Consultation paper on providing flexibility in provisions relating to **'Trading Plans'**.



Various aspects of SEBI(PIT) Regulations, 2015

Contra Trade	Trading Window Closure	Trading Plan	Pre-clearance	Code of Conduct
Designated Person	Structured Digital Database	Connected Person	Unpublished Price Sensitive Information	Internal Control System
Chinese Wall	Disclosures	Restricted List	Key Polices	Violations



Disciplinary Actions under Code of Conduct of the Company

The penalty imposed/action by the Company may include but shall not be restricted to:

- i. wage freeze,
- ii. suspension,
- iii. recovery,
- iv. claw back,
- v. ineligibility for future participation in employee stock option plans, etc.

for any violation of the Code of Conduct of the Company.



Regulatory Actions on Default

- Directions under Sec 11B of SEBI Act, 1992
 - Ban from accessing securities market
 - Ban from sale, purchase & trade in the scrip of the Company.
 - Disgorgement of illegal profits /loss avoided
- Penalty under Sec 15G of SEBI Act, 1992 [For Insider Trading]
 - \circ $\,$ Not be less than Rs 10 Lakh
 - $\circ~$ Extend up to Rs 25 Crore; or
 - Three (3) times amount of profits made out of insider trading, whichever is higher
- Imprisonment & Fine under Sec 24 of SEBI Act, 1992 [For Offences]
 - $\circ~$ Imprisonment up to 10 years or
 - o fine up to Rs 25 Crore, or
 - o **Both**
- Intimation of default in the Code of Conduct of the Company
 - To Stock Exchanges



Regulatory Actions on Default

• Inquiries & inspection

- \odot on suspected violation
- \odot enquiry into the books and records of the suspected parties

Investigation

- $\ensuremath{\circ}$ investigating authority access the premises
- o examine documents, records, accounts and information
- record and examine the statements of any member, director, proprietor or employee of the insider

Appointment of Auditor

- \odot In addition to the investigation
- auditor may also be appointed by SEBI to investigate the books of accounts or other affairs of the insider

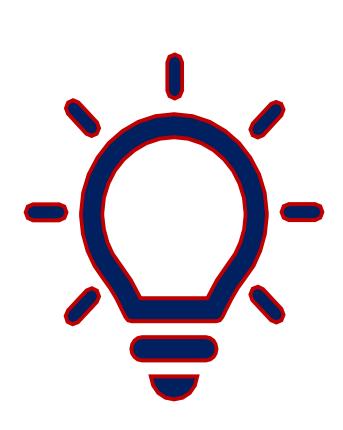


Having Perpetual Possession of UPSI



15 February 2024

What is Trading Plan?



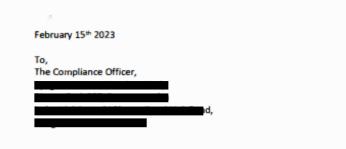
- Insider Trading i.e. trading when in possession of Unpublished Price Sensitive Information ("UPSI") is prohibited in India under SEBI (Prohibition of Insider Trading)("PIT") Regulations, 2015.
- The insiders are allowed to trade when not in possession of UPSI.
- However, there is certain class of insiders like senior management, key managerial personnel etc. who may be perpetually in possession of UPSI as they are involved in most of the decisions taken by the company.
- Thus, by virtue of being in possession of UPSI most of the time, coupled with mandatory trading window closures for financial results, such perpetual insiders have a very small window for carrying out trades, if required.
- To facilitate the trading by such perpetual insiders in a compliant manner, the concept of "Trading plan" was introduced under SEBI(PIT) Regulations, 2015.
- A Trading Plan is a mechanism that enables insiders, who are perpetually in possession of UPSI, to execute trades in a compliant manner.

Provisions applicable to Trading Plan (Regulation - 5)

- Commencement of trading not earlier than 6 months from the public disclosure of plan;
- Are required to cover a period of at least 12(twelve) months;
- Black out period between the 20th trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results.
- Disclose either the value of trades to be effected or the number of securities to be traded, the nature of the trade and the intervals at, or dates on which such trades shall be effected; and
- Irrevocable
- Must be disclosed to stock exchange prior to its implementation



Sample Trading Plan



Dear Madam,

Sub: Trading Plan under Regulation 5 of the SEBI (Prohibition of Insider Trading) Regulations, 2015.

