



भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

Deputy General Manager
Corporation Finance Department
Division of Corporate Restructuring- I
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SEBI/HO/CFD/DCR1/OW/P/2016/34428
December 22, 2016

M/s. Capital Trust Limited
366, Sultanpur
MG Road
New Delhi- 110030

Dear Sir,

Sub: Request for informal guidance by way of "Interpretive Letter" under the SEBI (Informal Guidance) Scheme, 2003 ("Scheme") in the matter of Capital Trust Limited

1. This has reference to your letter dated October 07, 2016 seeking guidance by way of an interpretative letter under the Scheme.
2. You have, *inter alia*, represented as follows-
 - a. The equity shares of your company viz, Capital Trust Limited (Target Company) are listed on BSE Limited ("BSE").
 - b. One of the promoters of the Target Company, Mr Yogen Khosla holds 63,44,524 shares representing 43.26% of the paid up share capital of the Target Company. The other promoter, Indo Crediop Private Limited holds 28,45,885 shares representing 19.40% of the paid up share capital of the Target Company.
 - c. The board of directors of the Target Company have proposed to implement an ESOP scheme and will allot 8,90,000 shares to ESOP Trust formed in compliance with SEBI (Share Based Employee Benefits) Regulation, 2014. One of the promoters, Mr Yogen Khosla has some pending warrants and he wants to convert them into equity shares which would result in an increase of 22,47,250 shares. The Target Company is proposing to allot the shares in lieu of warrants and the shares to ESOP Trust simultaneously and have provided the following pre and post shareholding of the promoters which is as follows:

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Name	Pre-allotment (no of shares)	Pre-allotment (% of shares)	New allotment	Post allotment (no of shares)	Post allotment (% of shares)	Increase/ decrease (in %)
Mr Yogen Khosla	63,44,524	43.26	22,47,250	85,91,774	48.26	4.99
Indo Crediop Pvt Limited	28,45,885	19.40	-	28,45,885	15.98	-3.41
ESOP Trust			8,90,000	8,90,000	5	4.99
Public	54,77,091	37.34		54,77,091	30.76	-3.39
	1,46,67,500	100		1,78,04,750	100	

3. On the basis of the above, you have sought interpretive letter from SEBI on the following:

- Whether the shares to be allotted to ESOP Trust would be taken into consideration as increased number of shares for calculation of conversion of warrants into equity shares.
- Whether the calculation is correct and changes in shareholding of Mr Yogen Khosla is within the limit of Regulation 3(2) read with Regulation 3(3) of SEBI(Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations) and there is no requirement of open offer in this case.

4. We have considered the submissions made by you in your letter under reference and without necessarily agreeing with your analysis, our view is as under:

- With regard to your first query, the following provisions of SEBI (Share Based Employee Benefits) Regulation, 2014 may be applicable:

Regulation 3 Implementation of schemes through trust.

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(5) The trustees of a trust, which is governed under these regulations, shall not vote in respect of the shares held by such trust, so as to avoid any misuse arising out of exercising such voting rights.

- (ii) Since trustees of the ESOP Trust are not entitled to vote in respect of the shares held by such trust, shares proposed to be held by ESOP Trust formed under ESOP scheme will not be taken into account for calculating the percentage of voting rights under SAST Regulations.
- (iii) With regard to your second query, the following provisions of SAST Regulations may be applicable:

"Regulation 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.

Explanation.—For purposes of determining the quantum of acquisition of additional voting rights under this sub-regulation,— (i) gross acquisitions alone shall be taken into account regardless of any intermittent fall in shareholding or voting rights whether owing to disposal of shares held or dilution of voting rights owing to fresh issue of shares by the target company. (ii) in the case of acquisition of shares by way of issue of new shares by the target company or where the target company has made an issue of new shares in any given financial year, the difference between the pre-allotment and the post-allotment

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percentage voting rights shall be regarded as the quantum of additional acquisition .

(3) 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.”

- (iv) Since the voting rights of Mr. Yogen Khosla would increase by more than 5%, post the proposed allocation of shares to Trust under ESOP scheme and conversion of warrants, Mr. Yogen Khosla would be under an obligation to make a public announcement of an open offer in terms of Regulation 3(2) read with 3(3) of SAST Regulations.
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 SAST 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,


Amit Tandon