

*WEBINAR ON "INSIDER TRADING" FOR  
ALL DESIGNATED EMPLOYEES*

Wednesday, 8<sup>th</sup> December, 2021

# Topics Covered

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Disclosure to  
Stock Exchange

02

Role of  
Designated  
Employees under  
SEBI (PIT)  
Regulations and  
IRCTC Code of  
Conduct

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Maintenance of  
Structural  
Digital Database  
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# Applicability of the regulations

3. (1) Unless otherwise provided, these regulations shall apply to
- [a] listed entity which has listed any of the following designated securities on recognised stock exchange(s):
- (a) specified securities listed on main board or SME Exchange or Innovators Growth Platform;
  - (b) non-convertible securities;
  - (c) Indian depository receipts;
  - (d) securitised debt instruments;
  - (da) security receipts;
  - (e) units issued by mutual funds;
  - (f) any other securities as may be specified by the Board.

# Disclosure to Stock Exchange

- SEBI vide notification No. SEBI/LAD-NRO/GN/2015-16/013 dated 2<sup>nd</sup> September, 2015 and
- In exercise of the powers conferred by section 11, sub-section (2) of section 11A and section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with section 31 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India hereby makes the following Regulations, namely Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

# Definitions

- 2. (1) In these regulations, unless the context otherwise requires:—
- (zn) “working days” means working days of the stock exchange where the securities of the entity are listed.
- (2) All other words and expressions used but not defined in these regulations, but defined in the Act or the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and/or the rules and regulations made thereunder shall have the same meaning as respectively assigned to them in such Acts or rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

# Applicability of the regulations

(2) The provisions of these regulations which become applicable to listed entities on the basis of market capitalisation criteria shall continue to apply to such entities even if they fall below such thresholds.

(3) The provisions of these regulations which become applicable to listed entities on the basis of the criterion of the value of outstanding listed debt securities shall continue to apply to such entities even if they fall below such thresholds as mentioned in sub-regulation (1A) of regulation 15.

# Regulation 30 of SEBI (LODR) Regulations, 2015

Regulation 30 of SEBI (LODR) Regulations, 2015 provides for Disclosure of events and informations to stock exchange.

30. (1) Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.

(2) Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

(3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).

# Regulation 30 of SEBI (LODR) Regulations, 2015

(4) (i) The listed entity shall consider the following criteria for determination of materiality of events/ information:

(a) the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or

(b) the omission of an event or information is likely to result in significant market reaction if the said omission came to light at a later date;

(c) In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material.



# Regulation 30 of SEBI (LODR) Regulations, 2015

(ii) The listed entity shall frame a policy for determination of materiality, based on criteria specified in this sub-regulation, duly approved by its board of directors, which shall be disclosed on its website.

(5) The board of directors of the listed entity shall authorize one or more Key Managerial Personnel for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) under this regulation and the contact details of such personnel shall be also disclosed to the stock exchange(s) and as well as on the listed entity's website.

# Regulation 30 of SEBI (LODR) Regulations, 2015

(6) The listed entity shall first disclose to stock exchange(s) of all events, as specified in Part A of Schedule III, or information as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information:

Provided that in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for delay:

Provided further that disclosure with respect to events specified in sub-para 4 of Para A of Part A of Schedule III shall be made within the timelines specified therein.

(7) The listed entity shall, with respect to disclosures referred to in this regulation, make disclosures updating material developments on a regular basis, till such time the event is resolved/closed, with relevant explanations.

# Regulation 30 of SEBI (LODR) Regulations, 2015

(8) The listed entity shall disclose on its website all such events or information which has been disclosed to stock exchange(s) under this regulation , and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.

(9) The listed entity shall disclose all events or information with respect to subsidiaries which are material for the listed entity.

(10) The listed entity shall provide specific and adequate reply to all queries raised by stock exchange(s) with respect to any events or information:

Provided that the stock exchange(s) shall disseminate information and clarification as soon as reasonably practicable.

# Regulation 30 of SEBI (LODR) Regulations, 2015

(11) The listed entity may on its own initiative also, confirm or deny any reported event or information to stock exchange(s).

(12) In case where an event occurs or an information is available with the listed entity, which has not been indicated in Para A or B of Part A of Schedule III, but which may have material effect on it, the listed entity is required to make adequate disclosures in regard thereof.

## **SCHEDULE III**

### **PART A: DISCLOSURES OF EVENTS OR INFORMATION: SPECIFIED SECURITIES**

**[See Regulation 30]**

The following shall be events/information, upon occurrence of which listed entity shall make disclosure to stock exchange(s):

## **A. Events which shall be disclosed without any application of the guidelines for materiality as specified in sub-regulation (4) of regulation (30):**

1. Acquisition(s) (including agreement to acquire), Scheme of Arrangement (amalgamation/ merger/ demerger/restructuring), or sale or disposal of any unit(s), division(s) or subsidiary of the listed entity or any other restructuring.

Explanation. - For the purpose of this sub-para, the word 'acquisition' shall mean, -

- (i) acquiring control, whether directly or indirectly; or,
- (ii) acquiring or agreeing to acquire shares or voting rights in, a company, whether directly or indirectly, such that -
  - (a) the listed entity holds shares or voting rights aggregating to five per cent or more of the shares or voting rights in the said company, or;
  - (b) there has been a change in holding from the last disclosure made under sub-clause (a) of clause (ii) of the Explanation to this sub-para and such change exceeds two per cent of the total shareholding or voting rights in the said company.

