

Clubbing of investment limits of Foreign Portfolio Investors

Pursuant to decision in Board meeting held on 12 December 2018, the Securities and Exchange Board of India (SEBI) has issued a Circular dated 13 December 2018 providing the below mentioned clarification on clubbing of investment limits of Foreign Portfolio Investors (FPIs):

- The beneficial ownership (BO) criteria in Prevention of Money-laundering (Maintenance of Records) Rules, 2005 should be made applicable for the purpose of Know Your Client (KYC) only and not for clubbing of investments of FPIs.
- The clubbing of investment limit for FPIs will be on the basis of common ownership of more than 50 percent or common control.
- 'Control' includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of shareholding or management rights or shareholders agreements or voting agreements or in any other manner.
- No clubbing of investment limit of FPIs having common control in case of:
 - I. FPIs which are appropriately regulated public retail funds or
 - II. FPIs which are public retail funds majority owned by appropriately regulated public retail funds on look through basis or
 - III. FPIs which are public retail funds and investment managers of such FPIs are appropriately regulated
- 'Public retail funds' is defined to mean:
 - I. mutual funds or unit trusts which are open for subscription to retail investors and do not have specific investor type requirements e.g. accredited investors etc;
 - II. insurance companies where segregated portfolio with one to one correlation with a single investor is not maintained and
 - III. pension funds
- The investment limit of two or more FPIs having foreign Government and/or their related entities and/or foreign Government agencies having direct or indirect common ownership or more than 50 percent or control, will be clubbed. An exception is provided where:
 - I. the Government of India enters into agreements or treaties with other sovereign Governments and it specifically recognises certain entities to be distinct and separate.
 - II. the investment by foreign Government/ its related entities from provinces/ states of countries with federal structure if the said foreign entities have different ownership and control.
- On breach of the investment limits, the following options are provided:
 - I. divest holding within 5 trading days from the date of settlement of the trades to bring shareholding below prescribed limit of 10 percent, or
 - II. treat the investment as Foreign Direct Investment from the date of breach

Necessary amendments to SEBI (Foreign Portfolio Investors) Regulations, 2014 are expected to be notified separately.

The Circular dated 13 December 2018 issued by SEBI is attached for your ready reference.

If your interest lies in a specific area or subject, do advise us so we can send you only the relevant alerts. For any additional information, please reach out to your PwC relationship manager or write in to pwctr.knowledgemanagement@in.pwc.com

With Best Regards
PwC TRS Team

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