

Settlement Application No. 3651/2018 filed under SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014

Submitted by **The Tantallon Fund**

FPI registration no. INCYFP003817 and
earlier sub-account registration no. 20080043

in the matter of The Tantallon Fund

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1. Securities and Exchange Board of India (hereinafter referred to as ‘**SEBI**’) had initiated adjudication proceedings in respect of The Tantallon Fund bearing FPI registration no. INCYFP003817 and earlier sub-account registration no. 20080043 (hereinafter, referred to as ‘**Noticee**’ / ‘**Applicant**’) for alleged violations of Regulation 10(c) of SEBI (Foreign Institutional Investors) Regulations, 1995 (hereinafter, referred to as ‘**FII Regulations, 1995**’).
 2. SEBI, on December 20, 2017 appointed the Adjudicating Officer to inquire into and adjudge the said alleged violation by Noticee under Rule 4 of the SEBI(Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 read with sub-sections (1) and (2) of Section 15-I of the SEBI Act, and accordingly if liable, impose penalty under the provisions of Section 15A(b) of the SEBI Act.
 3. A Show Cause Notice reference no. SEBI/HO/EAD-8/JS/DJ/OW/ P/1359/1/2018 dated January 12, 2018 (hereinafter be referred to as, the ‘**SCN**’) was issued to the Noticee, wherein it was alleged that Noticee ceased to satisfy the broad based criteria since July 2013. As per the SCN, above fact was first informed / reported to SEBI by the Designated Depository Participant (DDP), Citibank N.A. vide its letter to SEBI dated February 15, 2017 as part of its obligation as a DDP, and the same was subsequently informed by Noticee to SEBI vide its letter dated May 17, 2017 with submission that it failed to make timely disclosure to SEBI due to oversight at its end. It was alleged that non-fulfilment of broad based criteria was a material change from the previous information provided by Noticee to SEBI, and the same was required to be reported / informed to SEBI forthwith under the provisions of Regulation 10(c) of prevailing FII Regulations, 1992, which states that ‘*...if there is any material change in the information previously furnished by the FII to SEBI, which has a bearing on the certificate granted by the Board, they shall forthwith inform SEBI.*’ Hence, it was alleged that by not informing the said material change forthwith to SEBI, Noticee violated the provisions of Regulation 10(c) of FII Regulations, 1995.

4. Noticee in its reply dated January 19, 2018 to the SCN inter-alia made submission that it ceased to satisfy the broad based criteria from July 2013 and it was its oversight not to have informed to SEBI of the change in circumstances in a timely manner. Subsequently, vide e-mail dated January 25, 2018 to Noticee, an opportunity of personal hearing was provided on February 9, 2018. Noticee, vide its e-mail dated February 2, 2018 inter-alia informed that it has provided explanation of event in its correspondence with SEBI and hence willing to waive off its rights to attend the hearing, and also sought details of next course of action. In this regard, vide e-mail dated February 5, 2018 to Noticee, details of further course of action in the matter was provided to Noticee.
5. Noticee, vide its e-mail dated March 5, 2018 informed that it would like to file an application under the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 (hereinafter be referred to as, the “**Settlement Regulations, 2014**”), and it was requested to keep the adjudication proceedings in abeyance.
6. The Noticee filed settlement application (Application No. 3651/2018) in terms of Settlement Regulations, 2014. Subsequently, Noticee vide letter dated September 10, 2018 made request for condonation of delay in filing the settlement application. As per the provisions of Regulation 4(2) of the Settlement Regulations, 2014, the said condonation request of Noticee was accepted by SEBI on terms of payment of simple interest at the rate of 6% per annum on the settlement amount going to arise in the matter equated for the no. of days of delay in filing the settlement application.
7. Internal Committee (hereinafter, referred to as “**IC**”) of SEBI in its meeting held on November 20, 2018 perused the settlement application, and the settlement terms calculated in accordance with the provisions of Settlement Regulations was Rs.55,02,421/- (Rupees Fifty Five Lakh Two Thousand Four hundred and Twenty One only) which inter-alia included an amount of Rs.18,031/- towards delay in submission of settlement application. Subsequently, Noticee vide its e-mail dated December 5, 2018 submitted revised settlement terms in which it proposed to pay amount of Rs.25,01,000/- (Rupees Twenty Five Lakh and One Thousand only) towards the settlement terms. The revised settlement terms proposed by the Applicant were not found to be in line with the amount of Rs.55,02,421/- (Rupees Fifty Five Lakh Two Thousand Four hundred and Twenty One only) formulated by the IC as per the terms of Settlement Regulations, 2014. Considering proposal of the applicant, matter was placed before the High Power Advisory Committee (hereinafter, referred to as “**HPAC**”) of SEBI in its meeting held on December 19, 2018. After considering the matter, the HPAC recommended that the adjudication proceedings initiated vide SCN issued to Noticee may be settled on payment of Rs.55,02,421/- (Rupees Fifty Five Lakh Two Thousand Four Hundred and Twenty One only) towards settlement terms.

8. The recommendation of the HPAC was approved by a Panel of the Whole Time Members of SEBI on February 8, 2019 and the same was communicated to the Applicant on February 11, 2019. Thereafter, the Applicant paid the settlement amount of Rs.55,02,421/- (Rupees Fifty Five Lakh Two Thousand Four Hundred and Twenty One only) through online mode of payment, ref no. SWIFT MT103 on March 18, 2019. It was noted that settlement amount was remitted after the expiry of 30 calendar days from the receipt of notice of demand, hence, on account of such delay in view of the provisions of Regulation 15(2)(a) of the SEBI (Settlement Proceedings) Regulations, 2018, applicant was advised to pay simple interest amount of Rs.33,467/- (Rupees Thirty Three Thousand Four Hundred and Sixty Seven only) towards additional settlement terms, and the same was paid by the Applicant vide online payment made to SEBI on March 25, 2019.
9. Now, in view of the acceptance of the settlement terms in the matter and upon receipt of total settlement amount of Rs.55,35,888/- (Rupees Fifty Five Lakh Thirty Five Eight Hundred Eighty Eight) inter-alia including the additional amount for the aforesaid delay in submission of application and making payment, pending adjudication proceedings initiated against the Applicant / Noticee under the aforesaid SCN dated January 12, 2018 are hereby disposed off in terms of Regulation 15(1) of Settlement Regulations, 2014, read with Regulations 23(1) and 34 of the SEBI (Settlement Proceedings) Regulations, 2018
10. As per the regulation 19 of the Settlement Regulations, 2014 read with Regulation 28(1) of SEBI (Settlement Proceedings) Regulations, 2018, this order is without prejudice to the rights of SEBI to take enforcement actions including restoring or initiating the proceedings in respect to which this settlement order was passed against the Applicant, if :
- i) any representations made by the Applicant in the present settlement proceedings are subsequently found to be untrue; or
 - ii) the Applicant breaches any of the clauses / conditions of undertakings / waivers filed during the present settlement proceedings.
11. In terms of Regulation 17 of Settlement Regulations, 2014 read with Regulation 25 of SEBI (Settlement Proceedings) Regulations, 2018, a copy of this order is being sent to the Applicant / Noticee and for publication on the website of SEBI.

Date: 28/03/2019

Place: Mumbai

Jeevan Sonparote

Adjudicating Officer