

Easing of Access Norms for investment by FPIs

The Securities and Exchange Board of India (SEBI) had released a consultation paper on 28 June 2017 seeking comments from public in order to ease access norms for investment by Foreign Portfolio Investors (FPIs) in Indian securities market.

After taking into consideration the comments received, the SEBI in its Board meeting on 28 December 2017 approved certain changes for which appropriate amendments to the FPI Regulations were to be carried out.

In order to implement the above changes, the SEBI has issued a circular on 15 February 2018 on 'Easing of Access Norms for investments by FPIs'. The key takeaways from the SEBI circular are:

I. Eligibility criteria

Permitting appropriately regulated Private Bank/Merchant Bank to invest on their behalf and also on behalf of their clients

Currently, Private Banks and Merchant Banks are allowed to undertake only proprietary investments. Now, in addition to proprietary investments, Private Banks/Merchant Banks are permitted to seek a separate FPI licence to invest on behalf of their clients provided that they submit a declaration that:

- (i) The details of beneficial owners are available and will be provided as and when required by the regulators; and
- (ii) They do not have secrecy arrangement with the investors and all required legal/regulatory arrangements have been put in place in order to ensure that secrecy laws or confidentiality clauses do not impede disclosure of beneficial owner details as and when required.

For proprietary investments, Private Bank/Merchant Bank will need to take separate FPI license.

II. Approvals

Discontinuance with the requirement of seeking prior SEBI approval for change in local custodian/Designated Depository Participant (DDP)

The requirement of seeking prior SEBI approval for change in local custodian/DDP is discontinued.

FPI or its Global Custodian will now be allowed to place a request for change of local custodian/DDP with the concerned local custodian/DDP. The transferor local custodian/DDP is required to provide a no objection certificate to the transferee local custodian/DDP to facilitate this change; post which the transferee local custodian/DDP will intimate SEBI about the change.

In case the Global Custodian of FPI wishes to change the local custodian/DDP, then the request for change can be sent by the Global Custodian on behalf of its client provided appropriate authorisation is in place. The transferee local custodian/DDP shall inform the Compliance Officer of the FPI regarding this change, if request for such change was received from the Global Custodian.

Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of Cost (FOC) transfer of assets

DDPs are now allowed to process requests for FOC transfer of assets submitted by FPIs registered under the MIM structure having same Permanent Account Number (PAN).

Simplification of process for addition of share class

There is no requirement of seeking prior approval of DDP for addition of shares class if common portfolio is maintained and broad based criteria is fulfilled at the portfolio level. However, prior approval of DDP shall be required for addition of share classes where segregated portfolio is maintained. For deletion of share classes of shares of segregated portfolio, an intimation to DDP will suffice.

For addition of one or more than one share class, which are not broad based, an undertaking may be obtained by the DDP that all the newly added share classes shall attain broad based status within 180 days (earlier 15 days /90 days based on specific facts) from the date of approval issued by DDP.

Declaration and undertaking with respect to Protected Cell Company (PCC) / Multi Class Share Vehicle (MCV) status to continue.

III. General

- Conditional registration facility was available only to "newly established" India dedicated funds. The revised provision extends this facility to existing funds proposing to convert as India dedicated funds, for which a time frame of 90 days is given to achieve the broad based status.
- FPIs operating under the MIM structure was allowed to appoint only one custodian. The revised provision allows FPIs to appoint multiple custodians. The investments made under such multiple registrations continue to be clubbed for the purpose of monitoring of investment limits.
- On change in DDP/local custodian, the transferee local custodian/DDP can place reliance on due diligence carried out by erstwhile local custodian/DDP. However, the new DDP/local custodian is required to carry out adequate due diligence at the time of renewal of registration.
- The requirement of re-submitting certain declarations and undertaking and information regarding FPI investor groups at the time of payment of registration fee for continuance of registration is done away with, if there is no change in information previously furnished to the DDP. FPIs in such cases are only required to submit a declaration to the DDP confirming that there is no change in information previously furnished. However, the DDPs/local custodians will continue to ensure compliance with the KYC due diligence requirement prescribed by SEBI/Reserve Bank of India (RBI) as may be notified from time to time.

This Circular brings about changes which were long due. The SEBI in its Board meeting had also approved few additional point like rationalisation of fit and proper criteria for FPIs, simplification of broad based requirement for FPIs, expansion of entities considered as "appropriately regulated persons", etc. It is expected that those changes should also come through shortly.

You may click [here](#) to read the Circular issued by SEBI for your ready reference.

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