In terms of provisions of Regulation 5 of the SEBI (Prohibition of Insider Trading) Regulations, 2015 and Clause 10 of the second secon

Name of Insider			
Name of Immediate Relative	NA		
Relation with Immediate Relative	NA		
Designation	Senior Vice President, Discussion		
Date of Submission	February 15 th 2023		
Period of Trading	August 16, 2023 to August 14 , 2024		
	From twentieth trading day before 30 September, 2023 to the second trading day after the disclosure of financial results for the half year by Exercise ted. From twentieth trading day before 31 December, 2023 to the second trading day after the disclosure of financial results for the third quarter by Exercise		
No trading period	From twentieth trading day before 31 March, 2024 to the second trading day after the disclosure of annual financia results by Exercise the disclosure of annual financia From twentieth trading day before 30 June, 2024 to the second trading day after the disclosure of first quarter results by Exercise traditional di mited.		

Details of Trades to be executed:

Particular of Person		Period or dates of proposed trade		No. of equity	Nature of proposed
Name	Relatio n with Insider	From	То		trade
	Self			74,478	Sell
	Self	August 16 th 2023 to	August 31st 2023	39,500	Sell for cashless exercise of RSUs/ESOPs
	Self	November 1st 2023 to November 30th 2023		47,339	Sell

*Trades maybe executed in one or more tranches.

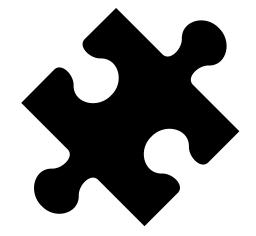
I, hereby undertake/confirm that:

i.	I/my immediate relative(s) will not trade in the securities of a securities of the securities of the during the cool-off period of six months as prescribed under Regulations 5(2)(i) of the
	Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015.
ii.	I/my immediate relative(s) will not trade in the securities of the securities of the securities ited during the no-trading period herein above.
iii.	I/my immediate relative(s) will not trade in the securities of Example of the securities of
iv.	This Trading Plan, once approved, shall be irrevocable and I will mandatorily implement the Trades contemplated in this Trading Plan and will not deviate from this Trading Plan or execute any trade in the securities of any security ted outside the scope of this Trading Plan.
۷.	I hereby confirm that I am not in possession of any unpublished price sensitive information at the time of submission of the trading plan.
vi.	I am fully aware of, and understand, my obligations under the Code and the Securities and

ii. I am fully aware of, and understand, my obligations under the Code and the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 and will comply with such obligations at all times.

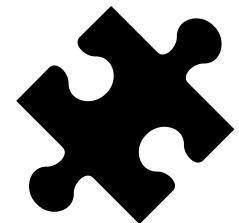
Trading Plan Vs UPSI

- The cool off period i.e. 6 months, allows the UPSI_{old} in possession of insider while formulating the trading plan, to become generally available before implementation of the TP.
- Any UPSInew, which the insider comes to possess subsequent to formulation of the TP, shall provide no leverage to the insider in their trading decision, as there trades have been pre-decided and mandatory to be executed.
- In case, where such UPSI_{old} has not come to public domain before execution of TP, commencement of TP shall be deferred.



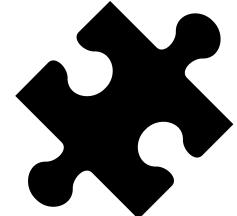


- Privacy and Security Concerns: Full disclosure of personal details (such as Name, Designation, PAN) in Trading Plans raised privacy and security concerns for insiders, particularly senior management. There was ambiguity regarding the balance between the need for transparency and the protection of insider privacy.
- <u>Misuse and Monitoring</u>: There were concerns about potential misuse or abuse of Trading Plans. The monitoring mechanisms by stock exchanges to detect and prevent misuse were not explicitly defined, leading to uncertainties about how such activities would be monitored and regulated.
- <u>Complex Regulatory Requirements</u>: The existing regulations governing Trading Plans were perceived as complex and burdensome particularly senior management and key personnel, regarding the exact timelines, and constraints associated with Trading Plans.





- Limited Flexibility in Trading Windows: Insiders, especially those holding continuous access to Unpublished Price Sensitive Information (UPSI), faced challenges due to limited trading windows. The rigid timelines and constraints made it difficult for them to execute trades for legitimate purposes such as meeting regulatory norms or exercising stock options.
- Lack of Clarity in Reporting and Disclosure: There was a lack of clarity in the reporting and disclosure requirements associated with Trading Plans. Insiders were unclear about the specific details they needed to disclose, the reporting format, and the timelines for disclosing Trading Plans to stock exchanges.





