



भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

SEBI/HO/MIRSD/DoP/P/OW/2022/48910/1

September 19, 2022

VLS Finance Limited  
Regd. Office: 90,  
Okhla Industrial Estate,  
Phase-III,  
New Delhi - 110020

Kind Attention: Mr. H. Consul, Company Secretary, VLS Finance Limited

Dear Sir,

**Sub: Request for Informal Guidance in the form of a No-action letter under the Securities and Exchange Board of India (Informal Guidance) Scheme 2003 with respect to applicability of Rule 8(1)(f) and 8(3)(f) of the Securities Contract (Regulation) Rules, 1957**

**Ref.: Your letter dated June 13, 2022 and email dated August 18, 2022**

1. Vide your letter under reference, you have, inter-alia, represented as follows:

- a. VLS Finance Limited (hereinafter referred to as the "VFL") is a Trading Member of BSE Ltd. having registration no. INZ000302836 and is presently engaged in Pro business with no client enrolment.
- b. VFL does not have outside borrowings and primarily invests and trades in securities. In order to deploy the surplus funds, VFL wishes to exploit other opportunities to optimize its returns, de-risk its investment portfolio and with these in view, intends to exploit opportunities in the areas of NBFC, Real Estate, etc. without resorting to any outside borrowing. In order to achieve the aforesaid objectives, VFL intends to do the following:
  - i. Invest in Commercial Real Estate to earn rental income
  - ii. Invest in subsidiary companies by way of loan and/or capital contribution for investing on real estate
  - iii. Acquire equities of companies owning real estate
  - iv. Investing in entities not engaged in securities business etc.
- c. Reference has been made to BSE circular no. 20220107-45 dated January 07, 2022 and identical circular of NSE, Department of Compliance, circular ref. no. 02/2022 dated January 07, 2022, which provide for the clarification to the Rule 8(1)(f) and 8(3)(f) of Securities Contract (Regulation) Rules, 1957.

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.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

- d. As per clarifications to the said provisions of the Securities Contract (Regulation) Rules, 1957 ("SCRR"), the members of a Stock Exchange, except those provided under Rule 8(8) of SCRR, shall not engage either as principal or employee, in any business, other than that of securities or commodity derivatives, except as a broker or agent, not involving any personal financial liability.
- e. Both the circulars have given an illustrative list of activities that are construed as non-compliance to Rule 8(1)(f) and 8(3)(f) of SCRR. VFL has drawn attention to the following clauses:
- i. Clause 9  
*"Entering into any arrangement for extending loans or giving deposits/advances to any entity, including group companies such as subsidiaries & associates etc. not in connection with or incidental to or consequential upon the securities/commodity derivatives business."*
- ii. Clause 10  
*"Investments made in group companies such as subsidiaries & associates etc. not in connection with or incidental to or consequential upon the securities / commodity derivatives business. (Ex: Investment in companies engaged in other businesses such as NBFC, Real estate, etc.)"*
- f. VFL has referred to Adjudication Order no. EAD-12/AO/SM/48/2017-18 dated 31.10.2017 of the Adjudicating Officer, SEBI in the matter of Geojit BNP Paribas Financial Services Limited (PAN AABCG1935E). The alleged violation of Rule 8(3)(f) of SCRR was the issue for consideration. In the Order, it was distinguished that advancing of loans to its subsidiary out of own funds cannot be construed as separate business activity of a broker. It is further said in the Order that the debts or advances given to the associate persons by the broker are allowed but are excluded only for the purpose of computing the net worth. It is further held in the order "Hence there is no bar on the broker to advance loans to associate persons. However, it has to be ensured that the funds that are advanced as loans are the brokers' own fund and that the clients' fund is not affected by such transactions. In the said order, the underlying rationale of rule 8(3)(f) of SCRR Regulations is examined and it is stated "The main purpose of Rule 8(3)(f) of SCRR was to prohibit the brokers to invest the clients' money in other businesses." In the order, the noticee was absolved of charges of violation of aforesaid rules for the activity of lending to subsidiary which was an NBFC.
- g. VFL has also submitted that there appears to be a clear differentiation between criteria for Individuals and Corporate Members of Stock Exchange. Corporate

②



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

Members are covered under Rule 8(4A) of SCRR, whereas Individuals are intended to be covered under Regulation 8(1) and 8(3) of said Regulations. VFL has mentioned that the said clauses viz. Rule 8(1)(f) and Rule 8(3)(f) of SCRR, seems to be not applicable to Corporate Members because no reference of their applicability even mutatis mutandis is indicated in clause (4A) of regulations.

