




NPTEL ONLINE CERTIFICATION COURSES

NPTEL

# Business Law For Managers

KAUSHIK MUKHERJEE

COMPANY SECRETARY & CHIEF LEGAL OFFICER - SECRETARIAL AND LEGAL, PCBL

## Module-3

### Lecture 11 : Concept, Scope and Features of PIT

# BUSINESS LAW FOR MANAGERS



## Introduction

NPTEL

The existence of a fair, transparent and efficient securities market is one of the essential ingredients for economic growth of a country. To instill confidence, trust and integrity in the securities market, SEBI has taken various initiatives to ensure fair market conduct and promulgated the SEBI (Prohibition of Insider Trading) Regulations ("PIT Regulations") 2015 to replace the earlier 1992 PIT Regulations.

# KEY POINTS

- Background of Prohibition of Insider Trading (PIT)
- Scope
- Salient features
- Disclosure of trading by Insiders
- Trading plans



NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Background

Committee chaired by former Chief Justice Mr. N.K. Sodhi, which made a range of recommendations to formulate an effective legal framework to prohibit insider trading in India. Based on the recommendations made by the Sodhi Committee, SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "PIT Regulations, 2015") came into force on 15th May, 2015.

NPTEL

# Prohibition of Insider Trading (PIT) Regulations



## Definitions under SEBI (PIT) Regulations, 2015

- **"Act"** means the Securities and Exchange Board of India Act, 1992;
- **"Board"** means the Securities and Exchange Board of India;
- **"Compliance Officer"** means any senior officer, designated so and reporting to the board of directors or head of the organization
- "**Connected Person**" means, –
  Any person who is or has during the six months prior to the concerned act been associated with a company, directly or indirectly, in any capacity

NPTEL

# Prohibition of Insider Trading (PIT) Regulations



## Definitions under SEBI (PIT) Regulations, 2015

- **"PIT Regulations"** means SEBI (Prohibition of Insider Trading) Regulations, 2015.
- "**Promoter**" shall include a person:
  (i) who has been named as such in a draft offer document or offer document or is identified by the issuer in the annual return referred to in section 92 of the Companies Act, 2013; or
  (ii) who has control over the affairs of the issuer, directly or indirectly whether as a shareholder, director or otherwise; or
  (iii) in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act:

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Definitions under SEBI (PIT) Regulations, 2015

- **"Insider"**

**Any person who is (i) a connected person; or (ii) in possession of or having access to unpublished price sensitive information ("UPSI"). Every connected person is an 'insider' under the Regulations.**

- **"Trading"**

**Trading under the Regulations has been defined to mean and include 'subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities.**

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Scope of SEBI(PIT) Guidance Note

**The PIT has scope on guidance as noted below:**

- **Guidance on various aspects of Prevention of Insider Trading and explains the SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations), as amended, where required;**
- **Guidance on ensuring the compliance of the PIT Regulations by the listed companies, intermediaries, fiduciaries etc.;**
- **Guidance on best governance practices for implementation of the PIT Regulations;**

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Scope of SEBI(PIT) Guidance Note

- Guidance to the Audit Committee and the Board of Directors to ensure a proper system for monitoring and reviewing the compliances, as stipulated in the PIT Regulations;
- Various checklists as an effective tool to ensure and monitor compliance as envisaged in the PIT Regulations including various disclosures.



NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Salient Features

- The regulations have strengthened the definition of who an insider is by expanding the definition of connected person.
- Every connected person under the regulations is an insider
- The regulation has further defined the term generally available to mean that is accessible to the public on a non-discriminatory basis
- Trading under the regulations has been defined clearly
- The regulations have introduced a definition for a compliance officer of the company

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Salient Features

- The regulations contain a specific carve-out for communication and procurement of information
- The regulations have introduced the concept of trading plans to facilitate compliant trading by insiders
- The regulations sets out the initial and continual disclosures to be made by certain categories of persons in a company whose securities are listed on a stock exchange
- The Board of every listed company is required to formulate and publish a code of practices and procedures to be followed for fair disclosure of UPSI

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Initial Disclosure of Trading

- Every promoter, member of the promoter group, key managerial personnel (KMP) and director of every company whose securities are listed on any recognised stock exchange shall disclose his holding of securities of the company.
- Every person on appointment as a KMP or a director of the company or upon becoming a promoter or member of the promoter group shall disclose his holding of securities of the company

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Continual Disclosure of Trading

- Every promoter, member of the promoter group, designated person and director of every company shall disclose the number of such securities acquired or disposed of if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified
- Every company shall notify the particulars of such trading

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Trading Plans

**Every insider is entitled to execute trades in pursuance of pre-determined trading plan having key features as follows:**

- **Trading plans shall not entail trading for a reasonable period around declaration of financial results;**
- **Trading plan shall not entail trading for at least 12 months since the date of decision to trade;**
- **There shall not be any overlap with another trading plan already in existence.**

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Trading Plans

- Trading plan that entail trading in securities for market abuse is prohibited;
- Trading plans must set out nature of trade, value of securities or the number of securities to be invested or divested, specific dates and time etc.;
- The compliance officer is entitled to review the trading plan and seek express undertakings that may be necessary for such assessment/monitoring and notify the stock exchanges on which the securities are listed, once the trading plans are approved;

NPTEL

# Prohibition of Insider Trading (PIT) Regulations

## Trading Plans

- Once approved trading plans shall be irrevocable and the insider shall mandatorily implement the plan within the scope of the trading plan, without any deviation;
- Commencement of the trading plan will be required to be deferred in a situation where the insider is in possession of UPSI at the time of formulation of the plan has not become generally available at the time of commencement of the plan.




