BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: ORDER/PM/RR/2020-21/8668)

UNDER SECTION 15 - I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of:
Life Insurance Corporation of India (PAN: AAACL0582H)

In the matter of Non-compliance of Regulation 7B of SEBI (Mutual Fund Regulations), 1996 by Life Insurance Corporation of India

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FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an examination in the matter of Non-compliance of Regulation 7B of SEBI (Mutual Fund Regulations), 1996 by Life Insurance Corporation of India and had observed possible violation of Regulation 7B of SEBI (Mutual Fund Regulations), 1996 (hereinafter referred to as "MF Regulations") by Life Insurance Corporation of India (hereinafter referred to as "Noticee/LIC").

APPOINTMENT OF ADJUDICATING OFFICER

2. I have been appointed as the Adjudicating Officer, vide Order dated January 28, 2020 and communicated vide Communique dated January 29, 2020 under Section 15-I of SEBI Act, 1992 (hereinafter referred to as 'SEBI Act') read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') to inquire into and adjudge under the provisions of Sections 15HB of the SEBI Act for the alleged violation of Regulation 7B of MF Regulations by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. Show Cause Notice (hereinafter referred to as 'SCN') dated March 12, 2020 was served on the Noticee by the undersigned at its latest address available on record. The SCN was issued to the Noticee under the provisions of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held against the Noticee and why penalty should not be imposed on the Noticee under the provisions of Sections 15HB of the SEBI Act, for the aforesaid alleged violation.

4. Following are the observations and allegations made in the SCN:
   a) Noticee, vide letter dated May 29, 2018, intimated SEBI that it holds around 18.24% of equity shares of UTI Asset Management Company Ltd (hereinafter may be referred to as UTI AMC) and sought time for gradual divestment of shares to comply with the relevant provisions.

   b) SEBI further observed that, as on date of notification of Regulation 7B of MF Regulations, LIC was a sponsor of LIC Mutual Fund (hereinafter may be referred to as LIC MF) and was also a sponsor / shareholder of UTI Mutual Fund (hereinafter may be referred to as UTI MF) holding more than 10% shares in UTI AMC which was not in conformity with the requirements of Regulation 7B of MF Regulations. The Noticee was required to comply with the said Regulations by March 12, 2019 i.e. within a period of one year from the date of coming into force of Regulation 7B of MF Regulations i.e., from March 13, 2018.

   c) Accordingly, vide letter dated August 10, 2018, SEBI advised the Noticee to comply with Regulation 7B of MF Regulations by March 12, 2019. However, vide letter dated March 8, 2019, Noticee had again requested for extension of time for compliance with Regulation 7B of MF Regulations. Subsequently, vide letter dated March 13, 2019, SEBI once again advised LIC to comply with Regulation 7B of MF Regulations, 1996.

d) It was further observed that LIC had holdings in more than one mutual fund. The shareholding pattern of UTI AMC and LIC AMC as on March 13, 2019 was examined which is as detailed below:

A. **UTI Asset Management Company Ltd and Trustee Company**

i. UTI Asset Management Company Ltd was incorporated under Companies Act, 1956 on November 14, 2002. UTI AMC was approved by SEBI to act as the Asset Management Company for UTI Mutual Fund vide SEBI letter no MF/BC/PKN/03 dated January 14, 2003. UTI MF has been constituted as a Trust on December 9, 2002 in accordance with the provision of the Indian Trust Act, 1882 (2 of 1882) with Life Insurance of India, State Bank of India and Bank of Baroda as the sponsors.

ii. Vide e-mail dated March 22, 2019**,** UTI AMC had forwarded shareholding pattern of UTI AMC and UTI Trustee Company as on March 13, 2019. The shareholding pattern of UTI AMC is as follows:

Shareholder's name	**Number of Equity Shares held**	**% of Equity Shares held**
Life Insurance of India	2,31,25,000	18.24
State Bank of India	2,31,25,000	18.24
Bank of Baroda	2,31,25,000	18.24
Punjab National Bank	2,31,25,000	18.24
T Rowe Price	3,29,64,686	26.00
ESOP	13,22,568	1.04
Total	**12,67,87,254**	**100.00**

iii. Further, the shareholding pattern of UTI Trustee company is as follows:

Shareholder's name	**Number of Equity Shares held**	**% of Equity Shares held**
Life Insurance of India	18,500	18.50
State Bank of India	18,500	18.50
Bank of Baroda	18,500	18.50
Punjab National Bank	18,500	18.50
T Rowe Price	26,000	26.00
Total	**1,00,000**	**100.00**

iv. From the shareholding pattern of UTI AMC and Trustee Company it was observed that 3 of the sponsors/shareholders of UTI AMC and Trustee, namely LIC, SBI and BOB are also sponsors of their LIC MF, State Bank of India MF and Bank of Baroda MF respectively.

