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To All Registered Merchant Bankers / Stock Exchanges

Dear Sirs,

Sub: Interpretative circular under regulation 5 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations 1997 - Applicability of provisions of regulation 11 (2) thereof, as amended on October 30, 2008

1. SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "SAST Regulations") were amended by SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2008 on October 30, 2008, whereby *inter alia* second proviso to sub-regulation (2) of Regulation 11¹ was inserted.
2. Subject to the conditions as specified in this newly inserted proviso, an acquirer (together with persons acting in concert with him), holding fifty five per cent (55 %) or more but less than seventy five per cent (75 %) of the shares or voting rights in a target company, may acquire (either by himself or through or with persons acting in concert with him) additional shares or voting rights entitling him up to five per cent (5 %) voting rights in the target company without making a public announcement under the SAST Regulations.

¹. Sub-regulation (2) of regulation 11 reads as –

No acquirer, who together with persons acting in concert with him holds, fifty five per cent (55%) or more but less than seventy five per cent (75%) of the shares or voting rights in a target company, shall acquire either by himself or through persons acting in concert with him any additional shares entitling him to exercise voting rights or voting rights therein, unless he makes a public announcement to acquire shares in accordance with these Regulations:

Provided that

Provided further that such acquirer may, without making a public announcement under these Regulations, acquire, either by himself or through or with persons acting in concert with him, additional shares or voting right entitling him upto five per cent (5%) voting rights in the target company subject to the following:-

- (i) *the acquisition is made through open market purchase in normal segment on the stock exchange but not through bulk deal/block deal/negotiated deal/preferential allotment; or the increase in the shareholding or voting rights of the acquirer is pursuant to a buy back of shares by the target company;*
- (ii) *the post acquisition shareholding of the acquirer together with persons acting in concert with him shall not increase beyond seventy five per cent (75%).*

3. SEBI has been receiving representations from market participants / listed companies with respect to the interpretation of the proviso inserted by the aforesaid amendment. After examining these representations, it is hereby clarified that –
- a. The acquisition, within the limit of five per cent (5%) under the second proviso to sub-regulation (2) of regulation 11, may be made by an acquirer who, together with persons acting in concert with him, holds fifty five per cent (55 %) or more but less than seventy five per cent (75 %) of the shares or voting rights in the target company ;
 - b. The acquirer together with persons acting in concert with him, holding shares or voting rights as specified at (a) above, may acquire additional shares or voting rights upto a maximum of five per cent (5 %) voting rights in the target company in one or more tranches, without any restriction on the time-frame within which the same can be acquired;
 - c. The aforesaid acquisition of five per cent (5 %) shall be calculated by aggregating all purchases, without netting the sales.
 - d. Consequent to such acquisition, the percentage of shareholding / voting rights of the acquirer, together with persons acting in concert with him, in the target company, shall not increase beyond seventy five per cent (75 %). This limit is applicable irrespective of the level of minimum public shareholding required to be maintained by the target company in terms of clause 40A of the Listing Agreement.
4. This circular is issued under regulation 5 of the SAST Regulations, read with section 11 of the Securities and Exchange Board of India Act, 1992, for removal of difficulties in the interpretation of the second proviso to sub-regulation (2) of regulation 11 of the SAST Regulations.

Yours faithfully,

Neelam Bhardwaj