

# SEBI CONSENT PROCESS

Circular No. EFD/ED/Cir – 1/2007

# WHAT IS CONSENT ORDER??



# CONSENT ORDER

MEANS

AN ORDER

SETTLING

ADMINISTRATIVE OR CIVIL PROCEEDINGS

BETWEEN

REGULATOR

AND

A PERSON

WHO MAY

PRIMA FACIE BE FOUND TO HAVE VIOLATED  
THE PROVISIONS OF LAWS

# OBJECTIVES OF CONSENT ORDER

No long term Litigation  
before SEBI/Tribunal/Court

Reduce Regulatory Cost

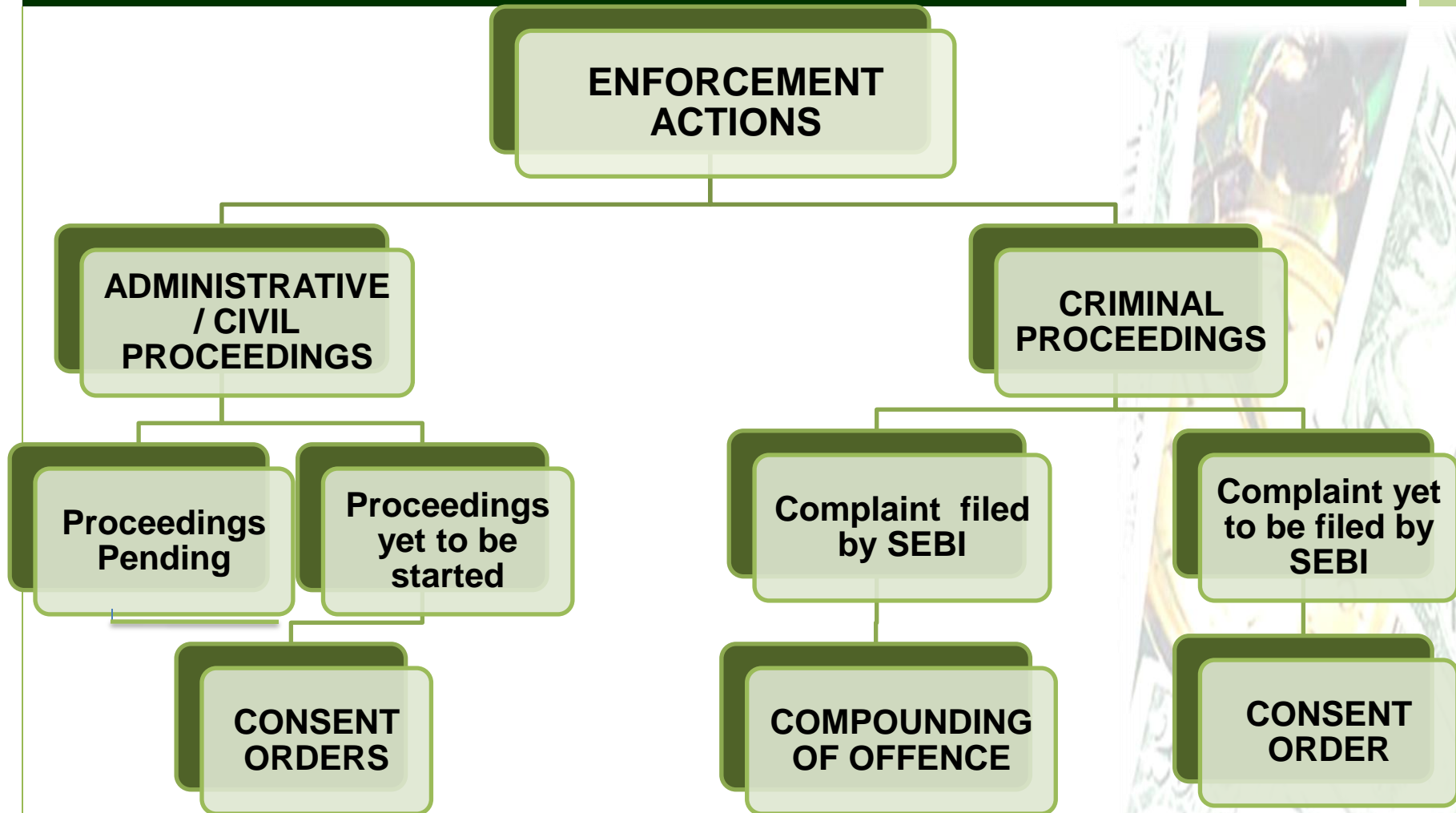
Save Time and Efforts

# ENFORCEMENT

# ACTIONS



# ENFORCEMENT ACTIONS



# ENFORCEMENT ACTIONS Contd..

## ADMINISTRATIVE / CIVIL ACTIONS

Remedial orders

Cease and desist order

Suspension or cancellation of certificate of registration

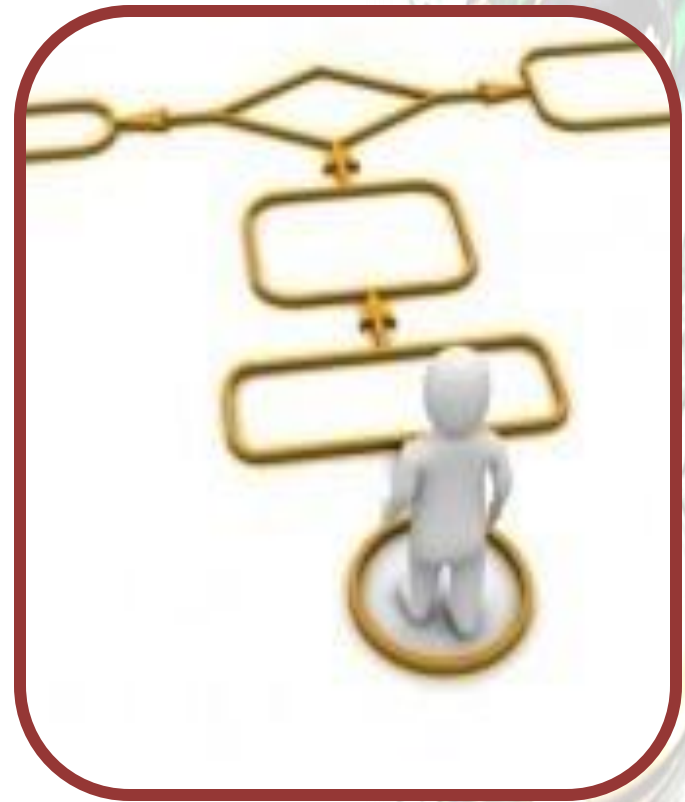
Imposition of penalty

Action pursued or defended in court of law/tribunal

## CRIMINAL ACTIONS

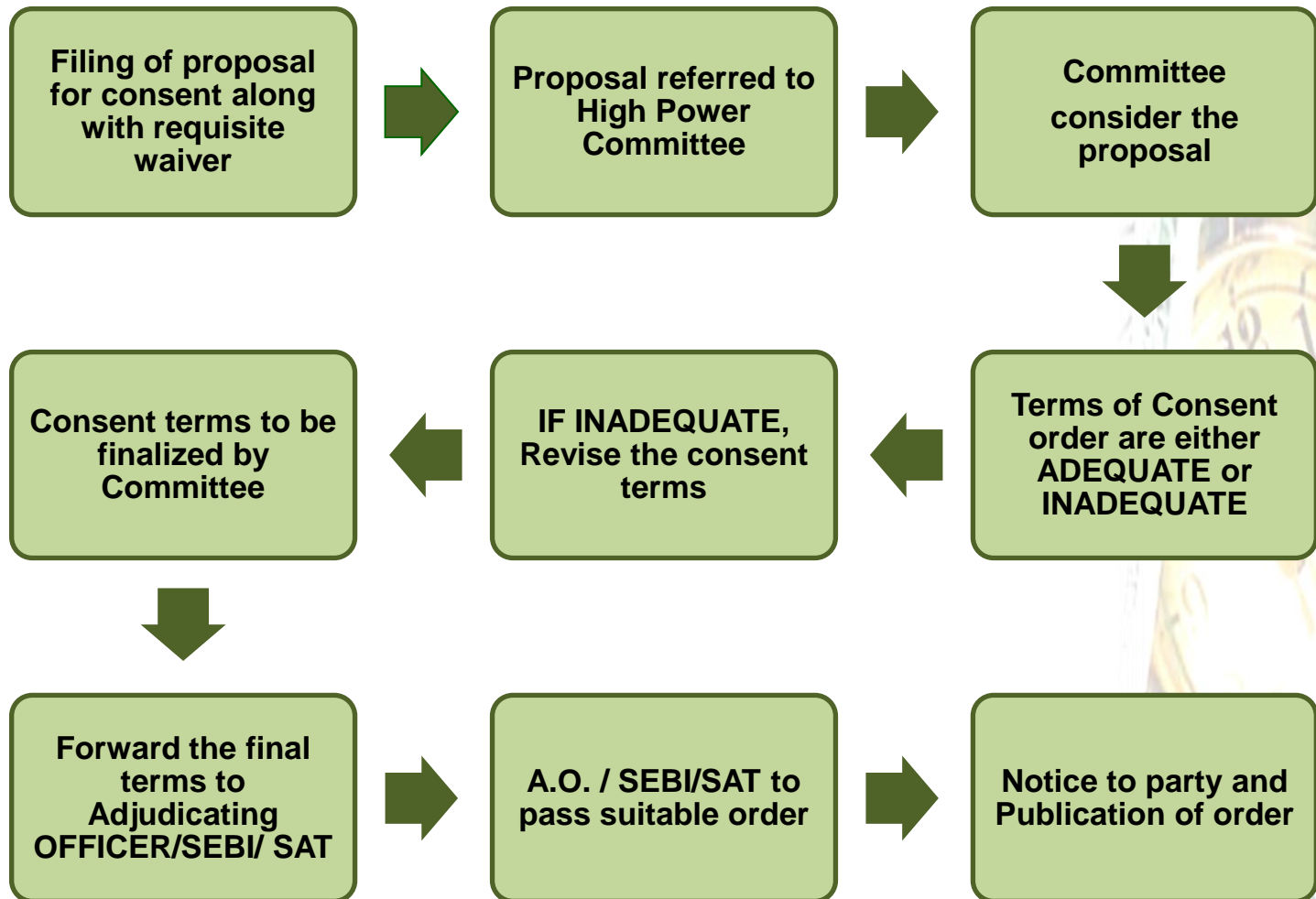
Prosecution proceedings against violators by filing compliant before a Criminal Court

