

IPFII SINGAPORE 4 PTE. LTD.
(Company Registration No.: 201412288G)

Registered Office Address: 61 Robinson Road, #11-01 Robinson Centre, Singapore 068893

November 21, 2019

To,

Securities and Exchange Board of India

Investment Management Department

Division of Foreign Portfolio Investors and Custodians (FPI&C)

SEBI Bhawan, Plot no. – C4-A, 'G Block'

Bandra Kurla Complex

Bandra (East), Mumbai – 400 051

Kind Attn: ~~Mr. Achal~~ Singh, General Manager

Dear Sir,

Subject : Request for interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 regarding clarification on whether a Foreign Portfolio Investor can invest in unlisted equity shares of an Indian company.

This is with reference to the captioned subject.

In this regard, we would like to bring the following facts and circumstances for your consideration.

Facts

1. IPFII Singapore 4 Pte. Ltd. (**Applicant**) is registered with the Securities and Exchange Board of India (**SEBI**) as a category II Foreign Portfolio Investor (**FPI**) under the SEBI (Foreign Portfolio Investors) Regulations, 2019 (**FPI Regulations**).
2. The Applicant has invested in non-convertible debentures (**NCDs**) issued by an Indian company viz. Metropolitan Lifespace Real Estate Developers Private Limited (**Company**).
3. The equity shares of the Company are not listed on any stock exchange in India nor is there any proposal to list the equity shares.
4. 100% of the equity share capital of the Company is held by 2 foreign companies (i.e. 33,259,999 equity shares representing 99.99% of the equity share capital is held by one shareholder and 1 equity share representing 0.01% of the equity share capital is held by the second shareholder) under the foreign direct investment route. Both the shareholders are not registered in India as FPIs.
5. It is now proposed that the shareholder who holds 0.01% of the Company's shares (representing 1 share), will transfer its entire holding to the Applicant.
6. Post the transfer, the Applicant will hold NCDs as well as 0.01% equity shares of the Company.

Applicable Legal Framework

7. The relevant provisions of Regulation 20 of the FPI Regulations are extracted below.
"...(1) A foreign portfolio investor shall invest only in the following securities, namely-
(a) Shares ... issued by a body corporate; listed or to be listed on a recognized stock exchange in India; ...



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(2) *Where a foreign portfolio investor, prior to commencement of these regulations, holds equity shares in a company whose shares are not listed on any recognised stock exchange, and continues to hold such shares after the initial public offering and listing thereof, such shares shall be subject to lock-in for the same period, if any, as is applicable to shares held by a foreign direct investor placed in similar position, under the policy of the Government of India relating to foreign direct investment for the time being in force. ...*

(4) *In respect of investments in the secondary market, the following additional conditions shall apply – ...*

(c) *The transaction involving dealing in securities by a foreign portfolio investor shall be only through stock brokers registered with the Board;*

(d) *Nothing contained in clause (c) of this sub-regulation shall apply to –*

...

(x) *transactions to receive, hold and sell unlisted securities as referred at regulation 20(2) and transactions in unlisted securities received through involuntary corporate actions including a scheme of a merger or demerger approved in accordance with the provisions of the Companies Act, 2013 as well as the applicable guidelines issued by the Board or pursuant to implementation of any resolution plan approved under the Insolvency and Bankruptcy Code, 2016 or in accordance with the guidelines issued by the Government of India or the Reserve Bank of India or any other regulator for a scheme of debt resolution:*

Provided that such unlisted holdings of the foreign portfolio investor shall be treated as Foreign Direct Investment;....

(8) *An entity, registered as a foreign portfolio investor shall be permitted to invest in Indian securities as a person resident outside India in accordance with provisions of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999...." (emphasis supplied)*

Request for Interpretative Letter

8. While Regulation 20(1)(a) of the FPI Regulations, specifies that a FPI can only invest in shares of a body corporate, listed or to be listed, Regulation 20(8) permits a FPI to invest in Indian securities as a person resident outside India in accordance with provisions of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 (**FEMA 20R**).
9. FEMA 20R permits a person resident outside India to invest in unlisted shares of an Indian company under the Foreign Direct Investment Route and consequently it is understood that a FPI is permitted to invest in unlisted equity shares of an Indian company.
10. In this regard we would like to seek your guidance in form of an interpretive letter in accordance with SEBI (Informal Guidance) Scheme, 2003 on whether in terms of the FPI Regulations, the Applicant can purchase 1 unlisted equity share (representing 0.01% of the equity share capital) of the Company.
11. Related fee of INR 25,000/- for the same is submitted along with this letter.



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We would be pleased to furnish any additional information and documents that may be required by SEBI in this regard. We would appreciate your early response in the matter.

Thanking You

For IPF II Singapore 4 Pte. Ltd



Director