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2. Issuance or forfeiture of securities, split or consolidation of shares, buyback of securities, any restriction on transferability of securities or alteration in terms or structure of existing securities including forfeiture, reissue of forfeited securities, alteration of calls, redemption of securities etc.

3. Revision in Rating(s).

4. Outcome of Meetings of the board of directors: The listed entity shall disclose to the Exchange(s), within 30 minutes of the closure of the meeting, held to consider the following:

a) dividends and/or cash bonuses recommended or declared or the decision to pass any dividend and the date on which dividend shall be paid/dispatched;

b) any cancellation of dividend with reasons thereof;

c) the decision on buyback of securities;

d) the decision with respect to fund raising proposed to be undertaken

e) increase in capital by issue of bonus shares through capitalization including the date on which such bonus shares shall be credited/dispatched;

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f) reissue of forfeited shares or securities, or the issue of shares or securities held in reserve for future issue or the creation in any form or manner of new shares or securities or any other rights, privileges or benefits to subscribe to;

g) short particulars of any other alterations of capital, including calls;

h) financial results;

i) decision on voluntary delisting by the listed entity from stock exchange(s):

[Provided that in case of board meetings being held for more than one day, the financial results shall be disclosed within thirty minutes of end of the meeting for the day on which it has been considered.]

5. Agreements (viz. shareholder agreement(s), joint venture agreement(s), family settlement agreement(s) (to the extent that it impacts management and control of the listed entity), agreement(s)/treaty(ies)/contract(s) with media companies) which are binding and not in normal course of business, revision(s) or amendment(s) and termination(s) thereof.

6. Fraud/defaults by promoter or key managerial personnel or by listed entity or arrest of key managerial personnel or promoter.



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7. Change in directors, key managerial personnel (Managing Director, Chief Executive Officer, Chief Financial Officer , Company Secretary etc.), Auditor and Compliance Officer.

(7A) In case of resignation of the auditor of the listed entity, detailed reasons for resignation of auditor, as given by the said auditor, shall be disclosed by the listed entities to the stock exchanges as soon as possible but not later than twenty four hours of receipt of such reasons from the auditor.

(7B) Resignation of independent director including reasons for resignation: In case of resignation of an independent director of the listed entity, within seven days from the date of resignation, the following disclosures shall be made to the stock exchanges by the listed entities:

i. [*The letter of resignation along with*] detailed reasons for the resignation *of independent directors* as given by the said director *shall be disclosed by the listed entities to the stock exchanges*].

[*(ia). Names of listed entities in which the resigning director holds directorships, indicating the category of directorship and membership of board committees, if any.*]

ii. The independent director shall, along with the detailed reasons, also provide a confirmation that there is no other material reasons other than those provided.

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iii. The confirmation as provided by the independent director above shall also be disclosed by the listed entities to the stock exchanges along with the *detailed reasons* as specified in sub-clause (i) *and* (ii) above.

8. Appointment or discontinuation of share transfer agent.

9. Resolution plan/ Restructuring in relation to loans/borrowings from banks/financial institutions including the following details:

(i) Decision to initiate resolution of loans/borrowings;

(ii) Signing of Inter-Creditors Agreement (ICA) by lenders;

(iii) Finalization of Resolution Plan;

(iv) Implementation of Resolution Plan;

(v) Salient features, not involving commercial secrets, of the resolution/ restructuring plan as decided by lenders..

10. One time settlement with a bank.

11. Reference to BIFR and winding-up petition filed by any party / creditors.

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12. Issuance of Notices, call letters, resolutions and circulars sent to shareholders, debenture holders or creditors or any class of them or advertised in the media by the listed entity.

13. Proceedings of Annual and extraordinary general meetings of the listed entity.

14. Amendments to memorandum and articles of association of listed entity, in brief.

15 (a) Schedule of analysts or institutional investors meet and presentations made by the listed entity to analysts or institutional investors.

Explanation: For the purpose of this clause ‘meet’ shall mean group meetings or group conference calls conducted physically or through digital means.

(b) Audio or video recordings and transcripts of post earnings/quarterly calls, by whatever name called, conducted physically or through digital means, simultaneously with submission to the recognized stock exchange(s), in the following manner:

(i) the presentation and the audio/video recordings shall be promptly made available on the website and in any case, before the next trading day or within twenty-four hours from the conclusion of such calls, whichever is earlier;

(ii) the transcripts of such calls shall be made available on the website within five working days of the conclusion of such calls:

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The requirement for disclosure(s) of audio/video recordings and transcript shall be voluntary with effect from April 01, 2021 and mandatory with effect from April 01, 2022.;

16. The following events in relation to the corporate insolvency resolution process (CIRP) of a listed corporate debtor under the Insolvency Code:

