

New insider trading norms

The SEBI has recently replaced almost two decade old SEBI (Prohibition of Insider Trading) Regulations, 1992 with a new regulation in place of existing regulation.

The new regulations put in place and strengthen the legal and enforcement framework, align Indian regime with international practices, provide clarity with respect to the definitions and concepts, and facilitate legitimate business transactions.

The key features of the newly approved insider trading regulations include the following:

1. The definition of Insider has been made wider by including persons connected on the basis of being in any contractual, fiduciary or employment relationship that allows such person access to unpublished price sensitive information (UPSI). However directors, employees and all other persons in the deeming category covered under 1992 regulations would continue to be covered. Insider will also include a person who is in possession or has access to UPSI. Now, immediate relatives will be presumed to be connected persons, with a right to rebut the presumption.
2. In the case of connected persons the onus of establishing, that they were not in possession of UPSI, shall be on such connected persons.
3. Clear prohibition on communication of unpublished price sensitive information (UPSI) has been provided except legitimate purposes, performance of duties or discharge of legal obligations.
4. UPSI has been defined as information not generally available and which may impact the price. The definition of UPSI has been strengthened by providing a test to identify price sensitive information, aligning it with listing agreement and providing platform of disclosure. Earlier, the definition of price sensitive information had reference to company only; now it has reference to both a company and securities.
5. Disclosure of UPSI in public domain has been made mandatory before trading, so as to rule out asymmetry of information in the market, as prevalent in other jurisdictions.
6. The requirement of communication of UPSI in the case of legitimate business transaction has been recognized in law and a carve-out with safeguards has been provided.
7. To facilitate legitimate business transactions, unpublished price sensitive

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information (UPSI) can be communicated with safeguards.

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8. Insiders who are liable to possess UPSI all round the year would have the option to formulate pre-scheduled trading plans. Trading plans would, however, to be disclosed on the stock exchanges and have to be strictly adhered to. Trading plans shall be available for bona fide transactions.

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New Listing Regulations

On 19th November 2014, SEBI has come out with SEBI (Listing Obligations & Disclosure Requirements) Regulations 2014, comprehensive listing regulations to consolidate listing obligations and disclosure requirements for listed entities across all the below mentioned securities at one place. This would also facilitate better compliance and investor protection.

This Regulation would consolidate and streamline the provisions of existing listing agreements thereby ensuring better enforceability. This Regulation would be applicable for the following type of securities:-

- i. Specified Securities (includes equity and convertibles) - Listed on Main Board and SME Platform
- ii. Non-convertible Debt Securities
- iii. Non-Convertible Redeemable Preference Shares (NCRPS)
- iv. Indian Depository Receipts
- v. Securitised Debt Instruments
- vi. Units issued by Mutual Fund Schemes

The Listing Regulations have been sub-divided into three parts viz.,(a) substantive provisions incorporated in the main body of Regulations; (b) procedural requirements in the form of Schedules to the Regulations; and (c) various formats / forms of disclosures to be specified by SEBI through circular(s).

Some of the important new provisions in the Listing Regulations include:

1. Mandatory filing on Stock Exchanges through electronic platform.
2. Mandatory appointment of Company Secretary as compliance officer except for units of Mutual Funds listed on Stock Exchanges.
3. Introduction of enabling provision for Annual Information Memorandum.
4. Mandatory registration in SCORES by all listed entities for redressal of investor grievances.
5. Mandatory for listed entities to co-operate with intermediaries registered with SEBI.
6. Necessity to execute a shortened version of Listing Agreement within six months of notification of these regulations.

Amendment in Delisting Norms

The following changes have been made to SEBI (Delisting of Equity Shares) Regulations, 2009:

- i. The delisting shall be considered successful only when
 - a. the shareholding of the acquirer together with the shares tendered by public shareholders reaches 90% of the total share capital of the company and
 - b. if atleast 25% of the number of public shareholders, holding shares in dematerialised mode as on the date of the Board meeting which approves the delisting proposal, tender in the reverse book building process.
- ii. The offer price determined through Reverse Book Building shall be the price at which the shareholding of the promoter, after including the shareholding of the public shareholders who have tendered their shares, reaches the threshold limit of 90%.
- iii. The promoter/ promoter group shall be prohibited from making a delisting offer if any entity belonging to the said group has sold shares of the company during a period of six months prior to the date of the Board meeting which approves the delisting proposal.
- iv. Use of Stock Exchange platform for offers made under Delisting, Buy Back and Takeover Regulations.
- v. The Board of the company shall approve the proposal for delisting only after satisfying itself that delisting is in the interest of shareholders and that the company is in compliance with applicable securities laws.
- vi. Companies whose paid up capital does not exceed Rs.10 crores and net worth does not exceed Rs.25 crores as on the last day of the previous financial year are exempted from following the Reverse Book Building process. The exemption would be available only if (a) there was no trading in the shares of the company in the last one year from the date of the board resolution authorizing the company to go for delisting and (b) trading of shares of the company has not been suspended for any non-compliance during the same period.
- vii. Timelines for completing the delisting process has been reduced from 137 calendar days (approx 117 working days) to 76 working days.
- viii. Option to the acquirer to delist the shares of the company directly through Delisting Regulations pursuant to triggering Takeover Regulations has been provided. However, if the delisting attempt fails, the acquirer would be required to complete the mandatory open offer process under the Takeover

Regulations and pay interest @ 10% p.a. for the delayed open offer.

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