



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

General Manager
Corporation Finance Department
Policy and Development
Email: yogitag@sebi.gov.in

No.: SEBI/HO/CFD/PoD2/OW/P/2023/3466/1

January 27, 2023

To
ABM International Limited
10/60, Industrial Area Kirti Nagar,
New Delhi - 110015

Sir,

Kind attention: Mr. Amit Kumar (Company Secretary)

Sub: Your request for informal guidance by way of an interpretive letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in relation to "Public Shareholding" as mentioned under Regulation 35 (2) (d) under Part-A of Chapter VI (Special Provisions for small companies) of the SEBI (Delisting of Equity Shares) Regulations, 2021 ("Delisting Regulations").

1. This is with reference to your letter dated November 09, 2022 ("**Application**") seeking guidance by way of an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 ("**Scheme**")
2. The facts of the matter as submitted by you vide your application dated November 9, 2022 and your letter dated December 14, 2022 is summarized as under:
 - i. ABM International Limited (Hereinafter referred to as "ABM" or "Company"), is a Public Limited Company incorporated with Registrar of Companies, New Delhi vide its Certificate of Incorporation dated 21/06/1999 under the provision of Companies Act, 1956. At present, the registered office of the Company is situated in New Delhi. The shares of the Company are listed and traded at the National Stock Exchange of India Limited ("NSE");
 - ii. The paid up share capital and networth as on the latest available audited financial statement as on March 31, 2022 is Rs. 9,40,80,000/- and Rs. 20,64,02,732/- respectively;
 - iii. The number of equity shares of the company traded on each such recognized stock exchange during the twelve calendar months immediately preceding the date of board meeting held for consideration of the proposal referred to in sub-regulation (4) of regulation 10 of the Delisting Regulations is less than ten per cent of the total number of shares of the company;

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बान्द्रा-कुर्ला कॉम्प्लेक्स, बान्द्रा (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

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- iv. The company has not been suspended by any of the stock exchanges for any non-compliances in the preceding one year;
 - v. The total number of shares transferred to Investor Education and Protection Fund Account is comprised of 1,24,384 number of shares which is representing 1.32% of the total number of shares of the company.
3. In view of the above, you have requested SEBI to provide "Informal guidance by way of an "interpretive letter" on the following:
- a. The interpretation of regulation 35(2)(d) under Part A of Chapter VI of the Delisting Regulations, for the purpose of calculating the nature and type of 90% public shareholding.
 - b. Confirmation on whether the shares transferred to the Investor Education and Protection Fund's account in terms of section 124(6) of the Companies Act, 2013 and read with SEBI Circular no. SEBI/HO/MIRSD/RTAMB/CIR/P/2020/236 dated December 02, 2020 shall be excluded for the purpose of calculation of consent of 90% of total public shareholding in compliance with regulation 35(2)(d) under Part A Schedule VI of Delisting Regulations.
- You have also requested our attention to the provisions of regulation 21 under Chapter IV of the Delisting Regulations, which states that shares transferred to the Investor Education and Protection Fund's account shall be excluded while calculating 90% of shares tendered by public shareholders for successful completion of delisting offer.
4. In this regard, it may be noted that we have considered your submission in your letter under reference and without necessarily agreeing to your analysis, our views on the queries raised by you are provided in the paragraphs below.
5. Chapter VI Part A of the Delisting Regulations provides for 'special provision for small companies', which meet the criteria specified in Regulation 35 (1) of the Delisting Regulations. Regulation 35(2) specifies the conditions to be fulfilled, in addition to the requirements under regulation 10 and 11 for delisting of equity shares of eligible companies. The relevant extract of the is provision is reproduced as under:

Delisting of equity shares of small companies

35.(1) Equity shares of a company may be delisted from all the recognised stock exchanges where they are listed, without following the procedure in Chapter IV of these regulations, if, -

[.....]

(2) Delisting of equity shares may be made under sub-regulation (1) only if, in addition to fulfilment of the requirements of regulations 10 and 11 of these regulations, the following conditions are fulfilled: -

[.....]



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(d) the public shareholders, irrespective of their numbers, holding ninety percent or more of the public shareholding give their consent in writing to the proposal for delisting, and consent either to sell their equity shares at the price offered by the acquirer or to continue to hold the equity shares even if they are delisted;

6. Regulation 2(1) (t) of the Delisting Regulations defines the term 'public shareholding' to have the same meaning as assigned to it under rule 2(e) of the Securities Contracts (Regulation) Rules, 1957 (SCRR), which is reproduced as under:

2 (e) "public shareholding" means equity shares of the company held by public including shares underlying the depository receipts if the holder of such depository receipts has the right to issue voting instruction and such depository receipts are listed on an international exchange in accordance with the Depository Receipts Scheme, 2014: Provided that the equity shares of the company held by the trust set up for implementing employee benefit schemes under the regulations framed by the Securities and Exchange Board of India shall be excluded from public shareholding.

7. Thus, other than the promoter, the promoter group, subsidiaries and associates of the company, SCRR expressly excludes only equity shares held by a trust set up for implementing employee benefit schemes from calculating the public shareholding. In the absence of an express exclusion, it may be construed that the shares transferred to the Investor Education and Protection Fund's (IEPF) account in terms of section 124(6) of the Companies Act, 2013 would be included for the purpose of calculation of consent of 90% of the total public shareholding in compliance with regulation 35(2)(d) under Part A Chapter VI of the Delisting Regulations.
8. Further, regulation 21 of the Delisting Regulations governs offer made under Chapter III thereof which deals with the 'voluntary delisting' and the counter offer made through reverse book building under regulation 22, where certain categories of shareholdings are expressly excluded (example shares transferred to IEPF) while computing the delisting threshold specified therein. However, in the present matter which concerns small companies, Chapter VI provides for special provisions for small companies and regulation 35 under the said Chapter pertains to delisting of equity shares of small companies. Under regulation 35 the shares transferred to IEPF may be construed to be included for the purpose of calculation of consent of 90% of total public shareholding. Therefore, the exclusion of certain categories of shareholding from the ambit of 'public shareholding' provided under regulation 21 is not applicable or cannot be extended to the applicant company in the extant matter.



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9. The above position is based on the facts and circumstances described by you in your application. Further, this letter does not express a decision of the Board on the questions referred.
10. You may also note that the above position is expressed only with respect to the guidance sought in your letter under reference in respect of the Regulation as referred above and does not affect the applicability of any other law or requirement of any other SEBI Regulation, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.

Yours faithfully,


Yogita Jadhav