

SECURITIES AND EXCHANGE BOARD OF INDIA

INTERIM ORDER CUM SHOW CAUSE NOTICE

Under Sections 11(1), 11B(1) and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 32 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

In respect of

Sl. No.	Noticee(s)	PAN
1.	Religare Enterprises Limited	XXXXXX5888X
2.	Ms. Rashmi Saluja	XXXXXX5660X
3.	Mr. Malay Kumar Sinha	XXXXXX8649X
4.	Mr. Hamid Ahmed	XXXXXX7850X
5.	Mr. Praveen Kumar Tripathi	XXXXXX2749X
6.	Mr. Ranjan Dwivedi	XXXXXX5456X
7.	Ms. Preeti Madan	XXXXXX2886X

(The aforesaid entities are hereinafter referred to by their respective names or Noticee number and collectively as “the Noticees”).

In the matter of Religare Enterprises Limited

Background:

- Religare Enterprises Ltd. (“REL” / “Target Company”) is a listed Core Investment Company (CIC) registered with the Reserve Bank of India (RBI) as a Non-Deposit taking Non-Banking Financial Company (“NBFC”). REL is listed on BSE, NSE and under Permission to Trade category on MSEI. REL is a company with no identifiable promoters.
- M.B. Finmart Private Limited (“**Acquirer 1**”), Puran Associates Private Limited (“**Acquirer 2**”), VIC Enterprises Private Limited (“**Acquirer 3**”) and Milky Investment & Trading Company (“**Acquirer 4**”) (collectively referred to as “**Acquirers**” or “**Burman Group**”) are public shareholders of the Target Company. Prior to Public Announcement on September 25, 2023, the Acquirers

1 to 4 were together holding 21.54% shares of REL. On September 25, 2023, the Acquirers placed orders with the stock broker, JM Financial Services Limited, to purchase up to 1,73,15,874 Equity Shares (i.e. 5.27% of the equity share capital), at a price of not more than Rs.235.00 per equity share, on any recognized stock exchange in India in tranches/ lots, subject to receipt of the relevant approvals from various regulatory authorities. The said proposed market purchase order would have increased the shareholding of the Acquirer beyond 25%, as a result of which the acquirers were obligated to make an open offer to the shareholders of the Target Company, in terms of Regulations 3(1) and 4 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**SAST Regulations, 2011**").

3. Accordingly, public announcement dated Sep 25, 2023 was made under Regulation 3(1) and 4 of SAST Regulations, 2011 by the Acquirers through JM Financial Ltd., Manager to the Offer ("**MB**"), for acquiring up to 9,00,42,541 fully paid-up equity shares of face value of Rs.10 each, representing 26.00% of the Expanded Voting Share Capital to be acquired at a price Rs.235/- for a total consideration of Rs.2115,99,97,135/- ("**Offer Size**").
4. In relation to the aforementioned Open Offer, REL/Committee of Independent Directors of the Target Company made representations dated October 18, 2023, which was further followed up by their letters/emails dated November 10, 2023, November 14, 2023, November 16, 2023, January 09, 2024, January 29, 2024, February 01, 2024, February 05, 2024, March 06, 2024, March 11, 2024, March 21, 2024, April 01, 2024, May 01, 2024, May 10, 2024, May 14, 2024, May 15, 2024, May 25, 2024, June 10, 2024 and June 11, 2024 to SEBI against the Acquirers/Burman Group, raising objections to the proposed acquisition made by the Acquirers *inter alia* on the ground that the Acquirers were not fit and proper persons for acquiring shares in the Target Company. SEBI vide emails dated November 08, 2023, March 01, 2024 and April 30, 2024, accorded opportunities to REL to provide the documents/records/evidence in support of their allegations / contentions contained in the representations.
5. In the meantime, the Acquirers vide letters dated December 27, 2023 and February 14, 2024 made complaints to SEBI about complete absence of co-operation and support from the Target Company that hindered the efforts of the

Acquirers to furnish necessary information for obtaining regulatory approval and complete the open offer process.

