



DEPUTY GENERAL MANAGER
INTEGRATED SURVEILLANCE DEPARTMENT

ISD/OW/2020/134921/1
August 19, 2020

Nivedita Admane
KP Capital Advisors Private Limited
S. No. 256/254, Bungalow No.2, Green Park Society
Behind Anand Park,
Baner, Pune 411 007

Madam,

Sub: Request for an Interpretative Letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003

1. This has reference to the letter dated June 24, 2020 seeking an interpretive letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.
2. In the said letter, the following submissions have been made:

With respect to monitoring trades in securities not in the restricted list

2.1. We are of the opinion that, a listed company in respect of which KP Capital Advisors Private Limited (KPCA) is neither a connected person nor has any UPSI ("Unrestricted Securities"), provisions of SEBI PIT Regulations shall not apply. This implies that the designated persons of KPCA need not seek pre-approval of compliance officer to trade in such unrestricted securities and need not submit trade details or make any disclosures (initial or continuous) of their holdings of unrestricted securities. The compliance officer of KPCA also is under no obligation to track, monitor and report trades of the designated persons in such unrestricted securities.



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2.2. However, as and when any unrestricted security shall become a restricted security, any trade/dealing in such restricted securities by any designated persons shall be prospectively tracked, monitored and reported in accordance with the PIT Regulations.

With respect to maintaining confidentiality about the restricted list

2.3. Schedule C of SEBI PIT Regulations mandates minimum standards for Code of Conduct for intermediaries and fiduciaries. Clause 5 of Schedule C reads as under:

"The compliance officer shall confidentially maintain a list of such securities as a "restricted list" which shall be used as the basis for approving or rejecting applications for pre-clearance of trades"

2.4. We believe that "restricted list" within the meaning of clause 5 of Schedule C does not contemplate only names of the restricted companies, but also other information as a whole list which ought to be maintained confidentially by the compliance officer.

2.5. In case the "restricted list" referred above contains only names of restricted companies and no other information and the compliance officer himself/herself would maintain confidentiality of names of such client companies as per Clause 5 of Schedule C, the designated persons due to lack information and awareness on client companies shall be required to intimate, report or seek pre-clearance of trade/dealing in securities of even unrestricted companies whose securities are not subject matter of Code of Conduct. This may also result in initial and continual disclosure by the designated persons/employees in respect of securities of unrestricted companies.

3. In light of the aforesaid submissions, informal guidance has been sought in the form of an interpretative letter on the following queries:



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- 3.1. Is our understanding correct in terms of keeping the trades in unrestricted list outside the purview of compliance of PIT Regulations (ref para 2.1 above)?
- 3.2. Is our understanding correct that the compliance officer can share the restricted list with the designated persons so that the latter can know the permissibility of their proposed trade (ref para 2.3 above)?
4. Without necessarily agreeing with the analysis given in the letter under reference, the interpretation on the above queries is as under:

- 4.1. Regulation 9(1) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations"), reads as follows-

"(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."

- 4.2. Schedule C read with sub-regulation (1) and sub-regulation (2) of Regulation 9 of PIT Regulations stipulates minimum standards for Code of Conduct for Intermediaries to regulate, monitor and report trading by Designated Persons.

- 4.3. KPCA is SEBI registered category I merchant banker and is an intermediary within the meaning of Section 12 of the SEBI Act, 1992. Therefore, minimum standards for Code of conduct under Schedule C of PIT Regulations would be applicable on KCPL.



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4.4. Clause 4 and 5 of aforesaid Schedule C, reads as follows -

"4. Designated persons may execute trades subject to compliance with these regulations. Trading by designated persons shall be subject to pre-clearance by the compliance officer(s), if the value of the proposed trades is above such thresholds as the board of directors or head(s) of the organisation may stipulate.

5. The compliance officer shall confidentially maintain a list of such securities as a "restricted list" which shall be used as the basis for approving or rejecting applications for pre-clearance of trades."

4.5. With respect to query at para 3.1:

4.5.1. Regulation 9(1) read with Clause 4 of Schedule C of the PIT Regulations stipulates that every intermediary registered with SEBI shall formulate a code of conduct approved by Board of Directors/Head(s) of the intermediary to regulate, monitor and report trading by its designated persons and their immediate relatives. Such trading shall be subject to pre-clearance by the compliance officer(s) above a certain value threshold as decided by board of directors or head(s) of the organisation of the intermediary. Therefore, trading in all securities by the designated persons shall be subject to pre-clearance by the compliance officer if its value is above a certain threshold. The restricted list shall be used as a basis for approving or rejecting applications for pre-clearance of trades.

4.6. With respect to query at para 3.2:

4.6.1. In terms of Clause 5 of Schedule C of PIT Regulations, compliance officer is responsible for maintaining restricted list on a confidential basis. Such restricted list shall be used by the compliance officer for approving or rejecting applications made for pre-clearance of trades. Such pre-



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clearance would decide the permissibility of proposed trade of designated employee for a given security. Therefore, sharing the restricted list with the designated persons would undermine the requirement of maintaining confidentiality of restricted list as stipulated in aforesaid Clause 5 of Schedule C of the PIT Regulations.

5. This position is specific to the information furnished in the letter under reference. Different facts or conditions may entail different interpretation. Further, this letter does not contain any decision of the Board on the queries referred.
6. It may also be noted that the above views are expressed only with respect to the clarification sought in the letter under reference with respect to the PIT Regulations and do not affect the requirements/ or applicability of any of the provisions of the SEBI Act, 1992, or the rules or the regulations made thereunder that are administered by SEBI or by any other authority.

Yours faithfully,

Deepti Agrawal