

SECURITIES AND EXCHANGE BOARD OF INDIA

ISSUANCE OF DIRECTIONS TO HDFC BANK LIMITED IN RESPECT OF LEAKAGE OF UNPUBLISHED PRICE SENSITIVE INFORMATION RELATING TO ITS FINANCIALS THROUGH SOCIAL NETWORKING APPLICATION – WHATSAPP

1. In the recent past, certain articles have been published in newspapers / print media referring to the circulation of Unpublished Price Sensitive Information (“UPSI”) in various private WhatsApp groups about certain companies ahead of their official announcements to the respective Stock Exchanges.

2. In this backdrop, Securities and Exchange Board of India (“SEBI”) initiated a preliminary examination in the matter of circulation of UPSI through WhatsApp groups. During the course of preliminary examination, it was observed that in respect of company named HDFC Bank Limited (“HDFC Bank”), the messages circulated in WhatsApp closely matched the quarterly financial results of HDFC Bank for June 2017, which were published subsequently. The following was, *inter alia*, noted in respect of messages relating to HDFC Bank:
 - The message in circulation in WhatsApp was with respect to quarterly financial results of HDFC Bank for the quarter ended June 30, 2017, prior to the official announcement by HDFC Bank. The actual results of HDFC Bank were announced at Stock Exchanges on July 24, 2017 at 12:12 hours.
 - As per information on record including the extracts of WhatsApp message, the message was in circulation since July 21, 2017.
 - It was observed that the figures that were in circulation in WhatsApp about HDFC Bank were close to the actual announcements as can be seen in the following table:

Particulars	Whatsapp Post	Actual Results
GNPA	1.25%	1.24%
PAT	3900 crores	3893.84 crores
<i>Date</i>	<i>July 21, 2017</i>	<i>July 24, 2017</i>

GNPA- Gross Non Performing Assets ; PAT- Profit After Tax

3. In this context, information was sought from HDFC Bank with regard to the aforesaid circulation of its quarterly results for the quarter ended June 2017 in WhatsApp prior to its official announcement. HDFC Bank was also asked to submit information regarding the processes / controls that it has in place
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- regarding handling of UPSI.
4. In response thereto, HDFC Bank submitted that:
 - (i) The concerned officials shared the information on unpublished GNPA, NPA and profit figures with the concerned employees of the Bank and with the Statutory Auditors, for official purposes and on a need to know basis
 - (ii) Sharing of information on unpublished GNPA, NPA and profit figures, wherever required, was done by way of Bank's internal e-mail system on a secured file-sharing platform within the Bank's internal network, and subsequent queries/clarifications were responded by way of e-mail/ one-to-one meetings or over phone (including SMS), etc, addressed only to the concerned employee(s).
 - (iii) Information on unpublished GNPA, NPA and profit figures, was appropriately stored in password protected files with selective access
 5. HDFC Bank also provided the chronology of events relating to preparation and finalization of its financials relating to quarter - June 17. It was submitted that the preparation of financial results started from July 1, 2017 and process for generation of data for preparation of NPA started from July 12, 2017. The financial results including NPA figures were formally disclosed on July 24, 2017.
 6. It is noted from the information provided by HDFC Bank that the work relating to preparation of financial results for the quarter ended June 2017 started on July 01, 2017 with preparation of financials based on trial balance including closing entries relating to mark to market of investments, valuation of forex/derivatives, loan provisioning, income/expense accruals etc. Thereafter, financials were shared with functional head—Finance & CFO, statutory auditors and Deputy Managing Director on on-going basis. Thereafter, on July 21, 2017, financials were presented to the Audit Committee in presence of the Auditors. Finally, the results were officially declared on July 24, 2017 at 12:12 hours (as per BSE website).
 7. Similarly, NPA figures were generated on July 12, 2017 by finance team on the basis of inputs received from various credit teams. The NPA figures were shared with various teams including Wholesale and Retail Credit teams, Finance team Statutory Auditor and Board of Directors during the period July 13-19, 2017. Thereafter, NPA figures were presented to the Audit Committee of the Board on July 21, 2017 which were finally disclosed to the Stock Exchanges on July 24,

2017 at 12:12 hours (as per BSE website).

8. Thus, it *prima facie* appears that the financial results of HDFC Bank for quarter ended June 2017 were finalized on or before July 19, 2017, which was before circulation of WhatsApp message on July 21, 2017.
9. Similarly, in respect of quarter ended December 2015, it was also observed that financial figures were also in circulation through WhatsApp prior to the actual announcement by the company. The figures that were in circulation were close to the actual announcements as can be seen in the following table:

Particulars	Whatsapp Post	Actual Results
Net Interest Income (NII)	Rs 7050 crores	Rs 7068 crores
PAT	Rs 3350 crores	Rs 3350 crores
Date & Time	January 25, 2016, 09:51 hours	January 25, 2016, 14:07 hours

10. It is observed that the financials including NPA figures pertaining to the quarterly results of HDFC Bank matched closely with the figures that were in circulation prior to its official announcement by HDFC Bank. Such resemblance of the information circulated on WhatsApp with the actual financial results *prima facie* indicates that the financial figures of HDFC Bank, were in circulation prior to official announcement / publication by HDFC Bank. The same could not have been possible without leakage of information from the person(s), who were privy to the information relating to financials prior to its official announcement.
11. In this context, it is noted that leakage of unpublished quarterly financial results (covered under the definition of UPSI under regulation 2(n) of PIT Regulations) which eventually led to circulation of messages through WhatsApp is prohibited and is in contravention of regulation 3(1) and (2) of SEBI (Prohibition of Insider Trading) Regulations 2015 ("PIT Regulations") read with section 12A(e) of the Securities and Exchange Board of India Act, 1992 ("SEBI Act") which prohibit procurement or communication of UPSI. The said provisions read as under:

Regulations 3(1) and (2) of PIT Regulations:

3. (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.

(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.

Section 12A(e) of the SEBI Act

12A. No person shall directly or indirectly—

...

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

12. It is observed that at this stage, the source / origin of the leakage of UPSI cannot be ascertained. However, it can *prima facie* be inferred on the basis of the afore-discussed facts and circumstances that the UPSI relating to financials of HDFC Bank was leaked. Such leakage is *prima facie* attributable to the inadequacy of the processes / controls / systems that HDFC bank as a listed company had put in place. While procurement or communication of UPSI by any person is identified as a violation of regulation 3 of PIT Regulations and section 12A(e) of the SEBI Act, it becomes incumbent upon every listed company to put in place processes/ controls / systems that would ensure that such procurement or communication of UPSI does not take place.

13. In view of the foregoing, I, in exercise of powers conferred upon me under sections 11 and 11B of the SEBI Act read with section 19 thereof, in the interest of securities market, hereby direct as under:

- i) HDFC Bank shall strengthen its processes/systems/controls forthwith to ensure that such instances of leakage of unpublished price sensitive information do not recur in future;
- ii) HDFC Bank shall submit a report on
 - the present systems and controls and how the present systems and

controls have been strengthened.

- Who are the persons responsible for monitoring such systems.
- The periodicity of monitoring.

The said report shall be submitted along with the inquiry report mentioned below.

- iii) HDFC Bank shall conduct an internal inquiry into the leakage of unpublished price sensitive information relating to its financial figures including NPA results and take appropriate action against those responsible for the same, in accordance with law. The scope of such inquiry shall include and not be limited to determination of the possible role of following persons in relation to the aforesaid leakage of UPSI:
- a) Persons / members of committees involved in generation of the original data for the purpose of determination of key figures pertaining to financial figures including GNPA.
 - b) Persons involved in the consolidation of the figures for the financial results.
 - c) Persons involved in the preparation of board notes and presentations.
 - d) Persons involved in dissemination of information relating to financial results in the public domain.
 - e) Any other persons who had access to the information.
- iv) The inquiry directed above shall be completed within a period of 3 months from the date of this order, and within 7 days from the completion thereof, HDFC Bank shall file a report to SEBI in that regard.

Sd/ -

DATE: FEBRUARY 23, 2018
PLACE: MUMBAI

MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA