

**Draft Securities and Exchange Board of India (Prohibition of Insider Trading) (Third Amendment) Regulations, 2019 to provision for an Informant Mechanism**

1. **Objective**

1.1 This memorandum proposes the draft Securities and Exchange Board of India (Prohibition of Insider Trading) (Third Amendment) Regulations, 2019 (**Annexure-I**) for consideration and approval of the Board.

2. **Background of the Informant Mechanism**

2.1 Section 12A of the Securities and Exchange Board of India Act, 1992 ("SEBI Act") read with Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations") seeks to curb insider trading to protect the interest of investors at large. Insider trading is defined in the PIT Regulations to mean trading of securities while in possession of unpublished price sensitive information ("UPSI"). Insider trading is mainly carried out in a clandestine manner. The wrongdoers usually indulge in insider trading through a proxy to whom the relevant information is communicated and direct evidence of such communication is seldom available across various jurisdictions. Thus detection and prosecution of insider trading remains a challenge. Like other securities market regulators across the world, SEBI also faces this challenge in timely and expeditiously prosecuting insider trading violations primarily due to the insufficiency of evidence of commission of the violation. **(This has been excised for reasons of confidentiality)**

2.2 The mandate of the SEBI Act, 1992 is to 'protect the interests of investors in securities and to promote the development of, and to regulate the securities market.' It thus becomes imperative for SEBI to employ all legitimate means to detect and initiate action against insider

trading at the earliest to instil confidence amongst investors and ensure integrity of the securities markets in line with the mandate conferred upon it.

### **3. Need for an informant mechanism for Insider Trading cases**

3.1 While investigating cases pertaining to insider trading, the challenges faced by SEBI include,-

- (i) establishing transmission of UPSI and proving flow of such information,
- (ii) absence of details relating to UPSI, such as the precise time when the information was generated and when it became public and the people who had access to it before it became public,
- (iii) identification of connection or relation between insiders and those who traded based on the UPSI,
- (iv) acquiring evidence for establishing connections,
- (v) establishing that trading took place while in possession of UPSI

3.2 These challenges could result in the investigation in insider trading cases taking a longer time for completion as opposed to cases pertaining to other kinds of market manipulation.

3.3 Hence in order to strengthen the investigation and enforcement mechanism to curb instances of insider trading, it is essential to provide for a mechanism that incentivises people having personal knowledge of any incidence of insider trading to report the same to SEBI.

3.4 In furtherance of the same, a discussion paper titled “Discussion Paper on amendment to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 to provision for an informant mechanism” was published by SEBI on its website on June

10, 2019 seeking comments from the public. The discussion paper is placed as **Annexure-II**.

#### 4. **Public Comments**

4.1 Pursuant to the issuance of the discussion paper, forty-four (44) comments from seven (7) entities have been received from **(This has been excised for reasons of confidentiality)**.

4.2 A detailed table with the public comments received and the comments of SEBI thereon are placed at **Annexure – III**.

#### 5. **Salient features of the proposed amendment to Securities and Exchange Board of India (PIT) Regulation, 2015**

5.1 Pursuant to the receipt of public comments, the draft Securities and Exchange Board of India (PIT) (Third Amendment) Regulation 2019 have been prepared. The key features are as follows:

**5.1.1 Voluntary Information Disclosure Form:** Informant means an individual(s) who voluntarily submits a Voluntary Information Disclosure Form (VIDF) detailing credible, complete and original information relating to an act of insider trading, including communication of unpublished price sensitive information or trading in violation of the code of conduct requirements under the PIT Regulations that has occurred/ is occurring/ has a reasonable belief that it is about to occur.

**5.1.2 Disclosure of source of information:** It shall be mandatory for an informant to disclose the source of original information and to provide an undertaking that the original information provided has not been sourced from any person employed with SEBI or any related regulator. An indemnity clause to that effect shall also form part of the undertaking which shall be signed by the informant.

- 5.1.3 Office of Informant Protection ('OIP'):** An independent office separate from the investigation and inspection wings or any of the operational departments shall be established by the SEBI to device the policy relating to receipt and registration of the VIDF, processing the veracity and authenticity of the information contained therein, analysing the application of relevant regulations and eventually deciding upon the issue of grant of reward to the informant upon completion of enforcement action by the Board and recovery of amounts by way of disgorgement. The OIP would serve as a medium of exchange between the informant/legal representative and the Board.
- 5.1.4 Manner of submission of information:** The informant would need to disclose his/her identity at the time of submission of the VIDF. In case the informant decides to submit any information anonymously, the VIDF shall be submitted through a representative who is a practising advocate. An informant who directly submits the VIDF may be required to appear in person before the Office of Informant Protection (OIP) at SEBI's Head Office in Mumbai for ascertainment of his/her identity and the veracity of the information so provided.
- 5.1.5 Confidentiality of Informant:** The confidentiality regarding the identity of the informant and information provided shall be protected through the OIP and shall be maintained throughout as well as during any proceeding initiated by SEBI except where the evidence of the informant is required during such proceedings.
- 5.1.6 Obligations of legal representative:** The legal representative shall be required to inter alia verify the identity and contact details of the informant and also ensure that the identity of the informant along with the original VIDF is kept confidential. The identity of the informant would be required to be revealed only if