- a) Filing of application by the corporate applicant for initiation of CIRP, also specifying the amount of default;
  - b) Filing of application by financial creditors for initiation of CIRP against the corporate debtor, also specifying the amount of default;
  - c) Admission of application by the Tribunal, along with amount of default or rejection or withdrawal, as applicable ;
  - d) Public announcement made pursuant to order passed by the Tribunal under section 13 of Insolvency Code;
  - e) List of creditors as required to be displayed by the corporate debtor under regulation 13(2)(c) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;
  - f) Appointment/ Replacement of the Resolution Professional;
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g) Prior or post-facto intimation of the meetings of Committee of Creditors;

h) Brief particulars of invitation of resolution plans under section 25(2)(h) of Insolvency Code in the Form specified under regulation 36A(5) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

i) Number of resolution plans received by Resolution Professional;

j) Filing of resolution plan with the Tribunal;

k) Approval of resolution plan by the Tribunal or rejection, if applicable;

l) Specific features and details of the resolution plan as approved by the Adjudicating Authority under the Insolvency Code, not involving commercial secrets, including details such as:

(i) Pre and Post net-worth of the company;

(ii) Details of assets of the company post CIRP;

(iii) Details of securities continuing to be imposed on the companies' assets;

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- (iv) Other material liabilities imposed on the company;
  - (v) Detailed pre and post shareholding pattern assuming 100% conversion of convertible securities;
  - (vi) Details of funds infused in the company, creditors paid-off;
  - (vii) Additional liability on the incoming investors due to the transaction, source of such funding etc.;
  - (viii) Impact on the investor – revised P/E, RONW ratios etc.;
  - (ix) Names of the new promoters, key managerial persons(s), if any and their past experience in the business or employment. In case where promoters are companies, history of such company and names of natural persons in control;
  - (x) Brief description of business strategy.
- m) Any other material information not involving commercial secrets.}

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n) Proposed steps to be taken by the incoming investor/acquirer for achieving the MPS;

o) Quarterly disclosure of the status of achieving the MPS;

p) The details as to the delisting plans, if any approved in the resolution plan.

17. Initiation of Forensic audit: In case of initiation of forensic audit, (by whatever name called), the following disclosures shall be made to the stock exchanges by listed entities:

a) The fact of initiation of forensic audit along-with name of entity initiating the audit and reasons for the same, if available;

b) Final forensic audit report (other than for forensic audit initiated by regulatory / enforcement agencies) on receipt by the listed entity along with comments of the management, if any.

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## **B. Events which shall be disclosed upon application of the guidelines for materiality referred sub-regulation (4) of regulation (30):**

1. Commencement or any postponement in the date of commencement of commercial production or commercial operations of any unit/division.
  2. Change in the general character or nature of business brought about by arrangements for strategic, technical, manufacturing, or marketing tie-up, adoption of new lines of business or closure of operations of any unit/division (entirety or piecemeal).
  3. Capacity addition or product launch.
  4. Awarding, bagging/ receiving, amendment or termination of awarded/bagged orders/contracts not in the normal course of business.
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5. Agreements (viz. loan agreement(s) (as a borrower) or any other agreement(s) which are binding and not in normal course of business) and revision(s) or amendment(s) or termination(s) thereof.
  6. Disruption of operations of any one or more units or division of the listed entity due to natural calamity (earthquake, flood, fire etc.), force majeure or events such as strikes, lockouts etc.
  7. Effect(s) arising out of change in the regulatory framework applicable to the listed entity
  8. Litigation(s) / dispute(s) / regulatory action(s) with impact.
  9. Fraud/defaults etc. by directors (other than key managerial personnel) or employees of listed entity.
  10. Options to purchase securities including any ESOP/ESPS Scheme.
  11. Giving of guarantees or indemnity or becoming a surety for any third party.
  12. Granting, withdrawal , surrender , cancellation or suspension of key licenses or regulatory approvals.
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C. Any other information/event viz. major development that is likely to affect business, e.g. emergence of new technologies, expiry of patents, any change of accounting policy that may have a significant impact on the accounts, etc. and brief details thereof and any other information which is exclusively known to the listed entity which may be necessary to enable the holders of securities of the listed entity to appraise its position and to avoid the establishment of a false market in such securities.

D. Without prejudice to the generality of para (A), (B) and (C) above, the listed entity may make disclosures of event/information as specified by the Board from time to time.

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**Role of Designated Employees under SEBI PIT  
Regulations and IRCTC Code of Conduct.**

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# **Role of Designated Employees under SEBI PIT Regulations**

SEBI vide notification No. LAD-NRO/GN/2014-15/21/85 dated 15<sup>th</sup> January, 2015 and

In exercise of the powers conferred by section 30 read with clause (g) of sub-section (2) of section 11 and clause (d) and clause (e) of section 12A of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations, to put in place a framework for prohibition of insider trading in securities and to strengthen the legal framework thereof, namely:—

SEBI (Prohibition of Insider Trading) Regulations, 2015

# Definitions

(c) “compliance officer” means any senior officer, designated so and reporting to the board of directors or head of the organization in case board is not there, who is financially literate and is capable of appreciating requirements for legal and regulatory compliance under these regulations and who shall be responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information, monitoring of trades and the implementation of the codes specified in these regulations under the overall supervision of the board of directors of the listed company or the head of an organization, as the case may be.

[Explanation – For the purpose of this regulation, “financially literate” shall mean a person who has the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows];

# Connected Person(s)

(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.

# Connected Person(s)

(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

# Connected Person(s)

*(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;



# Connected Person(s)

- ***NOTE:** It is intended that a connected person is one who has a connection with the company that is expected to put him in possession of unpublished price sensitive information. Immediate relatives and other categories of persons specified above are also presumed to be connected persons but such a presumption is a deeming legal fiction and is rebuttable. This definition is also intended to bring into its ambit persons who may not seemingly occupy any position in a company but are in regular touch with the company and its officers and are involved in the know of the company's operations. It is intended to bring within its ambit those who would have access to or could access unpublished price sensitive information about any company or class of companies by virtue of any connection that would put them in possession of unpublished price sensitive information.*

# Generally available information

(e) "generally available information" means information that is accessible to the public on a non-discriminatory basis;

***NOTE:** It is intended to define what constitutes generally available information so that it is easier to crystallize and appreciate what unpublished price sensitive information is. Information published on the website of a stock exchange, would ordinarily be considered generally available.*

# Immediate relative

(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;

***NOTE:** It is intended that the immediate relatives of a “connected person” too become connected persons for purposes of these regulations. Indeed, this is a rebuttable presumption.*

# Insider

(g) "insider" means any person who is:

i) a connected person; or

ii) in possession of or having access to unpublished price sensitive information;

# Insider

- ***NOTE:** Since “generally available information” is defined, it is intended that anyone in possession of or having access to unpublished price sensitive information should be considered an “insider” regardless of how one came in possession of or had access to such information. Various circumstances are provided for such a person to demonstrate that he has not indulged in insider trading. Therefore, this definition is intended to bring within its reach any person who is in receipt of or has access to unpublished price sensitive information. The onus of showing that a certain person was in possession of or had access to unpublished price sensitive information at the time of trading would, therefore, be on the person leveling the charge after which the person who has traded when in possession of or having access to unpublished price sensitive information may demonstrate that he was not in such possession or that he has not traded or or he could not access or that his trading when in possession of such information was squarely covered by the exonerating circumstances.*

# Trading

(1) "trading" means and includes subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities, and "trade" shall be construed accordingly ;

***NOTE:** Under the parliamentary mandate, since the Section 12A (e) and Section 15G of the Act employs the term 'dealing in securities', it is intended to widely define the term “trading” to include dealing. Such a construction is intended to curb the activities based on unpublished price sensitive information which are strictly not buying, selling or subscribing, such as pledging etc when in possession of unpublished price sensitive information.*

# Trading day

(m) “trading day” means a day on which the recognized stock exchanges are open for trading;

# Unpublished Price Sensitive Information (UPSI)

(n) "unpublished price sensitive information" means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: –

(i) financial results;

(ii) dividends;

(iii) change in capital structure;

(iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions;

(v) changes in key managerial personnel.



# Unpublished Price Sensitive Information (UPSI)

- ***NOTE:** It is intended that information relating to a company or securities, that is not generally available would be unpublished price sensitive information if it is likely to materially affect the price upon coming into the public domain. The types of matters that would ordinarily give rise to unpublished price sensitive information have been listed above to give illustrative guidance of unpublished price sensitive information.*

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

(1) No insider shall communicate, provide, or allow access to any unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, to any person including other insiders except where such communication is in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.

***NOTE:** This provision is intended to cast an obligation on all insiders who are essentially persons in possession of unpublished price sensitive information to handle such information with care and to deal with the information with them when transacting their business strictly on a need-to-know basis. It is also intended to lead to organisations developing practices based on need-to-know principles for treatment of information in their possession.*

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

(2) No person shall procure from or cause the communication by any insider of unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.

***NOTE:** This provision is intended to impose a prohibition on unlawfully procuring possession of unpublished price sensitive information. Inducement and procurement of unpublished price sensitive information not in furtherance of one's legitimate duties and discharge of obligations would be illegal under this provision.*

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

(2B) Any person in receipt of unpublished price sensitive information pursuant to a “legitimate purpose” shall be considered an “insider” for purposes of these regulations and due notice shall be given to such persons to maintain confidentiality of such unpublished price sensitive information in compliance with these regulations.

No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information:

[Explanation –When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession.]

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

Provided that the insider may prove his innocence by demonstrating the circumstances including the following: –

(i) the transaction is an off-market *inter-se* transfer between insiders 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.

Provided that such unpublished price sensitive information was not obtained under sub-regulation (3) of regulation 3 of these regulations.

Provided further that such off-market trades shall be reported by the insiders to the company within two working days. Every company shall notify the particulars of such trades to the stock exchange on which the securities are listed within two trading days from receipt of the disclosure or from becoming aware of such information.

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

(ii) the transaction was carried out through the block deal window mechanism between persons who were in possession of the unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision;

Provided that such unpublished price sensitive information was not obtained by either person under sub-regulation (3) of regulation 3 of these regulations.

(iii) the transaction in question was carried out pursuant to a statutory or regulatory obligation to carry out a bona fide transaction.

(iv) the transaction in question was undertaken pursuant to the exercise of stock options in respect of which the exercise price was pre-determined in compliance with applicable regulations.

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

(vi) the trades were pursuant to a trading plan set up in accordance with regulation 5.

***NOTE:** When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. The reasons for which he trades or the purposes to which he applies the proceeds of the transactions are not intended to be relevant for determining whether a person has violated the regulation. He traded when in possession of unpublished price sensitive information is what would need to be demonstrated at the outset to bring a charge. Once this is established, it would be open to the insider to prove his innocence by demonstrating the circumstances mentioned in the proviso, failing which he would have violated the prohibition.*

# Role of Designated Employees (Insiders) under SEBI PIT Regulations

In the case of connected persons the onus of establishing, that they were not in possession of unpublished price sensitive information, shall be on such connected persons and in other cases, the onus would be on the Board.



# Trading plan

5. (1) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.

***NOTE:** This provision intends to give an option to persons who may be perpetually in possession of unpublished price sensitive information and enabling them to trade in securities in a compliant manner. This provision would enable the formulation of a trading plan by an insider to enable him to plan for trades to be executed in future. By doing so, the possession of unpublished price sensitive information when a trade under a trading plan is actually executed would not prohibit the execution of such trades that he had pre-decided even before the unpublished price sensitive information came into being.*

# Trading plan

(2) Such trading plan shall:–

(i) not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;

***NOTE:** It is intended that to get the benefit of a trading plan, a cool-off period of six months is necessary. Such a period is considered reasonably long for unpublished price sensitive information that is in possession of the insider when formulating the trading plan, to become generally available. It is also considered to be a reasonable period for a time lag in which new unpublished price sensitive information may come into being without adversely affecting the trading plan formulated earlier. In any case, it should be remembered that this is only a statutory cool-off period and would not grant immunity from action if the insider were to be in possession of the same unpublished price sensitive information both at the time of formulation of the plan and implementation of the same.*

# Trading plan

(ii) not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results;

***NOTE:** Since the trading plan is envisaged to be an exception to the general rule prohibiting trading by insiders when in possession of unpublished price sensitive information, it is important that the trading plan does not entail trading for a reasonable period around the declaration of financial results as that would generate unpublished price sensitive information.*

# Trading plan

(iii) entail trading for a period of not less than twelve months;

*NOTE: It is intended that it would be undesirable to have frequent announcements of trading plans for short periods of time rendering meaningless the defence of a reasonable time gap between the decision to trade and the actual trade. Hence it is felt that a reasonable time would be twelve months.*

(iv) not entail overlap of any period for which another trading plan is already in existence;

*NOTE: It is intended that it would be undesirable to have multiple trading plans operating during the same time period. Since it would be possible for an insider to time the publication of the unpublished price sensitive information to make it generally available instead of timing the trades, it is important not to have the ability to initiate more than one plan covering the same time period.*

# Trading plan

(v) set out either the value of trades to be effected or the number of securities to be traded along with the nature of the trade and the intervals at, or dates on which such trades shall be effected; and

***NOTE:** It is intended that while regulations should not be too prescriptive and rigid about what a trading plan should entail, they should stipulate certain basic parameters that a trading plan should conform to and within which, the plan may be formulated with full flexibility. The nature of the trades entailed in the trading plan i.e. acquisition or disposal should be set out. The trading plan may set out the value of securities or the number of securities to be invested or divested. Specific dates or specific time intervals may be set out in the plan.*

# Trading plan

(vi) not entail trading in securities for market abuse.

*NOTE: Trading on the basis of such a trading plan would not grant absolute immunity from bringing proceedings for market abuse. For instance, in the event of manipulative timing of the release of unpublished price sensitive information to ensure that trading under a trading plan becomes lucrative in circumvention of regulation 4 being detected, it would be open to initiate proceedings for alleged breach of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003.*

# Trading plan

(3) The compliance officer shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve and monitor the implementation of the plan.

Provided that pre-clearance of trades shall not be required for a trade executed as per an approved trading plan.

Provided further that trading window norms and restrictions on contra trade shall not be applicable for trades carried out in accordance with an approved trading plan.

***NOTE:** It is intended that the compliance officer would have to review and approve the plan. For doing so, he may need the insider to declare that he is not in possession of unpublished price sensitive information or that he would ensure that any unpublished price sensitive information in his possession becomes generally available before he commences executing his trades. Once satisfied, he may approve the trading plan, which would then have to be implemented in accordance with these regulations.*

# Trading plan

(4) The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan.

*Provided that* the implementation of the trading plan shall not be commenced if any unpublished price sensitive information in possession of the insider at the time of formulation of the plan has not become generally available at the time of the commencement of implementation and in such event the compliance officer shall confirm that the commencement ought to be deferred until such unpublished price sensitive information becomes generally available information so as to avoid a violation of sub-regulation (1) of regulation 4.



