

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM : PRASHANT SARAN, WHOLE TIME MEMBER**

ORDER

Under section 11(1), 11(2)(j), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with section 12A of the Securities Contracts (Regulation) Act, 1956 in the matter of non-compliance with the requirement of minimum public shareholding by listed companies

In respect of Foseco India Limited

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") had passed an *ad interim order* dated June 04, 2013 (hereinafter referred to as "*the interim order*") with respect to 105 listed companies who did not comply with the Minimum Public Shareholding ("MPS") norms as stipulated under rules 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as "SCRR") within the due date i.e., June 03, 2013. The *interim order* was passed without prejudice to the right of SEBI to take any other action, against the non-compliant companies, their promoters and/or directors or issuing such directions in accordance with law. The *interim order* was to be treated as a show cause notice by those companies for action contemplated in *paragraph 18* thereof.
2. Foseco India Limited (hereinafter referred to as "the Company") is one such company against whom the *interim order* was passed. The equity shares of the Company are listed on the Bombay Stock Exchange Limited ("BSE").
3. The Company filed its replies dated June 11, 2013 and June 25, 2013 to the *interim order*. An opportunity of personal hearing was afforded to the Company on July 16, 2013, when Mr. Simon O'Hara (*Company Secretary, Vesuvius Plc.*), Mr. S. Mathur (*Managing Director of the Company*), Mr. Umesh R. (*Chief Financial Officer of the Company*), Mr. M. Dutia (*Company Secretary of the Company*) and Mr. Lionel D. Almeida (*Senior Associate, AZB & Partners*) appeared and made submissions.
4. I have considered the replies of the Company, the oral submissions made during the personal hearing and the documents available on record.
5. The Company has submitted that since it was non-compliant with the minimum public shareholding threshold to the extent of 0.000012% of its equity capital, it was contemplating the most viable method to comply with the MPS norms. The Company and its promoter/promoter group had then decided to undertake an Offer for Sale ("OFS") of up to 1,000 equity shares through the stock exchange mechanism. The OFS, which was undertaken by Foseco (UK) Limited, a member of the Company's promoter group, was completed on June 21, 2013. In the OFS, 1000 equity shares were sold for an aggregate consideration of ₹4,52,689/-. The Company has submitted that pursuant to the

OFS, the cumulative promoter shareholding had reduced to 47,88,845 equity shares aggregating to 74.98% of the paid up equity share capital of the Company. The public shareholding has increased to 15,97,614 equity shares constituting 25.02%. The Company further submitted that it is now compliant with the minimum public shareholding threshold prescribed under the provisions of SCRR read with the listing agreement and requested SEBI not to enforce the *interim order* against the Company, its promoters and the promoter group or take action as contemplated therein.

6. I have considered the above submissions. I note that the Company was allowed to sell one equity share, as requested by it vide its letter dated May 20, 2013, for the purposes of achieving compliance with the MPS norms. However, it did not utilize the approval from SEBI to sell one equity share. Consequently, due to the non-compliance with the MPS norms, the *interim order* came to be passed by SEBI. I note that the Company had sufficient notice for a long time i.e., three years, to achieve compliance with the MPS requirement before June 03, 2013. SEBI had also followed up with the Company, during November 2012 regarding compliance. However, the Company chose to seek approval for selling one equity share, only a few days before the deadline of June 03, 2013. Had the Company decided on the mode and manner for achieving MPS compliance much earlier, it could have completed the OFS and the formalities required thereof before the last date for compliance. It is the Company's submission that the OFS was completed on June 21, 2013. The Company has therefore definitely delayed in complying with the MPS requirements. For this conduct, the Company is warned and is advised to ensure compliance with all the applicable laws and regulations administered by SEBI, in letter and spirit. I have perused the disclosure of the shareholding pattern of the Company for the quarter ending June 2013, as found in the BSE website, and note that the public shareholding is at 25.02%, as submitted by the Company. Considering the fact that the Company is now compliant with the stipulated minimum public shareholding level, I do not propose to initiate action as contemplated in paragraph 18 of the *interim order*.

7. In view of the foregoing, I, in exercise of the powers conferred upon me under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11(1), 11(2)(j), 11(4) and 11B thereof and section 12A of the Securities Contracts (Regulation) Act, 1956, hereby revoke the directions issued vide the *interim order* dated June 04, 2013 against the company, Foseco India Limited, its directors, promoters and promoter group, with immediate effect.

8. Copy of this Order shall be served on the stock exchanges and depositories for their information and action that may deem fit and necessary in this case.

**PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**

**Date : July 31, 2013
Place : Mumbai**