

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 DENA BANK.

Background –

- 1.1 Dena Bank (“**Target Company**”) is a Public Sector Bank having its Head Office at Dena Corporate Centre, C–10, G Block, Bandra Kurla Complex, Bandra East, Mumbai–400051. The Target Company was incorporated on July 19, 1969. The Target Company was nationalized in July 1969. The shares of the Target Company are listed on BSE and the National Stock Exchange of India Limited (“**NSE**”).
- 1.2 The Target Company filed an application dated September 1, 2016 (“**Application**”), on behalf of its Promoter i.e. 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 ₹594 Crores.
- B. 75% or ₹446 Crores of the aforesaid amount of ₹594 Crores will be infused immediately through a proposed preferential allotment of 12,02,15,633 equity shares in favour of the Proposed Acquirer/Promoter i.e. the Government of India (“**Proposed Acquisition**”).
- C. At the Board Meeting of the Target Company held on August 12, 2016, the Board of Directors approved raising of additional equity capital to the extent of ₹446 Crores by way of issue of equity shares on a preferential basis to the Proposed Acquirer/Promoter.
- D. An Extra–Ordinary General Meeting (“**EGM**”) of shareholders in the Target Company is scheduled to be held on September 22, 2016, to pass necessary special resolution for issue and allotment of shares to the Proposed Acquirer/Promoter on preferential basis. The issue price per equity share has been arrived at ₹37.10, in accordance with Regulation 76(1) of (Issue of Capital and Disclosure Requirements) Regulations, 2009 (“**ICDR Regulations**”). Based on the issue size of ₹446 Crores and issue price of ₹37.10, the total number of equity shares to be allotted to the Proposed Acquirer/Promoter is 12,02,15,633 of face value ₹10 each.
- E. The shareholding pattern in the Target Company (i) prior to the proposed acquisition and (ii) subsequent to the proposed acquisition, is provided as under –

TABLE I – SHAREHOLDING IN THE TARGET COMPANY (SOURCE: APPLICATION)		
CATEGORY	PRIOR TO PROPOSED ALLOTMENT (AS ON 26.08.2016)	SUBSEQUENT TO PROPOSED ALLOTMENT
	NO. OF SHARES (IN LAKHS) AND %	NO. OF SHARES (IN LAKHS) AND %
A. PROMOTER AND PROMOTER GROUP	4194.11 [62.89%]	5396.27 [68.55%]
B. FINANCIAL INSTITUTIONS/BANKS	1135.99 [17.03%]	1135.99 [14.43%]
C. FOREIGN PORTFOLIO INVESTORS/ NON RESIDENT INDIANS/ OVERSEAS CORPORATE BODIES	370.91 [5.56%]	370.91 [4.71%]
D. OTHER PUBLIC SHAREHOLDERS	968.33 [14.52%]	968.33 [12.31%]
E. GRAND TOTAL (A + B + c + D)	6669.34 [100%]	7871.50 [100%]

- i. From Table I, it is observed that as on August 26, 2016, the Proposed Acquirer/Promoter i.e. the Government of India, held approximately 4194.11 Lakhs equity shares (62.89%) in the Target Company.
 - ii. Subsequent to the proposed acquisition i.e. preferential allotment of 12,02,15,633 equity shares, the Proposed Acquirer/Promoter will hold 5396.27 Lakhs equity shares (68.55%) in the Target Company.
- F. The resultant change in shareholding on account of the allotment indicated at paragraph E(ii) above, is likely to increase the concentration of the Proposed Acquirer/Promoter/Government shareholding in the Target Company by 5.66% 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: APPLICATION)		
SR. NO.	NAME	STATUS
1.	MR. ASHWANI KUMAR	CHAIRMAN AND MANAGING DIRECTOR
2.	SMT TRISHNA GUHA	EXECUTIVE DIRECTOR
3.	MR. RAMESH S SINGH	EXECUTIVE DIRECTOR
4.	MR. ASHOK KUMAR SINGH	GOVERNMENT NOMINEE DIRECTOR
5.	MR. S C MURMU	RESERVE BANK OF INDIA NOMINEE DIRECTOR
6.	MR. BANKIM R DESAI	WORKMEN EMPLOYEE DIRECTOR
7.	MR. A SUBRAMANYA	PART TIME NON–OFFICIAL DIRECTOR
8.	MR. AMIT CHATTERJEE	PART TIME NON–OFFICIAL DIRECTOR
9.	MR. G GOPALAKRISHNA	PART TIME NON–OFFICIAL DIRECTOR
10.	DR. UMESH BELLUR	SHAREHOLDER DIRECTOR
11.	MR. V CHADRASEKARAN	SHAREHOLDER DIRECTOR
12.	DR. YASHO VERDHAN VERMA	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. *“Bank’s authorised share capital is ₹3000 Crores and the paid-up share capital is ₹666.93 Crores. The Government of India (“GOI”) is holding 4194.11 Lakhs equity shares constituting 62.89% of paid up capital.*

- b. *GOI, as part of its project 'INDRADHANUSH PLAN' for revamp of PUBLIC SECTOR BANKS has decided to infuse additional capital in Public Sector Banks including Dena Bank. Accordingly, GOI has decided to infuse ₹446 Crores in Dena Bank.*
- c. *Pursuant to the same, Board vide resolution dated 12th August, 2016, inter alia gave approval for raising of Equity Share Capital of the Bank upto ₹446 Crores by issuance of equity shares to GOI on Preferential Basis at price fixed as per ICDR Regulations, subject to approval of the Reserve Bank of India ("RBI"), Shareholders and other statutory authorities.*
- d. *An Extra-Ordinary General Meeting (EGM) of the shareholders has been convened on 22nd September, 2016, to pass the necessary Special Resolution for the proposed issue of the equity shares to the GOI on preferential basis.*
- e. *Bank has, vide letter dated 19-08-2016, requested RBI's permission [as required under Section 3(2) B(c) of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970] for raising of capital of the Bank upto ₹446 Crores by issue of equity shares to the extent of ₹446 Crores to GOI on preferential allotment basis.*
- f. *Bank vide letter dated 19-08-2016, requested GOI's approval [as required under Section 3(2) B(c) of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970] for raising of capital by way of issue and allotment of equity shares of ₹10 each aggregating to ₹446 Crores to GOI on preferential basis.*
- g. *Bank vide letter HO/IRC/364/2016 dated 31-08-2016, requested GOI's approval authorizing the Bank to take necessary action with regard to seeking Exemption under Clause 11(1) of the Takeover Regulations.*
- h. *Accordingly, Bank on behalf of GOI has now filed application under Regulation 11(1) of the Takeover Regulations seeking exemption from the applicability of Regulation 3(2) of the Takeover Regulations, with respect to the proposed infusion of capital to the extent of ₹446 Crores in the Bank as equity on preferential basis.*
- i. *CRAR of the Bank under BASEL III are as under –*

CRAR	AS ON 31.03.2016	AS ON 30.06.2016
TIER I	8.59	8.37
TIER II	2.41	2.42
TOTAL	11.00	10.79

- j. *As on 31-03-2016 and 31-03-2017, Regulatory minimum for Tier I CRAR is 7.625% & 8.250% respectively. Bank has met the regulatory minimum during 31-03-2016 and 30-06-2016. The proposed capital infusion by the Govt. will strengthen the capital structure of the Bank and will help the Bank meet the higher regulatory minimum as on 31-03-2017. Further, higher CRAR for the Bank is desirable to protect the interest of the depositors and in turn the economy.*

- k. *The infusion of capital by GOI is being made to comply with the BASEL III requirements and there would be no change in control in the Bank.*
- l. *Even after infusion of capital by GOI, the public shareholding would be maintained at 31.45%.*
- m. *Infusion of capital by GOI will give the Bank additional leverage to raise further equity capital through FPO/ESOP/Qualified Institutional Placement (QIP)/Preferential Issue to others at a later date, as and when the need arises.*
- n. *The issue price is calculated as per Regulation 76(1) of the ICDR 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 August 26, 2016, was 62.89% (approximately 4194.11 Lakhs equity shares).
 - ii. The Target Company has taken into account the preferential allotment of 12,02,15,633 equity shares to the Proposed Acquirer/Promoter during the Financial Year 2016–17 (increasing Promoter’s holding from 62.89% to 68.55%) while calculating the quantum of proposed acquisition in the instant matter.
 - iii. The change in shareholding on account of the aforementioned allotment of equity shares by way of the proposed preferential allotment, will result in an increase in the Proposed Acquirer/Promoter’s shareholding in the Target Company by 5.66% 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 GOI**, from complying with the requirements of Regulation 3(2) of the Takeover Regulations with respect to the proposed acquisition of **5.66%** equity shares and control in the Target Company during the Financial Year 2016–17, viz. **Dena Bank**, by way of 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 September 1, 2016, filed by Target Company on behalf of the Proposed Acquirer/Promoter, is accordingly disposed of.

Place: Mumbai
Date: September 21, 2016

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