

**Securities and Exchange Board of India (Aid for Legal Proceedings)  
Guidelines, 2009.**

**Short title and commencement**

1. (1) These guidelines may be called the Securities and Exchange Board of India (Aid for Legal Proceedings) Guidelines, 2009.
- (2) These guidelines shall come into force on the date of notification of the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009 (hereinafter 'the Regulations')

**Applicability**

2. The aid under clause (d) of sub-regulation (2) of the regulation 5 of the Regulations shall be provided in accordance with these guidelines.

**Definitions**

3. (1) In these guidelines, unless the context otherwise requires:
  - (a) 'expenses' means the expenses incurred with respect to any or all of the following in connection with a legal proceedings:-
    - i. court fees, process fees and other fees/charges payable in the courts as per law;
    - ii. the bills of solicitors, advocates and senior advocates for professional services rendered by them ;
    - iii. the clerkage and other miscellaneous expenses charged by the counsels, senior counsels and solicitors, as applicable.
  - (b) 'legal proceedings' means legal proceedings as defined in clause (g) of sub-regulation (1) of Regulation (2).

**Making of application**

4. (1) Any Investors' Association may make an application to the Board seeking aid for undertaking legal proceedings.

*Clarification: Different stages of a case, such as review or appeal before the same or another court shall require separate application from the Investors' Association and separate approval from the Board.*
- (2) In case legal proceedings relates to mis-statement, misrepresentation or omission in connection with the issue, sale or purchase of securities, the application shall establish that:

- i. the investors relied upon such mis-statement, misrepresentation or omission;
  - ii. such mis-statement, misrepresentation or omission caused monetary loss to the investors.
- (3) The application shall *inter alia* contain the following:
- i. A tabular statement of investors who are affected, and the number of securities held by each such investor;
  - ii. A statement containing details of the cause of action and how the investors are affected;
  - iii. A statement that at least one thousand investors have legally enforceable cause of action;
  - iv. Name of solicitor and/or advocate or both who have been or are proposed to be engaged;
  - v. An itemized estimate of expenses for the legal proceedings.
  - vi. an undertaking that aid for the particular legal proceedings has not been/ would not be sought from any other source.

### **Process**

5. (1) The aid for the legal proceedings shall be granted at the discretion of the Board if the Board is *prima facie* satisfied that the aid is in the best interest of the investors.
- (2) The Board shall not entertain an application for legal aid if the application is incomplete or does not fulfill the conditions laid down under these guidelines or under the Regulations.
- (3) Where more than one application for aid is received by the Board on the same day, the Investors' Association that has filed the petition/suit before the appropriate Court first, shall be considered for grant of legal aid.
- (4) The Board shall issue a letter conveying grant of aid for a particular legal proceedings.

### **Payments**

6. (1) The aid for a particular legal proceedings shall not exceed Rs. 20 lakh if it is before the Supreme Court of India and Rs. 10 lakh before any other forum.
- (2) The aid for legal proceedings shall be given only by way of reimbursement of expenses incurred.

- (3) The Investors' Association, which has received the letter of grant of aid from the Board, shall submit original bills along with the claim seeking reimbursement of expenses incurred.
- (4) The bills submitted shall be certified by the Auditor of the Investors' Association.
- (5) Not more than seventy five percent of the expenses actually incurred shall be reimbursed.
- (6) The aid for legal proceedings shall be given by way of crossed cheque and/ or demand draft drawn in favour of the Investors' Association.
- (7) It shall be the endeavour of the Board to reimburse the amounts within fifteen days of the receipt of claims in accordance with these Guidelines and the Regulations.
- (8) If, at any time, the Board is of the opinion that any particular legal proceedings are not achieving the objective of investor protection, the Board may discontinue the aid after giving a notice of the same to the Investors' Association.

**Utilization of aid by the Investors' Association**

7. (1) The aid provided by the Board is strictly meant for the purpose of meeting legal expenses incurred by the Investors' Association with respect to the specific legal proceedings.
- (2) The Association shall submit a periodical report of the legal proceedings to the Board, as may be desired by the Board.
- (3) After the conclusion of the legal proceedings, the Investors' Association shall submit a detailed report statement on the same to the Board along with a self-certified statement on the utilization of aid by it.

**Powers of the Board to call for information and inspect**

8. (1) The Board may call for any information, clarification, records and documents from the Investors' Association with respect to the legal proceedings initiated by it, including utilization of aid by it.
- (2) The Board may inspect or conduct audit of any books, accounts or records of the Investors' Association in respect of the legal aid granted by it.

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