

Procedure to be followed by debarred entities who have been granted interim relief /additional relief by SEBI through its various Orders

Background: SEBI, vide its various Orders, have debarred entities from dealing in the securities market directly or indirectly, in any manner whatsoever, till further directions and subsequently passed interim relief to certain entities. The list of such SEBI Orders is as follows:

1. SEBI Order No. WTM/RKA/140/ISD/2014 dated December 04, 2014 in the matter of Moryo Industries Ltd.
2. SEBI Order No. WTM/RKA/ISD/161/2014 dated December 19, 2014 in the matter of Radford Global Limited and others
3. SEBI Order No. WTM/RKA/ISD/162/2014 dated December 19, 2014 in the matter of First Financial Services Ltd.,
4. SEBI Order No. WTM/RKA/ISD/09/2015 dated February 20, 2015 in the matter of Kamalakshi Finance Corp. Ltd.
5. SEBI Order No. WTM/RKA/ISD/30/2015 dated April 17, 2015 in the matter of Mishka Finance and Trading Ltd.,
6. SEBI vide its Order No. WTM/RKA/ISD/36/2015 dated May 08, 2015 in the matter of Pine Animation Ltd.,
7. SEBI order no. WTM/RKA/ISD/54/2015 dated June 29, 2015 in the matter of dealings in the shares of Eco Friendly Food Processing Park Limited, Esteem Bio Organic Food Processing Limited, Channel Nine Entertainment Limited and HPC Biosciences Limited and
8. SEBI order no. WTM/RKA/ISD/106/2015 dated August 20, 2015 in the matter of Illiquid Stock Options

Procedure for selling the securities on the Stock Exchange by debarred entities who have been granted interim relief/additional relief by SEBI

The entities in respect of whom the confirmatory orders have been issued (including those against whom confirmatory orders were issued earlier in the respective matter). Exception to this rule are given in the respective confirmatory orders. The respective orders may be referred to in this regard.

The step by step procedure for operationalizing the reliefs granted is as given below: -

PART – A: For Additional Reliefs granted to the Debarred Entities:-

- 1.) For carrying out the SEBI directions mentioned above with respect to fresh investments made out of fresh money, the debarred entity has to open a new trading account i.e. a new client code / request for enablement of UCC code registered with the existing trading member (only one trading member) who is registered either with BSE or with NSE or with both Exchanges and open a new demat account. The UCC code created / enabled would be different from the UCC code under the Custodian route.

Further, Exchanges may seek an undertaking from the trading member dealing on behalf of the debarred entity who has been granted interim relief by SEBI.

- 2.) The trading member shall place a request with the Exchange to allow for creation of new client code/ enablement of existing client code as mentioned in point no. 1 above and the debarred entity shall place a request with the Depository Participant who will in turn place a request with Depository to allow for the creation of new demat account. Such request must be received **atleast 1 prior trading day** before 5:00 PM (for e.g.: - for trading on 01-09-2016, a request should be received by the Exchange before 5.00 pm on 31-08-2016).
- 3.) Depository shall facilitate opening of new demat account of such entity / member upon receipt of such request from the client through its Depository Participant (where client intends to open new demat account)
- 4.) The trading member and debarred entities shall ensure that they do not enter into day trading i.e. buy and sell on the same day in the same scrip on one Exchange. Further they should also ensure that they do not buy on one Exchange and sell on another Exchange in the same scrip on the same day.
- 5.) Debarred entities are allowed to trade only in NSE Nifty 500 Index scrips and/ or S&P BSE 500 scrips. The list of securities at NSE is available at this link – https://www.nseindia.com/products/content/equities/indices/nifty_500.htm and on BSE is available at this link- http://www.bseindia.com/sensexview/IndicesWatch_weight.aspx?iname=BSE500&index_C_ode=17

