

(मध्यवर्ती) विनियम, 2008 [सेबी (इंटरमीडियरीज़) रेग्यूलेशन्स, 2008] की अनुसूची II में यथा निर्धारित मानदंडों के आधार पर उपयुक्त तथा उचित व्यक्ति हैं;”

XXI. तीसरी अनुसूची में, -

क. खंड 6 निम्नलिखित खंड से प्रतिस्थापित हो जाएगा, अर्थात्,-

“6. उचित और उपयुक्त शुल्क आदि

ग्राहक को सलाह देने वाला निवेश सलाहकार ऐसी किसी अधिकतम सीमा के अध्यक्षीन फीस ले सकेगा, जो बोर्ड द्वारा निर्धारित की जाए। निवेश सलाहकार यह सुनिश्चित करेगा कि ग्राहकों से ली जाने वाली फीस उचित और उपयुक्त हो।”

ख. खंड 8 निम्नलिखित खंड से प्रतिस्थापित हो जाएगा, अर्थात्,-

“8. पालन

निवेश सलाहकार [जिसमें उसके भागीदार और निवेश सलाह (प्रिंसिपल ऑफिसर) मुख्य अधिकारी, शामिल हैं से जुड़े व्यक्ति] अपने कारबार के क्रियाकलापों के संचालन के प्रति लागू समस्त विनियामक (रेग्युलेटरी) अपेक्षाओं का पालन (अनुपालन) करेगा, ताकि ग्राहकों के सर्वोत्तम हितों और बाजार की सत्यनिष्ठा को बढ़ावा मिल सके।”

अजय त्यागी, अध्यक्ष

[विज्ञापन - III/4/असा. /111/2020-2021]

पाद टिप्पण:

1. भारतीय प्रतिभूति और विनियम बोर्ड [विनिधान (निवेश) सलाहकार] विनियम, 2013, सं. एल.ए.डी.-एन.आर.ओ./जी.एन./2012-13/31/1778 द्वारा, 21 जनवरी, 2013 को भारत के राजपत्र में प्रकाशित हुए थे।
2. भारतीय प्रतिभूति और विनियम बोर्ड [विनिधान (निवेश) सलाहकार] विनियम, 2013 तत्पश्चात्,-
 - (1) 23 मई, 2014 को भारतीय प्रतिभूति और विनियम बोर्ड (फीस का संदाय) (संशोधन) विनियम, 2014, सं. एल.ए.डी.-एन.आर.ओ./जी.एन./2014-15/03/1089, द्वारा
 - (2) 8 दिसम्बर 2016 को भारतीय प्रतिभूति और विनियम बोर्ड [कुछ मध्यवर्तियों (इंटरमीडियरीज़) के रजिस्ट्रीकरण की शर्तों में परिवर्तन] (संशोधन) विनियम 2016, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2016-17/023, द्वारा
 - (3) 17 अप्रैल, 2020 को भारतीय प्रतिभूति और विनियम बोर्ड (रेग्युलेटरी सैंडबॉक्स) (संशोधन) विनियम, 2020, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2020/10, द्वारा

संशोधित हुए थे।

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 3rd July, 2020

SECURITIES AND EXCHANGE BOARD OF INDIA (INVESTMENT ADVISERS) (AMENDMENT) REGULATIONS, 2020

No. SEBI/LAD-NRO/GN/2020/22.—In exercise of the powers conferred by sub-section (1) of section 30 read with clause (b) of sub-section (2) of section 11 of the Securities and Exchange Board of India Act, 1992 (15 of

1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, namely, –

1. These Regulations may be called the Securities and Exchange Board of India (Investment Advisers) (Amendment) Regulations, 2020.
2. They shall come into force on the ninetieth day from the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, -
 - I. in sub-regulation (1) of regulation 2, -
 - i. after clause (a) and before clause (b), the following clause shall be inserted, namely, -

“(aa) “assets under advice” shall mean the aggregate net asset value of securities and investment products for which the investment adviser has rendered investment advice irrespective of whether the implementation services are provided by investment adviser or concluded by the client directly or through other service providers;”
 - ii. in clause (c), the words, symbols and numbers “under sub-section (7) of section 2 of the Companies Act, 1956 (1 of 1956)” shall be substituted with the words, symbols and numbers “under sub-section (11) of section 2 of the Companies Act, 2013 (18 of 2013);”
 - iii. in clause (f), after the words, symbols and numbers “Companies Act, 1956”, the words, symbols and numbers “or Companies Act, 2013” shall be inserted.
 - iv. after clause (g) and before clause (h), the following clauses shall be inserted, namely, -

“(ga) “CPE” means continuing professional education in terms of clause (f) of sub regulation (1) of regulation 2 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007;

“(gb) “family of client” shall include individual client, dependent spouse, dependent children and dependent parents;

“(gc) “family of an individual investment adviser” shall include individual investment adviser, spouse, children and parents;”
 - v. After clause (p) and before clause (q), the following clause shall be inserted, namely, -

“(pa) “non-individual” means a body corporate including a limited liability partnership and a partnership firm;”
 - vi. clause (r) shall be substituted with the following clause, namely, –

