



भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

GENERAL MANAGER
CORPORATION FINANCE DEPARTMENT
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CFD/PC/BS/KJ/OW/27024/2013
October 24, 2013

Styrolution ABS (India) Limited.
(Formerly INEOS ABS (India) Limited)
Secretarial & Admn. Dept
6th Floor, ABS Towers,
Old parade Road,
Vadodara - 390007
Gujarat, India

Kind Attn: Mr. V.V.Vachhrajani, Company Secretary & Head (Legal).

Dear Sir,

Sub :- Request for " Interpretive Letter" under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 by M/s Styrolution ABS (India) Limited regarding exemption of acquisition of shares under Regulation 10(1) (a) (iii) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

1. This has reference to your letter dated July 08, 2013 requesting for "Interpretive Letter" under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 and subsequent clarifications issued vide letter dated July 30, 2010.

Your submissions

2.1 Styrolution ABS (India) Limited (the "Company") is a public limited company incorporated under the Companies Act, 1956, as amended, on December 7, 1973, with its registered office at 6th Floor, ABS Towers, Old Padra Road, Vadodara 390 007, Gujarat, India. The equity shares of the Company with a face value of Rs. 10 each (the "Equity Shares") are listed on the BSE Limited ("BSE") and the National Stock Exchange of India Limited (the "NSE" and together with the BSE, the "Stock Exchanges").

2.2 The issued and paid-up share capital of the Company consists of 17,585,625 Equity Shares. Styrolution (Jersey) Limited, a company organized under the laws of Bailiwick of Jersey, United Kingdom ("Styrolution Jersey") currently holds 13,189,218 Equity Shares in the Company equivalent to 75% of the total share capital of the Company. The public shareholding of the Company comprises 4,396,407 Equity Shares which represents 25% of the total share capital of the Company. The shareholding pattern of the Company as on June 30, 2013, as filed with Stock Exchanges is attached as Annexure A to the application.

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.
दूरभाष: 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 26449000 / 40459000 फैक्स: 2644 9019 से 2644 9022 वेब: www.sebi.gov.in



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- 2.3 The Styrolution group of companies, headquartered in Germany, is a 50-50 joint venture between BASF SE ("BASF") and INEOS Industries Holdings Limited ("INEOS Holdings"). The Styrolution group is a global leader in the production of styrenics and has over 17 manufacturing sites in 10 countries across various continents. The Styrolution group employs more than 3,200 persons worldwide and has a broad customer base across industries such as automobiles, electrical/electronics, building and construction, household appliances, packaging, healthcare and diagnostics and toys and sports equipment. In India, the Styrolution group operates through the Company and another company named Styrolution India Private Limited.
- 2.4 Pursuant to the joint venture transaction between BASF and INEOS Holdings, the Styrolution group has undertaken an internal restructuring of its business units across various geographies where it operates. Styrolution SEA Pte Ltd, a company organized under the laws of Singapore ("Styrolution Singapore"), has been identified as the regional headquarters for the Asia-Pacific business operations of the Styrolution group and it is proposed that the shareholding of the Company currently held by Styrolution Jersey be transferred to Styrolution Singapore (the "Proposed Transaction").
- 2.5 Styrolution Singapore is a Styrolution group company and is engaged directly or indirectly (as a holding company) in the business of development, production, distribution, marketing, sale and other commercial uses of styrene monomers, polystyrene, acrylonitrile butadiene styrene, styrene-butadiene block copolymers and other styrene-based copolymers as well as blends and compounds made from copolymers.
- 2.6 Styrolution Jersey proposes to transfer its entire equity interest to Styrolution Singapore. The holding company of Styrolution Jersey and Styrolution Singapore is Styrolution Group GmbH Germany. Styrolution Group GmbH Germany holds each 100% of shares in both Styrolution Jersey and Styrolution Singapore.
- 2.7 The relevant provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as amended (the "Takeover Regulations") are reproduced below:
Regulation 10(1) of the Takeover Regulations provides: "**General exemptions:**
The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor -
(a) acquisition pursuant to inter se transfer of shares amongst qualifying persons, being, -
(i).....
(ii).....
(iii) a company, its subsidiaries, its holding company, other subsidiaries of such holding company, persons holding not less than fifty per cent of the equity shares of such company, other companies in which such persons hold not less than fifty per

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cent of the equity shares, and their subsidiaries subject to control over such qualifying persons being exclusively held by the same person...."