B. LIC Asset Management Company Ltd and Trustee Company

i. LIC is the sponsor of LIC Mutual Fund. LIC Mutual Fund Asset Management Ltd. (herein after may be referred to as LIC AMC) is a public limited company. LIC AMC has been appointed as the Asset Management Company of the LIC Mutual Fund by the Trustee vide Investment Management Agreement (IMA) dated April 22, 1994 and executed between LIC Mutual Fund Trustee Private Ltd. and LIC Mutual Fund Asset Management Ltd.

ii. Vide email dated March 22, 2019**,** LIC AMC had forwarded the shareholding pattern of LIC AMC and LIC Trustee Private Ltd. as on March 13, 2019. The shareholding pattern of LIC AMC is as follows:

Shareholder's name	**Number of Equity Shares held**	**% of Equity Shares held**
Life Insurance Corporation of India and its nominees	4950	45
LIC Housing Finance Ltd	4323	39.3
GIC Housing Finance Ltd	1287	11.7
Corporation Bank	440	4
Total	**11000**	**100.00**

iii. Further, the shareholding pattern of LIC Trustee Private Ltd. is as follows:

Shareholder's name	**Number of Equity Shares held**	**% of Equity Shares held**
Life Insurance Corporation of India	4900	49.0
LIC Housing Finance Ltd	3530	35.3
GIC Housing Finance Ltd	1570	15.7
Total	**10000**	**100.00**

e) The status of compliance of Regulation 7B of MF Regulations was sought from LIC vide letter dated March 13, 2019. LIC vide letter dated March 20, 2019 inter-alia informed the following:
   i. any change in the shareholding would also require approval from the Government of India.
   ii. It was proposed that the stake sale would take place through IPO. Further, the IPO would be done in two phases.
   iii. On receipt of approval from Government of India for this divestment plan, UTI AMC would be advised to initiate the process of IPO

f) From the above facts and information provided by Noticee, it was observed that the Norms of shareholding and Governance in Mutual Funds as mandated under Regulation 7B of MF Regulations, has not been complied by Noticee by virtue of being a sponsor of LIC Mutual Fund (holding 45%) and also having 18.24% and 18.50% in UTI AMC and UTI Trustee Private Ltd. respectively.

g) In view of the above findings, it has been alleged that the Noticee has violated Regulation 7B of MF Regulations and thereby liable to be penalized under Section 15HB of the SEBI Act, 1992.

5. In response to the SCN, the Noticee filed its replies vide emails dated July 10, 2020 and July 14, 2020 which, inter-alia, stated as under:

   a) UTIAMC was incorporated on November 14, 2002 and commenced operation from February 1, 2003 with four sponsors, SBI, LIC, BOB, and PNB who held 25% stake each in UTIAMC. Consequent to sale of shares to T. Rowe Price International Inc. (TRP) and issue of ESOPs to employees of UTIAMC, the shareholding of LIC in the company presently stands at 18.24%.
   b) Department of Economic Affairs, Government of India, vide letter dated September 30, 2005 advised that the sponsors in UTIAMC are required to

obtain prior concurrence of the Government of India before transferring their shares amongst themselves or to any outsider.

c) *SEBI, vide notification dated March 13, 2018 inserted Regulation 7B in the SEBI (Mutual Fund) Regulations, 1996. As per the Regulation, a sponsor of a mutual fund cannot have 10% or more shareholding in another mutual fund. It was also specified that any person not in conformity with said Regulation, shall comply with the same within a period of one year from the effective date of said Regulation.*

d) *LIC has made continuous efforts to ensure compliance to the said Regulation. Several letters were sent to DIPAM, Ministry of Finance seeking permission to divest stake in UTI. Concurrently divestment plans were discussed between sponsors and DIPAM, vide its letter dated April 9, 2019 accorded approval for divestment of stake in UTIAMC by sponsors/stakeholders in two phases. It was stipulated in the approval that in case there is a change in the proposed divestment plan, proposal is to be referred to DIPAM again for seeking approval of the Competent Authority.*

e) *As TRP, the major shareholder was not in favour of divestment plan as approved by DIPAM, subsequent meetings were held to arrieve at a consensus. It was agreed in-principle to divest 8.25% of stake each by SBI, LIC and BOB and 3% of stake each by PNB and TRP at one go by way of an IPO. This will reduce shareholding of LIC to 9.9%.*

f) *This mutually agreed proposal was conveyed to DIPAM, which has conveyed approval for divestment plan vide their letter dated September 12, 2019.*

g) *While we were duty bound to abide by SEBI Regulations, we could not have done the divestment without the concurrence of Government, as mandated in their letter dated September 30, 2005. The concurrence was given by DIPAM on September 12, 2019*

h) *SEBI had issued SCN dated July 19, 2019 to LIC for violation of Regulation 7B followed by hearing and written submission. Whole Time Member had passed Order dated December 6, 2019, wherein time was granted up to December 31, 2020 for compliance of Regulation 7B.*

i) SEBI vide letter dated June 16, 2020, has approved launch of IPO of UTIAMC within a period of 12 months from the date of their letter. The IPO is schedule to open in first week of September 2020.

