WTM/GM/CFD/114/2017–2018

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	**BANK OF INDIA**
ACQUIRER	**GOVERNMENT OF INDIA**

BACKGROUND –

1.1 Bank of India ("**Target Company**") is a Scheduled Commercial Bank having its Head Office at Star House, C – 5, 'G' Block, Bandra Kurla Complex, Bandra East, Mumbai–400051. The Target Company was incorporated on September 7, 1906. The shares of the Target Company are listed on the BSE Limited ("**BSE**") and the National Stock Exchange of India Limited ("**NSE**").

1.2 The Target Company filed an application dated February 5, 2018 ("**Application**"), on behalf of its Promoter i.e. the Government of India ("**Proposed Acquirer/GOI**") seeking exemption from the applicability of Regulation 3(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**Takeover Regulations**").

1.3 Regulation 3(2) of the Takeover Regulations, states –

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

(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."

1.4 From the aforesaid Application and the e–mails dated March 5, 2018 and March 21, 2018, as submitted by the Target Company, the following is noted –

A. Vide a letter dated January 24, 2018, GOI proposed an infusion of capital in the Target Company, amounting to ₹9232 Crores (including ₹2257 Crores infused in December 2017 vide their letter dated December 28, 2017) through a preferential allotment of equity shares of the Target Company, to the Proposed Acquirer/Promoter.

B. At the Board Meeting of the Target Company held on February 15, 2018, the Board of Directors approved raising of additional equity capital to the extent of ₹9232 Crores by way of issue of equity shares on a preferential basis to the Proposed Acquirer/Promoter i.e. GOI ("**Proposed Acquisition**").

C. An Extra–Ordinary General Meeting ("**EGM**") of shareholders in the Target Company was held on February 20, 2018, for obtaining the requisite approval/special resolution for the proposed acquisition. The aforesaid approval was obtained on that date.

D. The Target Company has decided to issue 55,84,32,131 equity shares of face value ₹10 each (aggregating ₹9232 Crores) to the Proposed Acquirer/Promoter, at an issue price of ₹165.32 as determined under Regulation 76(1) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("**ICDR Regulations**").

E. During the Financial year 2017–18, the Target Company allotted 1,75,00,000 equity shares to Life Insurance Corporation of India ("**LIC**") on a Preferential basis on June 14, 2017, pursuant to which shareholding of GOI reduced to 72.52%.

F. On August 4, 2017, the Target Company allotted 11,23,51,134 equity shares to GOI on a Preferential basis pursuant to which shareholding of GOI increased to 75.12%.

G. Accordingly, the shareholding pattern in the Target Company as on (i) March 31, 2017; (ii) after allotment to LIC on June 14, 2017 (iii) prior to the proposed acquisition i.e. after allotment to GOI on August 4, 2017 and (iv) subsequent to the proposed acquisition, is provided as under –

TABLE I – SHAREHOLDING IN THE TARGET COMPANY (SOURCE: APPLICATION)

CATEGORY	AS ON 31.03.2017	AS ON 14.06.2017	PRIOR TO PROPOSED ALLOTMENT AS ON 4.08.2017	PROPOSED ACQUISITION	SUBSEQUENT TO PROPOSED ALLOTMENT
	NO. OF SHARES AND %	NO. OF SHARES AND %	NO. OF SHARES AND %	NO. OF SHARES AND %	NO. OF SHARES AND %
A. PROMOTER AND PROMOTER GROUP	77,75,14,808 [73.72%]	*77,75,14,808 (72.52%)	^88,98,65,942 [75.12%]	55,84,32,131 [10.57%]	144,82,98,073 [83.09%]
B. PUBLIC SHAREHOLDING	27,71,80,296 [26.28%]	29,46,80,296 [27.48%]	29,46,80,296 [24.88%]	–	29,46,80,296 [16.91%]
C. GRAND TOTAL (A + B)	**105,46,95,104 [100%]**	**107,21,95,104 [100%]**	**118,45,46,238 [100%]**	–	**174,29,78,369 [100%]**

*On June 14, 2017, a preferential allotment of 1,75,00,000 shares was made to LIC pursuant to which shareholding of GOI reduced to 72.52%.
^On August 4, 2017, a preferential allotment of 11,23,51,134 shares was made to GOI pursuant to which shareholding of GOI increased to 75.12%.

H. The Board of Directors of the Target Company as provided in the Application, is as under –

TABLE II – BOARD OF DIRECTORS OF THE TARGET COMPANY

SR. NO.	NAME	STATUS
1.	G. PADMANABHAN	NON–EXECUTIVE CHAIRMAN
2.	DINABANDHU MOHAPATRA	MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER
3.	N. DAMODHARAN	EXECUTIVE DIRECTOR
4.	A. K. DAS	EXECUTIVE DIRECTOR
5.	C. G. CHAITANYA	EXECUTIVE DIRECTOR
6.	GIRISH CHANDRA MURMU	GOVERNMENT NOMINEE DIRECTOR
7.	R. SEBASTIAN	RESERVE BANK OF INDIA NOMINEE DIRECTOR
8.	VENI THAPAR	PART TIME NON–OFFICIAL DIRECTOR
9.	D. SARKAR	SHAREHOLDER DIRECTOR/INDEPENDENT DIRECTOR
10.	D. HARISH	SHAREHOLDER DIRECTOR/INDEPENDENT DIRECTOR

I. **Submissions made by the Target Company on behalf of the Proposed Acquirer/Promoter for exemption from the provisions of Regulation 3(2) of the Takeover Regulations.**

From the Application filed on behalf of the Proposed Acquirer/GOI and the e–mails dated March 5, 2018 and March 21, 2018, as submitted by the Target Company, the following is observed –

a. *"GOI vide their letter F. No. 7/38/2014–BOA dated 24.01.2018 has intimated their decision to infuse Capital Funds during the Financial Year 2017–18 into the Bank to the tune of ₹9232 Crores (including ₹2257 Crores infused in December 2017 vide their letter dated December 28, 2017) by way of Preferential Allotment of equity shares in favour of GOI.*
b. *The capital raised would be utilized to shore up the capital adequacy of the Bank to fund the general business needs of the Bank.*
c. *The Bank has convened an Extraordinary General Meeting on February 20, 2018 for seeking approval of the shareholders to issue 55,84,32,131 equity shares at a price of Rs. 165.32 per share aggregating Rs. 9232 Crores to GOI.*
d. *GOI will be acquiring more than of 5% of total voting rights during the financial year 2017–18 (based on the position of 31.03.2017). Hence, this may attract the provisions of Regulation 3(2) of the Takeover Regulations.*
e. *Thus … the application is being preferred."*

1.5 Vide e-mail dated February 12, 2018, SEBI sought clarification from the Target Company regarding compliance of Public Sector Banks with minimum public shareholding requirements in terms of Securities Contracts (Regulation) Rules, 1957 ("**SCR Rules, 1957**").

1.6 In reply to the abovementioned e-mail, GOI, vide a letter dated March 21, 2018, informed as under:

"Department of Financial Services, Ministry of Finance, Govt. of India, being the promoter of the company declares that Bank of India will comply with minimum public shareholding requirements in terms of Securities Contracts (Third Amendment) Rules, 2017."

Findings –

2.1 I have considered the Application made by the Target Company on behalf of the Proposed Acquirer/Promoter along with other relevant material available on record. In this regard, I note as under –

i. From Table I of page 3, it is observed that as on March 31, 2017, the Proposed Acquirer/Promoter i.e. GOI, held 77,75,14,808 (73.72%) equity shares in the Target Company.

ii. During the Financial Year 2017–18 i.e. on June 14, 2017, a preferential allotment of 1,75,00,000 shares was made to LIC pursuant to which shareholding of GOI reduced to 72.52%. Consequently, the public shareholding in the Target Company increased from 26.28% to 27.48%.

iii. Thereafter, on August 4, 2017, a preferential allotment of 11,23,51,134 shares was made to GOI pursuant to which shareholding of GOI increased to 75.12%. Consequently, the public shareholding in the Target Company decreased from 27.48% to 24.88%.

iv. Subsequent to the proposed acquisition indicated at Table I of page 3 i.e. preferential allotment of 55,84,32,131 equity shares, the Proposed Acquirer/Promoter will hold 144,82,98,073 (83.09%) equity shares in the Target Company. Consequently, the public shareholding in the Target Company will decrease from 24.88% to 16.91%.

v. The resultant change in shareholding on account of the allotment indicated at paragraph (iv) above, will increase the concentration of the Proposed Acquirer/Promoter/ Government shareholding in the Target Company by 10.57**%** during the Financial Year 2017–18 i.e. more than 5%, thereby attracting the provisions of Regulation 3(2) of the Takeover Regulations.

vi. 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 shares held by the Proposed Acquirer/GOI. Further, there will be no change in the number of equity shares held in the Target Company, by the public shareholders, pursuant to the proposed transactions.

2.2 The infusion of additional capital by the Proposed Acquirer/Promoter is stated to enable the Target Company to meet regulatory capital norms and will also provide the Target Company with

additional leverage for raising further equity capital at a later date, as and when the need arises. Accordingly, I am of the considered view that exemption as sought for in the Application made by the Target Company, be granted to the Proposed Acquirer/Promoter, subject to the conditions stated herein.

Order –

3.1 I, in exercise of the powers conferred upon me under Section 19 read with Section 11(1) and Section 11(2)(h) of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") and Regulation 11(5) of the Takeover Regulations, hereby grant exemption to the Proposed Acquirer, viz. **GOI**, from complying with the requirements of Regulation 3(2) of the Takeover Regulations with respect to the proposed acquisition of **10.57%** equity shares in the Target Company viz. **Bank of India** during the Financial Year 2017–18, through the proposed preferential allotment as mentioned in the Application.

3.2 The exemption so granted is 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.
ii. The GOI/Target Company shall ensure compliance with the statements and disclosures made in the Application.
iii. The statements/ averments made or facts and figures mentioned in the Application by the Proposed Acquirer/Promoter are true and correct.
iv. The public shareholding in the Bank shall be increased to 25% to comply with minimum public shareholding requirements in terms of SCR Rules, 1957, as undertaken.

3.3 The exemption granted above is limited to the requirements of making open offer under the Takeover Regulations and shall not be construed as exemption from the disclosure requirements under Chapter V of the Takeover Regulations; compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015; Listing Agreement/SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the SCR Rules, 1957.

3.4 The Application dated February 5, 2018, filed by Target Company on behalf of the Proposed Acquirer/Promoter, is accordingly disposed of.

3.5 A copy of this Order shall be forwarded to the recognized Stock Exchanges for their information and necessary action.

Place: Mumbai
Date: March 27, 2018

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