- 2.8 The Proposed Transaction comprises a transfer of Equity Shares of the Company by Styrolution Jersey to Styrolution Singapore. The Proposed Transaction should fall within the exemption under Regulation 10(1)(a)(iii) of the Takeover Regulations as both the transferor as well as the transferee are subsidiaries of the same holding company. However, Regulation 10(1)(a)(iii) of the Takeover Regulations does not define the term "company".
- 2.9. Regulation 2(2) of the Takeover Regulations provides that "All other expressions unless defined herein shall have the same meaning as have been assigned to them under the [SEBI] Act or the Securities Contracts (Regulation) Act, 1956, (42 of 1956) or the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereto, as the case may be." Section 3(1)(i) of the Companies Act defines a "company" to mean "a company formed and registered under this Act." This definition may not include bodies corporate incorporated outside India although under Section 4 of the Companies Act, a "holding company" includes a body corporate incorporated outside India.
- 2.10. Section 3(1)(i) of the Companies Act read together with Regulation 10(1)(a)(iii) of the Takeover Regulations may imply that the exemption provided under Regulation 10(1)(a)(iii) is applicable only to Indian companies registered under the Companies Act and not to bodies corporate, and consequently Styrolution Singapore may be required to make an open offer to acquire shares from the public if the Proposed Transaction is consummated.
- 2.11. Under the Takeover Regulations, the obligations of an acquirer relating, inter-alia, to the requirement to make an open offer, acquisition of control, compliance with disclosure obligations, offer price and open offer process do not vary according to whether the acquirer is a company incorporated in India or not. The Takeover Regulations do not differentiate between a company incorporated in India and a body corporate incorporated outside India for such purposes.
- 2.12. An Indian company would be exempted under Regulation 10(1)(a)(iii) of the Takeover Regulations in a transfer between two companies that are subsidiaries of a holding company and we believe that bodies corporate registered outside India should also be eligible on a similar basis to rely on the exemption under Regulation 10(1)(a)(iii). We do not believe that the Takeover Regulations were drafted with such a restrictive interpretation of Regulation 10(1)(a)(iii) in mind and were not drafted to limit the applicability of this exemption only to Indian companies.
- 2.13 Additionally, please note that on May 23, 2013, Styrolution Jersey completed an offer for sale under the stock exchange mechanism (the "OFS") in order to comply with the minimum public shareholding requirement under the Securities Contracts (Regulation) Rules, 1957 (the "SCRR") and Clause 40A of the equity listing agreement entered into by the Company with the BSE and the NSE. As a result of the OFS, Styrolution Jersey's shareholding in the Company reduced from 87.33% to 75%. If Styrolution Singapore is required to make an open offer, it will again cross the minimum public shareholding requirement under the SCRR and Clause 40A.

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- 2.14. As set forth above, pursuant to the Proposed Transaction, the Equity Shares of the Company will be transferred from Styrolution Jersey to Styrolution Singapore. The Company will continue to be a part of the Styrolution group. The Proposed Transaction will help in optimizing regional management and achieving synergies across the operation of the Styrolution group in the Asia-Pacific region.

Clarifications sought by you

3. In light of the above submissions, you have sought issuance of a "Interpretive Letter " In light of the above facts under the SEBI (Informal Guidance) Scheme, 2003 in respect of the matters as set forth below.

Whether Regulation 10(1)(a)(iii) of the Takeover Regulations is applicable to companies that have not been incorporated under the Companies Act and whether the acquirer, Styrolution Singapore, can rely on the exemption under Regulation 10(1)(a)(iii) of the Takeover Regulations while undertaking the Proposed Transaction and not be subject to an obligation to make an open offer to the shareholders of the Company under Regulations 3 and 4 of the Takeover Regulations?

