



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

CHIEF GENERAL MANAGER
INTEGRATED SURVEILLANCE DEPARTMENT

ISD/OW/12729/2016

May 2, 2016

Indo Thai Securities Ltd.
Capital Tower, 2nd Floor,
Plot Nos. 169A-171,
PU-4, Scheme No. 54,
Behind C21 Mall,
Indore - 452010 (M.P.)

Dear Sir,

Re: Request for Interpretive Letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 regarding clarification on Trading Plan under Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015.

1. Please refer to your letter dated March 5, 2016, seeking an interpretative letter under the SEBI (Informal Guidance) Scheme, 2003 (the Scheme).
2. In your letter under reference you have referred to Regulation 4(1) of the Securities and Exchange Board of India (Prohibition of Insider Trading), Regulations, 2015 (PIT Regulations), prohibiting insiders from trading in securities when in possession of UPSI. You have further referred to Regulation 4(1)(iii) of the PIT Regulations which inter alia states that an insider may prove his innocence by demonstrating that the trades were pursuant to a trading plan set up in accordance with Regulation 5 of the PIT Regulations.
3. In light of the above reference, the guidance is sought on the following-
 - (a) *Whether formulation of trading plan by Insider and present it to the compliance officer for approval and public disclosure of the same, pursuant to trades to be carried out on his behalf in accordance with such plan is compulsory? Or is there any exemption for the same.*
 - (b) *If any Insider/Promoter is increasing/ decreasing their stake .i.e. change in shareholding of such Insider/ Promoter, are they required to prepare a Trading Plan and the same is to be submitted by the company to Stock exchange? Yes or No? If No. kindly brief us the procedure as we are not able to understand the applicability of the said Regulations.*

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.
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- (c) *if Yes, is there any other procedure to be complied? Why the above companies have not given Trading Plan or if given why not shown on the website of the Stock Exchange where its securities are listed?*
- (d) *Is the trading plan (as provided by the applicant) approvable under Regulation 5 of the PIT Regulations?*
- (e) *Any promoter or part of promoter group wish to transfer their holding to any entity (preferable Company) where Promoter/Promoter group are interested being as director and/or Member; then in this case provisions related to Trading Plan will be applicable or not?*

Without necessarily agreeing with your analysis given in your above mentioned letter, our interpretation on the above query is as under:

4. Regulation 4 of PIT Regulations prohibits trading by Insider when in possession of UPSI, except under circumstances provided for in proviso to Regulation 4(1). The provisos are reproduced below:
- (a) *the transaction is an off-market inter-se transfer between promoters who were in possession of the same unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision;*
- (b) *in the case of non-individual insiders: –*
- a. *the individuals who were in possession of such unpublished price sensitive information were different from the individuals taking trading decisions and such decision-making individuals were not in possession of such unpublished price sensitive information when they took the decision to trade; and*
- b. *appropriate and adequate arrangements were in place to ensure that these regulations are not violated and no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions and there is no evidence of such arrangements having been breached;*
- (c) *the trades were pursuant to a trading plan set up in accordance with regulation 5.*
5. With reference to the first query at point 3(a), it may be stated at the outset that any trading by Insider in securities that are listed or proposed to be listed on a stock exchange, while in possession of unpublished price sensitive information, is prohibited. However, an Insider may opt to trade by formulating a Trading Plan and get it approved by a Compliance officer for approval as per the SEBI (PIT) Regulations, 2015.



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6. It may be stated that Regulation 5 of PIT Regulations entitles the insiders to formulate a trading plan for the purpose of trading in securities which are listed or proposed to be listed, while in possession of Unpublished Price Sensitive Information (UPSI). The provision is intended to provide an option to persons who may be perpetually in possession of UPSI to trade in securities in a compliant manner. Therefore, with reference to the second query at point 3(b), it is stated that if the Promoter is also an Insider, he may formulate a trading plan and submit the same to Stock Exchange as it is a defence available to the Insider if he trades as per the Trading Plan while in possession of UPSI. However, once a trading plan is approved, the insider has to mandatorily comply with the said trading plan. In the absence of a trading plan, other defences provided in the provisos to Regulation 4(1) are available to insiders in such a case.
7. Additionally, please refer to your query at point 3 (c). In this regard, attention is drawn to the para 8 (iii) of the Scheme which states that SEBI may not respond to the request in which the requestor has no direct or proximate interest.
8. With respect to query at para 3(d) and (e) it is stated that the queries are ambiguous and hypothetical and hence, no reply is warranted according to para 8(ii) of the Scheme.
9. With regards to trading plan, it may be noted that the trading plan is an option provided to all insiders to prove their innocence if they trade in securities, listed or proposed to be listed, while in possession of UPSI.
10. This position is based on the representations and submissions made to the Department in your letter under reference. Different facts or conditions might require a different result. This letter expresses the Department's position on applicability of the respective Regulations / Guidelines as referred above only in the instant case. It does not express decision of the Board on the questions presented.
11. You may note that the above views are expressed only with respect to the clarification sought on the applicability of the respective Regulations/Guidelines as referred above and do not affect the applicability of any other law or requirements.

Yours faithfully,

Sunil Kadam