j) In case of UTI Trustee Co. Pvt. Ltd., DIPAM, MOF, vide letter dated January 29, 2020 stated to UTI that no approval of Government is required for divestment of stake by sponsors in UTI Trustee Co. Pvt. Ltd.

k) We have conveyed consent for issue of notice to TRP for right of first refusal and currently share purchase agreement is being vetted.

l) We have withdrawn Shri S. Ravi, Associate Director, UTI Trustee Co. Pvt. Ltd. from Board of company on July 6, 2020.

m) We have taken all measures to comply with the Regulation 7B and we are certain that we shall be complying with the regulation well before the timeline granted by SEBI vide Order dated December 6, 2019 i.e., December 31, 2020.

n) Hence we request that proceedings initiated against LIC of India through SCN may be dropped and LIC may not be held liable for contravention of Regulation 7B of SEBI (Mutual Funds) Regulations, 1996.

6. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, vide hearing Notice dated June 26, 2020, the Noticee was granted an opportunity of personal hearing on July 10, 2020. The said hearing was granted through videoconferencing on the Webex platform in view of the difficulties faced due to Covid 19-pandemic. The Authorised Representative of the Noticee attended the said hearing and requested to submit additional reply in the instant matter.

7. Taking into account the aforesaid facts, I am of the view that principle of natural justice has been followed in the matter by granting the Noticee opportunity for replying to the SCN and of being heard. Therefore, I deem it appropriate to decide the matter on the basis of facts/material available on record and replies submitted by the Noticee.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

8. I have taken into consideration the facts and material available on record including the submissions made by the Noticee. I observe that the allegation levelled against the Noticee is that the Noticee has violated Regulation 7B of MF Regulations, 1996.

   After perusal of the material available on record, I have the following issues for consideration, viz.,

   I. *Whether the Noticee has violated the provisions of Regulation 7B of SEBI (Mutual Fund) Regulations, 1996?*
   II. *Does the violation, if any, attract monetary penalty under Section 15HB of SEBI Act.?*
   III. *If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

9. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (Mutual Fund) Regulations, 1996, which reads as under:

Relevant provisions of SEBI (Mutual Fund) Regulations, 1996:

"***Norms for Shareholding and Governance in Mutual Funds***

7B. (1) No sponsor of a mutual fund, its associate or group company including the asset management company of the fund, through the schemes of the mutual fund or otherwise, individually or collectively, directly or indirectly, have –

(a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or

(b) representation on the board of the asset management company or the trustee company of any other mutual fund."

(2) Any shareholder holding 10% or more of the share-holding or voting rights in the asset management company or the trustee company of a mutual fund, shall not have, directly or indirectly, -

(a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or
(b) representation on the board of the asset management company or the trustee company of any other mutual fund.

(3) Any person not in conformity with the sub-regulations (1) and (2) of this regulation, as on the date of the coming into force of this regulation shall comply with sub-regulations (1) and (2) within a period of one year from the date of the coming into force of this regulation.

Issue I: Whether the Noticee has violated the provisions of Regulation 7B of SEBI (Mutual Fund) Regulations, 1996?

10. The first issue for consideration is whether the Noticee has violated Regulation 7B of SEBI (Mutual Fund) Regulations, 1996.

11. Taking into account the requirements of Regulation 7B of SEBI (Mutual Fund) Regulations, 1996, replies of the Noticee and facts of the case, my findings in the instant matter are as under:

    a) From the fact of the case, I observe that SEBI, vide notification dated March 13, 2018, inserted Regulation 7B in the SEBI (Mutual Fund) Regulations, 1996. As per the said Regulation, a sponsor of a mutual fund, its associate or group company including the asset management company of the fund, cannot have 10% or more shareholding or voting rights in the asset management company or the trustee company of any other mutual fund. Further, those who are not in conformity with the provisions of the said Regulation, shall comply with the same within a period of one year from the effective date of said Regulation i.e., by March 12, 2019.

    b) It was observed by SEBI that, as on date of notification of the said Regulation, LIC is a sponsor of LIC Mutual Fund and is also a sponsor / shareholder of

UTI Mutual Fund holding 18.24% in UTI AMC and 18.50% in UTI Trustee Company which is not in conformity with the requirements of Regulation 7B of MF Regulations. As per the provisions of the said Regulations, the Noticee was required to comply with the said Regulations by March 12, 2019 i.e. within a period of one year from March 13, 2018. In this regard, SEBI, vide multiple letters, directed the Noticee to comply with the provisions of the said Regulation with specified time. Further, from the submissions made by the Noticee before me, I find that till date the Noticee has not complied with the provisions of the Regulation 7B.

c) Noticee in its reply has stated that it has taken continuous efforts to comply with Regulation 7B including taking approval from DIPAM regarding divestment of its holding, meetings with sponsors etc. However, due to procedural delays, it was unable to comply within specified time.

