

CIR/CFD/DIL/3/2013

January 17, 2013

To

All Stock Exchanges
All Registered Merchant Bankers

Dear Sir/Madam,

Sub: Amendments to SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 and Equity Listing Agreement.

1. SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 ("SEBI (ESOS & ESPS) Guidelines") were issued to enable listed entities to reward their employees through stock option schemes and stock purchase schemes and to ensure that such schemes introduced by the companies are within the regulated framework.
2. It has come to the notice of SEBI that some listed entities have been framing their own employees benefit schemes wherein Trusts have been set up to deal in their own securities in the secondary market, which was not envisaged within the purview of SEBI (ESOS and ESPS) Guidelines 1999.
3. It is apprehended that some entities may frame such schemes with the purpose of dealing in its own securities with the object of inflating, depressing, maintaining or causing fluctuation in the price of the securities by engaging in fraudulent and unfair trade practices. Such dealing in the company's shares by the Trusts may also raise regulatory concerns regarding compliance with SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 and SEBI (Prohibition of Insider Trading) Regulations, 1992.
4. In order to address the concerns over acquisition of shares by employee welfare Trusts from the secondary market, it has been decided to prohibit the listed entities from framing any employee benefit schemes involving acquisition of own securities from the secondary market.
5. In order to implement the above decision, certain listing conditions are hereby specified by way of inserting Clause 35C in the Equity Listing Agreement as given in **Annexure I**.
6. In respect of those companies, which have already framed and implemented before the date of this circular any employee benefit schemes involving dealing in the securities of the company, which are not in accordance with SEBI (ESOS and ESPS) Guidelines, it has been decided that:-
 - (i) such companies will be required to inform the details of their schemes to the Stock Exchanges within 30 days from date of this circular, in the format provided in **Annexure II** to this circular and to disseminate the said information on their website.

- (ii) such companies shall align any existing employee benefit schemes with SEBI (ESOS and ESPS) Guidelines on or before June 30, 2013.
7. In view of the above, it has also been decided to amend the SEBI (ESOS and ESPS) Guidelines 1999 as provided in **Annexure III**. The amendments made vide this circular shall come into force with immediate effect.
8. All stock exchanges are advised to ensure compliance with this circular, and carry out the necessary amendments in their Listing Agreement accordingly.
9. This circular is being issued in exercise of the powers under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992.
10. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

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Enclosures:

Annexure-I: Amendments to Listing Agreement

Annexure –II: Format for reporting the details of the employee benefit schemes by listed companies

Annexure –III: Amendments to SEBI (ESOS and ESPS) Guidelines 1999.

Amendments to Equity Listing Agreement

1. After Clause 35B, a new clause 35C shall be inserted to read as under:

“35C. (i) The issuer agrees that all the employee benefit schemes involving the securities of the company shall be in compliance with SEBI (Employee Stock Option Schemes and Employee Stock Purchase Schemes) Guidelines, 1999 and any other guidelines, regulations etc. framed by SEBI in this regard.

(ii) The issuer further agrees that all the employee benefit schemes already framed and implemented by the company involving dealing in the securities of the company, before the insertion of this clause shall be aligned with and made to conform to SEBI (Employee Stock Option Schemes and Employee Stock Purchase Schemes) Guidelines, 1999 by June 30, 2013.”

2. In Clause 35B of the Listing Agreement, all references to "*Companies (Passing of the Resolution by Postal Ballot) Rules 2001*" shall be replaced with "*Companies (Passing of the Resolution by Postal Ballot) Rules 2011*".

Format for furnishing the details of employee benefit schemes involving dealings in secondary market, not covered under SEBI (ESOS and ESPS) Guidelines 1999

1. Name of the Issuer:
2. Name of the Scheme:
3. Date of implementation:
4. Mode of Implementation (Trust/Direct):
5. Brief particulars about the Scheme (modus operandi):

Details of Trust, Trustees, and their relationship with Promoters or Directors of the company

6. Whether promoters/persons belonging to the promoter group/directors, are also beneficiaries in the scheme. If so, the details thereof and their entitlements:

7. No. of shares held by Trust/any other agency managing the scheme as on the date of the circular

8. How the Trust/agency is proposing to deal with the existing holding (whether to be transferred to the employees, or to be sold in the market for transferring the benefits to the employees, if so, details regarding proposed date of such transfer or sale shall be given) Such date shall not be later than June 30, 2013 :

9. Details of persons who are entitled to shares or benefits accruing out of the shares, which form part of more than 1 percent of the paid up share capital, as on the date of the circular in the following format:

Name of the employee	Whether falling under Promoter/promoter group/directors	No. of entitled shares	% of such entitlement over the paid-up share capital	No. of shares transferred/alloted to them/benefits of which is passed on to them out of (3)
(1)	(2)	(3)	(4)	(5)

10. Details of secondary market purchases/sales by the company/Trust/ any other agency managing the scheme if any, since April 01, 2012 in the following format:

Sl	Date/time	Type of Transaction (Purchase/Sale)	No. of Securities	Price at which Purchased/sold

Amendments to SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999.

After clause 22A, the following new clause shall be inserted namely:

“22B. Prohibition on acquisition of securities from secondary market

No ESOS/ESPS shall involve acquisition of securities from the secondary market.”
