

### ***SEBI circular on issue of ODIs with derivatives as underlying by the ODI issuing FPIs***

The SEBI had in its Board Meeting held on June 21, 2017 had decided to prohibit Offshore Derivative Instruments ('ODIs') from being issued against derivatives, except on those which are used for hedging purposes.

In a press interview subsequent to the Board Meeting, G Mahalingam, the wholetime member at SEBI in response to a query from the press on the definition of 'hedging' stated that they were talking about one-to-one hedging. He went on to explain that if one has taken a position in the underlying cash market, hedging would constitute a derivative in only that particular scrip. SEBI did not want a broader definition, as the idea was not to use derivatives for speculative purposes but for purely hedging purposes. That is the reason it wanted to keep the definition restrictive. He also stated that a monitoring mechanism for the same will be put in place.

Pursuant to above, the SEBI has issued a circular on July 07, 2017 wherein it has clarified that with the date of this circular<sup>1</sup>, the ODI issuing FPIs are advised as follows:

1. The ODI issuing Foreign Portfolio Investors ('FPIs') shall not be allowed to issue ODIs with derivative as underlying, with the exception of those derivative positions that are taken by the ODI issuing FPI for hedging the equity shares held by it, on a one to one basis.
2. In the case of the existing ODIs which have been issued by the ODI issuing FPIs with derivatives as underlying, where the said underlying derivatives position are not for purpose of hedging the equity shares held by it, the ODI issuing FPI has to liquidate such ODIs latest by the date of maturity of the ODI instrument or by December 31, 2020, whichever is earlier. However, ODI issuing FPIs should endeavor to liquidate such ODI instruments prior to said timeline.
3. In the case of issuance of fresh ODIs with derivatives as underlying, a certificate has to be issued by the compliance officer (or equivalent) of the ODI issuing FPI, certifying that the derivatives position, on which the ODI is being issued, is only for hedging the equity shares held by it, on a one to one basis. The said certificate shall be submitted along with the monthly ODI reports.
4. It is clarified that the term "hedging of equity shares" means taking a one-to-one position in only those derivatives which have the same underlying as the equity share.

<sup>1</sup>[http://www.sebi.gov.in/legal/circulars/jul-2017/guidelines-for-issuance-of-odis-with-derivative-as-underlying-by-the-odi-issuing-fpis\\_35266.html](http://www.sebi.gov.in/legal/circulars/jul-2017/guidelines-for-issuance-of-odis-with-derivative-as-underlying-by-the-odi-issuing-fpis_35266.html)

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