

Deputy General Manager
Corporation Finance Department
Policy and Development – 2
rajkd@sebi.gov.in

No.: SEBI/HO/CFD/PoD2/OW/P/2024/34828/1

November 8, 2024

To

CMS Info Systems Limited
T-151, 5th Floor, Tower no. 10, Railway Station Complex,
Sector – 11 CBD Belapur, Navi Mumbai,
Maharashtra – 400614.

Sir,

Kind attention: Mr. Debasish Dey, Company Secretary and Compliance Officer

Sub: Request for Informal guidance by way of an interpretive letter under the provisions of SEBI (Informal Guidance) Scheme, 2003 (“Scheme”) received from CMS Info Systems Limited (“Applicant” / “Company”)

1. This is with reference to your Informal Guidance application dated August 21, 2024 (“Application”) seeking guidance on Regulations 31 and 31A of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations” or “LODR”) read with Regulations 2(oo) and 2(pp) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations” or “ICDR”).
2. The following information is gathered from your Application and the clarification provided vide your email dated September 30, 2024:
 - a. Prior to listing, 100% shares of the Company were acquired by Sion Investments Pte. Limited (“Sion”) on August 27, 2015 from the then existing shareholders of the Company. To ensure compliance with the mandated minimum shareholder requirements under section 3(1)(a) of the Companies Act, 2013, 6 shareholders¹ held 1 share each of the Company (originally acquired and paid for by Sion) purely in the capacity as ‘Nominee Shareholders’ of Sion.
 - b. In compliance with the requirements of the Companies Act, 2013, the nominee shareholders had submitted Form MGT 4 and the beneficial owner i.e., Sion

¹ 6 nominee shareholders initially were Hemant K Chopra, Dinesh C Salian, Neeta Khandelwal, P P Manjunath Rao, Panchal Sanjaykumar B and Pankaj Khandelwal.

had submitted Form MGT 5 to the Company. The Company had filed the relevant Form MGT 6 with the ROC.

- c. In the Prospectus issued by the Company for its IPO, only Sion was identified as its Promoter and this fact of six shares being held through 6 individual nominees was clarified as a note at all places wherever total promoters shareholding was disclosed to ensure full disclosure of the entire shareholding beneficially owned by Sion. The Company got listed on BSE and NSE in December 2021.
- d. After listing, for the limited purpose of disclosing the entire 'shareholding' of the promoter i.e., Sion, the names of the 6 nominee shareholders were disclosed in the quarterly shareholding pattern of the company submitted with the Stock Exchanges as 'holder' of promoter shares with a note '*All 6 individuals disclosed in the promoter category are holding shares as nominees of Sion Investment Holdings Pte. Ltd., promoter of the Company.*'
- e. Subsequently, during the quarter ended September 30, 2022, all the shares held by the nominee shareholders were transferred back to Sion since the underlying purpose for holding shares by nominee shareholders i.e., to have minimum number of members, was no longer relevant pursuant to listing on the Stock Exchanges.
- f. The nominee shareholders were not identified or listed as promoters of the Company anywhere in the IPO document. The nominee shareholders did not have any control over the affairs of the Company. The Board of Directors were not accustomed to act on advice, directions or instructions of any of these 6 shareholders. The nominee shareholders were employees or immediate relatives of employees of the Company and there was no written agreement between the promoter and the nominee shareholders with respect to the nominee shares.
- g. The shares were held in the demat account of the nominee shareholders. However, the dividend declared and accrued in respect of the 6 shares were transferred to Sion based on the representation received and no-objection from the nominee shareholders.

3. With the above background, you have sought guidance on the following queries:

- a. Do the nominee shareholders holding 1 share each as the nominee of the promoter of the Company i.e., Sion (only for compliance with the law and not having paid for the same or having any beneficial interest), forms part of the Promoter / Promoter group of the Company as defined under regulation 2(oo) and 2(pp) of the ICDR Regulations (and continues to be so even after the transfer of such shares back to the beneficial owner)?

- b. If the above answer is affirmative, does the Company need to disclose the name of such nominee shareholders (including any additional shares directly acquired by them in their personal capacity), post re-transfer of nominee shares by such nominees to Sion, as part of the promoter / promoter group of the Company in the shareholding pattern submitted by the Company, pursuant to regulation 31(4) of LODR Regulations?
- c. Do the nominee shareholders need to apply for re-classification as non-promoters under regulation 31A of LODR Regulations, before their name (including their personal holdings) can be removed from the promoter category. If required to be disclosed by the Company under regulation 31(4) of the LODR Regulations?

4. The relevant provisions of regulation 2(1)(oo) and 2(1)(pp) of the ICDR Regulations and regulations 31 and 31A of the LODR Regulations are reproduced below for reference:

ICDR Regulations

“2(1)(oo) “promoter” shall include a person:

- i) *who has been named as such in a draft offer document or offer document or is identified by the issuer in the annual return referred to in section 92 of the Companies Act, 2013; or*
- ii) *who has control over the affairs of the issuer, directly or indirectly whether as a shareholder, director or otherwise; or*
- iii) *in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act:*
Provided that nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity:
....

