



भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

Chief General Manager
Corporation Finance Department
Division of Corporate Restructuring
Tel.: 2644 9200
Email: sundaresanv@sebi.gov.in

CFD/DCR/IG/SKM/OW/9400/2012
April 26, 2012

IDBI Trusteeship Services Limited
Asian Building,
Ground Floor,
17, R. Kamani Marg,
Ballard Estate,
Mumbai - 400 001

Dear Sirs,

Sub: Request for "Interpretive Letter" under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 (Scheme) on applicability of the provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (Takeover Regulations) to a Trustee.

1. This has reference to your letter dated 06/03/2012 requesting for Interpretative letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.
2. You have, *inter alia*, represented as follows-
 - a. IDBI Trusteeship Services Ltd. is a SEBI Registered Debenture Trustee and acts as Trustees for various Banks and Financial Institutions and holds Pledge of shares as Security for the loans sanctioned by various Banks & Financial Institutions.
 - b. As per proviso to regulation 29 of the Takeover Regulations, 2011, the requirement of disclosures for encumbered shares is not applicable to a Scheduled commercial bank or public financial institution as pledgee in connection with a pledge of shares for securing indebtedness in the ordinary course of business.
 - c. As per regulation 10(1)(b)(vii) and 10(1)(b)(viii) the acquisitions in the ordinary course of business by a Scheduled Commercial Bank, acting as an escrow agent, and invocation of pledge by Scheduled Commercial Banks or Public Financial Institutions as a Pledgee, respectively, are exempt from the obligation to make open offer under regulation 3 and regulation 4 of the Takeover Regulations, 2011.

VGS

1 of 3

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

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.
Tel.: 2644 9950 / 4045 9950 (IVRS), 26449000 / 40459000 Fax : 2644 9019 to 2644 9022 Web : www.sebi.gov.in



अनुवर्ती:
Continuation :

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**Securities and Exchange
Board of India**

- d. Proviso to regulation 2(q)(2)(xii) does not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer under Takeover Regulations, 2011.
- e. As per regulation 28(1)(3) the term " encumbrance shall include a pledge, lien or any such transaction, by whatever name called.
3. In view of the above, you have sought interpretive guidance from SEBI on the following :-
- a. Whether the requirement of disclosure of acquisition and disposal under Regulation 29 which is not applicable to a scheduled commercial bank or public financial institution as pledgee in connection with a pledge of shares for securing indebtedness in the ordinary course of business is also not applicable to IDBI Trusteeship Services Limited if it, in its capacity as Trustee or agent holding the shares as a Pledge, lien or encumbrance in any form by whatever name called for the benefit of scheduled commercial bank or public financial institution as pledgee for securing indebtedness in the ordinary course of business.
- b. Whether regulation 10(1)(b)(vii) and regulation 10(1)(b)(viii) which exempt the acquisition in the ordinary course of business by a Scheduled Commercial Bank, acting as an escrow agent, and invocation of pledge by Scheduled Commercial Banks or Public Financial Institutions as a Pledgee, respectively, from the obligation of making an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor also exempt IDBI Trusteeship Services Limited from open offer obligations if it in its capacity as Trustee or agent invokes the pledge for the benefit of Scheduled Commercial Banks or Public Financial Institutions.
- c. In other words whether in the Provisos and exemptions as available to Scheduled Commercial Banks or Public Financial Institutions as referred to above is also available to the Trustees and agents of Scheduled Commercial Banks or Public Financial Institutions who are acting for and on behalf of and for the benefit of Scheduled Commercial Banks or Public Financial Institutions.
- d. Whether the term encumbrance includes "Negative Lien, Undertaking for Non-disposal of Shareholdings, Shares given on Power of Attorney".

V/S



अनुवर्ती:
Continuation :

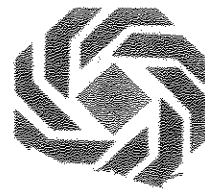
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और विनियम बोर्ड
**Securities and Exchange
Board of India**

4. We have considered the submission made by you in your letters under reference and without necessarily agreeing with your analysis, our views on the issues are as under.
- a. With regard to the issues at paragraph 3(a) to (c), as submitted by you, IDBI Trusteeship Services Limited is a Debenture Trustee and there is no express provision in the Takeover Regulations providing exemption to 'Debenture Trustees' acting as custodian/agent for the pledged shares on behalf of the lenders. Therefore, in the absence of such provisions, you are required to be governed by the relevant provisions of the Takeover Regulations, 2011.
- b. With regard to the issue at paragraph 3(d), the query is general in nature and does not involve any issue requiring interpretation/guidance of any provision of the Takeover Regulations under the Scheme. However, you may be guided by Question No.70 and 72 of Frequently Asked Questions on SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, available on the SEBI website under the link http://www.sebi.gov.in/cms/sebi_data/attachdocs/1323687748395.pdf.
5. The above position is based on the information furnished in your letter under reference. Different facts or conditions might lead to a different result. Further, this letter does not express a decision of the Board on the questions referred.
6. You may also note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 2011 and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,

V S Sundaresan

IDBI Trusteeship Services Ltd.



No. 8475 /ITSL/OPR/2012

March 6, 2012

The Chief General Manager,
Corporate Finance Department
Securities and Exchange Board of India
SEBI Bhavan, Plot No. C4 - A, 'G' Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

Ad. Office :

Asian Building, Ground Floor,
17, R. Kamani Marg, Ballard Estate,
Mumbai - 400 001.

RECEIVED
SEBI
9094

Date: 07 MAR 2012



SEBI/HO/IIIP/20120307/1810280565

Dear Sir,

Re: IDBI Trusteeship Services Ltd. (ITSL) - SEBI Registration No. IND 000000460 -
Request for informal Guidance by way of Interpretative letter under the provisions of
the SEBI (Informal Guidance) Scheme, 2003 in relation to disclosure of acquisition
and disposal under Regulation 29 and General exemptions under Regulation
10(1)(b)(vii) and (viii) and Proviso to Regulation 2 (q) (2) (xii) of the SEBI (Substantial
Acquisition of Shares and Takeovers) Regulations, 2011.

1. Background.

- 1.1 IDBI Trusteeship Services Ltd. is a SEBI Registered Debenture Trustee having SEBI Registration No. IND 000000460. We act as Trustees for various Banks and Financial Institutions and hold Pledge of shares as Security for the loans sanctioned by various Banks & Financial Institutions.
- 1.2 Vide Proviso, to the Regulation 29 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the requirement as stated in the Regulations is not applicable to a Scheduled commercial bank or public financial institution as pledge in connection with a pledge of shares for securing indebtedness in the ordinary course of business.
- 1.3 Vide Regulation 10(1)(b) (vii) and (viii) the acquisition in the ordinary course of business by a Scheduled Commercial Bank, acting as an escrow agent, and invocation of pledge by Scheduled Commercial Banks or Public Financial Institutions as a Pledgee, respectively, is exempt from the obligation to make an open offer under Regulation 3 and Regulation 4 subject to fulfillment of the conditions stipulated therefor.

- 1.4 Proviso, sub-clause 2(q) (2) (xii) does not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer under these regulations.
- 1.5 Vide Regulation 28(1)(3) the term " encumbrance shall include a pledge, lien or any such transaction, by whatever name called.

2. Guidance Sought.

We, IDBI Trusteeship Services Ltd., being SEBI Registered Debenture Trustee seek interpretive guidance on Regulation 29, 10, 2 and 28 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 on the following:

- (i) whether the requirement of disclosure of acquisition and disposal under Regulation 29 as not applicable to a Scheduled commercial bank or public financial institution as pledge in connection with a pledge of shares for securing indebtedness in the ordinary course of business is also not applicable to us if we in our capacity as Trustee or agent holding the shares as a Pledge, lien or encumbrance in any form by whatever name called for the benefit of Scheduled commercial bank or public financial institution as pledge for securing indebtedness in the ordinary course of business .
- (ii) whether Regulation 10(1)(b) (vii) and (viii) which exempts the acquisition in the ordinary course of business by a Scheduled Commercial Bank, acting as an escrow agent, and invocation of pledge by Scheduled Commercial Banks or Public Financial Institutions as a Pledgee, respectively, from the obligation of making an open offer under Regulation 3 and Regulation 4 subject to fulfillment of the conditions stipulated therefor also exempts us from if we in our capacity as Trustee or agent invokes the pledge for the benefit of Scheduled Commercial Banks or Public Financial Institutions.

In other words whether in the Provisos and exemptions as available to Scheduled Commercial Banks or Public Financial Institutions as referred to above is also available to the Trustees and agents of Scheduled Commercial Banks or Public Financial Institutions who are acting for and on behalf of and for the benefit of Scheduled Commercial Banks or Public Financial Institutions.

- (iii) Whether the term encumbrance includes " Negative Lien, Undertaking for Non-disposal of Shareholdings, Shares given on Power of Attorney".

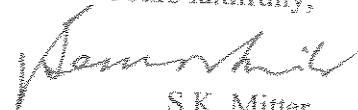
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3. In view of the foregoing, IDBI Trusteeship Services Ltd., being SEBI registered Debenture Trustee seeks interpretive letter as to whether the Trustees and Agents of the Scheduled Commercial Banks or Public Financial Institutions who are acting for on behalf of and for the benefit of Scheduled Commercial Banks or Public Financial Institutions are also covered under the exemptions available to Scheduled Commercial Banks or Public Financial Institutions under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and term encumbrance also includes " Negative Lien, Undertaking for Non-disposal of Shareholdings, Shares given on Power of Attorney".

4. We enclose herewith Pay Order No. 008965 dated the 6th March, 2012 for Rs. 25, 000/- drawn on IDBI Bank, Fort Branch, in your favour, towards the fees specified under the scheme.

Thanking you,

Yours faithfully,



S.K. Mitter
Managing Director & CEO

Encl: Pay Order No. 008965 dated 06/03/12 from IDBI Bank.