- 6.) The entity / trading member dealing on behalf of the debarred entity will be fully responsible for ensuring that the conditions mentioned in point no. 4 and 5 above are not violated.
- 7.) In case of any violation of the SEBI directions by the entity / trading member, Exchanges shall at the End of the day immediately freeze the client codes and the same shall be reported to Depositories and SEBI. Depositories shall freeze all 'Active' demat accounts (except of CM pool and those tagged as 'Margin' & Client Beneficiary) of such entity / member upon receipt of such intimation from SEBI/Exchanges.
- 8.) Off Market transfer (debits) from the new demat account shall not be allowed. Client to provide an undertaking to this effect to the Depository Participant (where client intends to open new demat account) and the concerned Depository Participant shall ensure that no off-market debit transfer instruction is executed for such accounts
- 9.) The debarred entities can approach the stock exchanges through their brokers for such reliefs. In the event of any difficulty, the debarred entity may approach the exchanges directly. The contact details of the exchange and depository officials concerned is provided below.

Contact details:

Exchanges

NSE – Chirag Jain/Hiren Thakkar/Amruta Warty
Email Id: - cjain@nse.co.in/hthakkar@nse.co.in/abhat@nse.co.in/invg@nse.co.in
Contact No.: - 022-26598417/18

BSE - Ena Janvalekar/Shaila Valsan/Rajesh Dubey
Email Id: doss.rcc@bseindia.com
Contact No.: 022-22728347/8316/8350

Depositories

NSDL – Amit Shinde/ Vishal Gajjar/ Sandesh Sawant
Phone: - 022 - 24994486/ 24994237/ 24994687
Email: - surveillancell@nsdl.co.in

CDSL - Hema Sapaliga /Bhalchandra Ithape/Sachin Pawar
Email Id: hemas@cDSLindia.com/bhalchandrai@cDSLindia.com/psachin@cDSLindia.com
Contact No: 022- 2272 8698 / 2272 8652 / 2272 8335

PART – B: Custodian Procedure for interim relief granted: -

1. The client can trade through the broker with whom he/she is registered. However, the said broker has to associate itself with the empaneled custodian for settlement of trades.
2. Client will either open new or reactivate one existing broking account with Custodian's own broking arm / broker associated with custodian
3. On receipt of complete set of documents as specified, the custodian/ broker associated with the custodian will approach the stock exchanges (NSE/BSE) and/or clearing corporations (NSCCL/ICCL) to facilitate allotment of CP code to such client, as may be applicable, to whom interim relief is granted by SEBI.
4. The broker has to provide intimation to the Exchange for enablement of UCC code one day in advance prior to trading.
5. On receipt of complete set of documents as specified by SEBI for opening a demat account, the custodian DP will approach the depositories (NSDL/CDSL) to facilitate opening of a new demat account of such client to whom interim relief is granted by SEBI. Depositories in coordination with custodian DP will facilitate opening of new demat account. Once such demat account is opened, custodian DP will send a communication to the respective depository, enclosing a client master of such newly opened demat account.
6. The securities held in existing demat account which are frozen (suspended) by depositories as per SEBI order will have to be transferred by the client to the new demat account opened with custodian DP. The

client will have to approach the custodian to ascertain and decide on the securities which the client intends to transfer from his existing demat account/s to the new demat account opened with custodian DP.

7. The client has to approach the DP where existing demat account/s are held and submit a DIS for transfer of securities (as decided jointly with the custodian) to transfer from existing demat account to the newly opened demat account held with custodian DP. On submission of such DIS to the DP, the custodian will communicate to the depositories the details of securities to be transferred from existing demat account of the client to the newly opened demat account with custodian DP enclosing the acknowledged copy of DIS submitted by the client to its existing DP/s. Depositories will coordinate with the existing DP/s and facilitate the transfer of securities as per details/ DP acknowledged copy of DIS as received from custodian.
8. Only one trading UCC Code which was opened / existing UCC code which will be enabled and new demat account with a custodian DP opened under this proposal shall remain in active status. Custodian would ensure compliance with conditions as mentioned in interim reliefs granted to the clients by SEBI. Details of clients who have been granted interim reliefs by SEBI would be provided by stock exchanges/depositories to the empanelled custodians.
9. Custodian will open demat and bank account in the name of the client which will be operated under Power of Attorney in favour of the custodian to ensure complete control and ensure that the sales proceeds are utilized/monitored as per interim reliefs granted by SEBI. Apart from the Bank Escrow A/c, custodian may open another operating bank account to facilitate the clearing and settlement of equity trades of the clients (with a bank associated with the custodian for normal exchange clearing, and with POA in favour of the Custodian).
10. While placing the sell order, it shall be ensured by the Client and trading member that the quantity to be sold is not more than 10% of the previous days' volume to maintain market equilibrium. For this purpose, the total volume for a scrip recorded at the given exchange (chosen by the client for his trade) for the previous day will be considered.

