



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

CHIEF GENERAL MANAGER
INTEGRATED SURVEILLANCE DEPARTMENT

ISD/OW/20812/2016
July 25, 2016

HDFC Bank Limited
Process House,
Kamala Mills Compound,
Senapati Bapat marg, Lower Parel
Mumbai - 400013

Dear Sir,

Re: Request for Interpretive Letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 regarding clarification on whether deals under the discretionary portfolio management scheme can amount to 'insider trading'.

1. This has reference to your letter dated May 26, 2016 seeking guidance by way of an interpretative letter under the SEBI (Informal Guidance) Scheme, 2003.
2. You have, *inter alia*, represented as follows:
 - i. Some employees of the HDFC Bank (the "Bank"), who may be in possession of the unpublished price sensitive information the "UPSI") of the Bank or of other listed companies with whom the Bank deals, are consequently restricted from dealing in securities of the Bank or such other listed companies. These employees may choose to invest their funds in securities market through portfolio management schemes. The portfolio managers, under the discretionary portfolio management scheme, deals in the securities with the funds of the investors (investor includes employees of the Bank and his relative), as per its own discretion and the investor has no direct/indirect control/influence over the investment making decisions.
 - ii. Under the discretionary portfolio management scheme, day to day investment discretion for the account(s) are fully delegated to portfolio manager and is not shared with the investor. The portfolio manager does not discuss any potential investment /disinvestment decisions with investor before any transaction and the investor. The investor does not make suggestions to portfolio manager regarding specific investments / disinvestments and the portfolio manager does not advise the investor of trades prior to their execution.
 - iii. The portfolio manager does not accept specific orders to buy and sell of any security at the direction of its client. The portfolio is standard portfolio and is not altered specifically for an investor. Investments in securities of companies

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 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



अनुवर्ती :
Continuation :

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

as a part of discretionary portfolio management scheme is identifiable and the securities in the portfolio are mandatorily held in a separate demat account with power of attorney in favour of the portfolio manager.

- iv. The portfolio manager, while exercising his discretion, makes investment/disinvestment in securities, which may include securities of the Bank or securities of a listed company, for which the employee or his relative may be in possession of UPSI by virtue of being employee of the Bank, but the employee of the bank or his relative has no control directly or indirectly, over investments making decisions of the portfolio manager.
 - v. Additionally, it is also stated in your letter that employees furnish a declaration to the effect that they do not have any direct or indirect influence or control over the specific securities selected for the discretionary portfolio management services from the portfolio manager or from the organization in which the portfolio manager is serving.
3. In light of the submissions made as above, you have sought interpretative letter from SEBI as to whether deals under discretionary portfolio management scheme by the portfolio manager for the employee of the Bank or his relative is in compliance with the provisions of SEBI (Prohibition of Insider Trading) Regulations, 2015 (the "PIT Regulations") under the following circumstances:
- i. When the employee of the bank or his relative has no control over the investment making decisions and is in possession of UPSI of the bank or listed companies with which the bank deals or
 - ii. When the trading window is closed of the bank or of the company with which the bank deals.
4. Without necessarily agreeing with your analysis given in your above mentioned letter, our interpretation on the above query is as under:
- i. Regulation 4(1) of PIT Regulations unambiguously states that no insider *shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information.*
 - ii. Further, in the explanatory notes to Regulation 4 of PIT Regulations it is mentioned that when a person who has traded in securities has been in possession of UPSI, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession.
 - iii. It is therefore inferred from the above that dealing in securities, whether it is direct or indirect, is not relevant, but that any insider when in possession of UPSI should not deal in securities of the company to which the UPSI pertains. Even while dealing in such securities through a discretionary portfolio



अनुवर्ती :
Continuation :

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

management scheme, the trades of insider shall be assumed to be motivated by the knowledge and awareness of UPSI.

- iv. With respect to dealing in securities, when the trading window of the Bank is closed, it may be noted that section 4 of Schedule B of the PIT Regulations mandates operation of a notional trading window as an instrument of monitoring trading by the designated person. The trading window shall be closed when the compliance officer determines that a designated person or class of designated persons can reasonably be expected to have possession of UPSI. Thus, Regulation 4(1) read with section 4 of Schedule B of the PIT Regulations, infers that dealings by the Bank or the company with which the Bank deals in securities through a discretionary portfolio management scheme, when the trading window is closed, shall be assumed to be motivated by the knowledge and awareness of UPSI.
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 question 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 PIT Regulations and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI of the laws administered by any other authority.

Yours faithfully,

Sunil Kadam