# PROCEDURE FOR CONSENT ORDER





# PROCEDURE WHERE PROCEEDINGS ARE PENDING



# PROCEDURE WHERE PROCEEDINGS YET TO BE STARTED

Where party has reasonable grounds to believe that the following proceedings may be initiated against him or the proceedings has already instituted, namely

**Civil/Administrative Proceedings**

**Criminal Proceedings**

**Filing of proposal of consent along with requisite waiver**

**Forwarding of application to High Power Committee**

**Terms are adequate**

**Terms are inadequate,  
Order to revise the consent terms**

**Recommendation to the panel of two Whole Time Members. Pass the Final Order**

**Notice to the Party and Publication of the order**

# FACTORS TO BE CONSIDERED

Whether violation is intentional

Party's conduct in the investigation and disclosure of facts

Gratuity of charge i.e. charge like fraud, market manipulation or insider trading

History of non-compliance or Good track record of the violator

Circumstances beyond the control of the party

Amount or investor harm or party gain

Satisfaction of claim of investors

Other necessary factors

# WAIVERS



**THE PARTY TO CONSENT**

**SHALL**

**FURNISH A WRITTEN WAIVER**

**FROM**

**TAKING ANY LEGAL PROCEEDINGS AGAINST  
SEBI**

**FOR**

**THE ISSUE COVERED BY THE CONSENT ORDER**

# WAIVERS Contd..

I

Hearings under which the proceeding is to be or has been instituted

Filing of proposed findings of fact and conclusions of law;

Proceedings before the Board or any officer;

Post-hearing procedures;

Appeal/Review before/by SAT/ courts.

II

Provisions of law to prevent officer of SEBI from participating in the preparation of conclusion to be entered pursuant to offer

Right to claim bias or prejudgment by SEBI

III

Plea of limitation for reopening the case, if the party violates the consent order subsequently

# CONSEQUENCES OF NON - ACCEPTANCE



On rejection of proposal by committee

- Notify the person making the offer
- Offer of settlement shall be deemed to be withdrawn

Rejected offer

- It shall not be constituted a part of record in proceedings
- It does not affect the continued validity of waivers.

SEBI and the Party

- Free to resort to legal recourse available
- No one can use information relating to the settlement process in such proceedings

Proceedings in abeyance

- Proceeding which kept in abeyance, will begin from the stage at which it was kept in abeyance.

# ENFORCEABILITY

Consent order shall be Binding on the party

Failure to obey shall invite appropriate action, revival of the pending administrative/ civil action.

**CONSENT ORDERS**  
**cannot** be construed  
as **waiver of statutory powers** by the Board.

The Board  
always has the right to  
proceed for **appropriate action**  
if it **cannot achieve its objectives**  
through a **consent order**.



# For any clarification

Please drop a mail at [info@takeovercode.com](mailto:info@takeovercode.com)



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