2. Based on the above, you have sought informal guidance in the form of 'no action letter', having regard to the following:

- the Order of the Adjudicating Officer in the matter of Geojit BNP Paribas Financial Services Limited (PAN AABCG1935E);
- non-applicability of Rule 8(1)(f) and 8(3)(f) in case of Corporate members who are covered under Rule 8(4A) of SCRR, 1957;
- the fact that VFL is engaged only in Pro business with no client enrolment
- that in case VFL invests its own funds, in the activities as listed above in point no. 1b, after meeting all Stock Exchange Membership requirements including Net Worth and Margins etc.

3. We have considered the submissions made by you and without necessarily agreeing with your analysis, our view on the said issues are as under:

- Rule 8(1)(f) of the SCRR, 1957, which reads as under:

*"The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that :*

*(1) No person shall be eligible to be elected as a member if—*

*(f) he is engaged as principal or employee in any business other than that of securities [or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :*

*Provided that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in clauses (a) to (n) of sub-rule (8)."*

- Rule 8(3)(f) of the SCRR, 1957, which imposes certain restrictions on activities of members of stock exchanges, reads as under:

@



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

*“(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—*

*(f) he engages either as principal or employee in any business other than that of securities or commodity derivatives except as a broker or agent not involving any personal financial liability.....”*

In your letter under reference, Rule 8(1)(f) and Rule 8(3)(f) of SCRR has been interpreted not to be applicable to Corporate Members because no reference of their applicability is indicated in Rule 8(4A) of the SCRR. In this regard, you may note that while sub-rule (4A) of rule 8 of the SCRR deals with eligibility of a company to become member of a stock exchange, there is no exclusion of the applicability of the requirements mentioned in Rule 8(1)(f) and Rule 8(3)(f) of the SCRR for companies. The requirements mentioned in Rule 8(1)(f) and Rule 8(3)(f) of the SCRR are applicable to all persons and in terms of section 3(42) of the General Clauses Act, 1987, “person” shall include any company or association or body of individuals, whether incorporated or not. Therefore, except for corporations or bodies corporate or companies or institutions referred to in clauses (a) to (n) of sub-rule 8 of rule 8 of the SCRR, Rule 8(1)(f) and 8(3)(f) of SCRR do not provide any exemption.

- c. You may note that vide circular dated May 7, 1997, SEBI has specified that borrowing and lending of funds by a trading member in connection with or incidental to or consequential upon the securities business, would not be a disqualification under Rule 8(1)(f) and Rule 8(3)(f) of the SCRR.
- d. You may also note that in the circular dated January 7, 2022 issued by BSE Ltd., it has been clarified that issuing corporate guarantees towards credit facilities, entering into any arrangement for extending loans or giving deposits or advances to any entity, including group companies/ subsidiaries/ associates would be considered as non-compliance of Rule 8(1)(f) and Rule 8(3)(f) of the SCRR, if such arrangements or advancements are not in connection with or incidental to or consequential upon the securities / commodity derivatives. The said circular also gives a specific example indicating that investment in companies engaged in other business such as NBFC, Real Estate, etc. by a trading member, not in connection with or incidental to or consequential upon the securities / commodity derivatives, may be in violation of the SCRR.
- e. You may ensure strict compliance with the aforesaid circulars.

20



अनुवर्ती :  
Continuation :

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
*Securities and Exchange  
Board of India*

4. The above position is based on the information furnished/representation made in your letter. Different facts or conditions might lead to different interpretation. Further, this letter does not express decision of the Board on the matter referred.
5. You may also note that the above views are expressed only with respect to the guidance sought in your aforesaid letter with respect to the provisions of the Securities Contract (Regulations) Rules, 1957 as referred above and does not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.
6. Vide your letter under reference, you have requested for confidentiality in respect of your application. Accordingly, it has been decided that the no action letter issued to you in this matter will not be made public for a period of ninety (90) days from the date of issuance of this letter.

Yours faithfully,

Aradhana Verma