

DCS/AMAL/LP/24(f)/118/2015-16

August 04, 2015

The Company Secretary,
Zodiac Ventures Limited
404, Dev Plaza, 68,
S. V. Road, Andheri (West) ,
Mumbai- 400 058,
Maharashtra.

Dear Sir/Madam,

Sub: Observation letter regarding Draft Scheme of Scheme of Amalgamation of Zodiac Ventures Limited with Zodiac Developers Private Limited.

We refer to your submission of draft Scheme of Amalgamation of Zodiac Ventures Limited (ZVL) with Zodiac Developers Private Limited (ZDPL), filed under clause 24[f] of Listing Agreement and in accordance with SEBI Circular No. CIR/CFD/DIL/5/2013 & No. CIR/CFD/DIL/8/2013 dated February 4, 2013 & May 21, 2013 respectively.

As required under SEBI Circular No. CIR/CFD/DIL/5/2013 & No. CIR/CFD/DIL/8/2013 dated February 4, 2013 & May 21, 2013 respectively, SEBI vide its letter dated August 04, 2015 has given its letter of comments on the draft scheme and a copy of the same is attached as **Annexure I**.

In the Annexure I of its aforesaid comment letter dated August 4, 2015, SEBI has inter-alia made the following observations:

- 1. Delisting of ZVL without providing an exit opportunity – an attempt to circumvent the obligations under Delisting Regulations.*
- 2. Dilution in Public Shareholding of ZVL which is not in accordance with provisions of SCRR and Listing Agreement.*

Further, you are advised that, as mentioned in last para of point 7 of Annexure I of the aforesaid SEBI letter, the above comments/observations do not preclude the company from filing the draft scheme with the Hon'ble High Court for sanction.

Yours faithfully,


Nitin Pujari
Manager


Lalit Phatak
Asst. Manager



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Annexure 1

I. Facts of the Case In brief

1. The parties relevant to this case are as under:

1.1. Zodiac Ventures Limited ("ZVL") - transferor company and listed on BSE

1.2. Zodiac Developers Private Limited ("ZDPL") – transferee company and Unlisted.

ZVL and the promoters of the ZVL together hold 100% shares in ZDPL i.e. approximately 50.98% and 49.01% stake respectively.

Upon effectiveness of the Scheme, ZDPL shall list its shares on the Stock Exchange

2. The scheme envisages the following:

2.1. Amalgamation of ZVL into ZDPL

Upon the scheme becoming effective, entire business and undertaking of ZVL will be deemed to be transferred to and vested in the ZDPL.

As per the draft scheme, in consideration of amalgamation of ZVL into ZDPL, 51 equity shares of Rs. 1/- each of the ZDPL will be issued and allotted to each shareholder holding 20 equity shares of Rs. 1/- each in the ZVL.

It is mentioned that the issue of new equity shares shall be made in compliance with the provisions of the minimum public shareholding prescribed under the Securities Contracts (Regulation) Act, 1956 ("SCRA") and Securities Contracts (Regulation) Rules ("SCRR") such that for any entitlement of the promoters of ZVL beyond the maximum permissible promoter group shareholding of 75% or any other specified percentage as may be permissible under SCRA, the Promoters of Transferor Company shall be proportionately issued such number of fully paid up 8%, Optionally Convertible Redeemable Preference Shares of par value of Re 1 /- each ("OCRPS") with one OCRPS convertible into one fully paid up equity share of par value of Re 1 /- each of the Transferee Company at the option of the Promoters of Transferor Company within a period of eighteen months from the date of their allotment in compliance with minimum public shareholding norms under the SCRA



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or any other applicable laws. The entitlement of the Promoters of Transferor Company to OCRPS shall be in the ratio of one OCRPS for every one equity share of par value of Re 1/- each of the Transferee Company in terms of the share exchange ratio prescribed above. OCRPS shall be entitled to rights or bonus shares in the same manner and ratio as are available on equity shares of the Transferee Company. OCRPS shall be freely convertible into equity shares at the option of the Promoters of Transferor Company without any restriction or lock-in.

In case the OCRPS is not converted into equity shares at the end of eighteen months from the date of their allotment, then one OCRPS shall be converted into one 8%), Cumulative, Non-participating, Non-convertible Redeemable Preference Share ("NCRPS") of par value Re 1/- each, such that the promoter shareholding is in consonance with the minimum public shareholding requirements prescribed under SCRA at all times. NCRPS shall be redeemable at premium of Rs. 19.83 each and shall be non-convertible throughout their term. NCRPS will be entitled to dividend at the rate of 8% per annum per share, payable on a pro rata basis from the date of allotment.

2.2. Dissolution of ZVL

Listed Company ZVL shall stand dissolved without being wound up and without any further act by the parties.

3. The pre and post scheme shareholding pattern in summarized form is given as under:

Share Holding Pattern	ZVL (Pre-Scheme)		
	No. of shareholders	No. of shares	%
Promoter	9	23989640	64.33
Public	334	13300360	35.67
Total	343	37290000	100.00



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Share Holding Pattern	ZDPL (Pre-Scheme)			ZDPL (Post-Scheme)		
	No. of shareholders	No. of shares	%	No. of shareholders	No. of shares	%
Promoter	7	122400000	100.00	7	101747754	75.00*
Public	0	0	0.00	334	33915918	25.00
Total	7	122400000	100.00	18781	135663672	100.00

* Promoters will hold OCRPS over and above 75% equity share capital

4. Voting by Shareholders:

Para 20(b) and 20(c) of draft scheme provides for voting by public shareholders as under:

"b) As Para 5.16(a) of SEBI Circular No. CIR/CFD/DIL/5/2013 dated 4th February 2013 read with Para 7 of SEBI Circular No. CIR/CFD/DIL/8/2013 dated 21st May 2013 is applicable to this Scheme, therefore it is provided in the Scheme that the Transferor Company will provide voting by the public shareholders through postal ballot and e-voting and will disclose all material facts in the explanatory statement, to be sent to the shareholders in relation to the said Resolution.

c) As Para 5.16(a) of SEBI Circular No. CIR/CFD/DIL/5/2013 dated 4th February 2013 read with Para 7 of SEBI Circular No. CIR/CFD/DIL/8/2013 dated 21st May 2013 is applicable to this Scheme, the Scheme shall be acted upon only if the votes cast by the public shareholders in favour of the Scheme are more than the number of votes cast by the public shareholders against it."