NPTEL

# REFERENCES


- D.K. Jain : Company Law Ready Reckoner; Bharat Law House Pvt. Ltd.; T1/95, Mangolpuri Industrial Area, Delhi-110083.
- R. Suryanarayanan : Company Law Ready Reckoner; Commercial Law Publishers, 151, Rajinder Market, Opp. Tis Hazari Court, Delhi-110054.
- Taxmann's : Circulars & Clarifications on Company Law; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.
- Bare Act : Corporate Laws; Taxmann, 59/32, New Rohtak Road, New Delhi110 005.
- H.K. Saharay : Company Law; Universal Law Publishing Co., C-FF-1A, Dilkhush Industrial Estate, G.T. Karnal Road, Delhi. -110033.
- A.K. Majumdar, Dr. G.K. Kapoor, Sanjay Dhamija : Company Law and Practice; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.


NPTEL

# CONCLUSION

In this lecture attempt has been made to give an overall ideas about background of Prohibition of Insider Trading (PIT, scope , salient features, disclosure of trading by Insiders and trading plans as SEBI(PIT) Regulations have introduced. The learners will have knowledge on all these since they attend lecture

NPTEL



NPTEL

# THANK YOU !



NPTEL ONLINE CERTIFICATION COURSES

NPTEL

# Business Law For Managers

KAUSHIK MUKHERJEE

COMPANY SECRETARY & CHIEF LEGAL OFFICER - SECRETARIAL AND LEGAL, PCBL

## Module-3

### Lecture 12 : Investigation and Prohibition on Dealing, Counselling

# BUSINESS LAW FOR MANAGERS

## Introduction

Definitions of various terms, features and concept of insider trading as per SEBI (PIT) Guidelines have already been discussed. It is now, important to have an idea about investigation and prohibition on dealing and communication/counselling under the regulations of SEBI (PIT) Amendments which have been discussed in this lecture session.



NPTEL

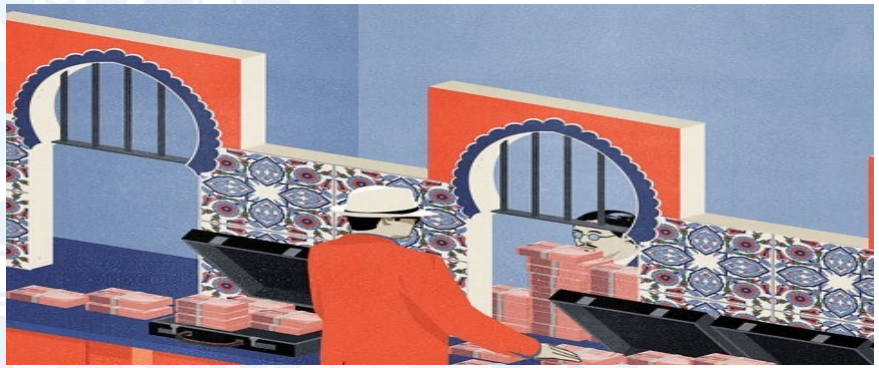
# KEY POINTS

- Power to make enquiry
- Right of board to investigate
- Procedure of investigation
- Obligation of Insider on investigation
- Submission of report to board
- Prohibition on dealing, communication



NPTEL

# Investigation



## Power to make Investigation

- It is the power of Board which may make inquiries with persons or any other person as deemed fit, to form a prima facie opinion as suspected to whether there is any violation of these regulations.
- In that case the Board may appoint one or more officers to inspect the books and records of insider(s) or any other persons as mentioned in clause (i) of sub-section (2) of section 11 for the purpose of sub-regulation (1).

NPTEL

# Investigation

## Right of the Board to Investigate



i. Where the Board, is of prima facie opinion that it is necessary to investigate and inspect the books of account, either records and documents of an insider or any other person for any of the purposes specified in sub-regulation (2), it may appoint an investigating authority for the said purpose.

NPTEL

# Investigation

## Right of the Board to Investigate

ii) The purpose referred to in sub-regulation (1) may be as follows:

(a) to investigate into the complaints received from investors, intermediaries or any other person on any matter having a bearing on the allegations of insider trading; and

(b) to investigate suo-motu upon its own knowledge or information in its possession to protect the interest of investors in securities against breach of these regulations.

NPTEL

# Investigation

## Procedure for Investigation

- Before undertaking any investigation under regulation, the Board shall give a reasonable notice to insider for that purpose.
- Notwithstanding anything contained in sub-regulation, where the Board is satisfied that in the interest of investors or in public interest no such notice should be given, it may by an order in writing direct that the investigation be taken up without such notice.

NPTEL

# Investigation

## Procedure for Investigation

- On being empowered by the Board, the investigation authority shall undertake the investigation and inspection of books of account and the insider against whom an investigation is being carried out an insider or any other person mentioned shall be bound to discharge his obligations as provided in regulation



NPTEL

# Investigation

## Obligations of insider on investigation by the board

- It shall be the duty of every insider, who is being investigated or any other person as specified under provision to produce to the investigating authority such books, accounts and other documents in his custody or control and furnish the authority with the statements and information relating to the transactions in securities market within such time as the said authority may require.
- The insider or any other person as specified under provision shall allow the investigating authority to have reasonable access to the premises occupied by such insider and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the stock-broker or any other person.

