SEBI/WTM/SR/CFD–DCR/43/09/2016

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: S. RAMAN, WHOLE TIME MEMBER

ORDER

UNDER REGULATION 11(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011.

IN THE MATTER OF PROPOSED ACQUISITION OF SHARES AND VOTING RIGHTS IN SYNDICATE BANK.

Background –

1.1 Syndicate Bank ("**Target Company**") is a Scheduled Commercial Bank having its Head Office at Manipal–576101, Karnataka and Corporate Office at II Cross, Syndicate Bank Building, Gandhinagar, Bengaluru–560009. The Target Company was incorporated on October 25, 1925. The shares of the Target Company are listed on the Bombay Stock Exchange Limited ("**BSE**") and the National Stock Exchange of India Limited ("**NSE**").

1.2 The Target Company filed an application dated August 17, 2016 ("**Application**"), on behalf of its Promoter i.e. the President of India acting on behalf of the Government of India ("**Proposed Acquirer**") seeking exemption from the applicability of Regulation 3(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**Takeover Regulations**").

1.3 Regulation 3(2) of the Takeover Regulations, states –

"***3. Substantial acquisition of shares or voting rights.***
(2). No acquirer, who together with persons acting in concert with him, has acquired and holds in accordance with these regulations shares or voting rights in a target company entitling them to exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations:
Provided that such acquirer shall not be entitled to acquire or enter into any agreement to acquire shares or voting rights exceeding such number of shares as would take the aggregate shareholding pursuant to the acquisition above the maximum permissible non-public shareholding."

1.4 From the aforesaid Application, the following is noted –

A. Vide a letter dated July 19, 2016, the Government of India proposed an infusion of capital in the Target Company, amounting to ₹1034 Crores.

B. 75% or ₹776 Crores of the aforesaid amount of ₹1034 Crores will be infused immediately, in lieu of a proposed preferential allotment of approximately 10.60 Crores equity shares in favour of the Proposed Acquirer/Promoter i.e. the President of India acting on behalf of the Government of India ("**Proposed Acquisition**").

C. At the Board Meeting of the Target Company held on August 4, 2016, the Board of Directors approved raising of additional equity capital to the extent of 75% or ₹776 Crores by way of issue of equity shares to the Proposed Acquirer/Promoter.

D. Pursuant to a meeting held on August 17, 2016, the Target Company decided to issue 10,60,39,901 equity shares of ₹10 each (aggregating₹776 Crores) to the Proposed Acquirer/Promoter, at an issue price of ₹73.18 as determined under Regulation 76(1) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("**ICDR Regulations**").

E. The shareholding pattern in the Target Company as on (i) April 1, 2016; (ii) prior to the proposed acquisition and (iii) subsequent to the proposed acquisition, is provided as under –

TABLE I – SHAREHOLDING IN THE TARGET COMPANY (SOURCE: BSE WEBSITE)			
CATEGORY	AS ON 1.04.2016	PRIOR TO PROPOSED ALLOTMENT	SUBSEQUENT TO PROPOSED ALLOTMENT
	NO. OF SHARES AND %	NO. OF SHARES AND %	NO. OF SHARES AND %
A. PROMOTER AND PROMOTER GROUP	458394888 [65.17%]	553522796 [69.32%]	659562697 [72.92%]
B. PUBLIC SHAREHOLDING	244976741 [34.83%]	244976741 [30.68%]	244976741 [27.08%]
C. GRAND TOTAL (A + B)	**703371629 [100%]**	**798499537 [100%]**	**904539438 [100%]**

i. From Table I, it is observed that as on April 1, 2016, the Proposed Acquirer/Promoter i.e. the President of India acting on behalf of the Government of India, held approximately 45.84 Crores equity shares (65.17%) in the Target Company.

ii. During the Financial Year 2016–17 i.e. May 5, 2016, the Proposed Acquirer/Promoter was allotted approximately 9.51 Crores equity shares thereby increasing its holding from 65.17% to 69.32%.

iii. Subsequent to the proposed acquisition i.e. preferential allotment of approximately 10.60 Crores equity shares, the Proposed Acquirer/Promoter will hold approximately 65.96 Crores equity shares (72.92%) in the Target Company.

F. The resultant change in shareholding on account of the allotments indicated at paragraph E(ii) –(iii) above, is likely to increase the concentration of the Proposed Acquirer/Promoter/Government shareholding in the Target Company by 7.75% during the Financial Year 2016–17 i.e. more than 5%, thereby attracting the provisions of Regulation 3(2) of the Takeover Regulations.