# Trading plan

- ***NOTE:** It is intended that since the trading plan is an exception to the general rule that an insider should not trade when in possession of unpublished price sensitive information, changing the plan or trading outside the same would negate the intent behind the exception. Other investors in the market, too, would factor the impact of the trading plan on their own trading decisions and in price discovery. Therefore, it is not fair or desirable to permit the insider to deviate from the trading plan based on which others in the market have assessed their views on the securities. The proviso is intended to address the prospect that despite the six-month gap between the formulation of the trading plan and its commencement, the unpublished price sensitive information in possession of the insider is still not generally available. In such a situation, commencement of the plan would conflict with the over-riding principle that trades should not be executed when in possession of such information. If the very same unpublished price sensitive information is still in the insider's possession, the commencement of execution of the trading plan ought to be deferred.*

# Trading plan

(5) Upon approval of the trading plan, the compliance officer shall notify the plan to the stock exchanges on which the securities are listed.

***NOTE:** It is intended that given the material exception to the prohibitory rule in regulation 4, a trading plan is required to be publicly disseminated. Investors in the market at large would also factor the potential pointers in the trading plan in their own assessment of the securities and price discovery for them on the premise of how the insiders perceive the prospects or approach the securities in their trading plan.*

# Disclosures of Trading by Insiders

6. (1) Every public disclosure under this Chapter shall be made in such form as may be specified.

(2) The disclosures to be made by any person under this Chapter shall include those relating to trading by such person's immediate relatives, and by any other person for whom such person takes trading decisions.

***NOTE:** It is intended that disclosure of trades would need to be of not only those executed by the person concerned but also by the immediate relatives and of other persons for whom the person concerned takes trading decisions. These regulations are primarily aimed at preventing abuse by trading when in possession of unpublished price sensitive information and therefore, what matters is whether the person who takes trading decisions is in possession of such information rather than whether the person who has title to the trades is in such possession.*

# Disclosures of Trading by Insiders

(4) The disclosures made under this Chapter shall be maintained by the company, for a minimum period of five years, in such form as may be specified.

# Disclosures by certain persons: Initial Disclosures

7(1)(b). Every person on appointment as a key managerial personnel or a director of the company or upon becoming a promoter or member of the promoter group shall disclose his holding of securities of the company as on the date of appointment or becoming a promoter, to the company within seven days of such appointment or becoming a promoter.

# Disclosures by certain persons: Continual Disclosures

7(2)(a). Every promoter, member of the promoter group, designated person and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

(b). Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.

Explanation. — It is clarified for the avoidance of doubts that the disclosure of the incremental transactions after any disclosure under this sub-regulation, shall be made when the transactions effected after the prior disclosure cross the threshold specified in clause (a) of sub-regulation (2).

(c) The above disclosures shall be made in such form and such manner as may be specified by the Board from time to time.

# Disclosures by other connected persons

(3) Any company whose securities are listed on a stock exchange may, at its discretion require any other connected person or class of connected persons to make disclosures of holdings and trading in securities of the company in such form and at such frequency as may be determined by the company in order to monitor compliance with these regulations.

***NOTE:** This is an enabling provision for listed companies to seek information from those to whom it has to provide unpublished price sensitive information. This provision confers discretion on any company to seek such information. For example, a listed company may ask that a management consultant who would advise it on corporate strategy and would need to review unpublished price sensitive information, should make disclosures of his trades to the company.*

# CODES OF FAIR DISCLOSURE AND CONDUCT

8. (1) The board of directors of every company, whose securities are listed on a stock exchange, shall formulate and publish on its official website, a code of practices and procedures for fair disclosure of unpublished price sensitive information that it would follow in order to adhere to each of the principles set out in Schedule A to these regulations, without diluting the provisions of these regulations in any manner.

***NOTE:** This provision intends to require every company whose securities are listed on stock exchanges to formulate a stated framework and policy for fair disclosure of events and occurrences that could impact price discovery in the market for its securities. Principles such as, equality of access to information, publication of policies such as those on dividend, inorganic growth pursuits, calls and meetings with analysts, publication of transcripts of such calls and meetings, and the like are set out in the schedule.*



# CODES OF FAIR DISCLOSURE AND CONDUCT

(2) Every such code of practices and procedures for fair disclosure of unpublished price sensitive information and every amendment thereto shall be promptly intimated to the stock exchanges where the securities are listed.

***NOTE:** This provision is aimed at requiring transparent disclosure of the policy formulated in sub-regulation (1).*

# CODE OF CONDUCT

9. (1) The board of directors of every listed company and the board of directors or head(s) of the organisation of every intermediary shall ensure that the chief executive officer or managing director shall formulate a code of conduct with their approval to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B (in case of a listed company) and Schedule C (in case of an intermediary) to these regulations, without diluting the provisions of these regulations in any manner.

(2) The board of directors or head(s) of the organisation, of every other person who is required to handle unpublished price sensitive information in the course of business operations shall formulate a code of conduct to regulate, monitor and report trading by their designated persons and immediate relative of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule C to these regulations, without diluting the provisions of these regulations in any manner.

# CODE OF CONDUCT

(4) For the purpose of sub regulation (1) and (2), the board of directors or such other analogous authority shall in consultation with the compliance officer specify the designated persons to be covered by the code of conduct on the basis of their role and function in the organisation and the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation and shall include:-

(i) Employees of such listed company, intermediary or fiduciary designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors or analogous body;

(ii) Employees of material subsidiaries of such listed companies designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors;

(iii) All promoters of listed companies and promoters who are individuals or investment companies for intermediaries or fiduciaries;

# CODE OF CONDUCT

- (ii) Employees of material subsidiaries of such listed companies designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors;
- (iii) All promoters of listed companies and promoters who are individuals or investment companies for intermediaries or fiduciaries;
- (iv) Chief Executive Officer and employees upto two levels below Chief Executive Officer of such listed company, intermediary, fiduciary and its material subsidiaries irrespective of their functional role in the company or ability to have access to unpublished price sensitive information;
- (v) Any support staff of listed company, intermediary or fiduciary such as IT staff or secretarial staff who have access to unpublished price sensitive information.

# Institutional Mechanism for Prevention of Insider trading

9A. (1) The Chief Executive Officer, Managing Director or such other analogous person of a listed company, intermediary or fiduciary shall put in place adequate and effective system of internal controls to ensure compliance with the requirements given in these regulations to prevent insider trading.

(2) The internal controls shall include the following:

(a). all employees who have access to unpublished price sensitive information are identified as designated person;

(b). all the unpublished price sensitive information shall be identified and its confidentiality shall be maintained as per the requirements of these regulations;

(c). adequate restrictions shall be placed on communication or procurement of unpublished price sensitive information as required by these regulations;

# Institutional Mechanism for Prevention of Insider trading

(d). lists of all employees and other persons with whom unpublished price sensitive information is shared shall be maintained and confidentiality agreements shall be signed or notice shall be served to all such employees and persons;

(e). all other relevant requirements specified under these regulations shall be complied with;

(f). periodic process review to evaluate effectiveness of such internal controls.

(3) The board of directors of every listed company and the board of directors or head(s) of the organisation of intermediaries and fiduciaries shall ensure that the Chief Executive Officer or the Managing Director or such other analogous person ensures compliance with regulation 9 and sub-regulations (1) and (2) of this regulation.

# Institutional Mechanism for Prevention of Insider trading

(4) The Audit Committee of a listed company or other analogous body for intermediary or fiduciary shall review compliance with the provisions of these regulations at least once in a financial year and shall verify that the systems for internal control are adequate and are operating effectively.

(5) Every listed company shall formulate written policies and procedures for inquiry in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, which shall be approved by board of directors of the company and accordingly initiate appropriate inquiries on becoming aware of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information and inform the Board promptly of such leaks, inquiries and results of such inquiries.

# Institutional Mechanism for Prevention of Insider trading

(6) The listed company shall have a whistle-blower policy and make employees aware of such policy to enable employees to report instances of leak of unpublished price sensitive information.

(7) If an inquiry has been initiated by a listed company in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, the relevant intermediaries and fiduciaries shall co-operate with the listed company in connection with such inquiry conducted by listed company.



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## SCHEDULE A :

Principles of Fair Disclosure for  
purposes of Code of Practices and  
Procedures for Fair Disclosure of  
Unpublished Price Sensitive  
Information

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1. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.
  2. Uniform and universal dissemination of unpublished price sensitive unpublished price sensitive information to avoid selective disclosure.
  3. Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information.
  4. Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available.
  5. Appropriate and fair response to queries on news reports and requests for verification of market rumours by regulatory authorities.
  6. Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information.
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7. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made.

8. Handling of all unpublished price sensitive information on a need-to-know basis.

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7. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made.

8. Handling of all unpublished price sensitive information on a need-to-know basis.

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## SCHEDULE B :

Minimum Standards for Code of  
Conduct for Listed Companies to  
Regulate, Monitor and Report  
Trading by Designated Persons

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1. The compliance officer shall report to the board of directors and in particular, shall provide reports to the Chairman of the Audit Committee, if any, or to the Chairman of the board of directors at such frequency as may be stipulated by the board of directors, but not less than once in a year.
2. All information shall be handled within the organisation on a need-to-know basis and no unpublished price sensitive information shall be communicated to any person except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations. The code of conduct shall contain norms for appropriate Chinese Walls procedures, and processes for permitting any designated person to “cross the wall”.
3. Designated Persons and immediate relatives of designated persons in the organisation shall be governed by an internal code of conduct governing dealing in securities.
4. (1) Designated persons may execute trades subject to compliance with these regulations. Towards this end, a notional trading window shall be used as an instrument of monitoring trading by the designated persons. The trading window shall be closed when the compliance officer determines that a designated person or class of designated persons can reasonably be expected to have possession of unpublished price sensitive information. Such closure shall be imposed in relation to such securities to which such unpublished price sensitive information relates. Designated persons and their immediate relatives shall not trade in securities when the trading window is closed.

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(2) Trading restriction period shall be made applicable from the end of every quarter till 48 hours after the declaration of financial results. The gap between clearance of accounts by audit committee and board meeting should be as narrow as possible and preferably on the same day to avoid leakage of material information.]

(3) The trading window restrictions mentioned in sub-clause (1) shall not apply in respect of –

(a) transactions specified in clauses (i) to (iv) and (vi) of the proviso to sub-regulation (1) of regulation 4 and in respect of a pledge of shares for a bonafide purpose such as raising of funds, subject to pre-clearance by the compliance officer and compliance with the respective regulations made by the Board;

(b) transactions which are undertaken in accordance with respective regulations made by the Board such as acquisition by conversion of warrants or debentures, subscribing to rights issue, further public issue, preferential allotment or tendering of shares in a buy-back offer, open offer, delisting offer or transactions which are undertaken through such other mechanism as may be specified by the Board from time to time.

