



भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

Amit Tandon  
Deputy General Manager  
Corporation Finance Department  
E-mail: [amitt@sebi.gov.in](mailto:amitt@sebi.gov.in)  
Phone: 022-26449373

CFD/IG/AP/OW/20908/2015  
July 27, 2015

Mindtree Limited  
Global Village  
RVCE Post, Mysore Road  
Bangalore - 560 059

Kind attention: Mr. Jagannathan Chakravarthi, Chief Financial Officer

Dear Sir,

**Sub: Request for informal guidance in relation to phantom stock schemes for employees who are promoters and applicability of SEBI (Share Based Employee Benefits) Regulations, 2014 to such schemes**

1. This has reference to your letter dated May 11, 2015 and subsequent communication on the captioned subject.
2. You have, *inter alia*, represented as under:-
  - i. During August 2013, an employee benefit scheme called the stock appreciation rights scheme ("Phantom Stock Scheme") was introduced, pursuant to which stock appreciation right ("SAR") units ("Phantom Stock") were granted to 6 employees who are also promoters of the company.
  - ii. As per provisions of the Phantom Stock Scheme, only notional SAR units were issued at a pre-determined grant price and the promoters were entitled to receive cash payment for appreciation in the share price over the grant price for the awarded units, based on company achieving the specified revenue targets. While the cash payouts pursuant to the Phantom Stock Scheme are linked to the share price of the company's equity shares, implementation of the phantom stock scheme does not involve any actual purchase or sale of the equity shares of the company.
  - iii. The scheme was renamed as 'Phantom Stock Program' subsequently since the scheme was in nature of phantom stock options because the scheme did not involve entitling the promoters to receive any equity shares of the company, nor did it involve any actual purchase or sale of the equity shares of the company.

*Jat*

Page 1 of 3

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.  
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फ़ैक्स : 2644 9019 से 2644 9022 वेब : [www.sebi.gov.in](http://www.sebi.gov.in)

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.  
Tel.: 2644 9950 / 4045 9950 (IVRS), 2644 9000 / 4045 9000 Fax : 2644 9019 to 2644 9022 Web : [www.sebi.gov.in](http://www.sebi.gov.in)



अनुवर्ती:  
Continuation :

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

3. In view of the above, you have sought guidance from SEBI on the following:
- Whether the Phantom Stock Scheme falls within purview of SEBI Regulations?
  - As per the current definition of 'employee', for the purpose of any share based schemes, it appears that only employee of any subsidiary/holding company/associate company of the company who is also a promoter/part of promoter group alone excluded and considering this, whether Phantom Stock awarded to the Promoters is fully compliant with the SEBI Regulations?
  - Since the Promoters are not excluded employees as per the current definition as per the SEBI Regulations, can the company award fresh phantom stock units to Promoters?
4. We have considered the submissions made by you and without necessarily agreeing with your analysis, our views on the queries are as under:
- Regulation 1(4) of the SEBI (Share Based Employee Benefits) Regulations, 2014 ("the SBEB Regulations") specifies the applicability conditions which are reproduced below for ease of reference:-  
*"1(4) The provisions of these regulations shall apply to any company whose shares are listed on a recognised stock exchange in India, and has a scheme:*
    - for direct or indirect benefit of employees; and*
    - involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly; and***
    - satisfying, directly or indirectly, any one of the following conditions:*
      - the scheme is set up by the company or any other company in its group;*
      - the scheme is funded or guaranteed by the company or any other company in its group;*
      - the scheme is controlled or managed by the company or any other company in its group."*
  - As can be seen from the above, one of the applicability criteria for an employee benefit scheme to be covered under the SBEB Regulations is that the scheme should actually involve "dealing in or subscribing to or purchasing securities of the company directly or indirectly".
  - However, in the instant matter, from your letter dated May 11, 2015 it appears that the Phantom Stock Scheme does not involve any actual purchase or sale of the equity shares of M/s. Mindtree Ltd. ("the company"). The company is

*Ad*



अनुवर्ती:  
Continuation :

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

issuing notional SAR units at a pre-determined grant price and the promoters are entitled to get cash payment for appreciation in the share price over the grant price for the awarded units, based on the company achieving the specified revenue targets.

- iv. In view of the above, the SBEB Regulations may not apply to the instant Phantom Stock Scheme. In such an event, other queries in your letter have become irrelevant.
5. The above position is based on the information furnished in your letter under reference. Different facts or conditions might lead to a different result. Further, this letter does not express a decision of the Board on the questions referred.
6. You may also note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,

**Amit Tandon**