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**भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India**

CFD/DIL/ISSUES/SP/DK/20160 /2010

September 16, 2010

Shri Ashok Mehta
Associate Director
Vivro Financial Services Private Limited
Manu mansion, Opp. Old Custom House,
Fort, Mumbai – 400023.

Dear Sir,

Sub.: Request for interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 and SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2009.

Ref.: Your Letters dated May 11, 2010 and June 09, 2010 on the captioned matter.

- 1.0 Please refer to your application dated May 11, 2010 and further clarification made by letter dated June 09, 2010 on the captioned subject on behalf of M/s Swajas Air Charters Private Limited, seeking interpretive letter under SEBI (Informal Guidance) Scheme, 2003.
- 2.0 Vide the abovementioned letters, you have *inter alia* submitted that :
 - 2.1 M/s Swajas Air Charters Private Limited (the company) is an unlisted company and it proposes to make an IPO.
 - 2.2 At present, the company is in the process of issuing shares on premium to some identified investors who are not promoters. The share premium to be thus collected will be distributed to the shareholders as bonus shares. The promoters would also get their share of bonus shares.
- 3.0 In this regard, you have requested for interpretation of regulation 33(1) (a) and (b) of SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2009 (ICDR Regulations) requesting:
 - (i) whether the bonus shares, which promoters will be getting as aforesaid, would be considered for calculating the minimum contribution of 20% of the post issue capital to be held by the promoters if the company files IPO with SEBI within one year of issuance of such bonus shares
 - (ii) Whether the 'shares acquired' would also include 'bonus shares'.



अनुवर्ति:
Continuation :

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- 4.0 Without necessarily agreeing with your analysis, our views on the issues raised by you are as follows:
- 4.1 Regulation 33 (1) of ICDR Regulations specifies that the following securities shall be ineligible for minimum promoters' contribution:
- "(a) specified securities acquired during the preceding three years, if they are:*
(i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or (ii) resulting from a bonus issue by utilisation of revaluation reserves or unrealized profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters' contribution;
(b) specified securities acquired by promoters during the preceding one year at a price lower than the price at which specified securities are being offered to public in the initial public offer."
- 4.2 In this regard, it is noted from your letters that the company intends to make bonus issue out of the share premium account. While bonus issue made by the company out of share premium account per se is not ineligible for minimum promoters' contribution, the eligibility of such bonus shares for minimum promoters' contribution depends on the eligibility of the promoters' shares against which such bonus shares are being issued.
- 4.3 As regards your query regarding the applicability of regulation 33(1)(b) of ICDR Regulations on the bonus issue, it may be noted that eligibility criteria for the bonus shares to be included as minimum promoter's contribution has been specified in regulation 33(1)(a) and regulation 33(1)(b) is not applicable for the issue of bonus shares /securities.
- 5.0 This position is based on the representation made to the division in your aforementioned letters. Different facts or condition might require different results. This letter does not express a decision of the Board on the question referred.
- 6.0 Please note that this position is only with respect to the applicability of the provisions of regulation 33(1)(a) and 33(1)(b) of SEBI (ICDR) Regulations. It does not affect the applicability of any Act, Rules or Regulations, Guidelines and Circulars administered by SEBI or any other authority or the provision of the rules, regulations and bye laws or Listing Agreement of the stock exchange.

Yours faithfully,


Sanjay Purao