6. Further, the Target Company filed a writ petition [W.P. (C) 6949/2024] before the Hon'ble Delhi High Court, *inter alia* praying that SEBI be directed to conduct a forensic investigation, based on Target Company's representations submitted by it to SEBI earlier. The said Writ Petition is currently pending and is listed for hearing on August 20, 2024.
7. While processing the draft letter of offer filed by the Acquirers, SEBI obtained inputs from the regulatory bodies and MB. After examining the representations/correspondences of REL/Committee of Independent Directors of the Target Company and inputs from MB, SEBI disposed of the said representations vide letter dated May 31, 2024 ("**Letter 1**"). In order to enable the public shareholders of the Target Company to take decision to tender the shares in the open offer issued by the Acquirer, SEBI vide a separate letter dated May 31, 2024 ("**Letter 2**") advised REL to make an application to RBI, IRDAI and SEBI for requisite statutory approvals within 15 days of receipt of the said communication, in accordance with the regulatory framework laid down by the respective regulators.
8. In response to the aforesaid SEBI letters dated May 31, 2024, REL/Committee of Independent Directors of REL, vide letters dated June 10 and 11, 2024 *inter-alia* submitted the following:
 - (a) SEBI's letter advising REL to make application to RBI, IRDAI and SEBI was unwarranted, without jurisdiction and resulted in a regulatory overreach as the same clashed with the powers of the Board of Directors of REL and the exercise of regulatory discretion by other regulators, which was best avoided. The same needed immediate reconsideration.
 - (b) The matter of "fit and proper person" criteria and the issue of approval for change in control, had not been examined or disposed of by SEBI and had been correctly left for the consideration of the relevant sectoral regulators. The Target Company and its regulators ought to be given the requisite freedom to deal with this matter as they deemed appropriate.
 - (c) REL and its Committee of Independent Directors had repeatedly brought to the attention of RBI, SEBI and IRDAI that the Acquirers were not fit and

proper to acquire control of REL, and their representations in this respect were currently pending before the relevant regulators. As a result, SEBI was left with no jurisdiction to give advice in relation to a matter that was already pending before the regulatory authorities.

- (d) SEBI had misconstrued RBI's e-mail dated February 5, 2024 sent to the Acquirers, which effectively conveyed that application for prior approval of change in management control could be made only by the Target Company. The said email was not addressed to REL or SEBI and SEBI should not allow itself to be drawn into this matter between RBI and the Acquirers. RBI's e-mail only reiterated the statutory position that the Acquirers were not entitled, in law, to submit any application to the RBI. The said email did not put an obligation on the Target Company to mandatorily file any application for approval. SEBI had no jurisdiction to take any action based on RBI's enforcement of its own regulations.
- (e) The detailed representations to the RBI that the Acquirers were not "fit and proper" to take over or exercise control over REL was currently pending before the RBI.
- (f) The reference in SEBI's Letter 2 that Regulation 18(11) and Regulation 26 of SAST Regulations, 2011 have a reciprocal influence on each other was improper and unwarranted as these regulations cannot be given a conjoint reading. The Target Company was not obligated to act in tandem with the Acquirer. A contrary view would be prejudicial to the interests of the public and make the Target Company complicit in any wrongdoings of the acquirer, as in the present case.
- (g) The Representations submitted by REL to SEBI were in pursuance of fiduciary duties as the Acquirers' open offer was riddled with irregularities and statutory violations and cast serious doubts on the 'fit and proper' status of the Acquirers. REL could not be compelled to become complicit in such violations by making applications to seek statutory approvals for the Acquirers. This matter should be left entirely to the discretion of the relevant sectoral regulators.
- (h) SEBI appeared to be exceeding its jurisdiction in advising REL to make applications to RBI, relevant divisions of SEBI and IRDAI to seek statutory

approval for change in control since these matters were not governed by the SAST Regulations.

- (i) SEBI's view that allegations do not merit consideration at this juncture needed reconsideration as the representations had been disregarded, without any investigation.
 - (j) The Target Company must be given the freedom to independently assess SEBI's advice, without fear of legal consequences.
9. Consequently, it was observed that the Target Company failed to give effect to the advice contained in SEBI's Letter 2 and appeared to have no intention of following SEBI's advice

Prima Facie Observations of Examination by SEBI:

10. SEBI examined the matter. It was noted that in this matter, though the Acquirers have triggered the obligation to give an open offer under the provisions of the SAST Regulations, 2011, the said obligation cannot be discharged unless the prescribed statutory approvals are obtained from RBI (since the Target Company is an NBFC) and other sectoral regulators, viz. SEBI and IRDAI (since subsidiary companies of the Target Company are registered with SEBI and IRDAI). The Acquirers attempted to seek the approval of RBI for change in control / management of the Target Company. However, their application was not considered by RBI on the ground that the Master Circular dated October 19, 2023 issued by the RBI permitted only the Target Company to make such application. Similarly, the application of the acquirers to SEBI for change in control in respect of subsidiary companies of the Target Company was also not entertained and SEBI vide e-mail dated December 20, 2023 advised the Acquirers that the application for approval of change in control shall be filed by the concerned subsidiaries, which are registered intermediaries, viz. Religare Broking Limited and Religare Finvest Ltd.
11. The Acquirers have complained to SEBI that the Target Company has refused to apply for the approval from RBI and was not extending any co-operation in this regard. Further, as stated above, the Target Company had refused to heed to SEBI's advise issued vide Letter 2 to make applications for approval to RBI, IRDAI and SEBI.

12. The above facts and circumstances led to a situation whereby the Acquirers were willing to discharge their obligation of acquiring shares through the open offer but the Target Company was frustrating their efforts to do so.
13. The main grounds taken by the Target Company for not applying for statutory approvals from regulators, including RBI, SEBI and IRDAI, are summarized below:
 - (a) The Acquirers are not fit and proper persons.
 - (b) The objections raised by the Target Company against purchase of shares by the Acquirers in the open offer have not been considered by SEBI.
 - (c) SEBI has no jurisdiction to intervene in this matter and thus cannot advise / direct the Target Company to apply for approvals from RBI and other regulators.
14. Before looking into the above issues, it is imperative to look into the aspect as to whether the Target Company can act in a manner so as to frustrate the efforts of the Acquirers to acquire the shares from the shareholders once the open offer obligation has been triggered. In this regard, I deem it fit to refer to the relevant legal provisions applicable to the subject matter.
15. Under the SAST Regulations, 2011, any breach of shareholding threshold limit specified under Regulation 3(1) or any acquisition of control under Regulation 4 puts an obligation on the acquirer to make an open offer for purchase of shares from shareholders of the Target Company. As a natural corollary, the said obligation gives rise to the rights of such shareholders more particularly public shareholders of REL, to tender their shares in the open offer.
16. The right of the shareholders of the Target Company is sacrosanct and cannot ordinarily be interfered with. The exercise of said right by the shareholders cannot be held hostage to the designs of the existing management of the target company, especially in such cases where the existing management is apparently hostile to the acquirers and faces a conflict of interest in facilitating the acquisition of shares / control by the acquirers in an open offer, due to proposed change in control.
17. The well-established and accepted canons of law implicit in the SAST Regulations, 2011 bind all the parties to act in a manner which would enable

the shareholders to have an exit option in case of change in management or control of the Target Company. The present management of the Target Company and its Board of Directors have an obligation to ensure that the provisions and the objects of the SAST Regulations, 2011 are complied with by all the parties and the management of the Target Company cannot act against the interests of its shareholders. Any contrary interpretation regarding obligation of different parties is bound to create chaos and defeat the intent and purpose of the SAST Regulations, 2011.

18. In the instant case, the proposed acquisition of shares by the Acquirers cannot proceed and the option to the shareholders to tender their shares can be exercised subject to the receipt of the statutory approvals from the regulators, especially the RBI. As per Regulation 18(11) of the SAST Regulations, 2011, *“The acquirer shall be responsible to pursue all statutory approvals required by the acquirer in order to complete the open offer without any default, neglect or delay.”* It is noted that while the Acquirers have the obligation to obtain necessary statutory approvals, the right to file application for such approval from RBI, under its Master Circular, has been provided only to the Target Company. However, the absence of any explicit provision warranting the Target Company to file such application cannot be said to have conferred discretionary power on the Target Company/its management. If a contrary interpretation is adopted, no takeover would ever be possible in such cases, particularly, where the existing management is apparently hostile to the acquirer. Such an interpretation would be contrary to the objects of the SAST Regulations, 2011.
19. Apart from being obligated to act in the interest of the shareholders under the legal principles implicit in the SAST Regulations, 2011, the management of a listed company is duty bound to act in the interests of its shareholders under broader corporate governance norms, enshrined in the provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (**“LODR Regulations, 2015”**). Clause (2) of Regulation 4 of the LODR Regulations, 2015 provides *inter alia* the following:

(2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be

implemented in a manner so as to achieve the objectives of the principles as mentioned below.

(a) The rights of shareholders: The listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:

*(i) right to participate in, and to be sufficiently informed of, decisions concerning **fundamental corporate changes**. (Emphasis supplied)*

(vi) exercise of ownership rights by all shareholders, including institutional investors.

(vii) adequate mechanism to address the grievances of the shareholders.

(viii) protection of minority shareholders from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and effective means of redress.

20. From the above provisions, it is clear that any action / decision affecting the shareholders has to be taken with the consent of the shareholders. It is noted that under Regulation 26 of the SAST Regulations, 2011, the Target Company has to constitute a Committee of Independent Directors which then has to place reasoned recommendations on the open offer to shareholders. The said provisions imply that it is the shareholders who have to decide on tendering of shares in the open offer. The Target Company can only place the recommendation of the Committee of Independent Directors before the shareholders but cannot take decisions on behalf of the shareholders.
21. Further, Regulation 4(2)(d) of the LODR Regulations, 2015 provide that a listed entity has to recognise the rights of its stakeholders and encourage co-operation between listed entity and the stakeholders, *inter alia* in the following manner:
- (i) The listed entity shall respect the rights of stakeholders that are established by law or through mutual agreements.
 - (ii) Stakeholders shall have the opportunity to obtain effective redress for violation of their rights.
22. It is noted from the above that the Target Company has a duty under general corporate norms to take care of the rights of all the stakeholders. The Acquirers

of the Company, having acquired substantial number of shares and having made a public offer, have a stake in the Target Company as well. Any act or omission on part of the Target Company to impede Acquirers' obligation to complete the open offer and/or preventing the shareholders from deciding their rights to tender their shares in the open offer goes against the spirit of law incorporated in the above provisions.

23. Similarly, under provisions of Regulation 4(2)(f) of the LODR Regulations, 2015, the board of directors of a listed company have a responsibility to treat all the shareholders fairly. They have to act in good faith, with due diligence and care and in the best interest of the listed entity and the shareholders. Further, the board of directors have to maintain high ethical standards and take into account the interest of the stakeholders.
24. It is clear from the above that the refusal of the Target Company to seek statutory approvals from regulators which would enable the Acquirers to discharge their legal obligations and provide an exit option to shareholders in the open offer defeats the objects of the law and goes against the established canons of corporate governance. The management of the Target Company is representative of the shareholders and cannot act against the rights and interests of the shareholders.
25. The Target Company has responded to SEBI's advice dated May 31, 2024 to seek statutory approval by stating that SEBI has no jurisdiction in this matter. However, as the Latin legal maxim goes - *ubi jus ibi remedium*, where there is a right there must be a remedy. SEBI would be failing in its duties if measures are not taken for enforcement of rights of various stakeholders, above all the investors. In this regard, it must be borne in mind that under Section 11 of the SEBI Act, 1992, SEBI is duty bound to protect the interests of investors and regulate the securities market by such measures as it thinks fit. Thus, the Target Company's assertion that SEBI has no jurisdiction to intervene in this matter and thus cannot advise / direct the Target Company to apply for approvals from RBI and other regulators is misplaced and reflects the Target Company's contempt for regulatory bodies.
26. Unless the Target Company applies for statutory approvals, the open offer given by the Acquirer would turn infructuous. In fact, under Regulation 23 of the

SAST Regulations, 2011, the open offer, once made, can be withdrawn only in certain circumstances, which shows that there is a necessity to provide the shareholders an exit option. In this regard, it must be kept in mind that SEBI had only advised the Target Company to make an application to RBI, SEBI and IRDAI. How the said application would be processed by the RBI, SEBI and IRDAI falls entirely within the jurisdiction of RBI, SEBI and IRDAI. It goes without saying that SEBI has no role in processing of the said application by RBI and IRDAI. The said authorities are free to examine the fit and proper status of the applicant or any other criteria within their regulatory ambit. Thus, SEBI's advice to the Target Company to file application for statutory approvals from RBI and IRDAI cannot be considered as an infringement of the said regulators' jurisdictions. SEBI had taken this step to only to protect the interest of the shareholders.

27. The Target Company has asserted that the Acquirers are not fit and proper persons. They have also contended that SEBI has not considered the objections raised against the Acquirers in the representations submitted to SEBI. However, I note that SEBI vide Letter 1 has provided a comprehensive reply to the Target Company. As regard the fit and proper person criteria, it has rightly been conveyed in Letter 2 that the same would be considered by the respective regulators, as and when the applications for statutory approvals are made. Further, for the acquirer, there is no requirement of fit and proper criteria under the SAST Regulations, 2011 except that Regulations 6A and 6B of the SAST Regulations, 2011 provide that the acquirers should not have been declared as wilful defaulter/fugitive economic offender. No documentary evidences have been furnished by the Target Company to show that the Acquirers suffer from any of the said infirmities.
28. In view of the above, it is alleged that the Target Company has violated provisions of Regulation 26 of SAST Regulations, 2011 and has failed to adhere to the underlying principles governing the SAST Regulations, 2011. Further, Noticee 1 is also alleged to have violated the provisions of Regulations 4(2)(a) and (d) of the LODR Regulations, 2015.
29. I note that Noticee 2 is the executive Chairperson and Noticees 3 to 7 are the Directors of the Company, who are responsible for the affairs of the Target

Company. Accordingly, in terms of the provisions of Section 27 of the SEBI Act, Noticees 2 to 7 are responsible for the contraventions done by the Target Company. Further, Noticees 2 to 7 have also allegedly violated the provisions of Regulation 4(2)(f) of the LODR Regulations, 2015.

Need for Interim Directions

30. It is noted that the Acquirers had made public announcement for acquisition of shares on September 25, 2023, i.e. almost 9 months back. While the Acquirers have repeatedly followed up with the Target Company to obtain statutory approvals (failing which the open offer cannot proceed), the Target Company has steadfastly refused to co-operate and in fact has acted in an apparently hostile manner.
31. Since the open offer obligations of the Acquirers have consequently given rise to shareholders' right to have an exit option, any further delay is likely to cause prejudice to the rights of the shareholders. The Target Company cannot be allowed to impinge on the rights of the shareholders and their fate cannot be left hanging in balance. However, since the Target Company, even after explicit advice from SEBI, has refused to take appropriate step for making applications to regulators for statutory approvals, SEBI is left with no other option but to issue urgent directions to the Noticees to take appropriate steps in this regard. The same is necessary for ensuring fair, just and equitable treatment of all the stakeholders, including the Acquirers. The open offer requires a logical conclusion.
32. I thus find it to be a fit case to issue urgent directions so as to ensure fulfilment of the objects of the SAST Regulations, 2011 and LODR Regulations, 2015 and upholding the rights of the shareholders to participate in the open offer exercise, in case the statutory approvals are granted by the regulators.

Directions

33. In view of the *prima facie* observations and findings recorded in the preceding paragraphs and in order to protect the interests of the shareholders of the Target Company, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B(1) read with Section 19 of the SEBI Act, 1992

and Regulation 32 of SAST Regulations, 2011 hereby issue the following directions:

- (a) Noticees 1 to 7 shall, within seven days of the date of this Order, furnish an undertaking that Noticee 1 shall apply to the regulatory authorities including RBI, on or before July 12, 2024, for all the requisite statutory approvals that are necessary for proceeding with the open offer by the Acquirers.
 - (b) Noticees 1 to 7 shall take all the necessary steps to facilitate the acquirers to fulfil their obligations under the SAST Regulations, 2011.
 - (c) Noticees 1 to 7 shall forthwith constitute Committee of the Independent Directors, in terms of Regulations 26(6) of SAST Regulations, 2011, if not already constituted.
34. The observations, contained in this Order, are made on the basis of material available on record. This Order shall also be considered as a show cause notice and the afore-said Noticees are directed to show cause as to why suitable directions under Sections 11, 11(4) and 11B of the SEBI Act, 1992, including the directions restraining them from accessing the securities market; prohibiting them from buying, selling or otherwise dealing in securities in any manner whatsoever, directly or indirectly, for a specified period and further restraining them from being associating with any listed company and any registered intermediary, should not be issued against them, for the abovementioned alleged violations.
35. In this context, the concerned Noticees may, within 14 days from the date of receipt of this Order, file their reply/objections, if any, to this Order. The Noticees may also avail an opportunity of personal hearing, which is fixed for July 18, 2024 at 02:30 PM.
36. This Order shall come into effect immediately.
37. A copy of this order shall be served upon Noticees for compliance and upon Stock Exchanges, Depositories, RBI and IRDAI for information.

DATE: JUNE 19, 2024
PLACE: MUMBAI

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA