

CIR/CFD/POLICYCELL/13/2013

November 18, 2013

To

**All Recognised Stock Exchanges**

Dear Sir(s)/Madam(s),

**Sub: Compliance with the provisions of Equity Listing Agreement by listed companies – Monitoring by Stock Exchanges**

1. The Equity Listing Agreement mandates listed companies to make periodic and event based disclosures which are price sensitive in nature and which will have bearing on the performance/operations of the company.
2. SEBI vide circular No. CIR/MRD/DSA/31/2013 dated September 30, 2013 streamlined the processes and procedures with regard to actions for non-compliance of certain listing conditions which had so far been considered as grounds for suspension of trading by the recognized Stock Exchanges. It was decided that recognized Stock Exchanges shall use imposition of fines as action of first resort in case of such non-compliances and invoke suspension of trading in case of subsequent and consecutive defaults. In order to maintain consistency and uniformity in approach in this regard, SEBI has laid down (i) Uniform fine structure for non-compliance of certain clauses of the Listing Agreement; and (ii) Standard operating procedures for suspension and revocation of suspension of trading in the shares of such listed entities. It was also mandated that every recognized Stock Exchange shall put in place the system to monitor and review the compliance of respective listing conditions by the listed companies.
3. Concerns have been raised that even though listed companies make disclosures to Stock Exchanges within the timeframe stipulated under the Listing Agreement; the contents of the disclosures made by such companies are not adequate and accurate. Therefore, investors are unable to take informed investment decisions based on such disclosures. IMF has in its report on " **India: Financial Sector Assessment Program- Detailed Assessments Report on IOSCO Objectives and Principles of Securities Regulation** ", inter-alia, pointed out:

- i. "..... Mechanisms to ensure compliance with listing obligations in India, which include periodic reporting, are a responsibility of the RSES. Such mechanisms have limitations."*
  - ii. "...the information provided shows that the RSEs (recognized Stock exchanges) review periodic reports. However, such information (for examples, the minutes of the committee on non-compliance) leads to conclude that the RSEs have also not acted as vigorously as necessary in enforcing compliance by issuers with the listing/reporting conditions....."*
4. Thus, it is felt that the current monitoring mechanism of Stock Exchanges to ascertain the adequacy and accuracy of disclosures made in compliance with the Listing Agreement need to be made more effective.
5. Accordingly, in continuation of Circular dated September 30, 2013 and pursuant to the discussions with the Recognised Stock Exchanges and market participants, in order to address the above mentioned concerns, the Recognised Stock Exchanges are advised to:
  - 5.1 Put in place appropriate framework (including adequate manpower) to effectively monitor the adequacy and accuracy of the disclosures made by listed companies;
  - 5.2 Devise the framework in such a way that it detects any non-compliance / violation of the provisions of Securities Contracts (Regulation) Act, 1956, Securities and Exchange Board of India Act, 1992, the Rules and Regulations made there under, Listing Agreement, and any other applicable laws. Some indicative parameters to be included in the said framework are given at **Annexure I**;
  - 5.3 Put in place an appropriate mechanism for handling complaints related to such inadequate and inaccurate disclosures and non-compliances mentioned in clause 5.2;
  - 5.4 Treat inadequacy and inaccuracy of disclosure as non-compliance, wherever applicable and proceed further as per the Standard Operating Procedure laid down by SEBI vide Circular No. CIR/MRD/DSA/31/2013 dated September 30, 2013;
  - 5.5 Submit to SEBI an "Exception Report" in addition to the existing reporting requirements, with the details of companies which do not respond to the clarifications sought by them and/or where the response submitted by the company is not satisfactory in the opinion of the Stock Exchange. The format of the Exception Report is given at **Annexure-II**; and

- 5.6 Obtain the details of the promoters / directors and/or Key Managerial Personnel of the listed companies who shall be responsible for ensuring compliance with the provisions of the Listing Agreement and in case of defaults, disclose such details on its website.
6. In order to enable the Recognised Stock Exchanges and the listed companies to put in place adequate infrastructure to ensure compliance with the requirements of this Circular, Recognised Stock Exchanges shall begin with monitoring the adequacy and accuracy of disclosures made by top 500 listed companies (by market capitalization as on March 31, 2013) in compliance with Clauses 35, 36, 41 and 49 of the Equity Listing Agreement for the quarter ending December 31, 2013.
7. This Circular is being issued in exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992.
8. This Circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

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Enclosures:

- Annexure-I: Indicative parameters to be included in the monitoring framework.  
Annexure-II: Format of exception report to be submitted to SEBI

**Indicative parameters to be included in the framework for monitoring by the Stock Exchanges in respect of Clause 35, 36, 41 and 49 of the Equity Listing Agreement**

1. Stock Exchanges shall disseminate the information received from the listed companies on their respective websites after doing a preliminary check, as is being done presently.
2. The quality and substantive compliance with respect to **Clause-35** shall be monitored by comparing with the filings of the previous quarter. Such comparison shall include changes, if any, in the names of the promoters, their shareholding, encumbered shares, persons holding more than the required percentage in public category, and ensure as to whether the requisite disclosures have been made in compliance with SEBI (Prohibition of Insider Trading) Regulations, 1992, SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and any other applicable laws, rules and regulations.
3. The disclosures with respect to **Clause-41** (including handling of complaints relating to inadequate disclosures and non-compliances) **and Clause 49** shall be monitored for quality and substantive compliance and necessary action should be initiated, if found otherwise.
4. The quality and substantive compliance with respect to **Clause-36** shall be monitored by taking into account the following:
  - A. Information Verification:**

Stock Exchanges shall keep themselves informed of the updates in various media including print and mass media with respect to a listed company and while scrutinizing the disclosures made under Clause 36, ensure that any important information has not been omitted to be disclosed by the company.
  - B. Follow-up on material information:**

Stock Exchanges shall follow up with the listed companies at every stage for the updates on material events reported, either suo moto or upon receipt of information from other sources.
5. In case there is any deficiency in the information / clarification provided by the listed company, Stock Exchanges shall seek further information /

clarification from the company within such time as they may deem fit but not later than 2 working days from the date of the said disclosure.

6. Listed company shall submit the requisite information / clarification within such timeframe as may be specified by the Stock Exchanges which shall not exceed 5 working days from the date of the communication of Stock Exchange seeking such information / clarification.
7. Any query raised by the Stock Exchange and reply received from the company shall be disseminated on the website of the Stock Exchange immediately and the same shall be tagged along with the relevant disclosures made by the company under the said clauses.
8. If the reply given by the company is not found satisfactory by the Stock Exchange, then the same shall be treated as non-compliance and appropriate action shall be taken by the Stock Exchanges against the company as per Standard Operating Procedure laid down by SEBI vide circular No. CIR/MRD/DSA/31/2013 dated September 30, 2013 and the same shall be reported to SEBI in the Exception Report.
9. The fine shall be levied on the company in terms of the said circular and the date of non-compliance shall be deemed to be the date on which the last reply was received from the company on the query raised. In case the company does not reply to the query raised by the company, the deemed date of non-compliance would be the last date by which company ought to have replied to the last clarification/communication of the Stock Exchange.
10. The Exception Report shall be submitted to SEBI within 45 days from the end of each quarter with respect to Clauses 35, 41 and 49 and on a weekly basis with respect to Clause 36.
11. The Stock Exchanges shall set up a separate monitoring cell with identified personnel to ensure compliance with this circular.

**ANNEXURE-II**

**EXCEPTION REPORT**

**Table A- Basic details of compliance/ monitoring status in respect of Clauses 35, 41 and 49 of the Equity Listing Agreement:**

Sr. No.	Particulars	For the current quarter ended on (.....)	For the previous quarter ended on (.....)
1.	Total number of companies		
2.	Number of companies which filed reports		
3.	Quality check completed (number of companies)		
4.	Number of companies where information was found inadequate		
5.	Number of companies from whom clarifications were sought with respect to inadequacy of information		
6.	Number of companies from which either no reply was received or the reply received was not satisfactory as per the Stock Exchange. (Details of such companies to be given in Table-B)		



**Table B- Details of outcome of the monitoring:**

Sr. No.	Name of the company	Clause in respect of which query was raised	Status of response by the company (Y/N)	Whether the response was satisfactory? (Y/N)	If no, give reasons	Action taken by the Stock Exchange	Whether case specific report sent to SEBI? If so, date of the report.

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