

WTM/MSS/ISD/28 /2009

**SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: M. S. SAHOO, WHOLE TIME MEMBER**

**IN THE MATTER OF IPO IRREGULARITIES - DEALINGS BY DINDAYAL BIYANI
STOCK BROKERS LTD., DEPOSITORY PARTICIPANT OF CDSL**

**ORDER
UNDER REGULATION 28 (2) READ WITH REGULATION 38(2) OF THE
SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES)
REGULATION, 2008**

1. Securities and Exchange Board of India (SEBI) had conducted investigation into the buying, selling or dealing in the shares issued through Initial Public Offerings (IPOs) made by companies during 2003-2005. The preliminary investigations, prima facie, revealed that a large number of demat accounts were opened in benami or fictitious names with a view to corner the shares meant for retail individual investors. It also revealed that M/s. Dindayal Biyani Stock Brokers Limited (DBSBL), a SEBI registered depository participant (DP), opened several such demat accounts and thereby violated Section 12 A of the SEBI Act, 1992, Regulations 3, 4 and 6 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, Regulation 3 and 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, and Regulation 20A of the SEBI (Depositories and Participant) Regulations, 1996.
2. Based on these prima facie findings, SEBI passed an ad interim ex parte order dated April 27, 2006 under sections 11 and 11B of the SEBI Act, 1992 directing DBSBL not to open fresh demat accounts till further orders. After giving an opportunity of hearing to DBSBL, SEBI passed confirmatory order dated January 17, 2007 revoking the interim direction.
3. In the mean time, SEBI completed the investigation and initiated enquiry proceedings against DBSBL vide its order dated May 25, 2006. The Enquiry Officer (EO) after conducting the enquiry in accordance with the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (Enquiry Regulations) submitted the enquiry report dated April 27, 2009. After taking into consideration the facts and circumstances of the case, he recommended a penalty of warning to DBSBL.
4. A show cause notice dated June 30, 2009 enclosing therewith a copy of enquiry report was issued to DBSBL on June 30, 2009 calling upon it to show cause as to why appropriate action as

recommended by the EO should not be taken. Since no reply was received, a reminder dated August 12, 2009 was issued to DBSBL advising it reply to the show cause notice within one week from the date of the letter. The Advocates of DBSBL, vide letter dated August 21, 2009, replied to the show cause notice stating that their clients were willing to accept the penalty of warning recommended by the EO.

5. An opportunity of hearing was granted to DBSBL on November 17, 2009 before me. DBSBL, vide its letter dated November 8, 2009, reiterated that they accepted the penalty of warning recommended by the EO and did not have further explanation to offer.

6. I have carefully considered the enquiry report, the show cause notice and the written submissions made by DBSBL. Since the facts have not been disputed, I take the facts stated in the enquiry report as granted. The enquiry report did not enter any adverse finding considering the fact that multiple accounts were not prohibited in law and the due procedure for opening demat accounts have been followed. It, however, concluded that opening of large accounts for its directors and relatives lead to a conflict of interest between the activities of the noticee as DP and that of its directors. The enquiry report does not elaborate the kind or nature of conflict of interests and how such conflict is in contravention of any provision of law or injurious to market. In the absence of these details, I find it difficult to agree with the recommendation of the EO.

7. I note that pursuant to the notification of the Intermediaries Regulations, the Enquiry Regulations have been repealed and in terms of Regulation 38 (2) of the Intermediaries Regulations, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations shall be deemed to have been commenced under the corresponding provisions of Intermediaries Regulations.

8. Taking into account the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 19 of the SEBI Act, 1992, read with Regulation 28 (2) of the SEBI (Intermediaries) Regulations, 2008, hereby dispose of the enquiry proceeding without any penalty on M/s. Dindayal Biyani Stock Brokers Limited.

DATE: December 1, 2009
PLACE: Mumbai

M. S. SAHOO
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA