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26/9BEST EMPLOYERS IN INDIA
Consistently in 2007, 2009 & 2011 - Study by Aon Hewitt

September 26, 2016

Securities and Exchange Board of India
Integrated Surveillance Department
SEBI Bhavan, Plot No. C4-A,
"G" Block, Bandra Kurla Complex,
Bandra (E),
Mumbai - 400 051

Dear Madam/Sir,

Sub: Request for Interpretive Letter under the SEBI (Informal Guidance) Scheme, 2003 in relation to SEBI (Prohibition of Insider Trading) Regulations, 2015

We refer to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 ("Regulations") issued in January 2015 and the Guidance Note issued on the Regulations in August 2015 and seek clarification on the following issues:

A) Applicability of restriction on 'contra trade' in respect of trades in all listed securities by the Designated Persons

Regulation 9 of the Regulations requires the board of directors of every listed company and market intermediary to formulate a code of conduct, adopting the minimum standards set out in Schedule B ("Model Code") without diluting the provisions of the Regulations.

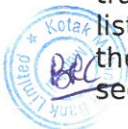
As per Clause 10 of the Model Code, the Code of Conduct is required to specify a period (not being less than 6 months), within which a designated person who is permitted to trade shall not execute a contra trade.

As per Clause 3 of the Model Code, designated persons are defined as Employees and Connected Persons designated on the basis of their functional role in the organisation.

The relevant extracts of the Regulations referred above are attached herewith for reference as Annexure A.

All senior managers end up being defined as designated persons.

The Regulations do not provide clarity on whether the restriction of contra trade (for a period not being less than 6 months) is only in respect of the listed company's own securities or all listed securities. A plain reading of the clause suggests that the six month restriction is applicable to all securities.



SEBI/IW/P/20160927/0000084880

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28/9/16

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Designated Persons of a listed company may not be in possession of Unpublished Price Sensitive Information (UPSI) in respect of other listed securities. For example a Company Secretary of a cement company who has purchased shares of a software company should not be required to hold those shares for six months as long as he / she does not have any UPSI regarding the said software company. Even in case of intermediaries designated persons would not have UPSI of all companies.

It may be noted that in the SEBI (Prohibition of Insider Trading) Regulations, 1992 ('earlier regulations'), there were two separate Model Codes, Part A for the Listed Companies and Part B for other entities which is for the intermediaries. As per Clause 4.2 of the Part A the restriction on contra trade was clearly and specifically applicable only in respect of the company securities.

B) Applicability of restriction on 'contra trade' in case of IPOs

We refer to the Clause 4 of the Guidance Note dated 24th August 2015 which is reproduced as follows:

4. *Whether the restriction on execution of contra trade in securities is applicable in case of buy back offers, open offers, rights issues FPOs etc. by listed companies?*

Guidance: Buy back offers, open offers, rights issues, FPOs, bonus, exit offers etc. of a listed company are available to designated persons also, and restriction of 'contra-trade' shall not apply in respect of such matters.

In the aforesaid guidance a clarification is provided that the restriction of 'contra-trade' shall not apply in respect of Buy back offers, open offers, rights issues, FPOs, bonus, exit offers etc. On the same basis a similar clarity is also required as regards applicability of the restriction on contra trade in case of securities acquired through subscription in IPOs.

It may be noted that in the earlier regulations, as per clause 4.2 Part A - the model code for Listed Companies, the minimum holding period in respect of subscription in the primary market (initial public offers), was a minimum period of only 30 days.

In accordance with the provision of Securities and Exchange Board of India (Informal Guidance) Scheme, 2003, we would like to seek your guidance on the following queries by way of Interpretative Letter in context of the aforesaid provisions:

- a) Whether the restriction on contra trade by Designated Persons is applicable only in respect of the listed company's own securities or for all listed securities?
- b) Whether the guidance provided by SEBI exempting the applicability of restriction on contra trade in respect of Buy back offers, open offers, rights issues, FPOs, bonus, exit offers etc. will also be applicable in case of securities subscribed in an IPO?



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We are enclosing herewith a demand draft no. 442048 dated 25th August 2016 for ₹25,000/- in favour of Securities and Exchange Board of India payable at Mumbai, towards fees for informal guidance.

Thanking you,

Yours faithfully,
For Kotak Mahindra Bank Ltd.

B.P. Chandarana



Bina Chandarana
Company Secretary &
Sr. Executive Vice President



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Annexure A

Relevant extracts of the Regulations

Code of Conduct.

9. (1) The board of directors of every listed company and market intermediary shall formulate a code of conduct to regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.

SCHEDULE B - Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders

3. *Employees and connected persons designated on the basis of their functional role ("designated persons") in the organisation shall be governed by an internal code of conduct governing dealing in securities. The board of directors shall in consultation with the compliance officer specify the designated persons to be covered by such code on the basis of their role and function in the organisation. Due regard shall be had to the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation.*
10. *The code of conduct shall specify the period, which in any event shall not be less than six months, within which a designated person who is permitted to trade shall not execute a contra trade. The compliance officer may be empowered to grant relaxation from strict application of such restriction for reasons to be recorded in writing provided that such relaxation does not violate these regulations. Should a contra trade be executed, inadvertently or otherwise, in violation of such a restriction, the profits from such trade shall be liable to be disgorged for remittance to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act.*

Regulation 2(1) - Definitions

(d) "connected person" means,-

- (i) *any person who is or has during the six months prior to the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access.*





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(ii) *Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be connected persons unless the contrary is established, -*

- (a). *an immediate relative of connected persons specified in clause (i); or*
- (b). *a holding company or associate company or subsidiary company; or*
- (c). *an intermediary as specified in section 12 of the Act or an employee or director thereof; or*
- (d). *an investment company, trustee company, asset management company or an employee or director thereof; or*
- (e). *an official of a stock exchange or of clearing house or corporation; or*
- (f). *a member of board of trustees of a mutual fund or a member of the board of directors of the asset management company of a mutual fund or is an employee thereof; or*
- (g). *a member of the board of directors or an employee, of a public financial institution as defined in section 2 (72) of the Companies Act, 2013; or*
- (h). *an official or an employee of a self-regulatory organization recognised or authorized by the Board; or*
- (i). *a banker of the company; or*
- (j). *a concern, firm, trust, Hindu undivided family, company or association of persons wherein a director of a company or his immediate relative or banker of the company, has more than ten per cent. of the holding or interest;*

(f) *"immediate relative" means a spouse of a person, and includes parent, sibling, and child of such person or of the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions relating to trading in securities;*



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Kotak Mahindra Bank 1368 - MUMBAI - BKC 27

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(0632)

Tanuj Matzarkar
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ATISH PATIL A KMBL 65895
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(Drawee Branch)

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