

SEC:SEBI/IG03/2013/
July 8, 2013

The Corporation Finance Department
Division of Corporate Restructuring
The Securities and Exchange Board of India
SEBI Bhavan, Plot No. C4-A,
G Block, Bandra Kurla Complex,
Bandra (East),
Mumbai – 400 051
India

Subject: Request for Interpretative Letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 regarding transfer of shares inter-se between a company and a subsidiary of its holding company.

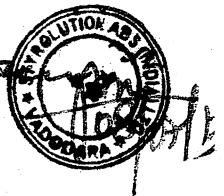
I. Facts

1. Styrolution ABS (India) Limited (the “Company”) is a public limited company incorporated under the Companies Act, 1956, as amended, on December 7, 1973, with its registered office at 6th Floor, ABS Towers, Old Padra Road, Vadodara 390 007, Gujarat, India. The equity shares of the Company with a face value of Rs. 10 each (the “Equity Shares”) are listed on the BSE Limited (“BSE”) and the National Stock Exchange of India Limited (the “NSE” and together with the BSE, the “Stock Exchanges”).
2. The issued and paid-up share capital of the Company consists of 17,585,625 Equity Shares. Styrolution (Jersey) Limited, a company organized under the laws of Bailiwick of Jersey, United Kingdom (“Styrolution Jersey”) currently holds 13,189,218 Equity Shares in the Company equivalent to 75% of the total share capital of the Company. The public shareholding of the Company comprises 4,396,407 Equity Shares which represents 25% of the total share capital of the Company. The shareholding pattern of the Company as on June 30, 2013, as filed with Stock Exchanges is attached as Annexure A.
3. The Styrolution group of companies, headquartered in Germany, is a 50-50 joint venture between BASF SE (“BASF”) and INEOS Industries Holdings Limited (“INEOS Holdings”). The Styrolution group is a global leader in the production of styrenics and has over 17 manufacturing sites in 10 countries across various continents. The Styrolution group employs more than 3,200 persons worldwide and has a broad customer base across industries such as automobiles, electrical/electronics, building and construction, household appliances, packaging, healthcare and diagnostics and toys and sports equipment. In India, the Styrolution group operates through the Company and another company named Styrolution India Private Limited.
4. Pursuant to the joint venture transaction between BASF and INEOS Holdings, the Styrolution group has undertaken an internal restructuring of its business units across various geographies where it operates. Styrolution SEA Pte Ltd, a company organized under the laws of Singapore (“Styrolution Singapore”), has been identified as the regional headquarters for the Asia-Pacific business operations of the Styrolution group and it is proposed that the shareholding of the Company currently held by Styrolution Jersey be transferred to Styrolution Singapore (the “Proposed Transaction”).

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5. Styrolution Singapore is a Styrolution group company and is engaged directly or indirectly (as a holding company) in the business of development, production, distribution, marketing, sale and other commercial uses of styrene monomers, polystyrene, acrylonitrile butadiene styrene, styrene-butadiene block copolymers and other styrene-based copolymers as well as blends and compounds made from copolymers.
6. Styrolution Jersey proposes to transfer its entire equity interest to Styrolution Singapore. The holding company of Styrolution Jersey and Styrolution Singapore is Styrolution Group GmbH Germany.

II. The Takeover Regulations

1. The relevant provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as amended (the "Takeover Regulations") are reproduced below:

Regulation 10(1) of the Takeover Regulations provides:

"General exemptions:

The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor -

(a) acquisition pursuant to inter se transfer of shares amongst qualifying persons, being, -

(i)

(ii)

(iii) a company, its subsidiaries, its holding company, other subsidiaries of such holding company, persons holding not less than fifty per cent of the equity shares of such company, other companies in which such persons hold not less than fifty per cent of the equity shares, and their subsidiaries subject to control over such qualifying persons being exclusively held by the same person...."

III. Applicability of the Takeover Regulations

1. The Proposed Transaction comprises a transfer of Equity Shares of the Company by Styrolution Jersey to Styrolution Singapore. The Proposed Transaction should fall within the exemption under Regulation 10(1)(a)(iii) of the Takeover Regulations as both the transferor as well as the transferee are subsidiaries of the same holding company. However, Regulation 10(1)(a)(iii) of the Takeover Regulations does not define the term "company".
2. Regulation 2(2) of the Takeover Regulations provides that "All other expressions unless defined herein shall have the same meaning as have been assigned to them under the [SEBI] Act or the Securities Contracts (Regulation) Act, 1956, (42 of 1956) or the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereto, as the case may be." Section 3(1)(i) of the Companies Act defines a "company" to mean "a company formed and registered under this Act." This definition may not include bodies corporate incorporated outside India although under Section 4 of the Companies Act, a "holding company" includes a body corporate incorporated outside India.