NPTEL

# Investigation

## Obligations of insider on investigation by the board

- The investigating authority, in the course of investigation, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the insider or any other person as specified under law.
- It shall be the duty of every director, proprietor, partner, officer and employee of the insider to give to the investigating authority all assistance in connection with the investigation, which the insider or any other person as specified under law may be reasonably expected to give.

NPTEL

# Investigation

## Submission of Report to the Board

- It is important that this act has provision for the investigating authority who shall, within reasonable time of the conclusion of the investigation, submit an investigation report to the Board.
- The Board shall, after consideration of the investigation report communicate the findings to the person suspected to be involved in insider trading or violation of these regulations.



NPTEL

# Investigation

## Submission of Report to the Board

- The person to whom such findings has been communicated shall reply to the same within 21 days; and
- On receipt of such a reply or explanation, if any, from such person, the Board may take such measures as it deems fit to protect the interests of the investors and in the interests of the securities market

NPTEL

# Investigation

## Prohibition on dealing, communicating or counselling

- It is well defined that no insider shall either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange, when in possession of any unpublished price sensitive information.
- Also, no insider shall communicate or counsel or procure directly or indirectly any unpublished price sensitive information (UPSI) to any person who while in possession of such unpublished price sensitive information shall not deal in securities, Provided that nothing contained above shall be applicable to any communication required in the ordinary course of business

NPTEL

# Investigation

## Prohibition on dealing, communicating or counselling

- No company shall deal in the securities of another company or associate of that other company while in possession of any unpublished price sensitive information.
- In a proceeding against a company in respect of regulation, it shall be a defense to prove that it entered into a transaction in the securities of a listed company when the unpublished price sensitive information was in the possession of an officer or employee of the company. In case –

  a) The decision to enter into the transaction or agreement was taken on its behalf by a person or persons other than that officer or employee.

NPTEL

# Investigation

## Prohibition on dealing, communicating or counselling

b) such company has put in place such systems and procedures which demarcate the activities of the company in such a way that the person who enters into transaction in securities on behalf of the company cannot have access to information which is in possession of other officer or employee of the company.

c) it had in operation at that time, arrangements that could reasonably be expected to ensure that the information was not communicated to the person or persons who made the decision and that no advice with respect to the transactions or agreement was given to that person or any of those persons by that officer or employee; and

(d) the information was not so communicated and no such advice was so given.

NPTEL

# Investigation

## Prohibition on dealing, communicating or counselling

- In a proceeding against a company in respect of regulation 3A which is in possession of unpublished price sensitive information, it shall be defensed to prove that acquisition of shares of a listed company was as per the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations,

NPTEL

# REFERENCES


- D.K. Jain : Company Law Ready Reckoner; Bharat Law House Pvt. Ltd.; T1/95, Mangolpuri Industrial Area, Delhi-110083.
- R. Suryanarayanan : Company Law Ready Reckoner; Commercial Law Publishers, 151, Rajinder Market, Opp. Tis Hazari Court, Delhi-110054.
- Taxmann's : Circulars & Clarifications on Company Law; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.
- Bare Act : Corporate Laws; Taxmann, 59/32, New Rohtak Road, New Delhi110 005.
- H.K. Saharay : Company Law; Universal Law Publishing Co., C-FF-1A, Dilkhush Industrial Estate, G.T. Karnal Road, Delhi. -110033.
- A.K. Majumdar, Dr. G.K. Kapoor, Sanjay Dhamija : Company Law and Practice; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.


NPTEL

# CONCLUSION

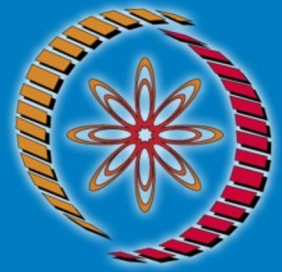
In this lecture attempt has been made to give an overall ideas about power to make enquiry, right of board to investigate, procedure of investigation, obligation of insider on investigation, submission of report to board, prohibition on dealing and communication/counselling. The learners will have knowledge and learning on all of these.

NPTEL



NPTEL

# THANK YOU !






NPTEL ONLINE CERTIFICATION COURSES

NPTEL

# Business Law For Managers

KAUSHIK MUKHERJEE

COMPANY SECRETARY & CHIEF LEGAL OFFICER - SECRETARIAL AND LEGAL, PCBL

## Module-3

## Lecture 13 : Key Changes in PIT Amendment, 2020

# BUSINESS LAW FOR MANAGERS

## Introduction

Since overhauling the insider trading regime with the introduction of the SEBI (Prohibition of Insider Trading) Regulations, 2015, the Securities and Exchange Board of India has continually sought to fine tune and tweak the regulations through amendments in 2018 and 2019. On July 17, 2020, SEBI notified the Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2020 ("PIT Amendment"), to introduce further changes to the PIT Regulations. Here we may have a glance on the changes.

NPTEL

# KEY POINTS

- Structured digital database
- Reporting on violations of the code of conduct
- Trading window restrictions
- Preservation of documents



NPTEL

# Key changes in PIT Amendment, 2020

## Areas of changes

**The PIT Amendment, approved by SEBI at its board meeting held on June 25, 2020, include the following key changes:**

- **Enhancement of the structured digital database towards seeking and storing additional details of persons sharing unpublished price sensitive information ("UPSI")**
- **Automation of shareholding disclosures and change in reporting authority for making disclosures of PIT violations by listed entities, market intermediaries and fiduciaries.**
- **Introduction for additional transactional mechanisms as an exception to trading window restrictions.**

NPTEL

# Key changes in PIT Amendment, 2020

## Structured digital database

In an attempt to bolster the level of compliance, SEBI has, through this PIT Amendment, directed all entities handling UPSI to maintain such a structured digital database.

In addition, SEBI has also ensured that additional details are sought and stored in this database, including the nature of the UPSI and the names of persons who have shared it with others (in addition to details of the recipients).



NPTEL

# Key changes in PIT Amendment, 2020

## Structured digital database

**From an internal administrative perspective as well, SEBI has incorporated the following necessary amendments:**

- **Maintenance of structured digital database for a period of 8 (eight) years after completion of the relevant transaction, except in case of any pending enforcement or investigative proceeding by SEBI.**
- **Prohibition on outsourcing maintenance of the internal database -While entities routinely outsource their technology and IT functions, SEBI has strictly restricted outsourcing this database to third party service providers.**

NPTEL

# Key changes in PIT Amendment, 2020

## Reporting of violations of code of conduct

**In July 2019, SEBI first prescribed the format and procedure for reporting violations of the Code of Conduct to it.**

**While the recent SEBI circular dated July 23, 2020 (“Circular”) slightly modifies the standard format for reporting violations which was set in July 2019, the PIT Amendment and this Circular also bring forth a substantial shift in the reporting matrix.**

NPTEL

# Key changes in PIT Amendment, 2020

## Reporting of violations of code of conduct

**It is important to note that violations of code of conduct reported to SEBI were generally required to be published in the public domain.**

**Separately, the Circular also provides payment details for remittance of penalty imposed by entities on their designated persons violating the Code of Conduct to the Investor Protection and Education Fund administered by SEBI.**

NPTEL

# Key changes in PIT Amendment, 2020

## Trading Window Restrictions

The SEBI (Prohibition of Insider Trading) Amendment, 2019 introduced certain transactions to Schedule B which would be exempted from trading window restrictions. This list includes -

- Defenses to allegations of insider trading covered under Regulation 4 of the PIT Regulations (transactions carried out as a result of statutory obligations, off market trade between insiders), further public offer,
- Subscribing to a rights issue, or
- Tendering of shares in an open offer.
- This list under Schedule B was an indicative list and could not hence be extended to include transactions not included in the same.

NPTEL

# Key changes in PIT Amendment, 2020

## Trading Window Restrictions

**The PIT Amendment has created room for SEBI to consider and recognize additional categories of transactions/ mechanism as an exception to the closure of trading window related restrictions.**

**Following the PIT Amendment, and moving away from the SEBI board meeting takeaways, SEBI recently issued another circular on July 23, 2020, through which it has now permitted offer for sale and rights entitlement transactions to be carried out while the trading window is closed.**

NPTEL

# Key changes in PIT Amendment, 2020

## Preservation of documents

**Regulation 8, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015: "Preservation of documents –**

**The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying in at least two categories as follows-**

**(a) documents whose preservation shall be permanent in nature;**

**(b) documents with preservation period of not less than eight years after completion of the relevant transactions:**

**Provided that the listed entity may keep documents specified in clauses (a) and (b) in electronic mode."**

NPTEL

# REFERENCES


- D.K. Jain : Company Law Ready Reckoner; Bharat Law House Pvt. Ltd.; T1/95, Mangolpuri Industrial Area, Delhi-110083.
- R. Suryanarayanan : Company Law Ready Reckoner; Commercial Law Publishers, 151, Rajinder Market, Opp. Tis Hazari Court, Delhi-110054.
- Taxmann's : Circulars & Clarifications on Company Law; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.
- Bare Act : Corporate Laws; Taxmann, 59/32, New Rohtak Road, New Delhi110 005.
- H.K. Saharay : Company Law; Universal Law Publishing Co., C-FF-1A, Dilkhush Industrial Estate, G.T. Karnal Road, Delhi. -110033.
- A.K. Majumdar, Dr. G.K. Kapoor, Sanjay Dhamija : Company Law and Practice; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.


NPTEL

# CONCLUSION

In this lecture attempt has been made to give an overall ideas about recent changes through SEBI (PIT) Amendment, 2020. Learners might have been gathering knowledge from the discussion of this lecture

NPTEL



NPTEL

# THANK YOU !



NPTEL ONLINE CERTIFICATION COURSES

NPTEL

# Business Law For Managers

KAUSHIK MUKHERJEE

COMPANY SECRETARY & CHIEF LEGAL OFFICER - SECRETARIAL AND LEGAL, PCBL

## Module-3

### Lecture 14 : Model Code of Conduct for PIT, Trading Initiatives

# BUSINESS LAW FOR MANAGERS

## Introduction

Model code of conduct for prohibition of insider trading for other entities has been introduced. The listed companies have provision to appoint compliance officer to set forth policies, procedures, monitoring adherence to the rules for the preservation of price sensitive information and prevention from misuse of it. There are some other restrictions and reporting requirements for transactions in securities along with penalty for contravention of code of conduct. Considering the issue, it is important to learn about the model code of conduct for prohibition of insider trading.

NPTEL

# KEY POINTS

- Compliance officer
- Preservation of price Sensitive Information (PSI)
- Preservation of price Sensitive Information
- Other restrictions
- Reporting requirements for transactions in securities
- Penalty for violation of code of conduct
- Trading initiatives

NPTEL

# Model Code of conduct for PIT

## Compliance Officer

- The listed company has appointed a compliance officer, who shall report to the Managing Director/Chief Executive Officer.
- The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules.
- The compliance officer shall maintain a record of the designated employees
- The compliance officer shall assist all the employees in addressing any clarifications regarding the Securities and Exchange Board of India

NPTEL

# Model Code of conduct for PIT

## Preservation of Price Sensitive information (PSI)

- Employees/ directors shall maintain the confidentiality of all Price Sensitive Information.
- Price Sensitive Information is to be handled on a "need to know" basis.
- Limited access to confidential information.
- Files containing confidential information shall be kept secure. Computer files must have adequate security of login and pass word etc

NPTEL

# Model Code of conduct for PIT

## Prevention of Misuse of Price Sensitive Information

- All directors/ officers and designated employees of the company shall be subject to trading restrictions.
- The company shall specify a trading period, to be called "Trading Window", for trading in the company's securities.
- The employees / directors shall not trade in the company's securities in such period, when the window is closed.

NPTEL

# Model Code of conduct for PIT

## Prevention of Misuse of Price Sensitive Information

- The trading window shall be, inter alia, closed at the time of:-
  a. Declaration of Financial results (quarterly, half-yearly and annual)
  b. Declaration of dividends (interim and final)
  c. Issue of securities by way of public/ rights/bonus etc.
  d. Any major expansion plans or execution of new projects
  e. Amalgamation, mergers, takeovers and buy-back
  f. Disposal of whole or substantially whole of the undertaking
  g. Any changes in policies, plans or operations of the company
- The trading window shall be opened 24 hours after the information referred to

NPTEL

# Model Code of Conduct for PIT

## Prevention of Misuse of Price Sensitive Information (Contd…)

- All directors/ officers/designated employees of the company shall conduct all their dealings in the securities of the Company only in a valid trading window.
- All directors/officers /designated employees of the company who intend to deal in the securities of the company (above a minimum threshold limit to be decided by the company) should pre-clear the transactions as per the pre-dealing procedure as described hereunder.
- An application may be made in such form as the company may notify in this regard

NPTEL

# Model Code of Conduct for PIT

## Prevention of Misuse of Price Sensitive Information (Contd…)

- **An undertaking shall be executed in favour of the company by such designated employee / director / officer incorporating -**
  - **That the employee/ director/officer does not have any access or has not received "Price Sensitive Information" prior to signing the undertaking.**
  - **In case the employee/ director/officer has access to or receives "Price Sensitive Information" after the signing of the undertaking but before the execution of the transaction he/she shall inform the Compliance officer of the change**
  - **He/she has not contravened the code of conduct for prevention of insider trading as notified by the company from time to time.**
  - **That he/she has made a full and true disclosure in the matter**

NPTEL

# Model Code of Conduct for PIT

## Other restrictions

- All directors/officers /designated employees shall execute their order in respect of securities of the company within one week after the approval of pre-clearance is given.
- They shall hold their investments in securities for a minimum period of 30 days in order to be considered as being held for investment purposes
- In case the sale of securities is necessitated by personal emergency, the holding period may be waived by the compliance officer after recording

NPTEL

# Model Code of Conduct for PIT

## Reporting requirement for transactions in securities

- All directors/officers /designated employees of the listed company shall be required to forward following details:
  - all holdings in securities of that company by directors/officers/ designated employees at the time of joining the company;
  - periodic statement of any transactions in securities (the periodicity of reporting may be defined by the company. The company may also be free to decide whether reporting is required for trades where pre-clearance is also required); and
  - annual statement of all holdings in securities

NPTEL

# Model Code of Conduct for PIT

## Reporting requirement for transactions in securities

- The Compliance officer shall maintain records of all the declarations in the appropriate form.
- The Compliance officer shall place before the Managing Director/Chief Executive Officer or a committee specified by the company, on a monthly basis all the details

NPTEL

# Model Code of Conduct for PIT

## Penalty for violation of code of conduct

- Any employee/ officer / director who trades in securities or communicates any information for trading in securities, in contravention of the code of conduct may be penalized.
- Employees / officers / directors of the company who violate the code of conduct shall also be subject to disciplinary action by the company.
- The action by the company shall not preclude SEBI from taking any action in case of violation of SEBI (Prohibition of Insider Trading), Regulations, 1992

NPTEL

# REFERENCES


- D.K. Jain : Company Law Ready Reckoner; Bharat Law House Pvt. Ltd.; T1/95, Mangolpuri Industrial Area, Delhi-110083.
- R. Suryanarayanan : Company Law Ready Reckoner; Commercial Law Publishers, 151, Rajinder Market, Opp. Tis Hazari Court, Delhi-110054.
- Taxmann's : Circulars & Clarifications on Company Law; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.
- Bare Act : Corporate Laws; Taxmann, 59/32, New Rohtak Road, New Delhi110 005.
- H.K. Saharay : Company Law; Universal Law Publishing Co., C-FF-1A, Dilkhush Industrial Estate, G.T. Karnal Road, Delhi. -110033.
- A.K. Majumdar, Dr. G.K. Kapoor, Sanjay Dhamija : Company Law and Practice; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.


NPTEL

# CONCLUSION

In this lecture discussion has been made on various issues and provisions of model conde of conduct for prevention of insider trading along with insider trading initiatives to give an overall ideas about all of these. Learners might have been gathering knowledge from the discussion of this lecture

NPTEL



NPTEL

# THANK YOU !



NPTEL ONLINE CERTIFICATION COURSES

NPTEL

# Business Law For Managers

KAUSHIK MUKHERJEE

COMPANY SECRETARY & CHIEF LEGAL OFFICER - SECRETARIAL AND LEGAL, PCBL

## Module-3

### Lecture 15 : insider trading examples, PIT Recent Cases & Insider Trading Initiatives

# BUSINESS LAW FOR MANAGERS

## Introduction

It is an unethical practice where other stockholders are at a great disadvantage due to leakage of crucial and non-public information to a particular party or stockholder but if the information is made public in a way that all the concerned authority or stockholders have access to it then it does not constitute to the illegal practice. However, SEBI(PIT) Regulations have made significant contribution to address this mal-practices. Here we may have lessons on some cases.

NPTEL

# KEY POINTS

- Brief of some recent cases of Insider Trading

  Compliance violation

NPTEL

# PIT: Insider Trading Examples

## Example-1:

A major Customer during the meeting with Marketing Head- Mr. Abhishek learns that the Company is planning to set up a new plant outside India. The Customer purchases 1,000 shares of the company because he knows that the stock price is going to go up on news of the setting up of a new plant outside India.

## Example-2:

Board of Directors of the Company knows that a merger is going to be announced in the upcoming Board Meeting or so and that the company stock is likely to go way up. One of the Directors, Mr. Aman buys 1,00,000 shares of the company stock in his mother's name so he can make a profit using his insider knowledge without reporting the trade to the Compliance Officer and without news of the purchase going public.

NPTEL

# PIT: Insider Trading Examples

## Example-3:

**Mr. Rajat, Finance Head of a company overhears a meeting where the CFO is talking about how the company is going to be in the loss in the coming quarter as a result of market slowdown of Industry. Mr. Rajat knows that his friend owns shares of the company. Mr. Rajat warns his friend that he needs to sell his shares right away.**

NPTEL

## Example-4:

**Mr. Suraj working in R & D Department is aware that the Company is planning to establish a new R & D Centre at China and that will be significantly benefit to the Company. Mr. Suraj secretly buys 100000 shares of the company.**

# PIT: Insider Trading Examples

**Example-5:**

**Surajit learns of a confidential merger between his company and another subsidiary company. Knowing that the merger will require the purchase of shares at a high price, Mr. Surajit buys the stock the day before the merger is going to go through.**

**Example-6:**

**Mr. Arijit working in a Treasury Department of the Company, got the result of the Company in his hand 3-4 days before the Board Meeting. He has submitted the outstanding results of the Company to the Bank before the Board Meeting, so that he get the loan for the Company at a lower rate of Interest and may get the promotion in the Company.**

NPTEL

# PIT: Insider Trading Examples

## Example-7:

During the Business Review meeting with the Chairman, Factory Head of Plant – Mr. Kaustav got the information on fund raising by way of issue of QIP of Rs. 1000 crores. Mr. Kaustav communicated the said information to his wife Mrs. Preeti informally. Mrs. Preeti secretly buys 50,000 stock of the company in her Mother's name.

## Example-8:

Mr. Arvind, a support staff of the Company, while making the Agenda folder for the Board Meeting got to know the results of the Company before 7 days of the Board Meeting and knowing the outstanding performance of the Company, the price of the stock will go up, once the result will be out, so he has communicated the same to the Head of Procurement- Mr. Rajat , who is working in the Company, to get some benefit from him.

NPTEL

# PIT: Insider Trading Examples

**Example-9:**

**During the Analyst or Institutional Investor meet, CFO of the Company informally informed the Analyst or Institutional Investors that the Company is planning to have acquisition of carbon black company in China. One of the Investors passed the said information in his WhatsApp group of common friends who are in the business of trading. After getting the said information, his friends purchased shares of the Company in bulk quantity as the stock price will be going up on news of acquisition of carbon black company in China.**

NPTEL

# PIT: Some Recent Cases

**1. SEBI imposes a penalty of Rs 22.7 Crore for Insider Trading compliance violation**

**On Sep 23, 2019, SEBI passed an order, imposing a penalty of Rs. 22.7 crore on Aurobindo Pharma and its promoters for Insider Trading Compliance violation. While the violation happened in 2008 – 2009 but SEBI kept on investigating and finally, SEBI concluded with a penalty of 22.7 crores and the issue remains misuse of Unpublished Price Sensitive Information (UPSI) for personal gains.**

NPTEL

# PIT: Some Recent Cases

## 2. Sebi impounds Rs 87.21 lakh from former director, spouse

**Pia Johnson of Indiabulls Ventures Ltd (IVL) and her husband Mehul Johnson traded in the scrip of IVL when in possession of unpublished price sensitive information (UPSI)).**

**Markets regulator Sebi ordered impounding of alleged unlawful gains of Rs 87 lakh made by Indiabulls Ventures's former non-executive director and her husband in an insider-trading case.**

NPTEL

# PIT: Some Recent Cases

## 3. Sun Pharma's senior executive, wife settle insider trading case with SEBI

Sun Pharma group's senior executive, Abhay Arvind Gandhi, and his wife Kiran have settled with SEBI a case related to insider trading in shares of Ranbaxy Laboratories in 2014. Both have paid a total of over Rs 70 lakh as settlement charges.

At the time of alleged violation, Abhay Arvind Gandhi was the CEO of Sun Pharma Laboratories Ltd (SPLL), a wholly-owned subsidiary of Sun Pharmaceutical Industries Ltd. Currently, Abhay Gandhi is CEO of Sun Pharma's North America business.

NPTEL

# PIT: Some Recent Cases

## Sun Pharma's senior executive, wife settle insider trading case with SEBI (contd.....)

Gandhi and his wife traded in Ranbaxy shares soon after Japanese major Daiichi, in 2014, agreed to sell Ranbaxy to Sun Pharma.

According to separate notices sent to the two individuals, they had traded in the shares of Ranbaxy when the proposed deal was to be made public. The proposed deal was UPSI (Unpublished Price Sensitive Information) from February 14, 2014 to April 6, 2014.

NPTEL

# PIT: Some Recent Cases

## Sun Pharma's senior executive, wife settle insider trading case with SEBI (contd….)

By trading in the shares of Ranbaxy during the UPSI period, both allegedly violated prohibition of insider trading norms, according to the notices. As Gandhi was then the chief of SPLL, he and his wife were insiders under SEBI norms.

Gandhi and Kiran traded in 454 shares and 6,770 shares, respectively, during the UPSI period.

In two separate but similarly-worded orders issued on Thursday, SEBI said the two individuals sought to settle the adjudication proceedings initiated against them in 2017.

NPTEL

# PIT: Some Recent Cases

## Sun Pharma's senior executive, wife settle insider trading case with SEBI (contd….)

Under SEBI's settlement mechanism, without admission or denial of guilt, both proposed to pay Rs 35.06 lakh each to settle the case.

The settlement amounts proposed were approved by a panel of SEBI's Whole-Time Members, according to the two orders.

While settling the case, the regulator also said enforcement actions could be initiated if any representation made by the two individuals is found to be untrue.

NPTEL

# PIT: Some Recent Cases

## 4. Sebi sends notice to 5 Asset Management Companies in insider trading case

**Sebi has issued show cause notices to five Asset Management Companies (AMCs) for alleged breach of insider trading regulations.**

**SBI Fund Management, ING Mutual Fund (now Birla Sunlife) and BNP Paribas are among these. They are all charged with use of price-sensitive information for trading in the scrip of Manappuram Finance (MFL) in March 2013. Notices have been also issued to Ambit Capital, its former chief executive officer, Saurabh Mukherjea, and to MFL and its top management. This comes at a time when mutual fund houses are bleeding due to their significant exposure in crisis-hit Zee Enterprises, DHFL and IL&FS.**

NPTEL

# PIT: Some Recent Cases

**5. The Sebi notices are dated May 29 AMD seek a reply in 14 days.**

**The capital markets regulator has said these fund houses' decision to exit the stock of MFL during the period in question appears to be based on an Ambit research report, 'leaked' to them before the formal earnings announcement for the fourth quarter (Q4) of 2012-13. It was alleged the MFL management organised a conference call attended by fund managers and research analysts, where they were given the profit warning news for Q4.**

NPTEL

# PIT: Some Recent Cases

(contd….)

According to the Sebi notice, MFL discussed the unpublished and price-sensitive information (UPSI) with Ambit on March 18 and 19, 2013, during the conference call to market participants, before this was disclosed to the stock exchanges. This is violation of the insider trading, code of corporate disclosure and listing agreements, said the notice.

Each of the entities served with a notice have to explain why an inquiry should be not held against it under Sebi's adjudication rules. The Sebi Act prescribes a penalty for insider trading up to Rs 25 crore or three times the amount of profit made out of the illegal activity, whichever is higher. It also says insider trading is punishable with a prison term of up to 10 years.

NPTEL

# PIT: Some Recent Cases

An MFL spokesperson said legal issues precluded any comment. Queries to Ambit, SBI MF and Saurabh Mukherjea did not elicit a response. BNP Paribas refused to comment.

The regulator further said the act of selectively disclosing the price-sensitive information resulted in a fraud on genuine investors who were not privy to this and who'd dealt in the scrip of MFL during March 19-20, 2013.

On MFL, Sebi said it had failed to ensure and enforce compliance with the code of conduct on insider trading. It has said MFL's I Unikrishnan and Sachin Agarwal, in the meeting on March 18, 2013, and Ambit's Saurabh Mukherjea and Pankaj Agarwal during the conference call on March 19 with market participants, communicated the UPSI in violation of the rules.

NPTEL

# PIT: Some Recent Cases

Further, MFL's board of directors, including V P Nandakumar, failed to supervise implementation of the code of conduct.

Ambit had, Sebi said, communicated the UPSI by e-mail to its clients through a research report, which led to trading in the scrip by its clients and also by trading in its proprietary account. Ambit was well aware that the information was not in the public domain but still told its clients, a fraud on the uninformed investors who dealt in the scrip.

NPTEL

# PIT: Some Recent Cases

Sebi observed that on March 19, 2013, the price of an MFL share declined from Rs 34 to Rs 27.

MFL has issued a clarification and denied any such selective sharing of information. It said its people had met the Ambit analyst at 4 pm and the meeting was for seeking information on the outlook and the Q4 results. Also, that it had conducted a conference call and informed the participants that the company expected a one-time hit of Rs 250 crore during the said quarter, resulting in a loss of up to Rs 50 crore.

Apart from these, many other cases are there. Request you to kindly check at your end.

NPTEL

# PIT: Some Recent Cases

6. SEBI settles insider trading case in Sabero Organics matter for Rs 1 crore SEPT 2019

**SEBI, during an investigation between May-June 2011, noted that Coromandel, after a meeting with the representatives of Sabero Organics, informed the bourses about the acquisition of the latter by it.**

**SEBI has settled an alleged insider trading case with an individual in Sabero Organics matter on payment of over Rs 1 crore as settlement charges and disgorgement of illegal gains.**

**SEBI, during an investigation between May-June 2011, noted that Coromandel, after a meeting with the representatives of Sabero Organics, informed the bourses about the acquisition of the latter by it.**

NPTEL

# PIT: Some Recent Cases

6. SEBI settles insider trading case in Sabero Organics matter for Rs 1 crore SEPT 2019 (contd…)

**The information related to the acquisition of Sabero Organics by Coromandel was deemed to be a price sensitive information and the period between May 15, 2011 to May 30, 2011 was unpublished price sensitive information period.**

**SEBI observed that the individual Kailash Pratap Mariwala, made a profit of over Rs. 31.57 lakh allegedly trading in the scrip of Sabero during UPSI period.**

**In view of the trading during UPSI period, Mariwala had allegedly violated Prohibition of Insider Trading Regulations.**

NPTEL

# PIT: Some Recent Cases

However, while the proceeding was in progress, Mariwala filed a settlement application with SEBI and proposed to pay Rs 70.45 lakh as settlement amount along with Rs 31.57 lakh of illegal gains and Rs 30.72 lakh of interest amount.

The total amount after the approval from the high powered advisory committee of SEBI was remitted by Kailash Pratap Mariwala in September 2019.

Accordingly, the probe in the matter has been disposed of by SEBI after the applicant remitted the settlement amount.

However, the SEBI has said proceeding in the matter may be restored if representations made by the applicant are subsequently found to be untrue.

NPTEL

# PIT: Insider Trading Initiatives

- **Best Practices : Leadership Team is strictly prohibited to trade in the securities of the Company. Tracking the same through a tracking tool which is monitored by Registrar and Share Transfer Agent, which exercises the tracking in the securities of the Company by the Senior Leadership Team along with their spouse on a weekly basis. The Senior Leadership Team pro-actively provides the PAN Nos. of themselves and their spouses in order to facilitate the tracking process.**

NPTEL

# PIT: Insider Trading Initiatives

- An annual declaration is obtained as per the SEBI (Prohibition of Insider Trading) Amendment Regulations, 2018, immediately after the closure of the financial year, from all the designated persons, Promoters, Directors, Key Managerial Personnel, Employees of the Company and its material subsidiaries in finance, secretarial, investor relations and any other department as determined by the Compliance Officer from time to time, Support staff of listed entity such as IT staff or secretarial staff who have access to UPSI and the Auditors of the Company to furnish their PAN, names of their immediate relatives, persons with whom they share a material financial relationship, their phone/cell numbers, Names of Educational Institutions from which they have graduated and the names of their past employers

NPTEL

# PIT: Insider Trading Initiatives

- A detailed Insider Trading Policy has been formulated and posted on the website of the Company and all the Designated Persons ( “Insiders”) are being annually informed to visit the website of the Company and abide by the Code of Conduct on Insider Trading in order to be aware of the Insider Trading norms.
- The Trading Window of the Company is closed w.e.f. the 1st day of the month immediately succeeding the end of a quarter till 48 hours from the date of declaration of the financial results to the Stock Exchanges and quarterly intimation is sent to all the Designated Persons stating that the designated persons cannot trade in the shares of the Company when the ‘Trading Window’ is closed.

NPTEL

# PIT: Insider Trading Initiatives

- When the trading window is open, trading by the Designated Persons cannot be done unless it is pre-cleared by the Compliance Officer of the Company, if the value of the proposed trade is above Rs. 5,00,000/- (Rupees Five lakhs) in value over any calendar quarter or such limits as the Board may determine.
- Our Audit Committee reviews compliance of the Insider Trading Regulations at least once in a financial year and verifies that the systems for internal controls are in place and are adequate and are operating effectively.

NPTEL

# PIT: Penalties

No separate penalties have been prescribed under the Regulations. Reference is made however to the penalty provisions under the SEBI Act, 1992 which shall apply. As per the Act, insider trading is publishable with a penalty of INR 250,000,000 (Rupees Two Hundred Fifty Million Only) or 3 times the profit made out of insider trading, whichever is higher. SEBI is also empowered to prohibit an insider from investing in or dealing in securities, declare violative transactions as void, order return of securities so purchased or sold. Any person contravening or attempting to contravene or abetting the contravention of the Act may also be liable to imprisonment for a term which may extend to ten years or with fine which may extend to INR 250,000,000 (Rupees Two Hundred Fifty Million Only) or with both.

NPTEL

# REFERENCES


- D.K. Jain : Company Law Ready Reckoner; Bharat Law House Pvt. Ltd.; T1/95, Mangolpuri Industrial Area, Delhi-110083.
- R. Suryanarayanan : Company Law Ready Reckoner; Commercial Law Publishers, 151, Rajinder Market, Opp. Tis Hazari Court, Delhi-110054.
- Taxmann's : Circulars & Clarifications on Company Law; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.
- Bare Act : Corporate Laws; Taxmann, 59/32, New Rohtak Road, New Delhi110 005.
- H.K. Saharay : Company Law; Universal Law Publishing Co., C-FF-1A, Dilkhush Industrial Estate, G.T. Karnal Road, Delhi. -110033.
- A.K. Majumdar, Dr. G.K. Kapoor, Sanjay Dhamija : Company Law and Practice; Taxmann, 59/32, New Rohtak Road, New Delhi-110 005.


NPTEL

# CONCLUSION

In this lecture attempt has been made to give an overall ideas about few insider trading examples, Recent cases against which SEBI has taken necessary action for penalties as well as for recovery of securities and insider trading initiatives which are part of good lessons to all learners of this course.

NPTEL



NPTEL

# THANK YOU !