



General Manager
Corporation Finance Department
Division of Corporate Restructuring

भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India
CFD/DCR/IG /SKS/EB/ 25476 /11
August 05, 2011

M/s Massachusetts Mutual Life Insurance Company,
1295 State Street,
Springfield, MA 01111
Ph: 001-413-744-7575

C/o Amarchand Mangal Dass & Suresh A Shroff & Co,
Peninsula Chambers, 5th floor,
Peninsula Corporate Park,
Ganputao kadam marg,
Lower Parel, Mumbai-400013

Dear Sirs,

Sub: Request for informal guidance in the form of a "no-action" letter under paragraphs 4 and 5(i) of the SEBI (Informal Guidance) Scheme, 2003 for dispensation from the treatment of Persons acting in concert ("PAC") for purposes of Regulation 2(1)(e) of the SEBI (SAST) Regulations, 1997

1. This has reference to your letter dated May 20, 2011 (received on June 10, 2011) seeking "No action letter" under the SEBI (Informal Guidance) Scheme, 2003.
2. In your letter under reference, you have, *inter alia*, represented as follows: -
 - a. Massachusetts Mutual Life Insurance Company (MassMutual) is a mutual life insurance company domiciled in Massachusetts. It is an unlisted mutual life insurance company owned by its policyholders.
 - b. MassMutual is the direct or indirect parent of other financial services companies, including Baring Asset Management Limited (BAML) and affiliates (collectively termed as "Baring") and Oppenheimer Funds, Inc. and affiliates (collectively termed as "Oppenheimer").
 - c. Regulation 2(1) (e) (2) of the SEBI (SAST) Regulations, 1997 provides for the inclusion of a certain defined category of persons to be "deemed persons acting in concert" with the acquirer, unless the contrary is established. Specifically, Regulation 2(1) (e) (2) (i) creates a presumption that both direct and indirect subsidiaries of a company are PACs. Accordingly MassMutual, Baring and Oppenheimer are presumed to be PACs for the purposes of the SEBI Takeover Regulations.
 - d. However, due to the following reasons, it is requested that a dispensation from the treatment of MassMutual, Baring and Oppenheimer as "persons acting in concert" for



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purposes of aggregation under the SEBI (SAST) Regulations, 1997 may be granted in the form of a "No action letter" :

- i. Baring companies maintain separate corporate forms and regulatory registrations and operate their asset management organizations independently from MassMutual and Oppenheimer.
- ii. The Oppenheimer companies maintain separate corporate forms and regulatory registrations and operate their asset management organizations independently from MassMutual and Baring.
- iii. Baring and Oppenheimer currently transact and may transact in the future in Indian-listed issuers on behalf of their respective advisory client accounts and funds.
- iv. MassMutual, Baring and Oppenheimer do not have any common objective or purpose (or act in concert) to acquire shares, voting rights, or control of Indian-listed issuers.
- v. MassMutual, Baring and Oppenheimer do not have any formal or informal agreements or understandings to co-operate in the acquisition of shares, voting rights or control of Indian-listed issuers.
- vi. Baring and Oppenheimer do not share investment or voting power with each other or with MassMutual with respect to Indian-listed issuers.
- vii. Information barriers (e.g., firewalls) have been erected between MassMutual, Baring and Oppenheimer to prevent the improper sharing of voting or investment decision-making information between and among MassMutual, Baring and Oppenheimer.
- viii. The securities of Indian-listed issuers are acquired by Baring and Oppenheimer on behalf of various clients and funds for investment purposes only. MassMutual, Baring, and Oppenheimer do not currently exercise or intend to exercise control over Indian-listed issuers.
- e. Though the directors of Barings and Oppenheimer are some of the key managerial personnel of MassMutual they may not be considered as persons acting in concert due to the following reasons:
 - a) The boards of directors do not have responsibility for day to day management of the companies.
 - b) The board members have fiduciary obligation and shall not misuse or appropriate company's proprietary information.
 - c) Investment decisions in the said entities are handled by different entities independently.
- f. Further, it is undertaken that in the event that any MassMutual employee assumes responsibility for investment and/or proxy voting with respect to Indian-listed issuers at Baring or Oppenheimer, the same will be notified to Securities and Exchange Board of India.

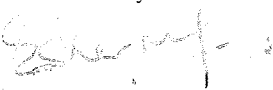


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- g. Based on the facts presented above, MassMutual, Baring and Oppenheimer each submit that there is no commonality of objective between them and hence request dispensation from the treatment of MassMutual, Baring, and Oppenheimer as PACs for purposes of the SEBI (SAST) Regulations, 1997 and seek a "no action letter" in this regard.
3. We have considered the submissions made by you in your letter under reference and without necessarily agreeing with your analysis our views on the issue are as under:
- i. As already stated, MassMutual, Baring and Oppenheimer are deemed to be PACs by virtue of regulation 2(1) (e) (2) of SEBI (SAST) Regulations, 1997 unless the contrary is established.
- ii. With regard to your submissions to establish the contrary, you may note that the presumption as to deemed PACs is rebuttable and the same needs to be tested on the basis of facts of each case/ acquisition. Two entities can be PACs for the purpose of one acquisition/transaction and may not be so for the purpose of another. Therefore, it is not possible to provide a general guidance as to whether two or more entities will or will not be treated as PACs for the purpose of their future transactions.
4. In view of the above, the informal guidance cannot be given by SEBI in terms of clause 8(i) of SEBI (Informal Guidance) Scheme, 2003, since the request is general and does not completely and sufficiently describe the factual situation.
5. Vide your letter dated May 20, 2011 (received on June 10, 2011) you have sought confidentiality treatment in respect of your request. Acceding to your request, it has been decided that the letter issued to you in this matter will not be available to the public for a period of 90 days from the date of issuance of the said letter.
6. You may note that the above views are expressed only with respect to the clarification sought on Regulation 2(1)(e) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and do not affect the applicability of any Act, Rules, Regulations, Guidelines or Circulars administered by SEBI or any other authority.

Yours faithfully,


Santosh Kumar Sharma