SEBI makes a request for the original VIDF inter alia for the following reasons:

- i.* When the informant has not complied with the given regulations/guidance;
- ii.* When the nature of the information provided, requires the informant to be examined;
- iii.* When it is required to be disclosed in connection with any court proceedings; or
- iv.* When SEBI requires the said information for verification at the time of granting the gratuitous reward in favour of the informant.

Hence a non-waivable consent needs to be obtained by the legal representative from the informant as provided in the VIDF.

**5.1.7 Processing of Information:** The original Information shall be processed by the OIP after establishing the materiality of the information. The OIP may transfer such information to the operational department only after excising any information which may reveal or may have the effect of revealing the identity of the Informant. The dealing departments in SEBI shall further process the original information for application or use by investigation department to recommend any suitable enforcement actions including issuance of administrative warnings, directions under the SEBI Act, 1992, imposition of penalty or prosecution on a case to case basis.

- 5.1.8 **Reporting:** OIP shall submit a Report regarding its functioning and working of the informant mechanism on an annual basis to the Board, which shall also be released to the public.
- 5.1.9 **Hotline:** A hotline shall be maintained by the OIP to guide persons to file information as per the regulations but not to register any complaint or information. The hotline would thus serve as a process to facilitate submission of information by the informant.
- 5.1.10 **Grant of Reward:** The concept of reward has been considered under this amendment in the form of a gratuitous monetary amount in case the information is provided in compliance with the informant mechanism and monies are disgorged as a result of any action taken on the basis of true, credible, complete and original information, and leads to a disgorgement of at least Rupees one (1) crore.
- 5.1.11 **Quantum of Reward:** The total amount of monetary reward shall be 10 % of the monies collected but shall not exceed Rs one (1) crore or such higher amount as may be specified. An interim reward not exceeding Rs. 10 lacs may be given at the stage of issuance of the final order by the SEBI against the person directed to disgorge. The final reward, after adjusting the interim reward, shall be issued after collection or recovery of the monies disgorged equal atleast twice the final reward.
- 5.1.12 **Investor Protection and Education Fund ('IPEF'):** Since the proceeds of the disgorgement order are deposited in the IPEF, it shall also be the designated fund from which the reward is to be paid. This provides legal sanctity to the disbursement of rewards.
- 5.1.13 **Sharing of Information:** The original information may be shared with an appropriate agency or law enforcement authority within or outside India or a self- regulatory organisation, subject to the discretion of SEBI, keeping in view the objectives of the SEBI Act. Unless the circumstances necessitate otherwise, the

confidentiality of the informant shall be maintained even while sharing this information.

**5.1.14 Exemption under RTI:** Information provided for the purpose of law enforcement is exempted from disclosure under section 8(1)(g) and 8(1)(h) of the Right to Information Act, 2005. Accordingly, the original information provided by the informant shall be exempted from disclosure.

**5.1.15 Protection against victimization:** Every person associated with the securities markets, including listed companies and intermediaries, dealing with UPSI, shall respectively incorporate in their Code of Conduct, suitable provisions to ensure that no employee who files a VIDF is discharged, terminated, demoted, suspended, threatened, harassed, or discriminated against, directly or indirectly for breaching the provisions of any terms and conditions of employment such as a confidentiality agreement, merely on account of filing such VIDF or assisting the OIP of SEBI. Any violation of the provisions of the Code of Conduct may result in the levy of penalties, issuance of an order of debarment or prosecution proceedings or any other appropriate action under the securities laws.

**5.1.16 Vexatious or frivolous complaints:** In case the OIP determines that the information submitted is frivolous or vexatious, SEBI may initiate appropriate action against the informant under the securities laws and any other applicable law.

**5.1.17 Amnesty:**

- i.* While bringing an action against an informant, SEBI may consider the cooperation rendered in determining any enforcement action or settlement application filed by him/her;
- ii.* In cases where proceedings have been initiated against the informant, SEBI may declare such a

person eligible for a reward after the informant has paid any monetary sanctions ordered against him/her or complied with the directions issued to him.

