



**भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India**

**CHIEF GENERAL MANAGER  
INTEGRATED SURVEILLANCE DEPARTMENT**

31/11/20

ISD/OW/ — /2015  
November 09, 2015

**Ashwin S. Dani  
Director  
Geetanjali Trading and Investments Pvt Ltd  
3-A, Barodawala Mansion,  
81 Dr, Annie Beasant Road,  
Worli, Mumbai - 400018**

Dear Sir,

**Sub: Request for Informal Guidance by way of a "No-action Letter" under the provisions of Securities and Exchange Board of India (Informal Guidance) Scheme, 2003, in connection with the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015**

1. Please refer to your letter dated September 11, 2015 seeking guidance under the SEBI (Informal Guidance) Scheme, 2003.
2. In your letter under reference you have inter alia made the following submissions-
  - I. Geetanjali Trading and Investments Pvt. Ltd. (hereinafter referred to as "GTIPL") is a Non Banking Financial Company registered with the Reserve Bank of India. It belongs to the "Promoter and Promoter Group" of Asian Paints Limited (hereinafter referred to as "APL").
  - II. Together with its two wholly owned subsidiaries viz., Smiti Holding and Trading Company Pvt. Ltd. (hereinafter referred to as "Smiti") and Isis Holding and Trading Company Pvt. Ltd. (hereinafter referred to as "Isis"), GTIPL holds 16.29% of the paid-up equity share capital of APL. These entities along with other entities and individuals form part of the promoter and promoter group of APL. The aggregate shareholding of the promoter and promoter group in APL is 52.79%.
  - III. All the above three entities namely; GTIPL, Smiti and Isis have been borrowing from financial institutions on an ongoing basis. Generally, the borrowing is in the form of term loans, with tenor of 2 to 3 years.
  - IV. The amount borrowed is secured by pledging the shares of APL in favour of the lenders. At the end of the tenure of the term loans, they are either rolled

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दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.

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over with the same lender or shifted to other lenders, taking into consideration the commercial aspect of the term loans.

- V. Prior to May 15, 2015), activities like pledging and de-pledging were allowed to be undertaken by the entities at the time of maturity of the loan, as per the obligations mandated under the loan agreements. Such loan agreements were executed by GTIPL, Smiti and Isis prior to SEBI notifying the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 ("SEBI PIT Regulations").
- VI. As per SEBI PIT Regulations, which became effective from May 15, 2015, pledging falls within the purview of the term "trading". Additionally, since GTIPL, Smiti and Isis are part of the promoter and promoter group of APL, these entities are perpetually in possession of Unpublished Price Sensitive Information (UPSI) relating to APL.
3. In the light of aforesaid submissions, you have raised the following queries with regards to the SEBI PIT Regulations:
- I. At the time of maturity or put/call option of the term loans (including accrued interest thereon) the above entities would have to pledge and de-pledge APL shares in favour of the concerned lenders as per the loan agreements. This will result in pledging and simultaneously de-pledging of APL shares within a period of 6 months resulting in a "contra trade" in terms of clause 10 of schedule B of the SEBI PIT Regulations, and while in possession of UPSI relating to APL.
- II. Similar to above, if the transaction as mentioned in previous point takes place when trading period of APL is closed (i.e., maturity or put/call falling in a quiet period), concerned entity (GTIPL, Smiti or Isis) would have to pledge and de-pledge APL shares in favour of the concerned lenders as per the loan agreements.
- III. In case of a margin call being triggered by the pledge/lender under a term loan during the period when the trading period of APL is open or closed, GTIPL/Smiti/Isis will have to pledge further shares of APL in favour of the lender, as it is obligated to do so in terms of the respective loan agreements while in possession of UPSI relating to APL, and such further pledge of shares may be during the period of six months during which a "contra trade" is prevented.

Without necessarily agreeing with your analysis, we offer our views as under:

4. Your letter dated September 11, 2015, appears to seek informal guidance in the nature of 'No-Action Letter' in respect of the proposed action by GTIPL, Smiti and Isis.
5. SEBI, vide Guidance note dated August 24, 2015 ("SEBI Guidance Note"), has already clarified its position with respect to applicability of SEBI PIT Regulations in

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case of pledging of shares. The Guidance note has also been referred to by you in your letter under consideration.

6. SEBI, through the above mentioned guidance note has stated that creation or invocation of pledge is prohibited while in possession of UPSI. However, the pledgor or pledgee may demonstrate that the creation of pledge or invocation was bona fide and prove their innocence under proviso to sub-regulation (1) of regulation 4 of the Regulations. This depends on the facts of each case.
7. In lines of the above, you may carry out any pledge transaction as stated in your letter dated September 11, 2015. It is further stated that if and when you carry out any pledge transaction, it shall be expected to be within the spirit of the SEBI PIT Regulations and as has been brought out in the SEBI Guidance Note, the onus to demonstrate bone fide intention behind such transactions shall lie with pledgor/pledgee. It is presumed from your letter dated September 11, 2015 that the pledging of shares is for genuine business purposes and such pledges are created in accordance with provisions of the applicable laws with appropriate disclosures in compliance with various SEBI Regulations. In such a case, the defence provided in Regulation 4 (1) of SEBI PIT Regulations will be available to you.
8. This position is based on the representations and submissions made to the Department in your letter under reference. Different facts or conditions might require a different result. This letter expresses the Department's position on applicability of the respective Regulations / Guidelines as referred above only in the instant case. It does not express decision of the Board on the questions presented.
9. In terms of Clause 14 to Clause 17 of SEBI (Informal Guidance) Scheme, 2003, the department issuing this no-action letter will not recommend enforcement action to the Board regarding above issues subject to the requestee acting strictly in accordance with the facts and the representations made in the letters while in compliance with applicable laws.
10. You may note that the above views are expressed only with respect to the clarification sought on the applicability of the respective Regulations/Guidelines as referred above and do not affect the applicability of any other law or requirements.

Yours faithfully,

**Sunil Kadam**