Our Views

4. The submissions made in your letter have been considered and without necessarily agreeing with your analysis, our view on the issues are as under:-
- 4.1. It is noted that Styrolution Jersey, a company organized under the laws of Bailiwick of Jersey, United Kingdom currently holds 13,189,218 Equity Shares in the Company equivalent to 75% of the total share capital of the Company.
- 4.2. It is further noted that both Styrolution Jersey and Styrolution Singapore are wholly owned subsidiaries of the holding company Styrolution Group GmbH Germany. In the proposed transaction, Styrolution Jersey would be transferring its entire equity interest in the Company to Styrolution Singapore. Styrolution Singapore being the acquirer would be under an obligation to comply with Regulations 3 and 4 of the Takeover Regulations.
- 4.3 It is further noted that Regulations 10 (1) (a) (iii) exempts acquisitions pursuant to the inter se transfer of shares amongst qualifying persons being, a company, its subsidiaries, its holding company, other subsidiaries of such holding company, persons holding not less than fifty per cent of the equity shares of such company, other companies in which such persons hold not less than fifty per cent of the equity shares, and their subsidiaries subject to control over such qualifying persons being exclusively held by the same persons.
- 4.4. In view of the above, we understand that guidance has been sought as to whether such exemption is applicable to companies incorporated outside India and whether the company can rely on the exemption while undertaking the proposed transaction and not be subject to open offer obligations under the Regulations.
- 4.5 As regard the interpretation sought with respect to applicability of the Regulation 10(1)(a)(iii) of the Takeover Regulations to companies that have not been incorporated under the Companies Act, 1956, it is noted that the language of the Regulation 10(1) (a) (iii) is clear and unambiguous. On a plain reading of Regulation 10. (1) (a) (iii), it is clear that any acquisition involving a company, its subsidiaries,

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its holding company, other subsidiaries of such holding company, persons holding not less than fifty per cent of the equity shares of such company, other companies in which such persons hold not less than fifty per cent of the equity shares, and their subsidiaries, is exempted from obligation to make open offer under Regulations 3 and 4, subject to fulfillment of conditions stipulated therefor.

4.6. Thus, Regulations 10 (1) (a) (iii) deals with inter-se transfer amongst the qualifying persons enlisted thereunder. Regulation 2(2) of Takeover Regulations provides that "all other expressions unless defined herein shall have the same meaning as have been assigned to them under the Act or the Securities Contracts (Regulations) Act, 1956 or the Companies Act, 1956, or any statutory modification or re-enactment thereto, as the case may be". Further, Section 4 of the Companies Act, 1956 provides for the meaning of "holding company" and "subsidiary" wherein the expression "company" includes any body corporate for the purposes of explaining the said relationship. The definition of 'body corporate' under Section 2(7) includes a company incorporated outside India.

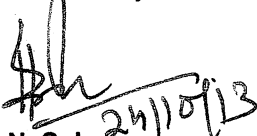
4.7. It follows from above that Styrolution ABS (India) Limited (target company) is a subsidiary of Styrolution (Jersey) Limited, a company incorporated outside India. Styrolution (Jersey) Limited is a wholly owned subsidiary of Styrolution Group GmbH Germany. Thus, Styrolution Group GmbH Germany is the ultimate holding company of Styrolution ABS (India) Limited. Styrolution Singapore is also a wholly owned subsidiary of Styrolution Group GmbH Germany. Thus, Styrolution Singapore and Styrolution Jersey are both wholly owned subsidiaries of the same holding company and the acquisition is a result of inter se transfer of entire equity interest from one of its subsidiary to the other. Hence, the said acquisition will fall within the general exemption provided under Regulation 10(1)(a)(iii). The compliances relating to periodic disclosures/ pricing and other intimation as required in case of such exemptions may be ensured as per the provisions of Takeover Regulations.

5. This position is based on the representation made to the Board in your letter under reference. Different facts or conditions might require a different result. This letter does not express a decision of the Board on the questions referred.

6. Vide your letter dated July 08, 2013, you have requested for confidentiality in respect of your interpretative letter. Acceding to your request, it has been decided that the interpretative letter issued to you in this matter will not be made public for a period of 90 days from the date of issuance of this letter.

7. You may note that the above views are expressed by this Division only with respect to the clarifications sought on the Takeover Regulations and do not affect the applicability of any other law or requirements.

Yours faithfully,


B. N. Sahoo 24/10/13