- iii.* An informant who is culpable but voluntarily cooperates and assists SEBI may be eligible for reward under this scheme and shall also be eligible for settlement with confidentiality in the proceedings that may be initiated against him. This shall however not prohibit initiation of action for any misconduct.

## 6. **Proposal for consideration and approval**

6.1 The Board is requested to-

- 6.1.1 Consider and approve the proposed Securities and Exchange Board of India (Prohibition of Insider Trading) (Third Amendment) Regulations, 2019 (**Annexure-I**); and
- 6.1.2 authorise the Chairman to carry out any consequential, incidental and necessary modifications in the draft Regulations as he may deem appropriate and notify the same in the Gazette of India.

**Annexure-I**

**Draft Securities and Exchange Board of India (Prohibition of Insider Trading) (Third Amendment) Regulations, 2019**

**Annexure-II**

**(Discussion Paper on amendment to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 to provision for an informant mechanism)**

**Annexure-III**

**(Public Comments on the Discussion Paper and SEBI's Observations)**

**ANNEXURE – I**

**THE GAZETTE OF INDIA  
EXTRAORDINARY  
PART – III – SECTION 4  
PUBLISHED BY AUTHORITY  
NEW DELHI, , 2019  
SECURITIES AND EXCHANGE BOARD OF INDIA  
NOTIFICATION  
Mumbai, the , 2019**

**SECURITIES AND EXCHANGE BOARD OF INDIA  
(PROHIBITION OF INSIDER TRADING) (THIRD AMENDMENT)  
REGULATIONS, 2019**

**No.** – In exercise of the powers conferred under Section 30 read with clause (g) of sub-section (2) of Section 11 and clauses (d) and (e) of Section 12A of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to amend the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, namely: –

1. These regulations may be called the Securities and Exchange Board of India (Prohibition of Insider Trading) (Third Amendment) Regulations, 2019.
2. They shall come into force on the 100<sup>th</sup> day from the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, –

- (l) after Chapter III and before Chapter IV, the following Chapter shall be inserted, namely, -

### **“Chapter IIIA**

#### **Definitions.**

**7A.** (1) In this Chapter, unless the context otherwise requires:-

- (a) ‘Investor Protection and Education Fund’ means the Investor Protection and Education Fund created by the Board under section 11 of the Act;
- (b) ‘Informant’ means an individual(s), who voluntarily submits to the Board an Voluntary Information Disclosure Form relating to an alleged violation of insider trading laws that has occurred, is occurring or has a reasonable belief that it is about to occur, in a manner provided under these regulations, regardless of whether such individual(s) satisfies the requirements, procedures and conditions to qualify for a reward;
- (c) ‘Informant Incentive Committee’ means the High Powered Advisory Committee constituted by the Board in the manner as may be specified under regulation 11 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018.
- (d) ‘insider trading laws’ means the following provisions of securities laws,-
- i. Section 15G of the Act;
  - ii. regulation 3 of these regulations;
  - iii. regulation 4 of these regulations;
  - iv. regulation 5 of these regulations; and

- v. Trading or communication of unpublished price sensitive information in violation of regulation 9 or regulation 9A of these regulations.
- (e) 'irrelevant, vexatious and frivolous information' includes, reporting of information which in the opinion of the Board, -
- (i) Does not constitute a violation of insider trading laws; or
  - (ii) Is rendered solely for the purposes of malicious prosecution; or
  - (iii) Is rendered intentionally in an effort to waste the time and resource of the Board.
- (f) 'Legal Representative' means a duly authorised individual who is admitted to the practice of law in India;
- (g) 'Monetary Sanctions' shall mean any non-monetary settlement terms or any direction of the Board, in the nature of disgorgement under securities laws aggregating to at least Rupees one crore arising from the same operative facts contained in the original information.
- (h) 'Original Information' means any relevant information submitted in accordance with these regulations pertaining to any violation of insider trading laws that is:-
- (i) derived from the independent knowledge and analysis of the Informant;
  - (ii) not known to the Board from any other source, unless the Informant is the original source of the information;
  - (iii) is sufficiently specific, credible and timely to commence an examination or inquiry or audit, assist in an ongoing examination or investigation or inquiry or audit, open or re-open an investigation or inquiry or inquire into a different

conduct as part of an ongoing examination or investigation or inquiry or audit directed by the Board;

- (iv) not exclusively derived from an allegation made in a judicial or administrative hearing, in a Governmental report, hearing, audit, or investigation, or from the news media, unless the Informant is the original source of the information; and
- (v) not irrelevant or frivolous or vexatious.