G. The details pertaining to the Board of Directors of the Target Company as on the date of the Application, is provided as under –

TABLE II – BOARD OF DIRECTORS OF THE TARGET COMPANY (SOURCE: BSE WEBSITE)		
SR. NO.	NAME	STATUS
1.	MR. ARUN SHRIVASTAVA	MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER
2.	MR. R. S. PANDEY	EXECUTIVE DIRECTOR
3.	MR. R. N. DUBEY	GOVERNMENT NOMINEE DIRECTOR
4.	MR. RUDRA NARAYAN KAR	RESERVE BANK OF INDIA NOMINEE DIRECTOR
5.	MR. SANKARAN BHASKAR IYER	WORKMEN DIRECTOR
6.	MR. G. RAMESH	NON–OFFICIAL DIRECTOR [NOMINATED BY GOVERNMENT OF INDIA]
7.	MS. VANDANA KUMAR JENA	NON–OFFICIAL DIRECTOR [NOMINATED BY GOVERNMENT OF INDIA]
8.	MR. KAMAL KISHORE SINGHAL	SHAREHOLDER DIRECTOR

H. **Submissions made by the Target Company on behalf of the Proposed Acquirer/Promoter for exemption from the provisions of Regulation 3(2) of the Takeover Regulations.**

In its Application on behalf of the Proposed Acquirer/Promoter, the Target Company submitted as under –

a. *"We file herewith an application … seeking exemption from the applicability of Regulation 3(2) of the Takeover Regulations, with respect to the proposed acquisition of 10,60,39,901 equity shares of the Bank by the Government of India ("**GOI**").*

b. *Bank's authorised capital is ₹3000 Crore and the paid-up capital is ₹798.50 Crore. The GOI is holding 55,35,22,796 i.e. 69.32%, equity share capital in the Bank.*

c. *At the beginning of the Financial Year, GOI was holding 45,83,94,788 shares i.e. 65.17%, in the Bank's equity capital.*

d. *On 5th May, 2016, the Bank allotted 9,51,27,908 equity shares resulting in a GOI holding of 69.32%, pursuant to capital infusion of ₹740 Crore by the Central Government. Though GOI remitted funds on 30.03.2016, shares could be allotted only during May 2016 after obtaining necessary approvals.*

e. *GOI desires that all public sector banks should be adequately capitalized. As on March 31, 2016, Bank's Tier I capital under BASEL III norms was 7.75% of its Risk Weighted Assets (RWA) in which Common Equity Tier – I Ratio (CET1) was 7.01% and the total capital to RWA (CRAR) was 11.16%.*

f. *As per RBI Guidelines on BASEL III Capital Regulations, the Bank is required to maintain the following capital ratios by March 2017.*

SR. NO.	RATIO	MINIMUM REQUIREMENT
1.	COMMON EQUITY TIER 1 (CET1)	5.50%
2.	CAPITAL CONSERVATION BUFFER (CCB)	1.25%
3.	CET1 + CCB	6.75%
4.	TIER 1 RATIO	7.00%
5.	TIER RATIO + CCB	8.25%
6.	TOTAL CRAR	9.00%
7.	TOTAL CRAR + CCB	10.25%

g. *As per the Bank's projected business plan for FY 2016–17, submitted to the Ministry of Finance, the risk weighted assets are expected to go up to the range of ₹1,91,800 Crores by March 2017, which would entail an additional capital requirement of about ₹1720 Crores.*

h. *Ministry of Finance after assessment and review of the Bank's capital adequacy in the light of the projections for credit growth by the Bank and CAGR of credit growth of the Bank for last 5 years and based on overall projections and consequential growth of RWA and other financials, vide its letter F.No.7/38/2014-BOA dated July 19, 2016 allocated ₹1034 Crores to the Bank by way of preferential allotment of equity in favour of the GOI. Further, 75% of the amount i.e. ₹ 776 Crores has been marked for immediate infusion while the balance 25% will be infused based on Bank's performance on prescribed benchmark activities by the end of December 2016 or earlier.*

i. *Ministry of Finance, vide letter F.No.7/38/2014-BOA dated July 19, 2016, has advised the Bank to take all necessary steps/approvals in connection with the proposed capital infusion which inter-alia includes seeking exemption from SEBI from the applicability of the Takeover Regulations from the obligation of making an open offer considering the fact that the difference of GOI shareholding at the beginning of this financial year and post the proposed allotment may be over 5%.*

j. *Board of Directors of the Bank in their meeting held on August 4, 2016, has approved raising of additional equity capital to the extent of ₹776 Crores by way of issue of equity shares in favour of the GOI on preferential basis subject to the approval of SEBI, RBI, Stock Exchanges and the shareholders. The meeting of the shareholders has been convened on September 16, 2016.*

