

Corpsec Hotline

June 25, 2003

SCHEME FOR SEEKING INFORMAL GUIDANCE FROM SEBI

In order to streamline the procedure for seeking informal guidance from the Securities and Exchange Board of India ("SEBI") about the applicability of acts, rules, regulations and circulars issued by it, the SEBI has issued the SEBI (Informal Guidance) Scheme, 2003 ("Scheme"). This Scheme shall become operational from June 24, 2003.

Types of informal guidance

According to the Scheme, intermediaries registered with SEBI and listed companies would be eligible to make a request for informal guidance to the SEBI. The SEBI may give informal guidance in the form of a:

- **No action letter:**
In this case the SEBI will state whether it recommends any action under any legal provision administered by SEBI if the proposed transaction is consummated, or an
- **Interpretive letter:** In this case the SEBI will provide an interpretation of a specific legal provision administered by SEBI in the context of the factual situation described in the request.

Form of request and response time

The applicant is required to state in the request as to whether it is a request for a no-action letter or an interpretive letter. The request addressed to the concerned Department of SEBI, would need to be accompanied by a fee of Rs. 25,000. It will also be necessary to describe the request, disclose all material facts and circumstances involved and mention all applicable legal provisions. The SEBI is mandated to provide the response within a period of sixty days from the date of the receipt of the request.

Certain requests not to be answered

As per the Scheme, the SEBI is not required to answer certain types of requests including general requests and those which do not completely and sufficiently describe the factual situation, requests which involve hypothetical situations, requests in which the applicable legal provisions are not cited, requests in which the requestor has no direct or proximate interest and requests on matters which are sub judice. It must be noted that the SEBI is not under any obligation to respond to a request for guidance.

Confidentiality of request

The applicant can ask that the request be accorded confidential treatment for a specified period not exceeding 90 days from the date of the response after which it shall be made available to the public. In the event that the SEBI denies the confidentiality treatment, then the applicant is entitled to withdraw the request.

Effect of the guidance

The guidance given by SEBI in the letter is not binding on it and would not be construed as a conclusive decision or determination of any question of law or fact by SEBI nor is it an order of the SEBI. It is merely reflective of the views of the SEBI on the issue.

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