

Deputy General Manager
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Policy and Development - 1
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ARIHANT CAPITAL MARKETS LTD.
MERCHANT BANKING DIVISION
#1011 Solitaire Corporate Park
Bldg no -10, 1st Floor,
Guru Hargovindji Road, Chakala,
Andheri (East), Mumbai - 400093

Sir,

Kind attention: Mr. Satish Kumar Padmanabhan (Sr. Manager)

Sub: Request for Informal Guidance by way of an Interpretive Letter with respect to Regulation 10(1)(d)(iii) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Regulations").

1. This is with reference to your letter dated October 15, 2024 ("application") seeking guidance by way of an interpretive letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 ("Informal Guidance Scheme") and the subsequent clarification provided vide email dated November 21, 2024.
2. In your application under reference you have, *inter alia*, represented as under:
 - 2.1. Ipcr Laboratories Limited ("the Target Company") is a listed public company incorporated on 19th October, 1949 under the Indian Companies Act, 2013. The Equity Shares of the Target Company are listed on BSE Limited ("BSE") and National Stock Exchange of India Limited ("NSE").
 - 2.2. Paschim Chemicals Private Limited ("PCPL") is a wholly owned subsidiary of Kaygee Investments Private Limited ("KIPL"), both these companies being promoters of the Target Company.

2.3. KIPL and PCPL both are controlled and managed by the Premchand Godha family.

2.4. With a view of consolidating the entities and as a part of restructuring promoter holding companies and achieve efficiency of operations and simultaneously optimize on compliance costs, it is proposed to amalgamate / merge PCPL with KIPL pursuant to an Order of the National Company Law Tribunal (NCLT) in compliance with the extant Regulations /Circulars through a Scheme of Arrangement under Section 230 - 232 of the Companies Act, 2013 read with applicable provisions of the said Act.

2.5. The key elements of the proposed scheme is as hereunder:

2.5.1. PCPL will be merged with KIPL w.e.f. the appointed date (to be announced).

2.5.2. Once the Scheme becomes effective, PCPL shall stand dissolved pursuant to the proposed Scheme and the entire balance sheet, including the assets, liabilities and properties (including shares, scrips and securities) of PCPL will get transferred to KIPL. As a result, the 4.01% stake held by PCPL in the Target Company i.e. Ipca Laboratories Limited, will get transferred to KIPL once the Scheme becomes effective.

2.6. Implication of the Scheme under the Takeover Regulations: Pursuant to the proposed Scheme, the shares held by PCPL in the Target Company will be transferred to and vested in KIPL. As a result, post Scheme implementation, the shareholding of KIPL in the Target Company will increase from 5,44,78,390 Equity shares (being 21.47% of the total paid up equity share capital of the Target Company) to 6,46,51,390 Equity Shares (being 25.48% of the total paid up equity share capital of the Target Company).

2.7. While referring to the provisions of Regulation 10(1)(d)(iii) of the Takeover Regulations, you have sought guidance by way of an interpretive letter under the Informal Guidance Scheme in seeking confirmation that the transfer and vesting of additional shares of the Target Company i.e. Ipca Laboratories Limited, into KIPL post the proposed scheme of arrangement becoming effective, thus increasing the shareholding of KIPL in the Target Company from

21.47% to 25.48%, would be exempt from the open offer obligations in terms of regulation 10(1)(d)(iii) of the Takeover Regulations.

2.8. We have considered the submissions made by you in your application without necessarily agreeing with your analysis, we are issuing interpretive letter as under:

2.9. The relevant legal provisions are reproduced below:

2.9.1. Regulation 3(1) of the Takeover Regulations: “*No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.”*

2.9.2. Regulation 3(3) of the Takeover Regulations: “*For the purposes of sub-regulation (1) and sub-regulation (2), acquisition of shares by any person, such that the individual shareholding of such person acquiring shares exceeds the stipulated thresholds, shall also be attracting the obligation to make an open offer for acquiring shares of the target company irrespective of whether there is a change in the aggregate shareholding with persons acting in concert.”*

2.9.3. Regulation 10(1)(d)(iii) of Takeover Regulations:

“10 (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,—

(d) acquisition pursuant to a scheme,—

(i)...

(ii)...

(iii) of arrangement not directly involving the target company as a transferor company or as a transferee company, or reconstruction not involving the target company's undertaking, including amalgamation, merger or demerger, pursuant to an order of a court or a tribunal or under any law or regulation, Indian or foreign, subject to,—

(A) the component of cash and cash equivalents in the consideration paid being less than twenty-five per cent of the consideration paid under the scheme; and

(B) where after implementation of the scheme of arrangement, persons directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme.”

2.10. If the proposed transaction culminates in such transfer of shareholding of PCPL to KIPL increasing its stake beyond 25% in the Target Company, irrespective of any change in the aggregate shareholding with persons acting in concert (i.e. promoter group), then by virtue of the provisions of regulations 3(1) read with 3(2) of the Takeover Regulations, the acquirer, KIPL would be under an obligation to make an open offer for acquiring shares of the Target Company.

2.11. However, certain acquisitions are exempted under regulation 10 of the Takeover Regulations from the obligation to make an open offer *inter alia* under regulation 3 subject to the fulfilment of the conditions stipulated therein. In this regard, reference is made to regulation 10(1)(d)(iii) of the Takeover Regulations, which exempts acquisition from the obligation to make an open offer under Regulations 3 and 4, provided the acquisition is pursuant to a scheme of arrangement that does not directly involve the target company as a transferor or transferee, and subject to the following conditions: (i) the cash component in the consideration paid under the Scheme must not exceed 25% of the total consideration. (ii) at least 33% of the voting rights in the combined entity post-Scheme must be held by the same persons who held the entire voting rights before the implementation of the scheme.

2.12. In this case, based on your submissions, it is observed that the restructuring involves only KIPL and its wholly owned subsidiary, PCPL, with no direct involvement of the Target Company, Ipcap Laboratories Limited. In the proposed scheme, the entire shareholding of PCPL would be extinguished, there would be no fresh issue of shares and the assets and liabilities of PCPL would be transferred to KIPL. There would therefore be no cash component in the transaction. Furthermore, the shareholders of KIPL would continue to hold the shares post implementation of the proposed scheme such that the Premchand Godha family will retain 100% of voting rights in KIPL, ensuring continuity.

2.13. Accordingly, based on the submissions made and the facts presented, it appears that the proposed acquisition of shares by KIPL in the Target Company, leading to an increase in KIPL's shareholding from 21.47% to 25.48%, qualifies for an exemption from open offer obligations under Regulation 10(1)(d)(iii) of the Takeover Regulations, subject to fulfillment of all other applicable conditions and approvals as required by law.

3. The above position is based on the information furnished in your letters 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.

4. You may also note that the above position is expressed only with respect to the guidance sought in your letter under reference in respect of the provisions as referred above and does not affect the applicability of any other law or requirement of any other SEBI Regulation, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.

Yours faithfully,



Raj Kumar Das