WTM/GM/CFD/87/2018–19

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 19 READ WITH SECTION 11(1) OF THE SEBI ACT READ WITH REGULATION 28 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (BUY–BACK OF SECURITIES) REGULATIONS, 2018.

IN THE MATTER OF BUY BACK OF SECURITIES IN –

COMPANY	OIL INDIA LIMITED

BACKGROUND –

1. Oil India Limited ("**Oil India/Company**") is a company incorporated under the provisions of the Companies Act, 1956 as a private limited company on February 18, 1959 and subsequently, received a fresh Certificate of incorporation on conversion to a public limited company on August 30, 1995. The registered office of Oil India is at Duliajan, District Dibrugarh, Assam–786602. The shares of Oil India are listed on the BSE Limited ("**BSE**") and the National Stock Exchange of India Limited ("**NSE**").

2. Oil India had filed an Application dated December 19, 2018 ("**Application**") seeking exemption/relaxation from the strict enforcement of the requirement contained under Regulation 24(i)(e) of the Securities and Exchange Board of India (Buy–back of Securities) Regulations, 2018 ("**Buy–back Regulations 2018**"). The aforesaid Application has been necessitated on account of transfer of 333,20,401 equity shares of the Company (which were held by the Promoter i.e. the Government of India) to the Asset Management Company ("**AMC**") of the Central Public Sector Enterprise Exchange Traded Fund ("**CPSE–ETF**") on December 4, 2018, which is brought out in the subsequent paragraphs of this Order.

3. From the Application along with the draft Letter of Offer annexed therein and other correspondences received by SEBI from Oil India, the following is noted –

   A. Pursuant to Article 19 of the Articles of Association of the Company; Sections 68, 69, 70 of the Companies Act, 2013; the provisions of Companies (Share Capital and Debentures) Rule, 2014 to the extent applicable and in compliance with the Buy–back Regulations 2018, the

Board of Directors of Oil India in a meeting held on November 19, 2018, had approved the buy–back of 504,98,717 equity shares (representing 5% of the aggregate of fully paid–up equity capital and free reserves as on 31.03.2018) of the Company @ ₹215 per share for an aggregate consideration of ₹1085,72,24,155. The proposed buy–back shall be from the existing shareholders including the Promoter through the *'tender offer'* route under the Buy–back Regulations 2018. The proposed buy–back will help in optimizing the capital structure and improve key financial ratios of the Company.

B. Thereafter, the Company made a public announcement of the above mentioned proposed buy–back on November 20, 2018, in accordance with Regulation 7(i) read with Schedule II of the Buy–back Regulations 2018.

C. The shareholding pattern in Oil India as on (i) December 3, 2018 i.e. prior to the proposed buy–back and (iii) post the proposed buy–back, is provided as under –

TABLE I – SHAREHOLDING IN THE TARGET COMPANY (SOURCE: APPLICATION)		
CATEGORY	**PRIOR TO PROPOSED BUY–BACK AS ON 3.12.2018**	**#POST PROPOSED BUY–BACK**
	NO. OF SHARES AND %	**NO. OF SHARES AND %**
A. PROMOTER AND PROMOTER GROUP	75,05,48,332 [66.13%]	*****68,82,49,295 [63.47%]
B. PUBLIC SHAREHOLDING	38,43,55,579 [33.87%]	39,61,55,899 [36.53%]
C. GRAND TOTAL (A + B)	**1,13,49,03,911 [100%]**	**1,08,44,05,194 [100%]**
#Assuming full acceptance of equity shares in the buy–back offer as per the Entitlement Ratio. *****In addition to assuming full acceptance, the post buy–back shareholding also takes into account the transfer by the Promoter of 3,33,20,401 equity shares of the Company on December 4, 2018 to the CPSE–ETF Scheme, which is brought out in the subsequent paragraphs of this Order.		

4. In addition to the Application, SEBI had also received a letter dated December 7, 2018, from the Ministry of Finance, Government of India *inter alia* stating –

A. As part of its disinvestment programme, the Government of India through its Cabinet Committee on Economic Affairs ("**CCEA**") had on May 2, 2013, approved the setting up of the CPSE–ETF comprising of equity shares of CPSEs [which was launched as CPSE–ETF Mutual Fund Scheme ("**CPSE–ETF Scheme**") on March 28, 2014 by way of a new fund offer]. The units of the aforementioned Scheme were listed on the stock exchanges on April 4, 2014 in the form of an exchange traded fund tracking the NIFTY CPSE Index.

A further fund offer of the CPSE–ETF Scheme was launched on January 17, 2017 ("**FFO 1**") and a second further fund offer of the aforesaid Scheme was launched on March 14, 2017 ("**FFO 2**").

B. In accordance with the decision of the Government of India, the NIFTY CPSE Index was rebalanced and a third further fund offer was opened for subscription from November 27–30, 2018 ("**FFO 3**").