5. In view of the above, ZVL has made application to SEBI (through BSE, the designated Stock Exchange) as per the provisions of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013.

II. SEBI's observations with regard to Scheme of Arrangement

6. The Scheme, which involves amalgamation of transferor entity with the transferee entity, certain concerns are observed with regard to the following:

6.1 Delisting of ZVL without providing an exit opportunity - an attempt to circumvent the obligations under Delisting Regulations.

6.2 Dilution in public shareholding of ZVL which is not in accordance with provisions of SCRR and Listing Agreement.



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6.1. Delisting of ZVL without providing an exit opportunity - an attempt to circumvent the obligations under Delisting Regulations

6.1.1. The draft scheme proposes to amalgamate listed company ZVL into unlisted company ZPVL and the listed Company ZVL shall stand dissolved without being wound up.

6.1.2. SEBI, in order to protect the interest of investors, has put in place SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009 ("Delisting Regulations") which seek to ensure that the delisting of a listed company in the securities market takes place in a fair, equitable and transparent manner. Delisting Regulations are based on the following principles:

- Equality of treatment and opportunity to all shareholders.
- Protection of interests of shareholders.
- Fair and truthful disclosure of all material information by the acquirer in all public announcements.
- Availability of sufficient time to shareholders for making informed decisions.
- Delisting offer to be announced only after most careful and responsible consideration.
- Delisting Price determined by independent market mechanism (Reverse Book Building)

6.1.3. Delisting Regulations require the promoter to make an offer/ give exit opportunity to incumbent shareholders before delisting the listed company.

6.1.4. However, it may be argued that such delisting of listed company due to scheme of arrangement pursuant to the sanction of Hon'ble High Court will not be in line with the procedure laid down in Delisting Regulations.

6.1.5. Delisting of listed company is taking place without any exit opportunity to the public shareholders of the listed entity. Moreover, the shareholding of the erstwhile public shareholders of the listed entity



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would get reduced to a significantly low percentage in the post scheme capital, i.e. from 35.67% to only 25.00% of post-scheme capital.

6.1.6. Delisting of listed company is being achieved without going through the transparent mechanism of envisaged in the Delisting Regulations. Thus, the principles underlying the regulations have also been defeated because of this non-transparent method adopted through the Scheme of Arrangement.

6.1.7. The present Scheme appears to have been designed as an artifice to circumvent the compliance with the provisions of the Delisting Regulations.

6.2. Dilution in public shareholding of ZVL which is not in accordance with provisions of SCRR and Listing Agreement

6.2.1. As mentioned in para 6.1.5 above, the public shareholding of ZVL (Listed Company) prior to the Scheme of Arrangement stands at 35.67% held by 334 shareholders. Post the Scheme, their shareholding gets reduced to approximately 25% of post-scheme capital. In addition, the promoters will hold OCRPS/NCRPS which when considered will result into effective public shareholding being significantly lower than 25%.

6.2.2. Further, OCRPS shall be entitled to rights or bonus shares and NCRPS will be entitled to dividend at the rate of 8% per annum per share, payable on a pro rata basis from the date of allotment. Thus, it is felt that characteristics of OCRPS/NCRPS envisaged in the draft scheme are similar to that of equity shares.

6.2.3. In terms of Rule 19A of SCRR, as amended on June 04, 2010, every listed company (other than public sector company) shall maintain public shareholding of at least 25%. The object of this minimum public shareholding requirement is to ensure the availability of a minimum portion/ number of shares (floating stock) of the listed company with the public. This would provide a reasonable depth in the market and the prices of the securities are not susceptible to manipulation. Further,



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a dispersed shareholding structure is an essential ingredient for the sustenance of a continuous market for listed securities to provide liquidity to the investors and to discover fair prices.

6.2.4. In the instant case, the effective public shareholding of listed company is not only reducing below 25% but also the tradable listed equity shares of listed company are being exchanged with unlisted equity shares of unlisted company which defeats the very purpose of minimum public shareholding requirements.

6.2.5. As against this requirement, post Scheme, the effective public shareholding gets reduced to less than 25%. Therefore, this is not in compliance with the requirements of rule 19A of SCRR and clause 40A of Listing Agreement. Such a non-compliance, would defeat the objective of the minimum public shareholding norm stated at Para 6.2.3 above.

7. Conclusion on the Scheme of Arrangement

7.1. The Scheme of Arrangement in its current form is resulting in delisting of a listed company and will be detrimental to the public shareholders of ZVL as the delisting process is achieved through a non-transparent, inequitable and unfair method.

7.2. As the effective public holding in the post amalgamated entity would be less than 25% and the equity shares of post amalgamated entity will be unlisted. Non-dispersed shareholding structure along with lack of trading will hamper the sustenance of the continuous market for the equity shares of the company.

There will not be liquidity in trading and discovery of fair price is unlikely.

The above comments/observations do not preclude the company from filing the draft scheme with the Hon'ble High Court for sanction.