

# kcmFlash

## Transaction Advisory

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### SEBI announces guidelines for rewarding informants!

#### Why was such a step required from the regulator?

SEBI, being the regulator of the capital markets, possesses wide and varied powers to discourage acts of disobedience on part of any person falling within the ambit of its regulatory domain. These powers include the power to impose fines on such persons who contravene the securities market regulations. For such orders imposing fines, SEBI issues a "Recovery Certificate" based on which SEBI officials initiate the proceedings to recover such fines. Such person against whom recovery proceedings are initiated is referred to as a "defaulter". However, on several occasions SEBI officials are unable to recover such fines due to the defaulter being untraceable, bankrupt, etc. Accordingly, SEBI classifies such pending fines as "Difficult to Recover" (DTR).

In its annual report for the year 2022, SEBI stated that about ₹ 67,228 crores have been classified as "Difficult to Recover" (DTR). This consisted of 472 Recovery Certificates issued by SEBI. Interestingly, along with these guidelines, SEBI has released a list of matters where information can be provided, according to which such cases have increased to 504!

Hence, the SEBI (Grant of Rewards to Informants under Recovery Proceedings) Guidelines, 2023 have been introduced to encourage people, having credible/original information regarding the asset of a defaulter which relates to the DTR dues, forward.

#### How can the Informant submit the information?

The informant can submit the information to a Nodal Officer in Form-A (as prescribed) offline (in a sealed envelope) or electronically through designated email or via the SEBI Intermediaries Portal. Such Form-A must be accompanied with a declaration in Form-B undertaking that, inter-alia, –

- The informant acknowledges that providing information does not mean that the reward is guaranteed, and the reward depends upon the quality of information and documents provided by the informant.
- Agrees to assist in case further information or documents are required by the authority.
- The informant acknowledges that providing false information can attract section 182 of the Indian Penal Code and would hold the informant liable to prosecution.

#### What happens after the informant submits the information?

The information received would be examined and verified by the Nodal Officer. In case if the information is incomplete, or is not in the specified format, the Nodal Officer would advise the informant to furnish complete details in the specified format.

On receipt of complete information in the specified format, Nodal Officer would, within a week, forward

it to the Recovery Officer. The informant must also provide such documents or assistance if required by the Recovery Officer.

In order to ascertain the identity of the informant and the accuracy of the information provided, the informant is required to appear before the Recovery Officer or the Nodal Officer, at the option of the informant, to sign Form-A and Form-B submitted by him. Where the informant fails to appear or provide further information as required, or refuses to do so, he shall not be entitled to any reward under these guidelines.

### The Reward

The eligibility of the reward and the amount of such reward would be determined by the Informant Reward Committee comprising of –

- Chief General Manager of Recovery and Refund Department,
- the concerned Recovery Officer,
- another Recovery Officer nominated by the Chief General Manager of Recovery and Refund Department and
- an officer in the grade of Deputy Manager or higher, from the Office of Investor Assistance and Education nominated by the Chief General Manager in charge of Investor Protection and Education Fund.

The Informant Reward Committee would give its recommendations to the Executive Director in-charge of the Recovery and Refund Department on –

- eligibility of the Informant for the reward, and
- determination of amount of reward payable to the Informant.

The Executive Director in-charge of the Recovery and Refund Department would then pass an order determining the quantum of reward based on the recommendation of the Informant Reward Committee.

The reward can be granted in two phases, i.e., Interim (upon attachment of the asset and fixation of reserve price for asset for which information is provided) and Final (Upon recovery of dues from asset for which information provided). The Interim reward, according to the guidelines, shall not exceed 2.5% of the reserve price of the asset or ₹5,00,000, whichever is lower. The Final reward shall not exceed 10% of the dues recovered out of asset for which information provided or ₹20,00,000, whichever is lower. However, the Board has been given a power to approve higher amount of reward. The amount of reward shall be paid out of the Investor Protection and Education Fund.

### Conclusion

The implementation of these guidelines would add to the arsenal of the existing firepower of measures available with SEBI to recover such dues by leveraging the honesty of people. Such frameworks extend power in the hands of every citizen while also incentivizing those with credible information to come forward and help SEBI in recovery of such dues from the defaulters. It is our duty as citizens of this country to be aware of such mechanisms which encourage us to act for the benefit the society, because if not you somebody out there needs that little push to come forward and do the right thing.

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*For further analysis and discussion, you may please reach out to us.*

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