*Explanation.* –Information which does not in the opinion of the Board add to the information already possessed by the Board is not original information.

- (i) ‘own analysis’ means the examination and evaluation of the relevant information by the Informant that may be publicly available, but which reveals analysis that is not known to SEBI. Provided that such analysis is not derived from professional or confidential communication protected under the Indian Evidence Act, 1872 (1 of 1872);
- (j) ‘own knowledge’ means relevant information in the possession of the Informant not derived from publicly available sources. Provided that such knowledge is not derived from professional or confidential communications protected under the Indian Evidence Act, 1872 (1 of 1872);
- (k) ‘Reward’ means any gratuitous monetary amount for which an Informant is declared eligible as per the provisions of these regulations;
- (l) ‘securities laws’ means the Act, the Securities Contract (Regulations) Act, 1956 (42 of 1956), the Depositories Act, 1996 (22 of 1996), the relevant provisions of any other law to the

extent it is administered by the Board and the relevant rules and regulations made thereunder;

(m) 'voluntarily providing information' means providing the Board with information before receiving any request, inquiry, or demand from the Board, any other Central or State authorities or other statutory authority about a matter, to which the information is relevant;

(2) Words and expressions used but not defined in these regulations but defined in securities laws, shall have the same meanings respectively assigned to them in those laws or any statutory modification or re-enactment thereto.

#### **Submission of Original Information to the Board**

**7B.** (1) An Informant shall submit Original Information by furnishing the Voluntary Information Disclosure Form to the Office of Informant Protection of the Board in the format and manner set out in Schedule D. The Voluntary Information Disclosure Form may be submitted through informant's legal representative:

Provided that where the Informant does not submit the Voluntary Information Disclosure Form through a legal representative, the Board may require such Informant to appear in person to ascertain his/her identity and the veracity of the information so provided.

*Explanation.* – Where any information pertaining to any violation of the Securities Laws is received in a manner not in accordance with the manner provided under these regulations, the Board may require such information to be filed with it in accordance with these regulations or reject the same.

(2) The legal representative shall,-

- i. Verify the identity and contact details of the Informant;

- ii. Unless otherwise required by the Board, maintain confidentiality of the identity and existence of the Informant, including the original Voluntary Information Disclosure Form;
- iii. Undertake and certify that he/she,-
  - (a) Has reviewed the completed and signed Voluntary Information Disclosure Form for completeness and accuracy and undertaken that the information contained therein is true, correct and complete to the best of his/her knowledge;
  - (b) Has obtained a irrevocable consent from the Informant to provide to the Board with original Voluntary Information Disclosure Form whenever required by the Board; and
  - (c) Agrees to be legally obligated to provide the original Voluntary Information Disclosure Form within seven (7) calendar days of receiving such requests from the Board.
- iv. Submits to the Board, the copy of the Voluntary Information Disclosure Form in the manner provided in Schedule A of these regulations along with a signed certificate as required under clause (iii) of this sub-regulation (2).

(3) An Informant shall while submitting the Voluntary Information Disclosure Form shall expunge such information from the content of the information which could reasonably be expected to reveal his or her identity and in case where such information cannot be expunged, the Informant may identify such part of information or any document that the Informant believes could reasonably be expected to reveal his or her identity.

### **Receipt of Original Information by the Board**

**7C.** (1) The Board may designate a division to function as the independent Office of Informant Protection.

(2) The Office of Informant Protection shall perform such functions as may be specified by the Board, including,-

- i. Receiving and registering the Voluntary Information Disclosure Form;
- ii. Making all necessary communications between the Board and the Informant;
- iii. Maintaining a hotline for the benefit of potential Informant;
- iv. Maintaining confidentiality of the legal representative of the Informant and act as an interface between the Informant and the officers of the Board;
- v. Interacting with the Informant Incentive Committee;
- vi. Issuing press releases and rewards relating to Informant; and
- vii. Submitting an annual report to the Board relating to the functioning of the Office of Informant Protection.

(3) On receipt of the Voluntary Information Disclosure Form, the Office of Informant Protection shall communicate the substance of the information along with the evidence submitted by the informant to the relevant department or division of the Board for examination and initiation of necessary action, if any.

(4) The Board shall not be required to send any intimation or acknowledgement to the Informant or any other person, of the examination or action initiated by the Board, if any, pursuant to receipt of the Voluntary Information Disclosure Form or information received under these regulations, including rejection thereof.

**Informant Reward.**

**7D.** (1) Upon collection or substantial recovery of the monetary sanctions amounting to at least twice the Reward, the Board may at its sole discretion, declare an Informant eligible for Reward and advise the Informant or his or her legal representative to file an

application in the format provided in Schedule-E for claiming such Reward:

Provided that the amount of Reward shall be ten percent of the monetary sanctions collected or recovered and shall not exceed Rupees One crore or such higher amount as the Board may specify from time to time:

Provided further that the Board may if deemed fit, out of the total Reward payable, grant an interim reward not exceeding Rupees Ten lacs or such higher amount as the Board may specify from time to time, on the issue of final order by the Board against the person directed to disgorge.

(2) In case of more than one Informant jointly providing the Original Information, the Reward, as specified in the intimation under sub-regulation (1), shall be divided equally amongst the total number of Informants.

(3) The Reward under these regulations shall be paid from the Investor Protection and Education Fund.

**Determination of amount of Reward.**

**7E.** (1) The amount of the Reward, if payable, shall be determined by the Board.

(2) While determining the amount of Reward under sub-regulation (1), the Board may specify the factors that may be taken into consideration by the Informant Incentive Committee.

(3) An Informant may be eligible for a Reward whether or not he reported the matter to internal legal and compliance procedures of his organization and irrespective of such organization's compliance officer subsequently providing the same Information to the Board.

### **Application for Reward.**

**7F.** (1) Informants who are considered tentatively eligible for a Reward, shall submit the Informant Reward Claim Form set out in Schedule E to the Board within the period specified in the intimation sent by the Board.

(2) Prior to the payment of a Reward, an Informant shall directly or through his or her legal representative, disclose his or her identity and provide such other information as the Board may require.

### **Rejection of claim for Reward.**

**7G.** No Reward shall be made to an Informant:-

- (1) who does not submit original information;
- (2) who is, or was at the time the Informant acquired the Original Information, through or as a member, officer, or an employee of:-
  - (i) any regulatory agency constituted by or under any law in India or outside India, including the Board;
  - (ii) any self-regulatory organization;
  - (iii) the surveillance or investigation wings of any recognised stock exchange or clearing corporation; or
  - (iv) any law enforcement organization including the police or any central or state revenue authorities.
- (3) against whom the Board may initiate or has initiated criminal proceedings under securities laws;
- (4) who wilfully refused to cooperate with the Board during its course of investigation, inquiry, audit, examination or other proceedings under securities laws;
- (5) who:
  - (i) knowingly makes any false, fictitious, or fraudulent statement or representation; or

- (ii) uses any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statement or entry; or
  - (iii) fails to furnish the complete information available with him or accessible by him in relation to the alleged violation.
- (6) who is obligated, under any law or otherwise, to report such Original Information to the Board, including a compliance officer under securities laws.

Provided that the Board may if deemed fit, at its sole discretion, exempt a person from any of these disqualifications.

**Informant confidentiality.**

**7H.** (1) Any information including Original Information may, at the discretion of the Board, be made available:

- (a) when it is required to be disclosed in connection with any legal proceedings in furtherance of the Board's legal position;
- (b) as permitted by these regulations; or
- (c) as may be otherwise required or permitted by law.

(2) Original Information may, at the discretion of the Board, be made available to -

- (i) any regulatory agency constituted by or under any law in India or outside India;
- (ii) any self-regulatory organization;
- (iii) the surveillance or investigation wings of any recognised stock exchange or clearing corporation; or
- (iv) any law enforcement organization including the police or any central or state revenue authorities; or
- (v) a public prosecutor in connection with any criminal proceedings.

Provided that sharing of information shall be in accordance with such assurances of confidentiality as the Board determines appropriate.

*Explanation* - Nothing in these regulations is intended to limit, or shall be construed to limit, the ability of the public prosecutor to share such evidence with potential witnesses or accused in connection with any criminal proceedings.

(3) The Original Information and identity provided by an Informant shall be held in confidence and exempted from disclosure under clauses (g) and (h) of sub-section (1) of section 8 of the Right to Information Act, 2005 (No. 22 of 2005).

(4) Subject to the law of evidence for the time being in force, nothing in these regulations shall prejudice the right of the Board to use or to rely on information received otherwise.

(5) No person shall have the right to compel disclosure of the identity, existence of an Informant or the information provided by an Informant, except to the extent relied upon in any proceeding initiated against such person by the Board.

*Explanation 1.* – The confidentiality in respect of the identity and existence of the Informant shall be maintained throughout the process of investigation, inquiry and examination as well as during any proceedings before the Board and save where the evidence of the Informant is required during such proceedings, advance notice of such evidence may be provided to the noticee not exceeding seven (7) working days from the date of the scheduled hearing for evidence.

*Explanation 2.* – In proceedings before any authority other than the Board, the Board may request maintenance of confidentiality of the identity and existence of an Informant in such proceeding.

## **Protection against retaliation and victimisation**

71. (1) Every person required to have a Code of Conduct under these regulations shall ensure that such a Code of Conduct provides for suitable protection against any discharge, termination, demotion, suspension, threats, harassment, directly or indirectly or discrimination against any employee who files a Voluntary Information Disclosure Form, irrespective of whether the information is considered or rejected by the Board or he or she is eligible for a Reward under these regulations, by reason of any lawful act done by such person for:

- (i) filing a Voluntary Information Disclosure Form under these regulations;
- (ii) initiating, testifying in, participating in, or otherwise assisting or aiding the Board in any investigation, inquiry, audit, examination or proceeding instituted or about to be instituted for an alleged violation of insider trading laws or in any manner for the successful enforcement of any of the measure of the Board; or
- (iii) breaching provisions of any terms and conditions of employment or engagement, including a confidentiality agreement entered solely to prevent any employees from cooperating with the Board in any manner.

*Explanation 1.* - For the purpose of this Chapter, “employee” means any individual who during employment may become privy to information relating to violation of insider trading laws and files a Voluntary Information Disclosure Form under these regulations and is a director, partner, regular or contractual employee, but does not include an advocate.

*Explanation 2.* - Nothing in this regulation shall require the employee to establish that,-

- (i) the Board has successfully taken up any enforcement action in furtherance of information provided by such person; or
- (ii) the information provided fulfils the criteria of being considered as an Original Information under these regulations.

(2) Nothing in these regulations shall prohibit any Informant who believes that he or she has been subject to retaliation or victimisation by his or her employer, from approaching the competent court or tribunal for appropriate relief.

(3) Notwithstanding anything contained in sub-regulation (2), any employer who violates this Chapter may be liable for penalty, debarment, suspension, and/or criminal prosecution by the Board, as the case may be:

Provided that nothing in these regulations will require the Board to direct re-instatement or compensation by an employer.

(4) Nothing in these regulations shall diminish the rights, privileges, or remedies of any Informant under any other law in force.

### **Void Agreements**

**7J.** (1) Any term in an agreement (oral or written) or Code of Conduct, is void in so far as it purports to preclude any person, other than an advocate, from making a submission of a violation of the securities laws made thereunder that has occurred, occurring or a reasonable belief that it would occur.

(2) No person shall by way of any threat or act impede an individual from communicating with the Board, including enforcing or threatening to enforce, a confidentiality agreement (other than agreements related to legal representations of a client and communications there under) with respect to such communications.

*Explanation.* - No employer shall require an employee to notify him of any Voluntary Information Disclosure Form filed with the Board or to seek its prior permission or consent or guidance of any person engaged by the employer before or after such filing.

### **No Amnesty**

**7K.** (1) Nothing in these regulations shall be deemed to provide any amnesty or immunity to an Informant for violation of securities law.

(2) Where an action against an Informant is deemed appropriate the Board may take into account the co-operation rendered in the final determination of any penalty, sanction, direction or settlement thereof, as the case may be.

(3) Where an action against an Informant is deemed appropriate, the Board while determining the value of monetary sanctions shall not take into account the monetary sanctions that the Informant is ordered to pay or that which any other person is ordered to pay if the liability of such other person is based substantially on the conduct that the Informant directed, planned, or initiated.

(4) An Informant who may be liable for enforcement action by the Board based on his or her conduct in connection with securities laws violations reported in the Voluntary Information Disclosure Form filed with the Board, may simultaneously or at any time thereafter file an application seeking settlement with confidentiality under Chapter IX of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018.

(5) Notwithstanding any action taken by the Board against an Informant, the Informant may, after payment of any monetary amounts be eligible for a Reward.

### **Functions of Informant Incentive Committee**

**7L.** (1) The Informant Incentive Committee shall be assisted by the Office of Informant Protection.

(2) The Informant Incentive Committee shall give its recommendations to the Board on the following matters,-

- i. Eligibility of Informant for reward;
- ii. Determination under regulations 7E and 7G; and
- iii. Such other issues relating to Informant as the Board may require from time to time.

(3) The Informant Incentive Committee shall conduct its meetings in the manner specified by the Board in this regard.

### **Public dissemination and incentivisation of Informant.**

**7M.** (1) The Board shall upload on its website the following,-

- i. Annual report of the Office of Informant Protection;
- ii. Press release informing the public that an intimation to the Informant has been issued;
- iii. Press release informing the public that a Reward has been paid under these regulations and the Monetary Sanctions recovered pursuant to the information provided by the Informant;
- iv. The Order issuing the Reward;

*Explanation.* – Nothing in this regulation shall require the Board to disclose information that could identify the Informant or the information provided by the Informant.”

- (II) existing regulation 11 shall be re-numbered as sub-regulation (1) thereof, and after the sub-regulation so re-numbered the following sub-regulation shall be inserted, namely, –

“(2) For the purpose of Chapter IIIA, the Board may,-

- i. by circular, specify procedures and processes for carrying out the purposes of these regulations;
- ii. remove any difficulty in the interpretation or application or implementation of the provisions of these regulations, by issuing clarifications and specifying procedures through circulars or guidelines.”

(III) after Schedule C, the following Schedule shall be inserted, namely,

–

**“ SCHEDULE D**

[See regulation 7B]

*Form for Informant’s Voluntary Information Disclosure to be submitted to the Board.*

**Note:** For submission of information through a legal representative, the redacted copy expunging information that may identify the Informant shall be submitted by the legal representative but not any information relating to the legal representative and the details relating to the violation of securities laws.

\*Indicates that the required field is non-mandatorily, remaining fields are mandatory

<b>I. PERSONAL INFORMATION OF THE INFORMANT</b>		
<b>A.INDIVIDUAL 1:</b>		
Last Name:.....	First Name:.....	Title:.....
Address:	City / State:	PIN:
Telephone (with State Code):	Mobile:	E-Mail address:

Employment Status*:		Permanent Account Number, if available:
<b>II. LEGAL REPRESENTATIVE (where applicable)</b>		
Last Name:.....	First Name:.....	Title:.....
Firm Name (if not self-employed):		
Contact address :	City / State:	PIN:
Residence address:	City / State:	PIN:
Telephone (with State Code):	Mobile:	E-Mail address:
Bar Council Enrolment Number:		
<b>III SUBMISSION OF ORIGINAL INFORMATION</b>		
1. Is it a violation of securities laws? Yes / No		
2. If yes to question (1), please describe the type of violation:		
3. Has the violation: Occurred / Occurring / Potential to occur in future		
4. If the violation has occurred, date of occurrence: dd/mm/yy <i>(in case exact date is not known, an approximate period may be entered)</i>		
5. Have the individual(s) or their representatives had any prior communication(s) or representations with the Board concerning this matter? Yes (Details thereof) / No		
6. Does this violation relate to an entity of which the individual is or was an officer, director, counsel, employee, consultant or contractor? Yes (Details thereof) / No		

7. If yes to question (6), was the original information submitted first to your Head or internal legal and compliance office? Yes / No
8. If yes question (7), then please provide, Date of submission of original information: dd/mm/yy
9. Please describe in detail why you think the information submitted is a violation?
10. What facts or supporting material is your allegation based on? Please attach any additional documents to this form, if necessary.
11. Identify any documents or other information in your submission that you believe could reasonably be expected to reveal your identity and explain the basis for your belief that your identity would be revealed if the documents were disclosed to a third party.
12. Provide details of connection between the Informant and the company and the person against whom information is being provided:
<b>IV. DECLARATION</b>
<p>I/we hereby declare that,-</p> <p>A. I/we have read and understood the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;</p> <p>B. I/we accept that mere furnishing of information by me/us does not by itself confer on me/us right to get reward and that I/we may not get any Reward at all. I/we would be bound by the decisions that the authority competent to grant reward may take;</p> <p>C. I/we accept that the Securities and Exchange Board of India is</p>

under no obligation to enter into any correspondence regarding action or inaction taken as a result of my/our information.

D. I/we accept that the reward would be an ex-gratia payment which, subject to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, shall be granted at the absolute discretion of the competent authority. The discretion of the authority shall be acceptable to me/us and I/we shall not challenge it in any litigation, appeal, adjudication, etc.

E. In the event of my death before the reward is paid to me/us, it may be paid to ..... (Details of nominee)

F. I declare that the information contained herein is true, correct and complete to the best of my knowledge, information and belief and not obtained from the categories of persons indicated in sub-regulation (2) and sub-regulation (6) of regulation 7G of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 and agree to indemnify the Board. I fully understand that I may be subject to action under securities laws as well as Section 182 of the Indian Penal Code, 1860 (45 of 1860) and ineligible for Reward if, in my submission of information, any other dealings with the Board, or any dealings I knowingly and wilfully make any false, fictitious, or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statement.

Signature:.....

