

August 2023

NEWSLETTER

REGULATORY

- RBI
- SEBI
- MCA



Lovi Mehrotra & Associates

Chartered Accountants

**21-22 IInd Floor Krishna Nagar Safdarjung Enclave
New Delhi 110029**

Website : www.lma.co.in • Email: Pooja@lma.co.in

RBI

There is no relevant update in the month of August, 2023.

SEBI

1. Audit of firm-level performance data of Portfolio Managers

Circular No: SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/133

Dated: 2nd August, 2023

Reference to existing Master Circular No. SEBI/HO/IMD/IMD-POD-1/P/CIR/2023/38 dated March 20, 2023: Portfolio Managers are required to submit audit reports on firm-level performance data to SEBI on an annual basis and submit confirmation of compliance with the Master circular within 60 days from the end of each financial year. They are required to consider all client portfolios managed for audit performance data.

Portfolio Managers are required to consider all client portfolios managed (i.e. clients of both discretionary and non-discretionary portfolio management services) for the purpose of audit of firm-level performance data.

Vide this circular, the Association of Portfolio Managers in India (APMI), in consultation with SEBI, had specified standardized Terms of Reference (ToR) for the aforesaid audit of firm-level performance data.

Standard Terms of Reference (ToR) by APMI includes:

- Requirement for Portfolio Managers to consider clients' portfolios under all services for the purpose of audit of firm-level performance data.
- **Applicability:** the standard ToR specified by APMI shall be applicable with effect from **October 01, 2023** and shall mandatorily be followed by all Portfolio Managers for the purpose of annual audit of firm-level performance data.

Submission of reports:

- The aforesaid report on confirmation of compliance with the requirement of annual audit of firm-level performance data in line with the standard ToR specified by APMI, to SEBI shall be certified by Directors/ Partners of the Portfolio Manager or by person(s) authorized by the Board of Directors/Partners of the Portfolio Manager.
- Portfolio Managers shall submit audit report on firm-level performance data to SEBI within sixty days from end of each financial year.

[Circular](#)

2. Master Circular for Commodity Derivatives Segment

Circular No.: SEBI/HO/MRD/MRD-PoD-1/P/CIR/2023/136

Dated 4th August, 2023

In order to have access to all applicable circulars/ directions pertaining to commodity derivatives market or segment at one place, a Master Circular for Commodity Derivatives Segment has been released.

This Master Circular is a compilation of the existing circulars till March 31, 2023, with consequent changes. All the existing circulars as mentioned in Annexure-ZG of this Master Circular shall stand rescinded.

Notwithstanding such rescission:

- a. anything done or any action taken or purported to have been done or taken under the rescinded circulars, prior to such rescission, shall be deemed to have been done or taken under the corresponding provisions of this Master Circular.
- b. any application made to the Board under the rescinded circulars, prior to such rescission, and pending before it shall

be deemed to have been made under the corresponding provisions of these regulations.

[Master Circular](#)

3. Corrigendum cum Amendment to Circular dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market

Circular No.: SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/135
Dated 4th August, 2023

Reference to existing Circulars: SEBI vide circular no. SEBI/HO/OIAE/OIAE_IAD-1/P/CIR/2023/131 dated 31st July, 2023 had issued guidelines for online resolution of disputes in the Indian securities market.

Vide this circular, SEBI has amended several clauses of above-mentioned circular. Significant modifications include the substitution of clauses 8, 11, 13, 17, and 27, among others, providing new guidelines for enrolment on the ODR Portal, dispute initiation process, appointment of conciliators, and the determination of online proceedings' venue and seat.

The amendment also adjusts the percentage mentioned in clauses 20.c. from 75% to 100%, which indicates that in case the Market Participant wishes to pursue online arbitration (which will be administered by the ODR Institution which facilitated the conduct of conciliation), then the Market Participant must deposit 100% of the admissible claim value with the relevant MII prior to initiation of the online arbitration and make the payment of fees as applicable for online arbitration.

Changes in clauses 21 and 24 introduce procedural details regarding fees and notification processes.

Further, additions have been made to Schedule A (list of specified intermediaries and regulated entities), expanding the scope to include Commodities Clearing Corporations and Research Analysts.

Another key change is the extension of the deadline mentioned in Schedule C (Norms for empanelment of ODR Institutions by MIIs and continuing obligations of ODR Institutions), paragraph 7 (ODR Institutions' role and responsibility), which now stands as October 31, 2023 in place of August 2023 for first phase implementation and September 2023 for second phase implementation.

Detailed amendments forms part of this circular.

[Circular](#)

4. Validity period of approval granted by SEBI to Alternative Investment Funds (AIFs) and Venture Capital Funds (VCFs) for overseas investment

Circular No.: SEBI/HO/AFD/AFD-POD-2/P/CIR/2023/138
Dated 7th August, 2023

Reference to existing Circulars: In terms of SEBI Circulars dated August 09, 2007 and Master Circular dated July 31, 2023, Venture Capital Funds (VCFs) and Alternative Investment Funds (AIFs) respectively, have a time limit of six months from the date of prior approval from SEBI for making the allocated investments in offshore venture capital undertakings.

In case the applicant AIF/VCF does not utilize the limits allocated within six months, SEBI may allocate such unutilized limit to other applicant AIFs/VCFs.

Vide this circular, SEBI has reduced the earlier time limit from six months to four months for AIFs and VCFs to make offshore investments after receiving prior approval from SEBI.

[Circular](#)

5. Transactions in Corporate Bonds through Request for Quote (RFQ) platform by FPIs

Circular No.: SEBI/HO/AFD/AFD-POD-2/P/CIR/2023/138
Dated 7th August, 2023

Effective date: 1st October, 2023

SEBI has been actively working to boost liquidity on the RFQ platform of stock exchanges. As part of its efforts to increase transparency and disclosure in the secondary market for corporate bonds, SEBI has laid down specific guidelines for transactions conducted by SEBI-registered intermediaries on the RFQ platform.

Vide this circular, SEBI had directed Foreign Portfolio Investors (FPIs) to undertake a minimum of 10% of their total secondary market trades in Corporate Bonds on the Request for Quote (RFQ) platform of stock exchanges on a quarterly basis.

[Circular](#)

6. Facility to remedy erroneous transfers in demat accounts

Circular No.: SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/139
Dated 8th August 2023

Reference to existing Circulars: SEBI vide its circular dated May 17, 2023 titled “Master Circular for Stock Brokers” specified the challenges faced by depositories in obtaining OTP for the reversal of erroneous transfers.

Depositories are facing challenges with regard to obtaining OTP in case of reversal of erroneous transfers in the demat accounts, and had requested SEBI to address the issue.

Vide this circular, SEBI has introduced a well-balanced and operational mechanism for exemption from OTP for reversing mistaken transfers. For this purpose, Depositories shall constitute an internal and joint committee, headed by Public Interest Directors, to examine intra-depository and inter-depository erroneous transfers. The committees will hear both parties, assess evidence, and record decisions in writing. Depositories will act based on committee decisions and notify transferees via email.

Minimizing erroneous transfers has been emphasized. Depositories are required to offer facilities for investors and DPs to verify beneficiaries before off-market transfers, including inter-depository transfers. Systems and procedures will be established for compliance, with Standard Operating Procedures disseminated on depositories’ websites.

Applicability: The provisions of this Circular shall come into force with effect from January 01, 2024.

[Circular](#)

7. Reduction of timeline for listing of shares in Public Issue from existing T+6 days to T+3 days

Circular No.: SEBI/HO/CFD/TPD1/CIR/P/2023/140
Dated 9th August 2023

SEBI, vide this circular has decided to reduce the time taken for listing of specified securities after the closure of public issue to 3 working days (T+3 days) as against the present requirement of 6 working days (T+6 days), ‘T’ being issue closing date.

