

CIR/CFD/DIL/7/2013

May 13, 2013

To

All Stock Exchanges
All Registered Merchant Bankers

Dear Sir/Madam,

Sub: SEBI Circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 - Amendments to SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 and Equity Listing Agreement-Clarification

1. SEBI vide Circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 made amendments to Equity Listing Agreement and SEBI (Employee Stock Option Schemes and Employee Stock Purchase Schemes) Guidelines, 1999 ("SEBI (ESOS and ESPS) Guidelines, 1999"). The amendment to Equity Listing Agreement through insertion of Clause 35 C mandated that all the employee benefit schemes involving the securities of the company shall be in compliance with SEBI (ESOS and ESPS) Guidelines, 1999 and any other guidelines, regulations etc. framed by SEBI in this regard. The said clause also required 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 (ESOS and ESPS) Guidelines, 1999 by June 30, 2013.
2. The amendment to SEBI (ESOS and ESPS) Guidelines 1999 also provided that no ESOS/ESPS schemes shall involve acquisition of securities of the company from the secondary market.
3. SEBI is in receipt of various representations seeking clarification on the applicability of the circular as well as on the continued holding of securities already acquired by employee benefit trusts before the date of the circular, beyond June 30, 2013, i.e. the last date by which listed companies are required to align their employee benefit schemes involving securities of the company with SEBI (ESOS and ESPS) Guidelines 1999.
4. It has been decided to issue following clarifications on the said topics:
5. **Applicability of the circular**

The circular No. CIR/CFD/DIL/3/2013 dated January 17, 2013 is applicable to all employee benefit schemes involving the securities of the company provided that the schemes are set up, managed or financed by the company

directly or indirectly. Thus, the circular shall be applicable if any of the following conditions are satisfied:

- a) if the company has set up the scheme or the trust/agency managing the scheme; or
- b) if the company has direct or indirect control over the affairs of the scheme or the trust/agency managing the scheme; or
- c) if the company has extended any direct or indirect financial assistance to the employee benefit schemes or the trust/agency managing such schemes.

6. Extension of time for aligning the employee benefit schemes with SEBI Guidelines

The circular dated January 17, 2013 required that all employee benefit schemes involving securities of the company shall be aligned with and made to conform to SEBI (ESOS and ESPS) Guidelines by June 30, 2013. It has been decided to extend the time limit for such alignment to December 31, 2013. Accordingly, in Clause 35C (ii) of the Equity Listing Agreement, the words "June 30, 2013" shall be replaced with "December 31, 2013".

However, further grant of options from the date of the circular i.e. January 17, 2013, shall be strictly in accordance with SEBI (ESOS and ESPS) Guidelines 1999. Accordingly, there shall not be any grant of options to employees ineligible under Clause 4.2 and 4.3 of the SEBI (ESOS and ESPS) Guidelines 1999 from January 17, 2013.

7. Holding of securities by Trusts beyond December 31, 2013

Employee benefits trusts which have already acquired securities of the company from secondary market before the date of the circular No. CIR/CFD/DIL/3/2013 i.e. January 17, 2013, may continue to hold such securities beyond the date specified for alignment of the schemes with SEBI (ESOS and ESPS) Guidelines 1999 i.e. December 31, 2013, provided that the schemes have been aligned with SEBI (ESOS and ESPS) Guidelines 1999 and such securities are used only in accordance with such aligned schemes.

8. Continued holding of securities by non-ESOP employee benefit schemes

Existing employee benefit schemes involving securities of the company which does not involve granting of options to/ purchase of securities by employees shall be permitted to either:

- a) hold the securities of the company already acquired by them beyond December 31, 2013 provided the schemes have been aligned with SEBI (ESOS and ESPS) Guidelines 1999; or
- b) dispose-off the securities of the company held by them by December 31, 2013.

9. Additional disclosures

Listed companies shall disclose the following information to the stock exchanges in the prescribed format:

- a) the details of benefits granted/shares allotted in the past upto January 17, 2013 in pursuance of employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999, to the stock exchanges in the format prescribed at **Annexure I**, by June 30, 2013.
- b) the details of benefits due/options granted and pending exercise as on January 17, 2013 in pursuance of employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999, to the stock exchanges in the format prescribed at **Annexure II**, by June 30, 2013.
- c) the details of allotments made/benefits granted post January 17, 2013 up to December 31, 2013 pursuant to employee benefit schemes involving securities of the company which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999 in the format prescribed at **Annexure III** within 7 days from the end of each quarter. The details pertaining to the quarter ended March 31, 2013 shall also be disclosed along with the quarter ending June 30, 2013.

10. 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.

11. 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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Format for disclosure of details of benefits granted/shares allotted in pursuance of employee benefit schemes which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999

Annexure I

Details of allotment of shares/grant of benefit made till January 17, 2013 pursuant to non-aligned schemes by(Name of the Company)

Financial year	Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/allotment	Percentage of shares used for grating benefits/allotting shares to the total paid up share capital
			Promoter/Promoter group/Directors holding >10%		
			Others		

Annexure II

Details of outstanding options/allotments/benefits as on January 17, 2013 pursuant to non-aligned schemes by(Name of the Company)

Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/allotment	Percentage of shares to be used for grating benefits/allotting shares to the total paid up share capital
		Promoter/Promoter group/Directors holding >10%		
		Others		

Format for quarterly disclosure of details of benefits granted/shares allotted in pursuance of employee benefit schemes which are not in alignment with SEBI (ESOS and ESPS) Guidelines 1999

Details of allotment of shares/grant of benefit made during the quarter ended..... pursuant to non-aligned schemes by (Name of the Company)

Type of scheme (ESOP/ Non-ESOP)	Brief particulars of the benefits under the scheme	Type of beneficiaries	Value of the benefit/allotment	Percentage of shares used for grating benefits/allotting shares to the total paid up share capital
		Promoter/Promoter group/Directors holding >10%		
		Others		