For compliance with SEBI directions related to: -

B. *Further considering business and personal exigencies and liquidity problems submitted by the restrained entities I allow them further relaxations/reliefs as under: -*

(a) They are permitted to sell the securities lying in their demat accounts as on the date of the interim order, other than the shares of the companies which are suspended from trading by the concerned stock exchange, in orderly manner under the supervision of the stock exchanges so as not to disturb the market equilibrium and deposit the sale proceeds in an interest bearing escrow account with a nationalized bank.

(b) They may deal with or utilize the sale proceeds lying in the aforesaid escrow account under the supervision of the concerned stock exchange as provided below: -

(i) the sale proceeds may be utilised for the following investments

(a) enter into delivery based transactions in cash segment in the securities covered in NSE Nifty 500 Index scrips and/or S&P BSE 500 scrips;

(b) subscribe to units of the mutual funds including through SIP and redeem the units of the mutual funds so subscribed;

(c) deal in Debt/Government Securities;

(d) invest in ETF

(e) avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.;

(f) tender the shares lying in their demat account in any open offer/delisting offer under the relevant regulations of SEBI;

(ii) upto 25% of the value of the portfolio as on the date of the interim order or the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, whichever is higher, may be utilized for business purposes and/or for meeting any other exigencies or address liquidity problems etc. * The amount will include the value of portfolio in the demat account.*

Explanation: For the purposes of determining the portfolio value of the entities, the value of portfolio

of securities lying in the demat account/s (individual and joint both) on the date of the interim orders after excluding the value of shares that have been suspended from trading as on the date of the communication shall be considered.

For NBFCs and stock brokers the value of portfolio shall exclude the value of clients' securities lying in their demat accounts.

(c) The aforesaid reliefs shall be subject to the supervision of exchanges and depositories. The stock exchanges may use this existing mechanism available for implementing the similar interim relief earlier granted to some of the entities.

For carrying out these SEBI directions, the current applicable custodian route shall continue. However, custodians need to ensure with the trading member that the following conditions are not violated:

- The trading member and debarred entities shall ensure that they do not enter into short sales, and day trading i.e. buy and sell on the same day in the same scrip on one Exchange. Further they should also ensure that they do not buy on one Exchange and sell on another Exchange in the same scrip on the same day.
- Debarred entities are allowed to trade only in NSE Nifty 500 Index scrips and/ or S&P BSE 500 scrips. The list of securities at NSE is available at this link – https://www.nseindia.com/products/content/equities/indices/nifty_500.htm and on BSE is available at this link- http://www.bseindia.com/sensexview/IndicesWatch_weight.aspx?iname=BSE500&index_C_ode=17
- The debarred entity can use upto 25% of the value of the portfolio as on the date of the respective *interim order* or the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, whichever is higher as illustrated in following table:

Table 1

Sample Illustration for Portfolio Value = ₹ 2 Crore

Scenarios	Portfolio value and profit made /loss incurred or value of shares purchased to give exit	Value of amount can be withdrawn	Residual Value in Escrow
Scenario 1	Profit/Loss/Exit Value= ₹ 2.2 Crore 25% Portfolio Value = ₹ 50 Lakh	Since 25% of the Portfolio value is higher than the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, the amount that can be withdrawn in this scenario is ₹ 50 Lakh	₹ 2 Crore - ₹ 50 Lakh = ₹ 1.5 Crore
Scenario 2	Profit/Loss/Exit Value= ₹ 2 Crore 25% Portfolio Value = ₹ 50 Lakh	Since 25% of the Portfolio value is higher than the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, the amount that can be withdrawn in this scenario is ₹ 50 Lakh	₹ 2 Crore - ₹ 50 Lakh = ₹ 1.5 Crore
Scenario 3	Profit/Loss/Exit Value= ₹ 1 crore 25% Portfolio Value = ₹ 50 Lakh	Since the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, is higher than 25% of the Portfolio value, the amount that can be withdrawn in this scenario is (₹ 2 Crore - ₹ 1 Crore) = ₹ 1 Crore	₹ 2 Crore - ₹ 1 Crore = ₹ 1 Crore
Scenario 4	Profit/Loss/Exit Value= ₹ 80 lakh 25% Portfolio Value = ₹ 50 Lakh	Since the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, is higher than 25% of the Portfolio value, the amount that can be withdrawn in this scenario is (₹ 2 Crore - ₹ 80 Lakh) = ₹ 1.2 Crore	₹ 2 Crore - ₹ 1.2 Crore = ₹ 80 Lakh
Scenario 5	Profit/Loss/Exit Value= ₹ 20 lakh	Since the amount in excess of the profit made /loss incurred or value of shares purchased to give exit, is	₹ 2 Crore - ₹ 1.8 Crore =

25% Portfolio Value = ₹ 50 Lakh	higher than 25% of the Portfolio value, the amount that can be withdrawn in this scenario is (₹ 2 Crore - ₹ 20 Lakh) = ₹ 1.8 Crore	₹ 20 Lakh
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***Note: The amount already withdrawn under the interim relief given earlier would be deducted and only balance amount can be withdrawn. Client must provide declaration of the portfolio valuation (to Custodian) as per SEBI order date values, also the amounts already withdrawn and additional withdrawal permissible as per all orders taken in totality.**

- To compute the reliefs if the entity is debarred in more than one case, the date for computing the value of portfolio in such cases would be the date of the first *interim order* against that entity. The Profit/Loss/ Exit Value shall be computed taking into account all the amounts mentioned in the respective *interim/ confirmatory orders* in respect of such entities debarred in more than one *interim orders*.
- The portfolio value for computing the relief amount can include the securities held by the debarred entity in physical mode, provided, the securities are converted into dematerialized mode.
- The debarred promoter/director/brokers or any other entity for whom the profit / loss or exit amounts are not mentioned in the respective confirmatory orders can utilise only upto 25% of their respective portfolio values as on the date of *interim order*.
- For settling dues of third party, the debarred entities shall utilize the amount permitted to be used for exigencies / business purposes.
- While using the sale proceeds to invest in the permitted list of securities, these shall be held in demat form and if sold/ redeemed the proceeds thereof shall be credited to the escrow account. Further, the entity shall ensure that residual value (As illustrated in Table 1 above), kept in the escrow / relevant demat account in the form of securities/ cash/ FD shall be maintained at all points of time. Entity must submit a monthly report to Custodian and both Exchanges (NSE/BSE) stating the details (total portfolio value as per SEBI debar date value, total permitted to withdraw, total withdrawn, total residual value mandatory to maintain – and how much actual residual value as on the last date of the month. Report must be printed and signed and then emailed to Exchanges and Custodian.
- The change in value of portfolio since the *interim order* (due to specific permission for debit/ credit of shares) may be confirmed from depositories by custodians while computing the relief amount.
- Considering that the scrips forming a part of these indices are revised periodically, it is clarified that the scrips once purchased can be subsequently sold even if it is not part of the indices at the time of selling.
- Custodian will confirm back to Exchanges on the compliance of the SEBI interim relief to the entities on a monthly basis and no separate certification would be required to be provided by the client for the same.
- The fees for Custody/ DP and related activities could be paid from the sale proceeds of the above securities, or client can directly pay to intermediaries. Such fees would be decided directly between the client and the respective intermediary.

Contact details :

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