Accordingly, the revised timelines for listing of specified securities and various activities involved in the public issue process are specified in Annexure to this circular. The T+3 timeline for listing shall be appropriately disclosed in the Offer Documents of public issues.

The timelines for submission of application, allotment of securities, unblocking of application monies and listing shall prominently be made a part of pre-issue, issue opening and issue closing advertisements issued by the Issuer for public issues in terms of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”).

Further, SEBI has provided General Instructions as follows:

1. For Direct Bank ASBA and Syndicate ASBA applications, prior to blocking of ASBA application monies in the bank account of the applicant, the SCSBs shall ensure the following:

- i. PAN mentioned in the application matches with the PAN linked the bank account of the applicant maintained with the bank and a confirmation should be submitted by SCSBs to registrar along with final certificate.
 - ii. PAN linked to the bank account of the applicant shall be part of the bidding data on the Stock Exchange platform.
2. In partial modification to circulars dated March 16, 2021 and circular dated April 20, 2022, compensation to investors for delay in unblocking of ASBA application monies shall be computed from T+3 day.

Applicability:

1. The provisions of this circular shall be applicable:
 - On voluntary basis for public issues opening on or after September 1, 2023 and
 - Mandatory for public issues opening on or after December 1, 2023.
2. The timelines prescribed for public issues as mentioned shall stand modified to the extent stated in this Circular.

[Circular](#)

8. Procedure for seeking prior approval for change in control

Circular No.: SEBI/HO/CFD/PoD-2/P/CIR/2023/141
Dated 10th August 2023

Effective Date: September 01, 2023.

Reference to existing circular: SEBI vide Circular dated August 02, 2011 had specified the procedure for seeking prior approval for change in control of certain intermediaries including Merchant Bankers and Bankers to an Issue.

Vide this Circular, SEBI has specified procedure as below for seeking prior approval for change in control of Merchant Bankers and Bankers to an Issue (hereinafter referred as intermediary):

1. Intermediary shall make an online application to SEBI for prior approval through the SEBI Intermediary Portal ('SI Portal').
2. Online application in SI portal shall be accompanied by the specified information/declaration/undertaking about itself, the acquirer(s)/the person(s) who shall have the control and the directors/partners of the acquirer(s)/ the person(s) who shall have the control.
3. To streamline the process of providing approval to the proposed change in control of an intermediary in matters which involve scheme(s) of arrangement which need sanction of the National Company Law Tribunal ("NCLT") in terms of the provisions of the Companies Act, 2013, the following has been decided:
 - a. Application for approval of the proposed change in control of the intermediary shall be filed with SEBI prior to filing the application with NCLT.
 - b. Upon being satisfied with compliance of the applicable regulatory requirements, an in-principal approval will be granted by SEBI;
 - c. The validity of such in-principal approval shall be three months from the date of issuance, within which the relevant application shall be made to NCLT.
 - d. Within 15 days from the date of order of NCLT, the intermediary shall submit an online application in terms of paragraph 3 of this circular along with the specified documents to SEBI for final approval.
4. This Circular shall supersede the SEBI circular dated August 02, 2011 to the extent they relate to Merchant Bankers and Bankers to an Issue.

Detailed procedure forms part of this circular.

[Circular](#)

9. Online Resolution of Disputes in the Indian Securities Market

The existing dispute resolution mechanism in the Indian securities market has been streamlined under the aegis of Stock Exchanges and Depositories (collectively referred to as Market Infrastructure Institutions (MIIs)), by expanding their scope and by establishing a common Online Dispute Resolution Portal (“ODR Portal”) which harnesses online conciliation and online arbitration for resolution of disputes arising in the Indian Securities Market.

Disputes between institutional or corporate clients and specified intermediaries / regulated entities in securities market as specified in Schedule B can be resolved, at the option of the institutional or corporate clients.