3. Section 3(1)(i) of the Companies Act read together with Regulation 10(1)(a)(iii) of the Takeover Regulations may imply that the exemption provided under Regulation 10(1)(a)(iii) is applicable only to Indian companies registered under the Companies Act and not to bodies corporate, and consequently Styrolution Singapore may be required to make an open offer to acquire shares from the public if the Proposed Transaction is consummated.
4. Under the Takeover Regulations, the obligations of an acquirer relating, *inter-alia*, to the requirement to make an open offer, acquisition of control, compliance with disclosure obligations, offer price and open offer process do not vary according to whether the acquirer is a company incorporated in India or not. The Takeover Regulations do not differentiate between a company incorporated in India and a body corporate incorporated outside India for such purposes.
5. An Indian company would be exempted under Regulation 10(1)(a)(iii) of the Takeover Regulations in a transfer between two companies that are subsidiaries of a holding company and we believe that bodies corporate registered outside India should also be eligible on a similar basis to rely on the exemption under Regulation 10(1)(a)(iii). We do not believe that the Takeover Regulations were drafted with such a restrictive interpretation of Regulation 10(1)(a)(iii) in mind and were not drafted to limit the applicability of this exemption only to Indian companies.
6. Additionally, please note that on May 23, 2013, Styrolution Jersey completed an offer for sale under the stock exchange mechanism (the "OFS") in order to comply with the minimum public shareholding requirement under the Securities Contracts (Regulation) Rules, 1957 (the "SCRR") and Clause 40A of the equity listing agreement entered into by the Company with the BSE and the NSE. As a result of the OFS, Styrolution Jersey's shareholding in the Company reduced from 87.33% to 75%. If Styrolution Singapore is required to make an open offer, it will again cross the minimum public shareholding requirement under the SCRR and Clause 40A.
7. As set forth above, pursuant to the Proposed Transaction, the Equity Shares of the Company will be transferred from Styrolution Jersey to Styrolution Singapore. The Company will continue to be a part of the Styrolution group. The Proposed Transaction will help in optimizing regional management and achieving synergies across the operation of the Styrolution group in the Asia-Pacific region.

IV. Guidance sought

In light of the above facts, we write to seek guidance from the Securities and Exchange Board of India (the "SEBI") under the SEBI (Informal Guidance) Scheme, 2003 in respect of the matters set forth below.

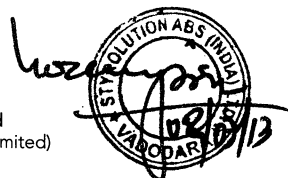
Please advise us:

Whether Regulation 10(1)(a)(iii) of the Takeover Regulations is applicable to companies that have not been incorporated under the Companies Act and whether the acquirer, Styrolution Singapore, can rely on the exemption under Regulation 10(1)(a)(iii) of the Takeover Regulations while undertaking the Proposed Transaction and not be subject to an obligation to make an open offer to the shareholders of the Company under Regulations 3 and 4 of the Takeover Regulations?

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In accordance with the applicable guidelines, a Demand Draft No. 043506 dated July 8, 2013 drawn on ICICI Bank, Race Course Circle Branch, Baroda, for Rs. 25,000 payable at Mumbai towards fees payable for seeking an Interpretative Letter under SEBI (Informal Guidance) Scheme, 2003 is enclosed with this application.

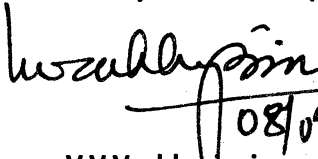
Owing to the nature of the query and the fact that no decision of sale/transfer has been taken by the relevant parties, we request that the subject matter and the contents of this letter be treated as confidential in accordance with Paragraph 11 of the SEBI (Informal Guidance) Scheme, 2003 for the maximum period permitted under applicable law.

We will be pleased to provide any additional information on hearing from you and will be available for personal discussion if required. We would be grateful if you could respond as soon as is reasonably practicable.

Thanking you,

Yours faithfully,

For Styrolution ABS (India) Limited


08/07/13

V V Vachhrajani
Company Secretary & Head (Legal)