2(1)(pp) “promoter group” includes:

- i) *the promoter;*
- ii) *an immediate relative of the promoter (i.e. any spouse of that person, or any parent, brother, sister or child of the person or of the spouse);*
- iii) *in case promoter is a body corporate:*
 - A) *a subsidiary or holding company of such body corporate;*
 - B) *any body corporate in which the promoter holds twenty per cent. or more of the equity share capital; and/or any body corporate which holds twenty per cent. or more of the equity share capital of the promoter;*
....

LODR Regulations

“31(4) All entities falling under promoter and promoter group shall be disclosed separately in the shareholding pattern appearing on the website of all stock exchanges having nationwide trading terminals where the specified securities of the entity are listed, in accordance with the formats specified by the Board.

...

31A(2) 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;

....

5. We have considered the submissions made by you in your Application and the clarification email. Without necessarily agreeing with your analysis, our views on the queries raised by you are as under:

Query a. Do the nominee shareholders holding 1 share each as the nominee of the promoter of the Company i.e., Sion (only for compliance with the law and not having paid for the same or having any beneficial interest), forms part of the Promoter / Promoter group of the Company as defined under regulation 2(oo) and 2(pp) of the ICDR Regulations (and continues to be so even after the transfer of such shares back to the beneficial owner)?

Response: The definition of the terms 'promoter' and 'promoter group' of a listed entity are provided in regulation 2(1)(oo) and 2(1)(pp) of the ICDR Regulations. If the nominee shareholders of Sion satisfy the conditions specified in the said regulations, such nominees would form part of 'promoter' or 'promoter group' of the listed entity.

Query b. If the above answer is affirmative, does the Company need to disclose the name of such nominee shareholders (including any additional shares directly acquired by them in their personal capacity), post re-transfer of nominee shares by such nominees to Sion, as part of the promoter / promoter group of the Company in the shareholding pattern submitted by the Company, pursuant to regulation 31(4) of LODR Regulations?

Response: With respect to disclosures in the shareholding pattern, the following are to be noted:

- i. Regulation 31 of the LODR Regulations requires a listed entity to, *inter alia*, submit to the stock exchange(s), a statement showing holding of securities and the shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within specified timelines. Regulation 31(4) provides for disclosure of the shareholding of the entities falling under the 'promoter and promoter group' of a listed entity.
- ii. SEBI Master Circular dated July 11, 2023 on compliance with the provisions of the LODR Regulations by listed entities ("Master Circular") (earlier dealt through various circulars issued on

shareholding pattern starting from November 30, 2015 to the last circular dated June 30, 2022), inter alia, deals with the disclosure of shareholding pattern as mandated under Regulation 31 of LODR Regulations.

- iii. Paragraph 2 of Section II-A of the Master circular deals with the manner of representation of holding of specified securities. In terms of the same, the holding of specified securities shall be divided into three categories, i.e. Promoter and Promoter Group, Public and Non-promoter Non-public.*
- iv. The said paragraph also provides for the terms “promoter and promoter group” to have the same meanings as provided under the ICDR Regulations and for the holding of “promoter and promoter group” to be segregated and disclosed in the format provided at Table II of Annexure 2 of the said Master Circular.*
- v. Further, the shareholding of promoter and promoter group, public shareholders and non-public non-promoter shareholders is to be consolidated on the basis of PAN and folio number to avoid multiple disclosures of shareholding of the same person.*
- vi. Thus, if the nominee shareholders of Sion fall within the definition of ‘promoter’ or ‘promoter group’, then the total number of such nominee shareholders along with the number of shares held by them have to be disclosed as per Table II of Annexure 2 of the Master Circular till such time the said nominee shareholders are reclassified after following the process laid down in Regulation 31A of the LODR Regulations.*
- vii. If the nominee shareholders of Sion do not fall within the definition of ‘promoter’ or ‘promoter group’, then the fact that nominees are holding shares on behalf of Sion may be mentioned in the ‘Notes’ functionality made available by Stock Exchanges in the XBRL facility for filing shareholding pattern, till such time shares are held by such nominee shareholders.*
- viii. It may be noted that an individual or an entity can belong to only one category in the shareholding pattern i.e. in the promoter and promoter group category OR public category OR non-promoter non-public category.*
- ix. Therefore, shares if any held by such nominee shareholders of Sion in their personal capacity, will have to be shown either under the ‘promoter and promoter group’ category (if they satisfy the conditions specified in the definitions of the said terms under ICDR Regulations) or under the ‘public’ category.*

Query c. Do the nominee shareholders need to apply for re-classification as non-promoters under regulation 31A of LODR Regulations, before their name (including their personal holdings) can be removed from the promoter category. If required to be disclosed by the Company under regulation 31(4) of the LODR Regulations?

Response: Reclassification of a person falling under the promoter/promoter group shall be in compliance with the procedure laid down in regulation 31A of the LODR Regulations.

6. The above position is based on the facts and circumstances described by you in your Application. Different facts or conditions might lead to a different result. Further, this letter expresses the Department's view and 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 guidance sought in your letter under reference in respect of the regulations referred above and the same does not affect the applicability of any other law or requirement of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.

Yours faithfully,

-sd/-

Raj Kumar Das