Long Lifespan

For formulating a trading plan, the insider requires a substantial forward looking outlook, to plan for a period of at least 18 months that includes the cool off period (6 months) and minimum coverage period (12 months). Given the dynamic nature of the securities market, such practice may not be feasible.

Mandatory Execution

The irrevocable nature of the TP puts the insiders into economically disadvantageous position in the event of adverse price movement, which exposes them to financial risk which may be beyond their risk appetite.



- The number of trading plans adopted by the insiders over the past 5 financial years, are in stark contrast to the number of designated person as well as listed companies.
- Given the onerous nature of Trading Plan, the current numbers are abysmally low.

Stock Exchange	2018-19	2019-20	2020-21	2021-22	2022-23
NSE	20	38	23	31	12
BSE	17	31	20	24	64

Year wise data on trading plans disclosed by insiders

Source: BSE and NSE





- With the aim of promoting the adoption of trading plans by Insiders and to make the necessary changes, SEBI constituted a Working Group on July 03, 2023, under the leadership of Mr. VS Sundaresan comprising of officials of SEBI, stock exchanges and market participants.
- After deliberating for a period of 2 months, the working group came out with their report dated September 15, 2023, recommending the changes with respect to cool off period, minimum coverage period, elimination of black out period, applicability of contra provisions, timeline for disclosure of trading plan and few other aspects.



Proposed Changes

- <u>Cool-off period</u>: The minimum cool-off period between disclosure of TP and implementation of TP may be reduced to four months from six months.
- <u>Minimum Coverage period</u>: The minimum coverage period requirement may be reduced to two months from twelve months.
- <u>Black-out period</u>: The requirement of black-out period for trading in TP may be done away with.
- <u>Price Limit to Protect Insider from Significant Adverse Price Fluctuation</u>: The insider shall have flexibility, during formulation of TP, to provide price limits i.e. upper price limits for buy trades and lower price limits for sell trades.
- <u>Contra-trade restrictions</u>: The provision exempting trades executed under TP from applicability of contra-trade restrictions to be omitted i.e. contra-trade provisions shall be applicable on trades executed under TP as well.
- <u>Timeline for Disclosure of TP</u>: Disclosure of TP to stock exchanges proposed to be done in two days from the date of approval of TP.
- Format for reporting details of TP: A suitable format may be specified in consultation with market participants.

- SEBI has taken a positive step to relax the strict regulations surrounding Trading Plans, in order to create a more attractive environment for trading by insiders such as KMP, senior management, etc.
- To facilitate a free regulated environment for trading by insiders and to align their interests with the overall financial success of the company, allowing senior management and key individuals to easily participate in wealth creation can serve as a strong incentive for their commitment and contribution.



Acceptable Changes

- <u>Reduced Cool-off and Minimum Coverage Periods</u>: A moderate reduction in these periods, balancing the needs of insiders to trade legitimately and the prevention of potential misuse of insider information, could be acceptable if it maintains adequate safeguards.
- <u>Disclosure Timelines and Reporting Format</u>: Streamlining disclosure timelines and introducing standardized reporting formats could enhance transparency without compromising efficiency, making these changes acceptable.
- <u>Balancing Privacy and Regulatory Transparency</u>: Any measure that successfully strikes a balance between the need for regulatory transparency and the privacy concerns of senior management and insiders could be considered acceptable.
- <u>Risk Mitigation and Safeguards</u>: Acceptable changes might include additional risk mitigation measures or safeguards that enhance the effectiveness of the Trading Plan framework in preventing insider trading.



Corporate Professionals comments-

- <u>Elimination of Black-out Period</u>: As the period of Coverage of the Trading Plan is short, removing the blackout period from that period entirely will help the Insider in executing the trade. This change is beneficial subject to that the Insider may need careful consideration for new Insider Information originated or for any unfair advantage. The insider may not be able to take advantage of the new UPSI as the trading price criteria has already been decided in advance.
- <u>Price Limit Flexibility</u>: Flexibility in price is beneficial as it gives an advantage to the Insider not to execute trade leading him to financial loss.
- Enforcement of Contra-trade Restrictions: Reduction in timelines should not give an opportunity in the hands of Insider that he can be opportunist by entering into opposite trades. So enforcement of Contra trade restrictions can help in curbing this practice.

CHANGES THAT MIGHT NEED RECONSIDERATION :

 <u>Disclosure of Personal Details</u>: The choice between full disclosure, masking personal details, or dual disclosure requires careful consideration. Complete masking might compromise transparency, while full disclosure might infringe upon individual privacy. A balanced approach or a hybrid solution might be more appropriate.





THANK YOU

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COOL OFF PERIOD

Current Provisions:

To get the benefit of a trading plan, a cool-off period of six months is necessary.

Proposed Changes:

The minimum cool-off period between disclosure of TP and implementation of TP may be reduced to four months from six months.







MINIMUM COVERAGE PERIOD

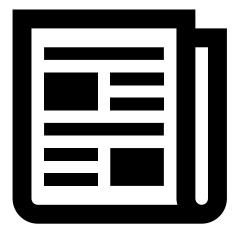
Regulation – 5(2)(iii)

Current Provisions:

Trading Plan shall entail trading for a period of not less than twelve months.

Proposed Changes:

The minimum coverage period requirement may be reduced to two months from twelve months.





BLACK-OUT PERIOD

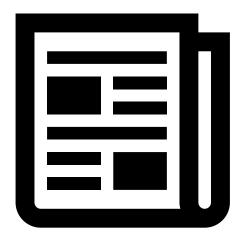
Current Provisions:

Trading Plan not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results.

Proposed Deletion:

The requirement of black-out period in TP may be done away with.

Regulation – 5(2)(ii)





PRICE LIMIT FLEXIBILITY

Proposed Inclusion:

- The insider shall have flexibility, during formulation of TP, to provide price limits i.e. upper price limits for buy trades and lower price limits for sell trades.
- Such price limit shall be within +/-20% of the closing price on date of submission of TP.
- If price of the security, during execution, is outside the price limit set by the insider, the trade shall not be executed.
- If no price limit is opted for, the trade has to be undertaken irrespective of the prevailing price.



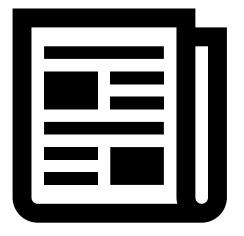
DATE OR INTERVAL FOR TRADE EXECUTION Regulation – 5(2)(v)

Current Provisions:

Insider shall set out the intervals at or dates on which trades pursuant to trading plan will be done.

Proposed Changes:

The term 'Interval' may be replaced by term 'time period not exceeding 5 consecutive trading days.'





CONTRA-TRADE RESTRICTIONS

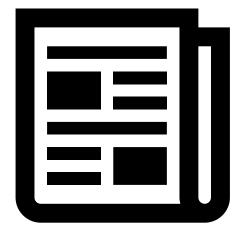
Proviso to Regulation – 5(3)

Current Provisions:

Trading window norms and restrictions on contra trade shall not be applicable for trades carried out in accordance with an approved trading plan.

Proposed Deletion:

The provision exempting trades executed under TP from applicability of contra-trade restrictions to be omitted i.e. contra-trade provisions shall be applicable on trades executed under TP as well.





TIMELINE FOR DISCLOSURE OF TP

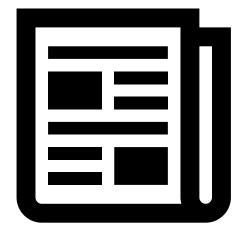
Regulation – 5(5)

Current Provisions:

Upon approval of the trading plan, the compliance officer shall notify the plan to the stock exchanges on which the securities are listed. (No certain timeline is provided)

Proposed Changes:

Disclosure of TP to stock exchanges proposed to be done in two days from the date of approval of TP.





Recommendations of the Working Group FORMAT FOR REPORTING DETAILS OF TP:

• The Working Group also deliberated on the disclosure of personal details (Name, Designation, PAN) of insiders in the Trading Plan.

It explored three alternatives:

- Continuing with full disclosure: Personal details of insiders will be disclosed along with the Trading Plan for informed decision-making by investors and monitoring by the stock exchanges.
- Masking personal details: Protecting insider privacy by concealing their personal details in the TP.
- Dual disclosure: Insiders make separate filings one with personal details to the stock exchange (kept confidential) and one without personal details made public. A unique identifier is suggested for reconciliation between these filings.