Date:

dd/mm/yy

Place:

**V. CERTIFICATE BY LEGAL REPRESENTATIVE (where information is submitted through the legal representative)**

I hereby certify as follows,-

- (a) I have reviewed the completed and signed Voluntary Information Disclosure Form for completeness and accuracy and the information contained therein is true, correct and complete to the best of my knowledge;
  
- (b) I have the non-withdrawable consent from the Declarant, to provide to the Securities and Exchange Board of India, with original Voluntary Information Disclosure Form in the event of a request for it from the Securities and Exchange Board of India due to concerns that the Informant has not complied with these regulations or where the Securities and Exchange Board of India requires the said information for the purpose of verification for declaring any gratuitous reward to the Informant or where the Securities and Exchange Board of India determines that it is necessary to seek such information, to accomplish the purpose of the Securities and Exchange Board of India Act including for the protection of investors, sharing with foreign securities

regulators and foreign and Indian law enforcement agencies, etc.; and

(c) I am and shall continue to be legally obligated to provide the original Voluntary Information Disclosure Form without demur within seven (7) calendar days of receiving such requests from the Securities and Exchange Board of India.

Signature:.....

Date:

dd/mm/yy

Place:

”

(IV) after Schedule D, the following Schedule shall be inserted, namely,

—

**“SCHEDULE E**

[See regulations 7D and 7E]

*Form for Informant’s Reward Claim to be submitted to the Board within the time specified in the intimation of prima facie eligibility to receive an Informant Reward.*

All fields are mandatory

<b>I. PERSONAL INFORMATION</b>		
A. Informant:		
Last name:----- ---	First Name:----- --	Title:-----
Address:	City / State:	PIN:

Telephone (with State code):	Mobile:	E-Mail Address:
Employment Status:	Permanent Account Number:	
<b>II. ORIGINAL INFORMATION SUBMITTED</b>		
Online Acknowledgment Receipt Number: (Annex Original Form for Voluntary Information Disclosure, if not yet submitted to Securities and Exchange Board of India)		
Subject matter of submission:		Date of submission: dd/mm/20
Case Name:	SEBI Order No.:	Date: dd/mm/20
<b>III. CONSIDERATION FOR REWARD</b>		
Provide any material information that may be relevant in light of the criteria for determining the amount of a Reward or denial thereof. Include any supporting documents if necessary.		
<b>IV. DECLARATION BY INFORMANT</b>		
<p>I/we hereby declare that,-</p> <p>A. I/we have read and understood the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;</p> <p>B. I/we accept that mere furnishing of information by me/us does not by itself confer on me/us right to get reward and that I/we may not get any Reward at all. I/we would be bound by the decisions that the authority competent to grant reward may take;</p> <p>C. I/we accept that the Securities and Exchange Board of India is under no obligation to pay any reward or enter into any correspondence regarding action or inaction taken as a result of this communication.</p>		

D. I/we accept that the reward would be an ex-gratia payment which, subject to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, shall be granted at the absolute discretion of the competent authority. The discretion of the authority shall be acceptable to me/us and I/we shall not challenge it in any litigation, appeal, adjudication, etc.

E. In the event of my death before the reward is paid to me/us, it may be paid to ..... (Details of nominee)

F. I declare that the information contained herein is true, correct and complete to the best of my knowledge, information and belief and not obtained from the categories of persons indicated in sub-regulation (2) and sub-regulation (6) of regulation 7G of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 and agree to indemnify the Board in case it so found. I fully understand that I may be subject to action under securities laws as well as Section 182 of the Indian Penal Code, 1860 (45 of 1860) and ineligible for an Informant Reward if, in my submission of information, any other dealings with the Board, or any dealings I knowingly and wilfully make any false, fictitious, or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statement.

Signature:.....

Date:

dd/mm/yy

Place:

**V. CERTIFICATE BY LEGAL REPRESENTATIVE (where applicable)**

I hereby certify as follows,-

(a) I have reviewed the completed and signed claim form for completeness and accuracy and the information contained therein is true, correct and complete to the best of my knowledge; and

(b) The declarant is the person who signed the original Voluntary Information Disclosure Form.

Signature:.....

Date:

dd/mm/yy

Place:

**AJAY TYAGI**

**CHAIRMAN**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Footnotes:**

1. The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 was published in the Gazette of India on January 15, 2015 vide No. LAD-NRO/GN/2014-15/21/85.
2. The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 was amended on,-

- i. December 31, 2018 by the Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2018 vide No. SEBI/LAD-NRO/GN/ 2018/59;
- ii. January 21, 2019 by the Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2019 vide No. SEBI/LAD-NRO/GN/ 2019/02.



## **ANNEXURE – II**

**Discussion Paper available on SEBI website**

**ANNEXURE – III**

**(This has been excised for reasons of confidentiality)**