

# POLICY ON PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

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### SMIFS LIMITED

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## 1. INTRODUCTION

1.1 SMIFS Limited (hereinafter referred to as “SMIFS” or “Company”) is committed to creating and maintaining a secure and healthy work environment where it’s Employees, Agents, Vendors and Dealers can work and pursue business together in an atmosphere free of prejudice, gender bias, intimidation and sexual harassment.

Sexual Harassment at the work place or during the course of official duties shall be considered a grave offence, and is therefore punishable under the applicable laws.

1.2 Sexual Harassment is a violation of right of woman to gender Equality under Articles 14 and 15, Right to Life and Dignity under Article 21 and Right to Work (Liberty) under Article 19(1)(g) of the Constitution of India.

The right of women to protection from sexual harassment and the right to work with dignity are recognized as universal human rights by international conventions such as ‘**Convention on the Elimination of all Forms of Discrimination against Women**’ (CEDAW), which has been ratified by Government of India.

The Government of India has on April 23, 2013 made effective a law called ‘**The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**’ on prevention of sexual harassment against female employees at the workplace.

1.3 Any person making unwelcome physical contact and explicit sexual overtures, demanding or requesting sexual favours, making sexually coloured remarks or showing pornography against the will of a woman shall be guilty of the offence of Sexual Harassment and **Section 354A** of the **Indian Penal Code 1860** prescribes punishment for this offence, ranging from simple to rigorous imprisonment, for term one year to three years, or with fine, or with both.

1.4 At SMIFS, we have zero-tolerance for sexual harassment. This Policy has also been formulated to create and maintain a safe working environment where all employees treat each other with courtesy, dignity and respect irrespective of their gender, race, caste, creed, religion, place of origin, disability, economic status or position in the hierarchy.

This Policy seeks to assist women who believe they have been subjected to such behaviour, with appropriate support and remedial action.

## 2. OBJECTIVE

- 2.1) To provide protection against sexual harassment of women at the workplace.
- 2.2) To evolve an effective mechanism for the prevention, prohibition and redressal of complaints of sexual harassment of women at the work place and for matters connected therewith.
- 2.3) To ensure implementation of this Policy in letter and spirit by taking all necessary and reasonable steps including but not limited to constitution of appropriate Committees for purposes of gender sensitization and to conduct enquires into complaints of sexual harassment.
- 2.4) To uphold the commitment of the Company to provide an environment that is free from discrimination and violence against women.
- 2.5) To create general awareness against sexual harassment of women at the workplace.

## 3. SCOPE

- 3.1) This Policy extends to all the employees of the Company. SMIFS encourages every female employee who believes they are sexually harassed to use the redressal mechanism as provided in this policy. Sexual harassment is judged by the impact on the complainant and not the intent of the Respondent.
- 3.2) The Policy is with respect to Prevention, Prohibition & Redressal of Sexual Harassment which may arise in places not limited to geographical location viz. Company's offices / branches but includes all such places or locations where acts are conducted in context of working relationships or whilst fulfilling professional duties or places which may be visited by the employee arising out of or during the course of employment including transportation provided by the company for undertaking such visit. This policy includes sexual harassment by fellow employees, supervisors, managers as well as agents, contractors, clients, vendors and visitors including outsource employees.
- 3.3) This Policy comes into force with immediate effect and applicable to all the employees of SMIFS Limited and its subsidiary and / or associate companies.

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## 4. DEFINITION

- 4.1) “Aggrieved Woman” means in relation to work place, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent.
- 4.2) “Employer” means SMIFS Limited.
- 4.3) “Employee” means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.
- 4.4) “Internal Complaints Committee” means a committee constituted by the Company as per this Policy.
- 4.5) “Respondent” means a person against whom the aggrieved woman has made a complaint.
- 4.6) “Sexual Harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: -
- i. Physical contact and advances; or
  - ii. A demand or request for sexual favours; or
  - iii. Making sexually coloured remarks; or
  - iv. Showing pornography or other offensive or derogatory pictures, cartoons, representations, graphics, pamphlets or sayings; or
  - v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Following circumstances amongst other circumstances mentioned above may constitute sexual harassment if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment:

- i. implied or explicit promise of preferential treatment in their employment;
- ii. implied or explicit threat of detrimental treatment in their employment;
- iii. implied or explicit threat about their present or future employment status;
- iv. interfering with their work or creating an intimidating or offensive or hostile work environment;
- v. humiliating treatment likely to affect the health and safety of the aggrieved woman.

In addition to the instances mentioned hereinabove, any other acts or behaviour, which outrages the modesty of a female employee, will be considered as sexual harassment.

4.7 “workplace” includes any department, organization, undertaking, establishment, enterprise, institution, office, branch or units established, owned or controlled by the Company. Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.

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## 5. INTERNAL COMPLAINTS COMMITTEE

5.1) An Internal Complaints Committee (hereinafter called 'Committee') has been constituted by the Management of the Company for all administrative units or offices of SMIFS and its subsidiaries to consider and redress complaints of Sexual Harassment.

5.2) At the corporate level, the committee shall comprise of the following members:

- Ms. Sreerupa Das (Presiding Officer)
- Ms. Kabita Banerjee
- Ms. Inderjeet Kaur Arora
- Mr. Kallol Saha
- Ms. Rituparna De (Independent Member)

The branch representatives would participate in any investigations that are required to be conducted in their respective branch.

5.3) In the Committee, at least one-half of the total members shall be women.

5.4) A quorum of three members is required to be present for the inquiry proceedings to be conducted by the Committee. The quorum shall include the Presiding Officer, at least two members, out of which one Member shall be a woman.

5.5) The Presiding Officer and every Member of the Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

5.6) No person who is a complainant, witness or defendant in the complaint of sexual harassment shall be a member of a Committee. Any Committee member charged with sexual harassment in a written complaint must step down as a member during the enquiry into that complaint.

## 6. COMPLAINT REDRESSAL MECHANISM

6.1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Complaints Committee giving details of the sexual harassment meted out to her within a period of 3 months from the date of incident and in case of a series of incidents, within a period of 3 months from the date of last incident. However, the time limit may, for the reasons to be recorded in writing, be extended for a further period of 3 months, if circumstances warrant such extension in the opinion of the Internal Complaints Committee.

6.2) However, if such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaints Committee shall render all reasonable assistance to the women for making the complaint in writing.

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6.3 (i) Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by:

- a) her relative or friend; or
- b) her co-worker; or
- c) an officer of the National Commission for Women or State Women's Commission;
- or
- d) any person officer who has knowledge of the incident, with the written consent of aggrieved woman.

6.3 (ii) Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by:

- a) her relative or friend; or
- b) a special educator; or
- c) a qualified psychiatrist or psychologist; or
- d) the guardian or authority under whose care she is receiving treatment or care; or
- e) any person who has knowledge of the incident jointly with any of the above.

6.3 (iii) Where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent.

6.3 (iv) Where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

6.4 The Complainant or person authorized on her behalf as per above provision, shall make a complaint to the Internal Complaints Committee through following mode:

- a) The Complainant shall submit 6 copies of the complaint along with supporting documents and the name and addresses of the witnesses to the Committee at hrd@smifs.com or may be physically to any committee member.
- b) On receipt of such complaint, the Committee shall provide a copy of such complaints along with supporting documents to the Respondent within 7 working days.
- c) The Respondent shall file reply to the complaint along with the list of documents and name and addresses of the witnesses within 10 working days from the date of receipt of the complaint.
- d) The Committee shall then investigate in detail into the matter of the complaint. The committee shall summon the complainant and the person against whom the complaint is made and shall provide every reasonable opportunity to them for putting forward and defending their respective case. The committee shall call upon all witnesses mentioned by both the parties.
- e) The Committee shall follow the principle of Natural Justice while handling such complaints.

f) If the complainant and the person against whom the complaint is made desires to tender any documents in evidence before the Committee, they shall supply copies of such documents with their signatures affixed on the respective documents to certify these to be true copies of the original.

g) Internal Complaints Committee shall have the right to terminate the inquiry or give an ex-parte decision on the complaint, if the Complainant or Respondent remains absent for 3 consecutive hearings, without sufficient cause. However, such termination or ex-parte order may be passed only by giving a 15 days' notice in advance to the party concerned.

h) The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage of the proceedings before the Committee.

6.5) During the pendency of an inquiry, upon written request by the aggrieved woman, the committee may recommend to the employer:

- a) to transfer the aggrieved woman or the respondent to any other workplace;
- b) to grant leave to the aggrieved woman of up to three months which shall be in addition to the leave to which she is otherwise entitled.

6.6 The Internal Complaints Committee, may, before initiating an inquiry and at the request of the aggrieved woman, attempt to settle the matter through conciliation. However, the Committee shall ensure that monetary settlement shall not be made as a basis of conciliation.

6.7 Where a settlement has been arrived, the settlement terms shall be signed by both the parties and shall be provided with a copy of it. No further enquiry shall be conducted by the Internal Complaints Committee, where a settlement is arrived at.

## **7. FINDINGS AND CONCLUSION OF THE INQUIRY**

7.1) The Committee must complete its inquiry within a period 90 days and shall provide a report of its findings and its recommendations for action to the Board of Directors of SMIFS within a period of 10 days from the date of completion of inquiry and such report shall be made available to the concerned parties. The report of the Committee shall be treated as an inquiry report on the basis of which an erring employee can be awarded appropriate punishment.

7.2) Where the Committee arrives at a conclusion that the allegation against the respondent has not been proved, it shall recommend that no action is required to be taken in the matter.

7.3) Where the Committee arrives at a conclusion that the allegation against the respondent has been proved, it shall recommend:

- a) To take action for sexual harassment as a misconduct.
- b) To tender written apology to the complainant, issue warning, withholding of promotions / increments of the Respondent, terminating the Respondent from service.

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c) To deduct from salary / wages of the respondent or issue direction for payment, such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.

7.4) The Board of Directors will direct appropriate action in accordance with the recommendation proposed by the Committee. Such action will be taken within 60 days of the receipt of report.

## 8. FALSE ACCUSATIONS

8.1) The complaint of sexual harassment shall be taken up with utmost seriousness by the Company. However, there shall be zero tolerance for any false accusation.

8.2) Where the Internal Complaints Committee comes to a conclusion that the allegation against the respondent was made with malicious intent or the aggrieved woman or any other person making the complaint on behalf of the aggrieved woman produced false or forged or misleading documents to prove his/her case, the Committee may recommend to the Board to take action against the woman or the person who has made the complaint, including termination of service.

However, the malicious intent on the part of the complainant has to be established after an inquiry, before any action is recommended. A mere inability to substantiate a complaint or provide adequate proof would not attract action as provided herein.

8.3) A similar recommendation for taking action would be recommended against any witness whom the Internal Complaint Committee concludes that he/she has given false evidence or produced forged or misleading documents.

8.4) It is to be noted that this statement is not intended to discourage employees from coming forward with any complaints.

## 9. MISCELLANEOUS

9.1) The Compliance Officer shall be responsible for the implementation and supervision of this Policy.

9.2) All the Employees, Agents, Clients, Vendors and Visitors shall have access to this Policy at any given point of time and clarification related to this Policy shall be addressed by the Compliance team.

9.3) The Board of Directors shall peruse and review the policy periodically for strengthening the processes. Any such alterations or amendment in the policy shall be intimated to the employees.

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9.4) Nothing contained in this policy shall operate in derogation of any law for the time being in force or to the prejudice of any right of any employee under any other Rules or Law.

9.5) The Committee shall maintain a register to record the complaint received by it and keep the contents strictly confidential, if it is so desired, except to use the same for discreet investigation.

9.6) The Internal Complaint Committee shall in each calendar year prepare an annual report with the following details and shall submit the same to the Company:

- a. Number of complaints of sexual harassment received during the year;
- b. Number of complaints disposed off during the year;
- c. Number of cases pending for more than 90 days;
- d. Number of workshops or awareness program against sexual harassment carried out;
- e. Nature of action taken by the employer.

#### 9.7) **Penal Consequences of Sexual Harassment**

In addition to the action which the Management may initiate under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the following liability may arise under the Indian Penal Code:

Under the Indian Penal Code (IPC), the newly introduced Section 354A which deals with Sexual Harassment has made this a 'cognizable offence' i.e., a person charged with Sexual Harassment may be arrested without a warrant.

Further, acts of Sexual Harassment may also constitute other offences under IPC including Section 354 (assault or criminal force to woman with intent to outrage her modesty), Section 354C (Voyeurism), Section 354D (Stalking), Section 375 and 376 (Rape) and Section 509 (word, gesture, or act intended to insult the modesty of a woman) of the IPC.

## 10. CONCLUSION

Complaints relating to Sexual Harassment shall be handled and inquiries will be conducted under the principles of natural justice, basis of fundamental fairness, in an impartial and confidential manner.

Also, all efforts shall be taken to ensure objectivity and thoroughness throughout the process of inquiry. The identity and address of the aggrieved woman, respondent and witnesses must not be published or disclosed to the public or media.

The decision of Company shall be final and binding on all. However, the same is without prejudice to any recourse that Company or the individual concerned may have against the respondent and it shall not limit or restrict the rights of the Complainant and/or Company to pursue, nor shall they be precluded from pursuing, such further and other legal actions as may be available.

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