5. The timing for re-opening of the trading window shall be determined by the compliance officer taking into account various factors including the unpublished price sensitive information in question becoming generally available and being capable of assimilation by the market, which in any event shall not be earlier than forty-eight hours after the information becomes generally available.

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6. When the trading window is open, trading by designated persons shall be subject to pre-clearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate.

8. Prior to approving any trades, the compliance officer shall be entitled to seek declarations to the effect that the applicant for pre-clearance is not in possession of any unpublished price sensitive information. He shall also have regard to whether any such declaration is reasonably capable of being rendered inaccurate.

9. The code of conduct shall specify any reasonable timeframe, which in any event shall not be more than seven trading days, within which trades that have been pre-cleared have to be executed by the designated person, failing which fresh pre-clearance would be needed for the trades to be executed.

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.

Provided that this shall not be applicable for trades pursuant to exercise of stock options.

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11. The code of conduct shall stipulate such formats as the board of directors deems necessary for making applications for pre-clearance, reporting of trades executed, reporting of decisions not to trade after securing pre-clearance and for reporting level of holdings in securities at such intervals as may be determined as being necessary to monitor compliance with these regulations.

12. Without prejudice to the power of the Board under the Act, the code of conduct shall stipulate the sanctions and disciplinary actions, including wage freeze, suspension, recovery, etc., that may be imposed, by the listed company required to formulate a code of conduct under sub-regulation (1) of regulation 9, for the contravention of the code of conduct. Any amount collected under this clause shall be remitted to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act.

13. The code of conduct shall specify that in case it is observed by the listed company required to formulate a code of conduct under sub-regulation (1) of regulation 9, that there has been a violation of these regulations, it shall promptly inform the stock exchange(s) where the concerned securities are traded, in such form and such manner as may be specified by the Board from time to time.

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14. Designated persons shall be required to disclose names and Permanent Account Number or any other identifier authorized by law of the following persons to the company on an annual basis and as and when the information changes:

- a) immediate relatives
- b) persons with whom such designated person(s) shares a material financial relationship
- c) Phone, mobile and cell numbers which are used by them

In addition, the names of educational institutions from which designated persons have graduated and names of their past employers shall also be disclosed on a one time basis.

Explanation – The term “material financial relationship” shall mean a relationship in which one person is a recipient of any kind of payment such as by way of a loan or gift from a designated person during the immediately preceding twelve months, equivalent to at least 25% of the annual income of such designated person but shall exclude relationships in which the payment is based on arm’s length transactions.

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15. Listed entities shall have a process for how and when people are brought ‘inside’ on sensitive transactions. Individuals should be made aware of the duties and responsibilities attached to the receipt of Inside Information, and the liability that attaches to misuse or unwarranted use of such information.

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# Structured Digital Database (SDD)

Chapter II - RESTRICTIONS ON COMMUNICATION AND TRADING BY INSIDERS specifically under Reg. 3(5) and 3(6) of SEBI (PIT) Regulations, 2015 of SEBI (PIT) Regulations, 2015 mandates Structured Digital Database (SDD) for any listed entity.

- The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that a structured digital database is maintained containing the nature of unpublished price sensitive information and the names of such persons who have shared the information and also the names of such persons with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such database shall not be outsourced and shall be maintained internally with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.

# Structured Digital Database (SDD)

- The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that the structured digital database is preserved for a period of not less than eight years after completion of the relevant transactions and in the event of receipt of any information from the Board regarding any investigation or enforcement proceedings, the relevant information in the structured digital database shall be preserved till the completion of such proceedings.

# Structured Digital Database (SDD)

The Company needs to ensure that it is compliant with SDD implementation, particularly taking into consideration, the following aspects.

- \* Having a digital database in place w.e.f. April 01, 2019 or from the date of listing, whichever is later
- \* Capturing information transmission for all UPSI
- \* Recording the transmission of UPSI within or outside the organization
- \* Capturing nature of UPSI
- \* Capturing name of persons who have shared the information along with PAN or any other identifier
- \* Capturing name of persons with whom information is shared along with PAN or any other identifier
- \* Maintain database on Company's internal servers
- \* Maintenance of database should not be outsourced. Companies may set up internal software's/modules with the help of company's IT team/support

# Structured Digital Database (SDD)

- \* Date and time of making entries in SDD to be captured along with the actual date and time when the UPSI was shared. Audit trails for all data entries to be maintained appropriately
  - \* Ensure non-tampering /deletion of records in the database. In case the facility of deleting records is available, the system/database must reflect the records that have been deleted or any changes made to the original entries in the database.
  - \* Capturing information transmission w.r.t. corporate announcements submitted by the company to the Exchanges where UPSI is being disseminated
  - \* Maintain details for 8 years from completion of relevant transaction (in case of any investigation, to be preserved till completion of investigation)

Please also ensure that the Company adequately complies with the provisions of SDD as per SEBI (PIT) Regulations, 2015 keeping in mind not only the letter but the spirit of the requirements laid down in the SEBI (PIT) Regulations, 2015.

thank you!

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