

Securities and Exchange Board of India (SEBI)
Investment Management Department, Division of Fund - I
SEBI Bhavan, Plot No.C4-A, 'G' Block
Bandra-Kurla Complex, Bandra (East),
Mumbai - 400051, Maharashtra

Tel : +91- 022-26449375

KIND ATTENTION : MS. MANASWINI MAHAPATRA
GENERAL MANAGER - INVESTMENT MANAGEMENT DEPARTMENT

Dear Madam / Sir,

Sub: Request for Interpretive Letter under SEBI (Informal Guidance) Scheme, 2003, regarding Shareholding in Central Depository Services Limited ("CDSL") and treatment as Persons Acting in Concert for a SEBI Registered Portfolio Manager

Ref: Regulation 22(3) of SEBI (Depositories & Participants) Regulations, 2018 which states as below:

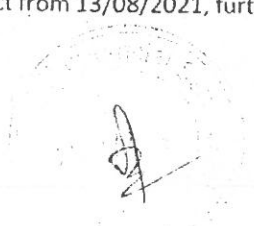
"Any person eligible to acquire or hold more than five percent of the paid up equity share capital under sub-regulation (1) and sub-regulation (2) of regulation 21 may acquire or hold more than five percent of the paid up equity share capital of a depository only if the person has obtained prior approval of the Board".

Background

1. ClubMillionaire Financial Services Pvt Ltd (hereinafter referred to as "Club Millionaire") is a company registered under the Companies Act, 1956 and a Portfolio Manager duly registered with the Securities and Exchange Board of India ("SEBI") under Certificate of Registration No. INP000005380.
2. As part of the Portfolio Management Services offered by us, we advise or direct or undertake on behalf of the clients (whether as a discretionary portfolio manager or otherwise), the management or administration of a portfolio of securities or goods or funds of the client, as the case may be. The Securities are bought in the Portfolio Manager's Pool Account and are then allocated to the respective beneficiary demat accounts, for the Resident Investors, whereas, the Securities are bought directly in the name of Non-Resident Investors and are held in their beneficiary demat accounts.



3. The Securities are held in the respective Beneficiary Demat Accounts of the Investors and the Portfolio Manager has not exercised/ will not exercise any voting rights of Securities of the PMS Investors or has not imposed any restriction on Voting rights of the investors in the PMS Agreement. Further, the purpose and objective of the PMS Agreement does not cover the exercise of any voting rights by the Portfolio Manager on behalf of its clients.
4. We had added the equity shares of Central Depository Services Limited (CDSL) to our portfolio from the month of August 2020. The acquisition of CDSL shares by us, as on August 26, 2020 as Portfolio Managers and in our proprietary account, taken together, resulted in the cumulative shareholding of our clients and our shareholding exceeding 2% of the total paid-up equity share capital of CDSL.
5. We were advised that as per Regulation 2 (1) (q) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulations"), a Portfolio Manager and its client who is an acquirer are to be considered as Persons Acting in Concert ("PACs"). Therefore, and in view of the above, as required under Regulation 22 (2) of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018, we sought the approval of SEBI for the said acquisition, through various disclosures submitted to CDSL within 15 days of such additional purchases.
6. While submitting such disclosure, we were advised to consider the aggregate shareholding of our PMS clients in their other demat accounts, outside the PMS arrangement, as well, along with their shareholdings in the PMS account, thereby arriving on a cumulative shareholding. The percentage of PAN wise cumulative shareholding was shared with us by the depository and accordingly we have submitted disclosures.
7. As on 27/05/2021, the cumulative / total number of shares held in the beneficiary demat accounts of our PMS clients were 3,52,411 which comes around 4.6770% of the total paid-up equity capital of CDSL.
8. We had held shares of CDSL in our Proprietary PMS account also until 07/05/2021 and the entire holdings of CDSL shares in the Proprietary PMS account were sold by 07/05/2021, with the purpose of exempting us from the concept of PACs.
9. In this regard, we have received approval of the Board to the acquisition of 3,52,411 shares of CDSL upto May 27, 2021, taking the aggregate holding to 4.6770% of paid-up equity capital of CDSL, in terms of regulation 22 of the SEBI (Depositories and Participants) Regulations, 2018.
10. Later, Sub-regulation (2) of Regulation 22 of the SEBI (Depositories and Participants) Regulations, 2018 was omitted by the SEBI (Depositories and Participants) (Amendment) Regulations, 2021 with effect from 13/08/2021, further to which no disclosures were submitted to CDSL.



11. However, we are still holding the CDSL shares within the limit of 5% of the total paid-up equity share holding of CDSL.

Our understanding and Interpretation on this matter

1. The presumption under Regulation 2 (1)(q) of the SAST Regulations that a Portfolio Manager and its clients are PACs is a rebuttable presumption since we only act as intermediaries on behalf of clients while acquiring the shares of a company and do not act in concert with our clients while doing so.
2. This is reinforced by the fact that at present, we do not hold any shares of CDSL in our Proprietary account and that the shares purchased by us on behalf of our clients are credited to their respective Beneficiary Accounts and are not held by us in a common/pool account.
3. While purchasing shares of CDSL, we have acted/and act as a fiduciary only; we do not hold ownership of the shares purchased on behalf of its clients. The shares are directly credited to the clients' own beneficiary/demat accounts, by the custodian and is not routed through any beneficiary/demat account held in our name
4. We do not exercise any voting rights on behalf of our clients. Account holders i.e. clients are provided with separate username and password for exercising their e-voting rights.
5. Since clients are permitted under the Depositories Act, 1996 and the SEBI (Depositories and Participants) Regulations, 2018 to open and maintain multiple beneficiary/demat accounts under one single PAN issued by the Income Tax Department, clients have the freedom to purchase securities including the shares of CDSL outside the PMS arrangement and on their own. Such acquisition of shares is not known to us sans disclosure by the client.
6. As a Portfolio Manager, we can be held responsible only in respect of shares purchased under the PMS arrangement with the client, and cannot be held accountable for the total / cumulative share-holding of the clients, taking into account, the shares purchased outside the PMS arrangement.
7. If the Investors of PMS are grouped into PAC of Portfolio Manager and their securities held outside the PMS arrangement are clubbed as the aggregate Shareholding of PAC, then it will be detrimental to the PMS Investors and the Investment objectives of Portfolio Management.



Our Request to SEBI

In view of the above facts, we request for an interpretive letter from the Board, on our understanding on the applicability of the following Regulations, in the matter of further purchase of CDSL shares, above 5% of the total paid up equity capital of CDSL, on behalf of our clients and in our capacity as a Portfolio Manager.

1. **Regulation 2 (1) (q) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulations")** : Whether a Portfolio Manager and its client who is an acquirer are to be considered as Persons Acting in Concert ("PACs"), in the above stated situation. Whether the Portfolio Manager is accountable for the securities held by the PMS investors outside its PMS arrangement?
2. **Regulation 22(3) of SEBI (Depositories & Participants) Regulations, 2018**: Whether, in the light of above-mentioned facts, prior approval of the Board has to be obtained for acquiring above 5% of the total paid-up equity capital of CDSL, in our capacity as a Portfolio Manager.

In the event of requirement of any further information or details from our end, we request you to kindly advise us accordingly.

Fees

Demand Draft of Rs.25,000/- in favour of Securities and Exchange Board of India, payable at Mumbai is enclosed herewith towards the fee for Informal Guidance under SEBI (Informal Guidance) Scheme, 2003

Thank You !

Yours sincerely,

For ClubMillionaire Financial Services Pvt Ltd



Anu R Kaimal
Compliance Officer

