

*Sunil Kadam
General Manager
Corporation Finance Department
Division of Issues and Listing-II
Phone: +91 22 2644 9630
Fax: +91 22 2644 9035. Email: sunilk@sebi.gov.in*

**CFD/DIL-II/SK/RA/AEA/IG/OW/17246/2012
August 03, 2012**

**Multi Commodity Exchange of India Limited,
Exchange Square,
Suren Road, Andheri (E),
Mumbai- 400093.**

Kind Attention: Shri. P. Ramanathan, Company Secretary & Compliance Officer

Dear Sir,

Sub: Request under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in the matter of Multi Commodity Exchange of India Limited

1.0 Please refer to your letter dated May 28, 2012 seeking interpretive letter under the SEBI (Informal Guidance) Scheme 2003.

2.0 In your letter under reference you have inter alia represented as follows:

2.1. The Company is a listed entity having its shares listed on BSE and is engaged in the business of facilitating nationwide online trading, clearing and settlement operations of commodity futures.

The company had implemented two employees stock option schemes –ESOP 2006 and ESOP 2008. Under ESOP 2006, options were granted to employees and directors of the company and the erstwhile holding company viz. Financial Technologies (India) Limited (FTIL). Under ESOP 2008, the company granted 26,00,000 options to MCX ESOP Trust. The company had come out with IPO recently. Pursuant to Regulation 37 of SEBI (ICDR) Regulations, 2009, the company has locked-in the equity shares allotted under ESOP Schemes of those persons are ceased to be in employment. Further, the shares issued to the employees and ex-employees of the erstwhile holding company-FTIL were also locked in for one year.

2.2. The company has made disclosures in DRHP/RHP/Prospectus regarding the said lock-in and the company has also submitted to the designated stock exchange, a list of employees whose shares were ineligible for relaxation from lock-in.

2.3. The company has stated that the said approach was in line with the Informal Guidance given to Firstsource Solutions Limited dated November 14, 2007.

- 2.4. The company has mentioned that it received an email from Shri. Raju Thomas Panackal, an ex-employee of the company forwarding an email dated April 17, 2012 from SEBI stating that shares allotted under ESOP scheme to an employee shall be eligible for exemption from lock-in under Regulation 37 of SEBI (ICDR) Regulations, irrespective of the fact that the allottee has ceased to be an employee at the time of listing.
- 2.5. The company has submitted that in their view the interpretation of Regulation 37 of the SEBI (ICDR) Regulations, 2009 given in the said email is not in line with the aforesaid interpretation given to Firstsource Solutions Limited. The company has also stated that the interpretation provided in the email would exempt the shares 'allotted' under ESOP from lock-in, even if it is subsequently transferred to any other person.

3.0 Query:

Based on the above facts, you have sought our guidance on the following points:

- 3.1. Whether the employees of the company who have received shares pursuant to the ESOP Schemes and who have ceased to be the employees of the company, as on the date of the allotment of the shares pursuant to the IPO, would be considered as 'employees' for the purpose of exemption from the one year lock-in under proviso (a) to Regulation 37 of the SEBI Regulations;
- 3.2. Whether the existing employees and ex-employees of FTIL, which was an erstwhile holding company of the company, who had received shares pursuant to ESOP 2006, would be considered as 'employees' for the purpose of exemption from the one year lock-in under proviso (a) to Regulation 37 of the SEBI Regulations
- 3.3. Consequently, whether the shares allotted to and held by the (i) ex-employees of the Company under ESOP Schemes; and (ii) existing employees and ex-employees of FTIL (which had ceased to be a holding company of the company at the time of IPO) under ESOP 2006, would be exempt from the one year lock-in under proviso to Regulation 37 of the SEBI Regulations and whether the company should now release the lock-in on such shares.

4.0 Our comments:

Without necessarily agreeing to your analysis, our views on the queries raised by you are as under:

- 4.1. Regulation 2 (1) (m) of the SEBI (ICDR) Regulations 2009 defines the term 'employee' as "*a permanent and full-time employee, working in India or abroad,*

of the issuer or of the holding company or subsidiary company or of that material associate(s) of the issuer whose financial statements are consolidated with the issuer's financial statements as per Accounting Standard 21, or a director of the issuer, whether whole time or part time and does not include promoters and an immediate relative of the promoter (i.e., any spouse of that person, or any parent, brother, sister or child of that person or of the spouse)". As per the above definition, any person who ceased to be in the employment of the company as on the date of allotment of shares pursuant to the IPO is not considered as employees and hence the shares held by them would not be considered for the purpose of exemption from one year lock-in under proviso (a) to Regulation 37 of the SEBI (ICDR) Regulations 2009. In other words, such shares held by ex-employees have to be locked in under Regulation 37 of SEBI (ICDR) Regulations 2009.

4.2. The definition of the 'employee' under Regulation 2(1)(m) as discussed above, covers employees of the issuer, holding company, subsidiary or material associate of the issuer and director of the issuer. Accordingly, the employees and ex-employees of FTIL (which is a erstwhile holding company of the issuer) would not be considered as 'employees' for the purpose of exemption from one year lock-in under proviso (a) to Regulation 37 of SEBI (ICDR) Regulations.

4.3. Consequently, the shares allotted under ESOP and held by the (i) ex-employees of the issuer under ESOP scheme and (ii) the existing and ex-employees of FTIL would not be exempt from the lock-in requirements, as these persons would not fall under the definition of 'employees' provided in Regulation 2(1) (m) of SEBI (ICDR) Regulations 2009.

4.4. The email mentioned in Para 2.4 was processed with the limited information available and cannot be considered as views of SEBI.

5.0 This position is based on the representation made to the division in your aforesaid letter under reference. Different facts or condition might require different results. This letter does not express a decision of the Board on the question referred.

6.0 Please note that the above position is expressed only with respect to the clarifications sought on the applicability of the SEBI (ICDR) Regulations, 2009 as referred above and does not affect the applicability of any law and other SEBI Regulations, Guidelines and circulars administered by SEBI or the requirements of Listing Agreement.

Yours faithfully,

Sunil Kadam