With regard to the procedural difficulties cited by the Noticee, I understand that the Noticeee is required to comply with the relevant Regulations/directions issued by SEBI from time to time. In the instant matter, the provision of said Regulation does not give any relaxation from complying with the same for any procedural challenges. In view of the above, the contention of the Noticee that due to procedural delays, it was unable to comply stated Regulations within specified time, cannot be accepted.

d) Noticee, in its submissions, has specified that vide the Order dated December 6, 2019 passed against it, Whole Time Member, SEBI has been provided time till December 31, 2020 to the Noticee for complying with Regulation 7B.

With regard to above submission of the Noticee, it is worthwhile to mention here that the proceedings initiated against the Noticee wherein Order has been passed by Whole Time Member, SEBI and the present Adjudication proceedings are two separate proceedings and does not have bearing on one another. I also note that, in the Order dated December 6, 2019, WTM, SEBI has mentioned the following;

"*This order shall be without prejudice to any other action including adjudication proceedings that SEBI may initiate against the Bank for the non-compliance with the provisions of Regulation 7B of the MF Regulations"*

Therefore, in my opinion, the timeline provided by WTM, SEBI to the Noticee has no bearing on the present Adjudication proceeding initiated against the Noticee.

e) From the submissions of the Noticee, I observe that the Noticee has not denied the fact that it has not complied with the provisions of Regulation 7B of MF Regulations although it has stated that the IPO of UTIAMC for divestment of its shareholding in UTIAMC is schedule to open in first week of September 2020 and with respect to its holding in UTI Trustee Co. Pvt. Ltd., share purchase agreement is being vetted.

In this context, I would like to rely on observation of Hon'ble Supreme Court of India, in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein it was held that *"In our view, <u>the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established</u> and, therefore, the intention of the parties committing such violation becomes immaterial. ………. Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary*".

f) Based on the aforesaid findings, I conclude that the Noticee has violated the provisions of Regulation 7B of SEBI (Mutual Fund) Regulations, 1996.

Issue II: Does the violation, if any, attract monetary penalty under Section 15HB of SEBI Act?

The provisions of Section 15HB of the SEBI Act, 1992 read as under:

<u>Penalty for contravention where no separate penalty has been provided.</u>

15HB.*Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.*

12. In view of the foregoing, I am convinced that the Noticee is thus liable for monetary penalty under Section 15HB of SEBI Act for violation of Regulation 7B of SEBI (Mutual Fund) Regulations, 1996.

Issue III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

13. The provisions of Section 15J of the SEBI require that while adjudging the quantum of penalty, the Adjudicating Officer shall have due regard to the following factors namely;
    a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
    b) the amount of loss caused to an investor or group of investors as a result of the default;
    c) the repetitive nature of the default.

14. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failure. However, from the fact of the case and aforesaid findings, I note that the Noticee has violated Regulation 7B of SEBI (Mutual Fund) Regulations, 1996.

<u>ORDER</u>

15. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI Act, 1992 read with Rule 5 of Securities and Exchange Board of India (Procedure for

Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose a penalty of Rs 10,00,000/- (Rupees Ten Lakh) on Life Insurance Corporation of India in terms of the provisions of Sections 15HB of the Securities and Exchange Board of India Act, 1992. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by the Noticee.

16. The Noticee shall remit / pay the said amount of penalty within 45 days from the date of receipt of the Order either

Through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link

ENFORCEMENT → Orders → Orders of AO → PAY NOW

OR

Through e-payment facility into Bank Account, the details of which are given below:

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

OR

By way of demand draft in favour of "SEBI-Penalties Remittable to Government of India", payable at Mumbai.

17. The Noticee shall forward the following details / confirmation of penalty so paid to the General Manager, Enforcement Department, SEBI, Mumbai.

1. Case Name :	
2. Name of Payee:	
3. Date of payment:	

4. Amount Paid:	
5. Transaction No:	
6. Bank Details in which payment is made:	
7.Payment is made for:	Penalty

18. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

Date: August 14, 2020
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER