



Deputy General Manager  
Compliance and Monitoring Division-1  
Corporation Finance Department

भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

SEBI/HO/CFD/CMD-1/P/OW/2021/25194/1  
September 22, 2021

**Emmessar Biotech and Nutrition Limited**  
29, Karmer Building, 4<sup>th</sup> floor,  
38, Cawasji Patel Street,  
Fort, Mumbai – 400001

**Kind Attention:** MSR Ayyangar, Managing Director

Sir,

**Sub: Request for Informal Guidance by way of interpretative letter under the provisions of SEBI (Informal Guidance) Scheme, 2003**

1. This has reference to your letter dated August 04, 2021 requesting an interpretative letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 ('Scheme').
2. In your letter under reference you have, *inter alia*, represented as under:
  - a. The equity shares of Emmessar Biotech and Nutrition Limited ('the Company') are listed on BSE Limited ('BSE').
  - b. The below mentioned shareholders belonging to the promoter group have expressed their desire for re-classification of their shareholding in the Company from promoter group to public category and they are not holding any control over the affairs and management of the Company:

Sr. No.	Name of the Persons classified under promoters and promoter Group category	No. of Equity shares held	% of Shareholding
1	Arvind Moolchand Shah	66,300	1.33
	Arvind Moolchand Shah – HUF	55,200	1.10
2	Manoj Moolchand Shah – HUF	9,800	0.20
	Manoj Moolchand Shah	6,600	0.13
3	Heena M Shah	2,68,000	5.37
4	Bhavik Arvind Shah	45,500	0.91
5	Aman Manoj Shah	16,384	0.33
6	Manar Leasing & Investments Pvt Ltd	5,28,000	10.27
7	Amu Investment & Finance Pvt Ltd	2,60,000	5.20

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.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



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- c. The board of directors of the Company has received Letters from a constituent of promoters and promoter Group as specified in the table above in the matter of Re-classification of their shareholding from Promoter category to Public Category.
  - d. The Company as requested by promoter group mentioned in the above table is required to make an application under Regulation 31A(2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('**SEBI LODR Regulations**') to BSE for the proposed re-classification of shareholding of the said shareholders classified under the category of promoter group to public category.
  - e. The Company submits and opines that the said requested re-classification of the shareholding is not pursuant to Regulation 31A(3)(b)(i) of SEBI LODR Regulations. Except the conditions under sub-regulation 31A(3)(b)(i) of SEBI LODR Regulations, all other conditions of Regulation 31A(3) of SEBI LODR Regulations are complied by the promoter group mentioned in the above table.
  - f. The Company also submits that the promoter group mentioned in the above table are not holding any control over the affairs and management of the Company.
3. On the basis of the above, you have sought informal guidance under the Scheme regarding reclassification of the status of the promoter group mentioned in the above table as prescribed under Regulation 31A (2) & (3) of SEBI LODR Regulations and whether the approval of the shareholders may be dispensed with and the Company may approach the Stock Exchanges directly for permission under Regulation 31A(2) of SEBI LODR Regulations.
4. In this regard, it may be noted that we have considered the submissions made by you in your letter 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:
- a. The following provisions of the SEBI LODR Regulations are applicable to the case under reference:

Regulation 31A(2) of SEBI LODR Regulations reads as under:

*"Re-classification of the status of any person as a promoter or public shall be permitted by the stock exchanges only upon receipt of an application from the listed entity along with all relevant documents subject to compliance with conditions specified in these regulations;*

*Provided that in case of entities listed on more than one stock exchange, the concerned stock exchanges shall jointly decide on the application."*



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Regulation 31A(3) of SEBI LODR Regulations reads as under:

*"Reclassification of status of a promoter to public shall be permitted by the stock exchanges only upon satisfaction of the following conditions:*

*(a) an application for reclassification has been made by the listed entity to the stock exchanges within thirty days from the date of approval by shareholders in general meeting after ensuring that the following procedural requirements have been fulfilled: ...*

*(iii) the request of the promoter(s) seeking reclassification has been approved in the general meeting by an ordinary resolution in which the promoter(s) seeking reclassification and the persons related to him/her/it have not voted to approve such reclassification request:*

*Provided that the provisions of this sub-clause shall not apply in cases:*

*a. where the promoter(s) seeking reclassification and persons related to the promoter(s) seeking reclassification, together, do not hold more than one percent of the total voting rights in the listed entity;*

*b. where reclassification is pursuant to a divorce"*

*(b) the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not:*

*(i) together, hold more than ten percent of the total voting rights in the listed entity;"*

*(ii) exercise control over the affairs of the listed entity directly or indirectly;*

*(iii) ....*

- b. It is clear from the above provisions that stock exchanges shall permit reclassification of status of a promoter to public only upon compliance with the procedural requirements laid down under regulations 31A (2) and 31A (3) (a) and upon satisfaction of all of the conditions laid down under sub-regulation (3) (b). Regulation 31A (3) (b) (i) of the SEBI LODR Regulations stipulates that the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not together, hold more than ten percent of the total voting rights in the listed entity. If the said condition is not met with, the ground that the promoters seeking reclassification do not exercise any control over the affairs of the company is of no relevance in respect of their eligibility for seeking reclassification.
- c. It is noted from your letter that the promoters seeking reclassification together hold 24.84% shareholding, making them ineligible under regulation 31A (3) (b) (i) of SEBI LODR Regulations. You have merely stated that the requested reclassification of the shareholding of the promoter group is not pursuant to



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Regulation 31A (3) (b) (i) of the Regulation 31A of SEBI LODR Regulations. As observed above, the said submission is misplaced, since the various conditions stipulated under regulation 31A (3) (b) are disjunctive and are mandatorily to be satisfied by the promoters seeking reclassification.

- d. Further, you have sought guidance of SEBI as whether the approval of shareholders may be dispensed with and the Company may approach the Stock Exchanges directly for permission under Regulation 31A (2) of SEBI LODR Regulations. In this regard it may be noted that Regulation 31A (3) (a) (iii) of SEBI LODR Regulations provides that request of the promoter(s) seeking reclassification is required to be approved in the general meeting by an ordinary resolution in which the promoter(s) seeking reclassification and the persons related to him/her/it have not voted to approve such reclassification request. However, as per the proviso of the said regulation, shareholders' approval may not be required in the following cases:

- i. where the promoter(s) seeking reclassification and persons related to the promoter(s) seeking reclassification, together, do not hold more than one percent of the total voting rights in the listed entity;
- ii. where reclassification is pursuant to a divorce

- e. Therefore, it is clear that shareholders' approval cannot be exempted unless either of the above circumstances is established.

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 the SEBI LODR Regulations 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,



Amy Durga Menon