



भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

Deputy General Manager
Corporation Finance Department
Division of Corporate Restructuring

SEBI/HO/CFD/DCR1/OW/P/2017/10255/1
May 05, 2017

Srikrishna Madhavan
Director
Xchanging Technology Services India Private Limited
Xchanging Tower
SJR iPark, EPIP Area,
Whitefield
Bangalore – 560066

Dear Sir,

Request for informal guidance by way of "Interpretive Letter" under the SEBI (Informal Guidance) Scheme, 2003 {Scheme} in relation to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 {SAST Regulations} in the matter of M/s. Xchanging Solutions Limited. {Target Company}

1. This has reference to your letter dated February 21, 2017 on the captioned subject.
2. In respect of the same, you have, inter alia, represented as under:
 - a) Computer Sciences Corporation ("CSC") is a listed public corporation, incorporated under the laws of the State of Nevada in the United States of America ("USA"). CSC through its subsidiaries (including through XTSIPL), indirectly, currently owns 78.77% (pursuant to the completion of the recent open offer made by the CSC group, under which the CSC group acquired 3.77% shareholding from the public shareholders of XSL, thereby taking its overall shareholding from 75% to 78.77%) of the total equity share capital of Xchanging Solutions Limited ("XSL"), a company listed on BSE Limited and National Stock Exchange of India Limited.
 - b) Xchanging Technology Services India Private Limited ("XTSIPL") is an Indian private limited company and promoter of XSL and holds shares representing 22.93% of XSL. XTSIPL is ultimately controlled by CSC and is therefore part of the CSC group.
 - c) Hewlett Packard Enterprise Company ("HPE") is a listed public corporation, incorporated under the laws of the State of Delaware in the USA. HPE conducts its business through its Enterprise Group, Software, Enterprise Services ("ES"), Financial Services and Corporate Investments segments. Everett SpinCo, Inc. ("Everett") and New Everett Merger Sub Inc. ("EverettSub") are corporations, incorporated under the laws of the State of Delaware in the USA and are currently direct, wholly-owned subsidiary of HPE. Immediately prior to the consummation of the Merger (as defined below), Everett will house the ES segment of HPE. EverettSub was incorporated for the purpose of merging with and into CSC pursuant to the Merger (as defined below).

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



अनुवर्ती :
Continuation : Pg. 2 of 4

भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

- d) **About the proposed Merger** - Immediately following the spin-off of Everett by HPE, whereby HPE (i) will transfer certain assets and liabilities related to the ES business to Everett and (ii) distribute all outstanding shares of Everett common stock on a pro rata basis to HPE shareholders ("**Distribution**"), CSC will merge with and into EverettSub, with CSC continuing as the surviving company ("**Merger**"). Following the Merger, CSC will continue as the surviving company and as a wholly owned subsidiary of Everett. The direct shareholders of XSL will not change as a result of the Merger.
- e) **Post-Merger shareholding of CSC shareholders.** Each share of CSC common stock outstanding will automatically be converted into a number of shares of Everett's common stock that will result in former shareholders of CSC owning approximately 49.9% of the post-merger issued and outstanding common stock of Everett, excluding any overlap in the pre-transaction shareholder bases. HPE shareholders that received Everett common stock in the Distribution will own approximately 50.1% of the post-merger issued and outstanding common stock of Everett, again excluding any overlap in the pre-transaction shareholder bases.
- f) The Merger involves the present CSC shareholders (a highly diversified public register) ceding 50.1% of their equity interest in the combined Everett shareholding to the public shareholders of legacy HPE (also a highly diversified public register). CSC becomes a wholly-owned subsidiary of the new publicly-traded Everett. .
- g) **Shareholder overlap.** Despite pre-Merger HPE shareholders ultimately holding 50.1% of Everett, the Merger Agreement was specifically negotiated in order that the actual holders of CSC common stock immediately prior to the Merger will also hold a majority of the common stock of Everett immediately following the Merger due to pre-existing overlap of shareholders that currently hold shares in both HPE and CSC. This is important to meet the "continuity of interest" test of the US Internal Revenue Service, in order to meet certain tax rules. As a result, the collective holdings of the shareholders of CSC immediately prior to the Merger will be a majority of the outstanding shares of Everett common stock immediately following the Merger because, in addition to receiving 49.9% of the post-Merger issued and outstanding shares of Everett in the Merger consideration, those CSC shareholders who also hold shares in HPE will have received additional shares of Everett common stock in the Distribution preceding the Merger.
- h) The Merger is a share-for-share merger. There is no cash being paid to any CSC shareholders (or HPE shareholders) in the Merger, except for cash that may be paid to HPE shareholders in lieu of issuing fractional shares (which does not affect CSC since CSC shareholders will get exactly 1 new Everett share for each existing CSC share).
- i) The mechanics of the Merger are encapsulated in an agreement and plan of merger entered into between HPE, CSC, Everett, EverettSub and certain other parties on 24 May 2016, as amended subsequently ("**Merger Agreement**").



अनुवर्ती :
Continuation : Pg. 3 of 4

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

- j) Pursuant to the Merger Agreement, the Merger may only be consummated after the affirmative vote of a majority of the outstanding shares of CSC common stock approves the plan of merger contemplated by the Merger Agreement, in accordance with applicable law. The CSC shareholders are expected to accord their approval to the plan of merger contemplated by the Merger Agreement (and therefore the Merger) at a special meeting of CSC shareholders in March 2017.
- k) **Management and board composition of Everett post the Merger.** The Merger Agreement provides that as of the effective time of the Merger the number of directors comprising the Everett board of directors will be ten, including (i) five current CSC board members (one of whom shall be CSC's current Chairman, President and Chief Executive Officer) and (ii) five individuals designated by HPE (one of whom is expected to be HPE's Chief Executive Officer). Such CSC and HPE designees will be approved pursuant to a joint selection committee process. In addition, the Merger Agreement provides that the members of management of Everett following the Merger will be determined by CSC's current Chief Executive Officer.
- l) **Merger process in the USA.** In addition, the consummation of the Merger is subject to other customary closing conditions for a transaction of this nature, including, among other things, the receipt of regulatory approvals required under applicable competition laws and the effectiveness of the registration statement filed with the United States Securities and Exchange Commission ("SEC") to register the shares of Everett common stock that will be issued to CSC shareholders in the Merger, but the Merger itself does not require the approval or order of any court or competent authority, other than the SEC review process of the registration statement and shareholder proxy disclosure statement sent to CSC shareholders. Once all closing conditions are satisfied, including the affirmative vote of shareholders representing a majority of CSC outstanding shares, the Merger will be effected by the filing of a certificate of merger with the Secretary of State of the State of Nevada. Once properly filed, the Merger will become effective at the time specified in the certificate of merger.
- m) **Statute in USA governing the Merger vs. Indian scenario.** The Merger will be effected pursuant to Chapter 92A of the Nevada Revised Statutes ("NRS"). Under the NRS, unlike in an Indian scenario (where High Courts/ Tribunals sanction a scheme of arrangement involving merger/ demerger), mergers/ demergers are not required to be approved by any court or competent authority (such as the Registrar of Companies in India, which is given an opportunity to present objections before the High Court/ Tribunal sanctions the scheme). Instead, under the applicable provisions of the NRS, and in the case of publicly-traded companies, after a satisfactory review of the shareholders proxy disclosure statement and a registration statement is declared effective by the Securities and Exchange Commission, a majority of the shares of CSC common stock are required to vote in favour of the agreement encapsulating the Merger. If the agreement is not approved with requisite majority, then the



Continuation: Pg 4 of 4

भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

- Merger may not be effected. Therefore, under the applicable provisions of the NRS, CSC's public shareholders are required to vote on the Merger before the Merger may be consummated (similar to the regime in India, except that the shareholders vote is conducted under instructions of the High Court/ Tribunal in India, rather than subject to a satisfactory review of the disclosure statement by the SEC).
3. In view of above, you have sought interpretive letter from SEBI on the following:
 - 3.1 Whether, as a result of the consummation of the Merger, an indirect open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Code") can be said to be triggered in respect of XSL?
 - 3.2 If the answer to the above is in the affirmative i.e. as a result of the Merger, an indirect open offer is triggered under the Takeover Code in respect of XSL, then, can an exemption be claimed under Regulation 10(1)(d)(iii) subject to fulfilment of conditions therein?
 4. We have considered the submissions made by you in your letter under reference. Without necessarily agreeing with your analysis, based on the facts submitted, our view is as under:
 - 4.1 An indirect open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations) will be triggered in respect of XSL as a result of the merger
 - 4.2 Further, the same shall not be exempted from the obligation to make an open offer under Regulation 10(1)(d)(iii) of SAST Regulations
 5. Further, your request for confidentiality for a period of 90 days has been acceded to.
 6. 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.
 7. 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 and 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,


Amit Tandon