

## **Relaxation from minimum vesting period under ESOP/SAR**

Pursuant to Regulation 18(1) and 24(1) of SEBI (Share Based Employee Benefits) Regulations, 2014 (Regulations), a minimum vesting period of 1 year is required in case of Employee Stock Option Schemes (ESOS) and Special Appreciation Rights (SARs).

Recently, SEBI via Circular SEBI/HO/CFD/DCR2/CIR/P/2021/576 dated June 15, 2021 has relaxed the aforesaid requirement of minimum vesting period of one year in case of death (for any reason) of an employee and the same shall be available to all such employees who deceased on or after April 01, 2020.

The same has been brought considering the large number of deaths caused by the Covid-19 pandemic in order to provide relief to the legal heirs of the deceased employees.

The key points to be noted in this circular are:

1. The relaxation has been provided to any employee who died on or after April 1, 2020 irrespective of the cause of death and the same has not been restricted only to the extent of deaths caused due to Covid-19.
2. One major question that pops up is whether suicides are also covered within the purview of this Circular? Since the Circular provides relief to the legal heirs of all the employees who died on or after the specified date i.e. April 1, 2020 and the same does not talk about any specific cause of death, the deaths caused due to suicides will also be covered by the Circular. Thus, legal heirs of employees who died due to suicide will also be covered and exempted from the requirement of minimum vesting period.

### **Relaxation from minimum vesting period**

Due to Covid-19 pandemic the world witnessed a spontaneous rise in unexpected deaths. Corporates surely were not left with the wrath of this fatality. A large number of corporate employees lost their life and the provision of minimum vesting period proved to be a hurdle for the legal heirs to claim the benefits immediately from the ESOP options if the employee died before completing the minimum vesting period.

With the clarification issued by SEBI, the bereaved heir of the deceased employee can now exercise the options that vested with the deceased employee even where the requirement of minimum vesting period of 1 year was not yet complete. The same is a big relief for those already facing both emotional and financial trouble. The relaxation will at least ease the later one.

### **Enforceability:**

The Circular is applicable to all employees deceased on or after April 1, 2020.

Though the Circular derives its inspiration from the casualties caused due to Covid-19, however it covers all the employees deceased on or after the above mentioned date irrespective of the cause of death.

Subsequently, on August 13, 2021 vide SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, the same has been imbibed in the Regulation itself by amending Reg 18 & 24. Accordingly, in the event of death or permanent incapacity of an employee, there is no minimum vesting period..

## **Conclusion**

The Circular can be considered as an acknowledgement by the Regulator of the fact that a large number of fatalities has been faced by companies. So going further it has provided immediate relief to a large number of families struggling both financially and emotionally due to the death of their family members. The core issue is that vesting of options with the legal heirs or nominees of the deceased employees is already covered under the Regulations itself, the only addition this Circular has made is to remove the requirement of compliance of minimum vesting period in this case and allow escalated exercise of options.

To read more about the regulatory framework on ESOPs, please read our article [here](#).