

Data relating to Disposal of applications under the Consent Scheme as on March 2011

SEBI introduced an alternative enforcement mechanism vide circular no. EFD/ED/Cir-1/2007 dated April 20, 2007 referred to as the “Guidelines for Consent Orders and for considering requests for composition of offences” which provides for various factors to be considered while examining the proposals for consent of civil/administrative actions and composition of offences to achieve the twin goal of appropriate sanction and deterrence without formal proceedings and the accompanying litigation.

The process broadly followed under the consent scheme is as under:

The concerned entity makes an application seeking settlement of the proposed or pending enforcement action. Thereafter, an internal Committee of SEBI, during the course of meeting the applicant, examines whether the terms of consent offered by the applicant are commensurate to the alleged violation. The terms of consent finally offered by the applicant are placed before the High Powered Advisory Committee (HPAC), headed by a retired Judge of a High Court. After taking into account various facts and circumstances of the case and the factors specified in the Circular, the HPAC makes its recommendations either accepting, declining or suggesting modification to the terms offered by the applicant. A panel of two Whole Time Members of SEBI then considers the recommendations of the HPAC and takes a decision whether to settle the enforcement action on the said terms or decline the settlement. On compliance of the terms of settlement, as approved by the panel, a consent order is passed by SEBI, if the matter is pending before it. Where the case is pending before the Securities Appellate Tribunal, Supreme Court or High Court, the agreed consent terms are placed before the respective judicial forum, as the case may be, for passing of appropriate orders.

Till 31st March 2011, SEBI allowed 1012 applications settling various kinds of enforcement actions. These include 74 applications in respect of which consent orders were passed by the Securities Appellate Tribunal and the Supreme Court where cases were pending. SEBI has also rejected 743 applications and declined to pass consent orders for various reasons including that the terms of settlement proposed by the applicants were not found to be commensurate to the alleged acts of violations.

Data relating to the consent applications under the said scheme till March 31, 2011 are as under:

Year	Applications received	Applications disposed by way of		Amount collected (₹ crore)
		Acceptance	Rejections	
2007-08	617	54	25	2.17
2008-09	666	428	164	45.71
2009-10	680	359	317	68.57
2010-11	333	171	237	72.14
Total	2296*	1012	743	188.59**

*Of these, 284 applications have been treated as withdrawn/infructuous.

**As a part of settlement process, apart from the amount collected, the settlement in 132 cases includes debarment from dealing in securities market/suspension of certificate of registration for varying period of time.

The amount of ₹188.59 crore received through consent mechanism comprises ₹28.97 crore towards disgorgement, ₹158.53 crore towards settlement charges and ₹1.09 crore towards administrative and legal charges.

The amount received towards settlement charges is remitted to the Consolidated Fund of India while the amount received towards disgorgement is retained in a separate account for distribution to the unsuccessful investors in IPO irregularities as recommended by Justice Wadhwa committee.