Vide this circular, SEBI has introduced common Online Dispute Resolution Portal (ODR Portal) for the purposes of implementation of this circular. The MIIs shall enter into an agreement amongst themselves, which outlines the nature of their responsibilities, the cost of development, operating, upgradation, maintenance and for inspection and/or audit of the ODR Platform.

The norms for empanelment of ODR Institutions are specified in Schedule C of this circular as also the continuing obligations of the ODR Institutions. Such ODR Portal shall establish due connectivity with the SEBI SCORES portal / SEBI Intermediary portal. Facility to enroll Market Participants into the ODR Portal by utilizing the credentials used for SEBI SCORES portal / SEBI Intermediary portal may also be provided in the ODR Portal.

Initiation of the dispute resolution process:

1. An investor/client shall first take up his/her/their grievance with the Market Participant by lodging a complaint directly with the concerned Market Participant.
2. The dispute resolution through the ODR Portal can be initiated when within the applicable law of limitation (reckoned from the date when the issue arose/occurred that has resulted in the complaint/date of the last transaction or the date of disputed transaction, whichever is later).

ODR Portal and allocation system:

1. The ODR Portal shall have the necessary features and facilities to enrol the investor/client and the Market Participant, and to file the complaint/dispute and to upload any documents or papers pertaining thereto.
2. A complaint/dispute initiated through the ODR Portal will be referred to an ODR Institution empaneled by a MII and the allocation system on a market-wide basis will be a round-robin system to govern the allocation of each such dispute among all such empaneled ODR Institutions.

Detailed framework is part of this Master Circular.

[Master Circular](#)

10. Timeline for the Exit Option Window Period for Change in Control of AMC

Circular No.: SEBI/HO/IMD/IMD-PoD-2/P/CIR/2023/142

Dated 11th August 2023

Reference to existing circular: SEBI vide Master circular dated May 19, 2023, had prescribed the procedure for change in control of an AMC.

Considering that growth in technological communication has enabled faster dissemination of information to unitholders, the need arises to review the timeline for exit option window period for change in control of AMC.

Vide this circular, SEBI has decided the following:

1. Procedure for Change in Control of AMC:

In partial modification of para 17.8.1 (III) of SEBI Master Circular dated May 19, 2023, this para shall read as under:

“The unitholders are given an option to exit on the prevailing Net Asset Value (NAV) without any exit load within a time period not less than 15 calendar days from the date of communication. However, in case of change in control resulting in

consolidation or merger of schemes, the unitholders are given an option to exit on the prevailing Net Asset Value (NAV) without any exit load within a time period not less than 30calendar days from the date of communication.”

All other provisions mentioned in the aforesaid master circular pertaining to the respective para shall remain unchanged.

[Circular](#)

11. Simplification of KYC process and rationalisation of Risk Management Framework at KYC (Know Your Client) Registration Agencies (KRAs)

Circular No.: SEBI/HO/MIRSD/FATF/P/CIR/2023/0144

Dated 11th August 2023

Reference to existing circular: SEBI vide circular dated April 06, 2022 had specified the framework for validation of records by KYC (Know Your Client) Registration Agencies (KRAs) in securities market.

Vide this circular, SEBI has decided to simplify the KYC process and rationalize the risk management framework.

SEBI emphasizes the need for valid identification attributes like PAN, name, address, mobile number, and email ID for clients. The circular outlines procedure for validating client records and highlights significance of PAN as a unique identifier.

Further, this circular aims to streamline client onboarding and enable validated records' portability for seamless transactions across intermediaries.

Applicability:

- SEBI circular dated April 06, 2022 shall be rescinded from the effective date of this circular i.e. Sep 01, 2023.
- The records of all existing clients whose KYC has been completed based on OVDs other than Aadhaar, shall be verified within a period of 90 days from Sep 01, 2023.

[Circular](#)

12. Mandating additional disclosures by Foreign Portfolio Investors (FPIs) that fulfil certain objective criteria

Circular No.: SEBI/ HO/ AFD/ AFD –PoD –2/ CIR/ P/ 2023/148

Dated 24th August, 2023

Effective date: 1st November, 2023

SEBI has issued notification for mandating additional disclosures by Foreign Portfolio Investors (FPIs) that fulfil certain objective criteria.

A. Background: Concerns Over Concentrated Investments

Concentration of Equity Portfolio: Certain FPIs have a concentrated equity portfolio in a single company or corporate group. Such concentrations increase concerns about potential misuse of the FPI route, specifically in evading disclosure norms under Substantial Acquisition of Shares and Takeovers Regulations, 2011 (SAST Regulations), and maintaining Minimum Public Shareholding (MPS).

Risks of Opportunistic Takeover: Government of India, in its bid to prevent opportunistic takeovers, issued Press Note 3 (PN3) on April 17, 2020. Though not directly related to FPI investments, there are worries that entities with large Indian equity portfolios might misuse the FPI route and disrupt the securities markets.

Identification of Beneficial Owners: Current rules make it difficult to identify the real beneficial owner (BO) of an FPI. This poses a risk as the same person might control significant portions of an FPI via different entities, each below the threshold for BO identification.

B. Regulatory Amendments:

Aim for Granular Information: In response to the above concerns, SEBI has introduced Regulations 22(6) and 22(7) in the SEBI (FPI) Regulations, 2019. These amendments, effective from August 10, 2023, focus on obtaining detailed information of individuals with ownership, economic interests, or control in FPIs.

Criteria and Manner of Disclosure: The specific criteria determining which FPIs are required to provide such information and how it is to be delivered are detailed in the subsequent sections of the circular. The Standard Operating Procedure (SOP) will outline the detailed validation mechanism for these regulations.

C. Criteria for Submission of Disclosures: FPIs need to provide granular details about entities having any ownership, economic interest, or control. Specific criteria include:

1. FPIs with over 50% of their Indian equity Assets Under Management (AUM) in a single Indian corporate group.
2. FPIs holding over INR 25,000 crore of equity AUM in the Indian markets. However, some exemptions apply, like Government-related investors, Public Retail Funds, and Exchange Traded Funds with less than 50% exposure to India.

Timelines and Compliance: FPIs have specific timelines to realign their investments if they exceed prescribed thresholds. Non-compliance will render their FPI registration invalid, and they'll need to exit the Indian securities market.

[Circular](#)

13. Modification in Cyber Security and Cyber Resilience framework of Stock Exchanges, Clearing Corporations and Depositories

Circular No.: SEBI/HO/MRD/TPD/P/CIR/2023/147

Dated 24th August, 2023

SEBI vide circular dated July 06, 2015 and May 20, 2022 had prescribed framework for Cyber Security and Cyber Resilience for stock exchanges, clearing corporations and depositories.

Vide this circular, SEBI has modified clause 3 of SEBI circular dated May 20, 2022, which shall now be read as under:

3. MIIs are mandated to conduct comprehensive cyber audit at least 2 times in a financial year. Along with cyber audit reports, henceforth, MIIs are directed to submit a declaration from the MD/CEO certifying that:

- i. Comprehensive measures and processes including suitable incentive/disincentive structures, have been put in place for identification/detection and closure of vulnerabilities in the organization's IT systems.
- ii. Adequate resources have been hired for staffing their Security Operations Center(SOC).
- iii. There is compliance by the MII with all SEBI circulars and advisories related to cyber security.

Further, Market Infrastructure Institutions (MIIs), whose systems have been identified as Critical Information Infrastructure (CII) by National Critical Information Infrastructure Protection Centre (NCIIPC), are mandated to send regular updates/closure status of the vulnerabilities found in their respective "protected systems" to NCIIPC.

Applicability: MIIs are directed to communicate the status of implementation of the provisions of this circular to SEBI within 30 days from the date of this Circular.

[Circular](#)

14. Guidelines for Market Infrastructure Institutions (MIIs) regarding Cyber security and Cyber resilience

Circular No.: SEBI/HO/MRD/TPD/P/CIR/2023/146

Dated 29th August, 2023

As part of the operational risk management, the Market Infrastructure Institutions (MIIs) need to have robust cyber security framework to provide essential facilities and perform systemically critical functions relating to trading, clearing and settlement in securities market. It is also important that MIIs establish and continuously improve their Information Technology (IT) processes and controls to preserve confidentiality, integrity and availability of data and IT systems.

It is observed that considering the interconnectedness and interdependency of the MIIs to carry out their functions, the

cyber risk of any given MII is no longer limited to the MII's owned or controlled systems, networks and assets.

Vide this circular, SEBI has decided to issue guidelines for strengthening the existing cyber security and cyber resilience framework of MIIs. The said guidelines are placed at Annexure-A to this circular and MIIs are required to comply with the same

The compliance of the guidelines shall be provided by the MIIs along with their cybersecurity audit report (conducted as per the applicable SEBI Cybersecurity and Cyber Resilience framework). The compliance shall be submitted as per the existing reporting mechanism.

Further, MIIs are required to take necessary steps to put in place systems for implementation of the circular, including necessary amendments to the relevant bye-laws, rules and regulations, if any, within 120 days from the date of the circular.

[Circular](#)

1. Condonation of Delay in filing Form-3, Form-4 and Form-11 under section-67 of Limited Liability Partnership Act, 2008 read with section 460 of Companies Act, 2013

General Circular No.: 08/2023

Dated: 23rd August, 2023

It has been observed that numerous LLPs are facing challenges in filing the following forms for various reasons including mismatch in the master data of MCA Portal:

1. Form-3: Pertaining to the LLP Agreement and any changes to it.
2. Form-4: Relating to various partner details, including appointments, cessations, and changes.
3. Form-11: The Annual Return of the LLP.

Vide this circular, MCA has decided to grant one time relaxation in additional fees to those LLPs who could not file the Form-3, Form-4 & Form-11 within the due date and provide an opportunity to update their filings and details in Master data for future compliances.

The details forming part of the circular are as follows:

- i. Form-3 and Form-4 would be processed under Straight Through Process (STP) mode for all purposes except for change in business activities. The stakeholders are advised to file these forms in sequential manner i.e., the filing for old events date may be filed first and so on so as to update the master data in proper manner.
- ii. At the time of filing these forms, the pre-filled data as per existing master data of the LLP shall be provided in each of above mentioned forms but the same shall have the facility to edit. The onus of filing correct data would be on the stakeholders. In case of mis-representation, the Designated Partner and the professional certifying the form may be liable for adverse action as per provisions of the law.
- iii. Filing of Form-3 and Form-4 without additional fee shall be applicable for the event dates 01.01.2021 and onwards. For events dated prior to 01.01.2021, these forms can be filed with 02 times and 04 times of normal filing fees as additional fee for small LLPS and Other than small LLPs respectively.
- iv. Filing of Form-11 without additional fee shall be applicable for the financial year 2021-22 onwards. Form-11 for previous years (prior to financial year 2021-22) can be filed with 02 times and 04 times of normal filing fee as additional fee for small LLPs and Other than small LLP's respectively.
- v. These forms shall be available for filing from 01.09.2023 onwards till 30.11.2023 (both dates inclusive).
- vi. LLPS availing the scheme shall not be liable for any action for delayed filing of Form-3, Form-4 and Form-11.

[Circular](#)

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead it is only a listing of some of the circulars/notifications that we considered important.



Lovi Mehrotra & Associates

Chartered Accountants

21-22 IInd Floor Krishna Nagar Safdarjung Enclave

New Delhi 110029

Website : www.lma.co.in • Email : d.khanna@lma.co.in