C. The proceeds of the FFO 3 was utilized to purchase CPSE shares. The President of India, represented by different Departments/Ministries, had sold the shares of constituent CPSEs to the CPSE–ETF Scheme for the benefit of the unit holders. The units of the CPSE–ETF Scheme will in turn be created and allotted to these unit holders and subsequent to completion of such process, the FFO 3 units will be listed on the stock exchanges in the form of an exchange traded fund trading the NIFTY CPSE Index.

D. Apart from the aforementioned, the Government of India decides on disinvestment of various CPSEs through various SEBI approved modes such as buy–back of equity shares, etc. In this regard, some of the constituent CPSEs of the CPSE–ETF Scheme FFO 3, may also be undergoing the process of buy–back of equity shares in which the Government of India may wish to participate. The disinvestment may take place *inter alia* during the intervening period between the Board Resolution of the Company authorizing the buy–back and the closure of such buy–back as specified in Regulation 24(i)(e) of the Buy–back Regulations 2018.

5. I have considered the Application made by Oil India along with all the material available on record. For the purpose of considering the instant Application, Regulation 24(i)(e) of the Buy–back Regulations 2018 is reproduced as under –

"***24. Obligations of the company for all buy-back procedure:***

(i) The company shall ensure that –

…

e) the promoter(s) or his/their associates shall not deal in the shares or other specified securities of the company in the stock exchange or off-market, including inter–se transfer of shares among the promoters during the period from the date of passing the resolution of the board of directors or the special resolution, as the case may be, till the closing of the offer.

…"

6. In its Application, Oil India had informed SEBI that pursuant to CPSE–ETF Scheme FFO 3, the Promoter had transferred 3,33,20,401 equity shares of the Company on December 4, 2018 to the AMC of the CPSE–ETF Scheme in accordance with the procedure adopted for new fund offers and FFOs. Upon a consideration of the aforementioned in light of Regulation 24(i)(e) of the Buy–back Regulations 2018, it is noted that the transfer of the aforesaid equity shares by the Promoters had occurred during the period between the date of passing the Resolution of the Board of Directors approving the offer of buy–back of securities of the Company (i.e. November 19, 2018) and the closure of such offer (yet to occur).

7. As per Regulation 28 of the Buy–back Regulations 2018, the Board may, in the interest of investors and the securities market, relax the strict enforcement of any requirement of the aforesaid Regulations except the provisions incorporated from the Companies Act, if the Board is satisfied that the requirement is procedural in nature or the requirement may cause undue hardship to investors. I note that the requirement contained in Regulation 24(i)(e) of the Buy–back Regulations 2018 is substantive in nature and imposes an obligation on the Company to ensure that its Promoter(s) do not deal in the shares of the company in the stock exchange or off-market including *inter–se* transfer of shares among themselves during the period from the date of passing the resolution of the Board of Directors till closing of the buy–back Offer. At the same time, I note that the transfer of 3,33,20,401 equity shares of Oil India by its Promoter on December 4, 2018 pursuant to the CPSE–ETF Scheme FFO 3 was necessitated as part of the ongoing disinvestment programme formulated by the Government of India.

8. In addition to the above, Oil India has submitted that the proposed buy–back *inter alia* will help in optimizing its capital structure and improve its key financial ratios and would also lead to reduction in outstanding shares, improvement in earnings per share and enhanced return on invested capital. Accordingly, the strict enforcement of Regulation 24(i)(e) of the Buy–back Regulations 2018 against Oil India, at this point in time, may result in undue hardship to investors including shareholders of the Company who may seek to participate in the proposed buy–back.

9. I am therefore, of the considered view that exemption/relaxation as sought for in the instant Application be granted to Oil India. However, such exemption/relaxation shall be subject to certain conditions stated herein. The exemption/relaxation has been granted as per the facts contained in the Application and subsequent correspondences received by SEBI from Oil India and shall not operate as a precedent.

Order –

10. I, in exercise of the powers conferred upon me under Section 19 read with Section 11(1) of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") and Regulation 28 of the Buy–back Regulations 2018, hereby grant exemption/relaxation to the Company, viz. **Oil India** from ensuring compliance with the requirement of Regulation 24(i)(e) of the Buy–back Regulations 2018 in relation to the proposed buy–back of 504,98,717 equity shares (representing 5% of the aggregate of fully paid–up equity capital and free reserves as on 31.03.2018) of the Company as mentioned in the Application.

11. The exemption so granted is subject to the following conditions:

    i. The proposed buy–back shall be in accordance with the relevant provisions of the Companies Act, 2013, the Buy–back Regulations 2018 and any other applicable law.
    ii. The statements/ averments made or facts and figures mentioned in the Application are true and correct.

12. The exemption granted above is limited to a relaxation from the strict enforcement of Regulation 24(i)(e) of the Buy–back Regulations 2018 and shall not be construed as a relaxation from any other requirement under the Buy–back Regulations 2108 or the provisions incorporated therein from the Companies Act, 2013.

13. The Application dated December 19, 2018, filed by Oil India is accordingly disposed of.

Place: Mumbai
Date: January 31, 2019

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA