



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

Deputy General Manager
Alternative Investment Funds and
Foreign Portfolio Investors Department

SEBI/HO/AFD/ P/OW/2023/3703/1
January 30, 2023

Mr. Pourush Kelawala
Kotak Mahindra Bank Ltd.
27 BKC, Bandra Kurla Complex
3rd floor, Mumbai, 400051

Sir,

Sub: Request for interpretative letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in relation to the provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019.

1. This has reference to your letter dated November 02, 2022 requesting an interpretative letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 ('Scheme'), and further communication in this regard.

2. In your letter under reference you have, *inter alia*, represented as under:

2.1.Regulation 22 (3) of SEBI (Foreign Portfolio Investors) regulations, 2019 ('FPI Regulations') establishes that FPIs, directly or indirectly,

1.1.1. controlled by a common person; or

1.1.2. have common ownership of 50% or more

would form part of a single investor group and the investment limits of all such entities shall be clubbed at the investment limit as applicable to a single foreign portfolio investor.

2.2.Designated Depository Participants ("DDPs") and custodians are responsible for ascertaining the investor group and reporting investments made by the investors group. Regulation 31(2) of the FPI regulations requires DDPs to ascertain at the time of granting registration whether the applicant forms part of any investor group.

2.3.Further, Regulation 25(2)(d) of FPI regulation stipulates the obligation of the custodian to report the holdings of foreign portfolio investors who form part of investor group to the depositories and the depositories shall club the

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दूरभाष : 2644 9950 / 4045 9950 (आई.बी.आर.एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



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investment limits to ensure that combined holdings of all these foreign portfolio investors remains below ten percent of the total paid up equity capital on a fully diluted basis of a investee company at any time.

2.4. The Operational Guidelines for foreign FPIs, DDPs and eligible foreign investors (EFIs) (now rescinded and incorporated in the Master Circular for FPIs, DDPs and EFIs issued vide circular dated Dec 19, 2022) under paragraph 1 of part C specify the detailed mechanism of how investor groups should be monitored.

3. In light of the above submissions, you have sought informal guidance regarding certain operational questions that have emerged in the clubbing of the FPIs under the investor groups where the financial interest is owned by a person/ group of persons, and where control is held by another person/ group of persons.
4. The details of the control and ownership of the FPIs in question for which the clarification has been sought are as follows:

Sr. No	FPI Name	FPI Registration no.
1	Infinity Investment Management	INMUFP048119
2	Infinity Holdings Sidecar I	INMUFP040322
3	Infinity Holdings	INMUFP024920
4	Novo Holdings A/S	INDNFP073221
5	Kapitalforeningen Investin Pro, Arohi Aktier Asien	INDNFP085422
6	Kapitalforeningen Investin Pro, Emerging Local Currency Debt	INDNFP334516
7	Kapitalforeningen Investin Pro, Velliv Emerging Markets Equity Index	INDNFP005922
8	Kapitalforeningen Investin Pro, Ppim Global Equities	INDNFP046319
9	Kapitalforeningen Investin Pro, Dalton Aktier Asien Ex Japan	INDNFP069317

5. You have stated that the FPIs:

5.1. having common ownership are: (i) Infinity Holdings; (ii) Novo Holdings A/S; (iii) Kapitalforeningen Investin Pro, Arohi Aktier Asien; and (iv) Kapitalforeningen Investin Pro, Dalton Aktier Asien Ex Japan.



- 5.2. under the common control of Infinity Investment Management are: (i) Infinity Holdings Sidecar I; and (ii) Infinity Holdings
- 5.3. under the common control of Kapitalforeningen Investin Pro are: (i) Kapitalforeningen Investin Pro, Arohi Aktier Asien; (ii) Kapitalforeningen Investin Pro, Dalton Aktier Asien Ex Japan; (iii) Kapitalforeningen Investin Pro, Ppim Global Equities; (iv) Kapitalforeningen Investin Pro, Velliv Emerging Markets Equity Index; and (v) Kapitalforeningen Investin Pro, Emerging Local Currency Debt.
6. You have further stated that:
- 6.1. Infinity Holdings Sidecar I as an FPI has neither common ownership nor common control with any of these FPIs: (i) Novo Holdings A/S; (ii) Kapitalforeningen Investin Pro, Arohi Aktier Asien; (iii) Kapitalforeningen Investin Pro, Dalton Aktier Asien Ex Japan; (iv) Kapitalforeningen Investin Pro, Ppim Global Equities; (v) Kapitalforeningen Investin Pro, Velliv Emerging Markets Equity Index; and (vi) Kapitalforeningen Investin Pro, Emerging Local Currency Debt
- 6.2. Infinity Holdings as an FPI has neither common ownership nor common control with any of these FPIs: (i) Kapitalforeningen Investin Pro, Ppim Global Equities; (ii) Kapitalforeningen Investin Pro, Velliv Emerging Markets; (iii) Kapitalforeningen Investin Pro, Emerging Local Currency.
- 6.3. Novo Holdings A/S as an FPI has neither common ownership nor common control with any of these FPIs: (i) Kapitalforeningen Investin Pro, Ppim Global Equities; (ii) Kapitalforeningen Investin Pro, Velliv Emerging Markets Equity Index; (iii) Kapitalforeningen Investin Pro, Emerging Local Currency Debt; (iv) Infinity Investment Management; and (v) Infinity Holdings Sidecar I
7. Vide email dated January 25, 2023, you have further stated that Infinity Investment Management, Kapitalforeningen Investin Pro and Novo Holdings A/S do not have any common ownership of more than 50% or common control with each other.
8. You have stated that in light of the aforesaid background, you understand that:
- a. Infinity Investment Management, Infinity Holdings Sidecar I, and Infinity Holdings will be clubbed into one Investor Group on account of the **common control of Infinity Investment Management** ("Investor Group 1").



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- b. Infinity Holdings, Novo Holdings A/S, Kapitalforeningen Investin Pro Arohi Aktier Asien, and Kapitalforeningen Investin Pro Dalton Aktier Asien Ex Japan will be clubbed into one Investor Group on account of the **common ownership of more than 50% by Novo Holdings A/S** in the entities ("Investor Group 2").
- c. Kapitalforeningen Investin Pro Arohi Aktier Asien, Kapitalforeningen Investin Pro Dalton Aktier Asien Ex Japan, Kapitalforeningen Investin Pro ppim Global Equities, Kapitalforeningen Investin Pro Velliv Emerging Markets Equity Index, and Kapitalforeningen Investin Pro Emerging Local Currency Debt will be clubbed into one Investor Group on account of the **common control of Kapitalforeningen Investin Pro** over all of these entities ("Investor Group 3").
9. You have requested SEBI to confirm the above mentioned understanding and requested for guidance on the following queries:
- 9.1. *Query 1: Whether one FPI can be part of two investor groups in light of the scenario explained above*
- 9.2. *Query 2: Whether Infinity Holdings Sidecar I, Infinity Holdings and Novo Holdings A/S that have neither common ownership nor common control with the entities listed in respective sub – points of point 5 above as explained therein, need to be clubbed with such entities in one single Investor Group; leading to clubbing of entities without there being common ownership or common control within them.*
10. You have stated that you understand that
- 10.1. Infinity Holdings Sidecar I that does not have any ownership entitlement of Novo Holdings A/S on one hand and does not have any control of entities controlled by Kapitalforeningen Investin Pro on the other, will not be clubbed as an Investor Group with Novo Holdings A/S or the other entities under the control of Kapitalforeningen Investin Pro ;
- 10.2. Novo Holdings A/S that does not have any control of Infinity Investment Management on one hand and does not have any control of entities controlled by Kapitalforeningen Investin Pro on the other, will not be clubbed as an Investor Group with Infinity Holdings Sidecar I, Infinity Investment Management, Kapitalforeningen Investin Pro Ppim Global Equities, Kapitalforeningen Investin Pro Velliv Emerging Markets Equity Index, and Kapitalforeningen Investin Pro Emerging Local Currency debt; and



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10.3. Infinity Holdings that does not have any control of entities controlled by Kapitalforeningen Investin Pro, will not be clubbed as an Investor Group with Kapitalforeningen Investin Pro Ppim Global Equities, Kapitalforeningen Investin Pro Velliv Emerging Markets Equity Index and Kapitalforeningen Investin Pro Emerging Local Currency Debt

Applicable Provisions.

11. The following provisions of the SEBI FPI Regulations are applicable to the case under reference: -

Regulation 20 (7) of FPI regulation read as under

(7) The purchase of equity shares of each company by a single foreign portfolio investor including its investor group shall be below ten per cent of the total paid-up equity capital on a fully diluted basis of the company:

Provided that where the total investment under these regulations by a foreign portfolio investor including its investor group exceeds the threshold of below ten per cent of the total paid up equity capital in a listed or to be listed company on a fully diluted basis, the foreign portfolio investor shall divest the excess holding within five trading days from the date of settlement of the trades resulting in the breach:

Provided further that in case the foreign portfolio investor fails to divest the excess holding, the entire investment in the company by such foreign portfolio investor including its investor group shall be considered as investment under the Foreign Direct Investment, as per the procedure specified by the Board and the foreign portfolio investor and its investor group shall not make further portfolio investment in that company under these regulations,

Explanation I – 'investor group' shall have the meaning as provided under regulation 22 (3) of these regulations.

Explanation II – 'fully diluted basis' means the total number of shares that would be outstanding if all possible sources of conversion are exercised.

Regulation 22 (3) of FPI regulation read as under:

(3) Multiple entities registered as foreign portfolio investors and directly or indirectly, having common ownership of more than fifty per cent or common control, shall be treated as part of the same investor group and the investment limits of all such entities shall be clubbed at the investment limit as applicable to a single foreign portfolio investor:



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Provided that in case the limit is breached due to transaction(s) by foreign portfolio investors under these regulations, the excess holding shall be divested within five trading days from the date of settlement of the trades causing the breach.

Provided further that in case the foreign portfolio investor fails to divest the excess holding, the entire investment in the company by such foreign portfolio investors including its investor group shall be considered as investment under the Foreign Direct Investment as per the procedure specified by the Board and the foreign portfolio investor and its investor group shall not make further portfolio investment in that company under these regulations.

Our Comments

12. In this regard, it may be noted that we have considered the submissions made by you in your letter and email under reference and without necessarily agreeing with your analysis, given in the above mentioned letter, our views on the queries raised by you are as follows:

12.1. With regards to Query 1, it may be noted that there is no express bar in the FPI Regulations upon the FPIs to be part of multiple investor groups provided the investment limits specified in the FPI Regulations are not breached. Therefore, one FPI can be a part of two investor groups provided that all such investor groups adhere to the investment limit provided under Regulation 20 (7) of the FPI Regulations.

12.2. With regards to Query 2, it may be noted that in order to club together two or more FPIs, the requirement of FPIs having, either directly or indirectly, common ownership of more than 50%, or common control, as provided in Regulation 22(3) of the FPI Regulations has to be satisfied. Consequently, as stated in your letter, there will be three separate investor groups as mentioned below, and all three investor groups shall adhere to the investment limit provided under Regulation 20 (7) of the FPI Regulations:

- (a) On the basis of common control of Infinity Investment Management:
Investor group 1 ("IG1") (constituted by Infinity Investment Management, Infinity Holdings Sidecar I, and Infinity Holdings).
- (b) On the basis of common control of Kapitalforeningen Investin Pro:
Investor group 3 ("IG3") (constituted by Kapitalforeningen Investin Pro Arohi Aktier Asien, Kapitalforeningen Investin Pro Dalton Aktier Asien Ex Japan, Kapitalforeningen Investin Pro Ppim Global Equities,



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Kapitalforeningen Investin Pro Velliv Emerging Markets Equity Index,
and Kapitalforeningen Investin Pro Emerging Local Currency Debt)

(c) On the basis of common ownership of more than 50% by Novo Holdings A/S: **Investor Group 2 ("IG2")** (constituted by Infinity Holdings, Novo Holdings A/S, Kapitalforeningen Investin Pro Arohi Aktier Asien, and Kapitalforeningen Investin Pro Dalton Aktier Asien Ex Japan).

13. The above position is based on the information furnished in your letter and email 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.

14. 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 the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019., 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,


Sanjay Singh Bhati