k. *The Bank incurred a net loss of ₹1643.49 Crores in Financial Year 2015–16 and earned a profit of ₹79.13 Crores in the first quarter of Financial Year 2016–17. In order to improve CRAR and remain compliant to all regulatory norms on capital adequacy as on September 30, 2016, the Bank needs to complete the preferential issue by September 30, 2016.*

l. *The relevant date has been taken as August 17, 2016, for ascertaining the issue price to arrive at the quantity of shares to be issued. The issue price is arrived at ₹73.18 per equity share calculated in accordance with Regulation 76(1) of the ICDR Regulations. Based on the issue price and the issue size of ₹776 Crores, the total number of equity shares to be allotted to the GOI is 10,60,39,901. Thus, the post issue shareholding of GOI will be 65,95,62,697 equity shares (i.e. 72.92%).*

m. *The shares to be allotted shall be ranking pari-passu with the existing share capital of the Bank.*

n. *The entire infusion of capital by GOI is being made to comply with the Basel-III requirements and there would be no change of control in the management of the Bank.*

o. *As the proposed acquisition of shares would increase the shareholding of GOI by more than 5% (7.75%) during the Financial Year 2016–17; hence, exemption is sought from the applicability of Regulation 3(2) of the Takeover Regulations."*

Findings –

2.1 I have considered the Application made by the Target Company on behalf of the Proposed Acquirer/Promoter alongwith other relevant material available on record. In this regard, I note –

i. The shareholding of the Proposed Acquirer/Promoter in the Target Company as on April 1, 2016, was 65.17% (approximately 45.84 Crores equity shares), which subsequently increased to 69.32% (through allotment of approximately 9.51 Crores equity shares on May 5, 2016).

ii. The Target Company has taken into account the allotment of approximately 9.51 Crores equity shares to the Proposed Acquirer/Promoter during the Financial Year 2016–17 (increasing Promoter's holding from 65.17% to 69.32%) and also the preferential allotment under the proposed acquisition (increasing Promoter's holding from 69.32% to 72.92%) while calculating the quantum of acquisition in the instant matter.

iii. The change in shareholding on account of the aforementioned allotments of equity shares i.e. on May 5, 2016 and by way of the proposed preferential allotment, will result in an increase in the Proposed Acquirer/Promoter's shareholding in the Target Company by 7.75% during the Financial Year 2016–17 i.e. more than 5%, thereby attracting the provisions of Regulation 3(2) of the Takeover Regulations.

iv. The proposed acquisition is necessitated on account of the GOI's objective that all public sector banks are adequately capitalized for ensuring compliance with BASEL III norms.

v. There will be no change in control of the Target Company pursuant to the proposed acquisition as the change will only be in the manner of holding the shares by the Proposed Acquirer/Promoter. Further, there will be no change in the number of equity shares held in the Target Company, by the public shareholders, pursuant to the proposed transactions.

2.2 The infusion of additional capital by the Proposed Acquirer/Promoter will enable the Target Company to maintain a capital over and above the minimum requirement mandated under Basel III norms and will also provide the Target Company with additional leverage for raising further equity capital at a later date, as and when the need arises. Accordingly, I am of the considered view that exemption as sought for in the Application made by the Target Company, be granted to the Proposed Acquirer/Promoter, subject to certain conditions as ordered herein below.

Order –

3.1 I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") read with Regulation 11(5) of the Takeover Regulations, hereby grant exemption to the Proposed Acquirer, viz. **the President of India acting on behalf of the GOI**, from complying with the requirements of Regulation 3(2) of the Takeover Regulations with respect to the proposed acquisition of **7.75%** equity shares and control in the Target Company during the Financial Year 2016–17, viz. **Syndicate Bank**, by way of allotment of equity shares on May 5, 2016 and through the proposed preferential allotment as mentioned in the Application.

3.2 The exemption so granted is subject to the following conditions:

i. The proposed acquisition shall be in accordance with the relevant provisions of the Companies Act, 2013 and any other applicable law.

ii. The GOI/Target Company shall ensure compliance with the statements and disclosures made in the Application.

iii. The statements/ averments made or facts and figures mentioned in the Application by the Proposed Acquirer/Promoter are true and correct.

3.3 The exemption granted above is limited to the requirements of making open offer under the Takeover Regulations and shall not be construed as exemption from the disclosure requirements under Chapter V of the Takeover Regulations; compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015; Listing Agreement/SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 or any other applicable Acts, Rules and Regulations.

3.4 The Application dated August 17, 2016, filed by Target Company on behalf of the Proposed Acquirer/Promoter, is accordingly disposed of.

Place: Mumbai
Date: September 12, 2016

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA