iv. The *Proposed Acquirer* shall also ensure that the all undertaking given by the *Proposed Acquirer* through the Application and various replies/submissions, shall be duly complied with. In any case of deviation, the *Proposed Acquirer* shall take prior approval of SEBI.

10. The exemption granted above is limited to the requirements of making open offer under the Takeover Regulations and shall not be construed as an exemption from the disclosure requirements under Chapter V of the Takeover Regulations; compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015 and the Listing Agreement/SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 or any other applicable provisions of securities laws.

11. The Application dated July 15, 2021 and subsequent communications filed by the *Target Company* on behalf of the *Proposed Acquirer*, are accordingly disposed of.

-Sd-

PLACE: MUMBAI **S.K. MOHANTY**

DATE: AUGUST 03rd , 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA