

**Securities and Exchange Board of India (Aid for Legal Proceedings)
Guidelines, 2009.**

Short title and commencement

1. (1) These guidelines may be called the Securities and Exchange Board of India (Aid for Legal Proceedings) Guidelines, 2009.
- (2) These guidelines shall come into force on the date of notification of the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009 (hereinafter 'the Regulations')

Applicability

2. The aid under clause (d) of sub-regulation (2) of the regulation 5 of the Regulations shall be provided in accordance with these guidelines.

Definitions

3. (1) In these guidelines, unless the context otherwise requires:
 - (a) 'expenses' means the expenses incurred with respect to any or all of the following in connection with a legal proceedings:-
 - i. court fees, process fees and other fees/charges payable in the courts as per law;
 - ii. the bills of solicitors, advocates and senior advocates for professional services rendered by them ;
 - iii. the clerkage and other miscellaneous expenses charged by the counsels, senior counsels and solicitors, as applicable.
 - (b) 'legal proceedings' means legal proceedings as defined in clause (g) of sub-regulation (1) of Regulation (2).

Making of application

4. (1) Any Investors' Association may make an application to the Board seeking aid for undertaking legal proceedings.

Clarification: Different stages of a case, such as review or appeal before the same or another court shall require separate application from the Investors' Association and separate approval from the Board.

- (2) In case legal proceedings relates to mis-statement, misrepresentation or omission in connection with the issue, sale or purchase of securities, the application shall establish that:

- i. the investors relied upon such mis-statement, misrepresentation or omission;
 - ii. such mis-statement, misrepresentation or omission caused monetary loss to the investors.
- (3) The application shall *inter alia* contain the following:
- i. A tabular statement of investors who are affected, and the number of securities held by each such investor;
 - ii. A statement containing details of the cause of action and how the investors are affected;
 - iii. A statement that at least one thousand investors have legally enforceable cause of action;
 - iv. Name of solicitor and/or advocate or both who have been or are proposed to be engaged;
 - v. An itemized estimate of expenses for the legal proceedings.
 - vi. an undertaking that aid for the particular legal proceedings has not been/ would not be sought from any other source.

Process

5. (1) The aid for the legal proceedings shall be granted at the discretion of the Board if the Board is *prima facie* satisfied that the aid is in the best interest of the investors.
- (2) The Board shall not entertain an application for legal aid if the application is incomplete or does not fulfill the conditions laid down under these guidelines or under the Regulations.
- (3) Where more than one application for aid is received by the Board on the same day, the Investors' Association that has filed the petition/suit before the appropriate Court first, shall be considered for grant of legal aid.
- (4) The Board shall issue a letter conveying grant of aid for a particular legal proceedings.

Payments

6. (1) The aid for a particular legal proceedings shall not exceed Rs. 20 lakh if it is before the Supreme Court of India and Rs. 10 lakh before any other forum.
- (2) The aid for legal proceedings shall be given only by way of reimbursement of expenses incurred.

- (3) The Investors' Association, which has received the letter of grant of aid from the Board, shall submit original bills along with the claim seeking reimbursement of expenses incurred.
- (4) The bills submitted shall be certified by the Auditor of the Investors' Association.
- (5) Not more than seventy five percent of the expenses actually incurred shall be reimbursed.
- (6) The aid for legal proceedings shall be given by way of crossed cheque and/ or demand draft drawn in favour of the Investors' Association.
- (7) It shall be the endeavour of the Board to reimburse the amounts within fifteen days of the receipt of claims in accordance with these Guidelines and the Regulations.
- (8) If, at any time, the Board is of the opinion that any particular legal proceedings are not achieving the objective of investor protection, the Board may discontinue the aid after giving a notice of the same to the Investors' Association.

Utilization of aid by the Investors' Association

7. (1) The aid provided by the Board is strictly meant for the purpose of meeting legal expenses incurred by the Investors' Association with respect to the specific legal proceedings.
- (2) The Association shall submit a periodical report of the legal proceedings to the Board, as may be desired by the Board.
- (3) After the conclusion of the legal proceedings, the Investors' Association shall submit a detailed report statement on the same to the Board along with a self-certified statement on the utilization of aid by it.

Powers of the Board to call for information and inspect

8. (1) The Board may call for any information, clarification, records and documents from the Investors' Association with respect to the legal proceedings initiated by it, including utilization of aid by it.
- (2) The Board may inspect or conduct audit of any books, accounts or records of the Investors' Association in respect of the legal aid granted by it.