“(r) “persons associated with investment advice” shall mean any member, partner, officer, director or employee or any sales staff of such investment adviser including any person occupying a similar status or performing a similar function irrespective of the nature of association with the investment adviser who is engaged in providing investment advisory services to the clients of the investment adviser;

Explanation. —

All client-facing persons such as sales staff, service relationship managers, client relationship managers, etc., by whatever name called shall be deemed to be persons associated with investment advice, but do not include persons who discharge clerical or office administrative functions where there is no client interface.”
 - vii. After clause (r) and before sub-clause (2), the following clause shall be inserted, namely, -

“(s) “principal officer” shall mean the managing director or designated director or managing partner or executive chairman of the board or equivalent management body who is responsible for the overall function of the business and operations of non-individual investment adviser.”
 - II. in sub-regulation (2) of regulation 2, the words “Companies Act, 1956 (1 of 1956)” shall be substituted with the words “Companies Act, 2013 (18 of 2013)”.

- III. proviso to sub-regulation (1) of regulation 3 shall be omitted.
- IV. after sub-regulation (1) and before sub-regulation (2) of regulation 3, the following regulation shall be inserted, namely, -
- “(1A) Notwithstanding anything contained in sub-regulation (1), any application made by a person prior to coming into force of these regulations containing such particulars or as near thereto as mentioned in Form A of First Schedule shall be treated as an application made in pursuance of sub-regulation (1) and dealt with accordingly;”
- V. after sub-regulation (2) of regulation 3, the following shall be inserted, namely, -
- “(3) On and from the date of commencement of these regulations, no person, while dealing in distribution of securities, shall use the nomenclature “Independent Financial Adviser or IFA or Wealth Adviser or any other similar name” unless registered with the Board as Investment Adviser.”
- VI. in clause (j) of regulation 4, the word “representative,” wherever it occurs, shall be substituted with the words and symbol “principal officer, persons associated with advice”.
- VII. in regulation 6, -
- i. in clause (a), the words “a body corporate or a firm” shall be substituted with the words “a non-individual”
- ii. clause (b) shall be substituted with the following clause, namely, -
- “(b) in case the applicant is an individual, he and all persons associated with investment advice are appropriately qualified and certified as specified in regulation 7;”
- iii. clause (c) shall be substituted with the following clause, namely, -
- “(c) in case the applicant is a body corporate, the principal officer and all persons associated with investment advice of the applicant are appropriately qualified and certified as specified in regulation 7;”
- iv. clause (d) shall be substituted with the following clause, namely, -
- “(d) in case the applicant is a firm or a limited liability partnership, the principal officer and all persons associated with investment advice of the applicant are appropriately qualified and certified as specified in regulation 7;”
- v. in clause (e), the words “capital adequacy” shall be substituted with the words “networth”.
- vi. clause (f) shall be substituted with the following clause, namely, -
- “(f) whether the applicant, its partners, principal officer and persons associated with investment advice, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;”
- vii. in clause (k), the words “body corporate” shall be substituted with the words “non-individual”.
- VIII. regulation 7 shall be substituted with the following, namely, -
- “Qualification and certification requirement.**
- 7(1) An individual investment adviser or a principal officer of a non-individual investment adviser registered as an investment adviser under these regulations, shall have the following minimum qualification, at all times -
- (a) A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association

or a CFA Charter from the CFA Institute;

(b) An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

(c) Persons associated with investment advice shall meet the following minimum qualifications, at all times -

(i) a professional qualification as provided in clause (a) of sub-regulation (1) of regulation 7; and

(ii) an experience of at least two years in activities relating to advice in financial products or securities or fund or asset or portfolio management:

Provided that investment advisers registered under these regulations as on the date of commencement of these regulations shall ensure that the individual investment adviser or principal officer of a non-individual investment adviser registered under these regulations and persons associated with investment advice comply with such qualification and experience requirements within three years:

Provided further that the requirements at clauses (a) and (b) shall not apply to such existing individual investment advisers as may be specified by the Board.

(2) An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services -

(a) from NISM; or

(b) from any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM:

Provided that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements:

Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.”

IX. regulation 8 shall be substituted with the following, namely, -

“Networth.

8(1) Investment advisers who are non-individuals shall have a net worth of not less than fifty lakh rupees.

Explanation. — For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off, and networth requirement for other services offered by the advisers in accordance with the applicable rules and regulations.

(2) Investment advisers who are individuals shall have net tangible assets of value not less than five lakh rupees:

Provided that existing investment advisers shall comply with the networth requirement within three years from the date of commencement of the SEBI (Investment Advisers) (Amendment) Regulations, 2020.”

X. in regulation 13, -

i. in clause (d), the symbol “.” shall be substituted with the symbol “;”.

ii. After clause (d), the following clause shall be inserted, namely, -

“(e) individuals registered as investment advisers whose number of clients exceed one hundred and fifty in total, shall apply for registration as non-individual investment adviser within such time as may be specified by the Board.”

XI. in regulation 15, sub-regulation (13) shall be substituted with the following, namely,-

“(13) It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times.”

XII. after regulation 15 and before regulation 16, the following regulation shall be inserted, namely, -

“Fees.

15A. Investment Adviser shall be entitled to charge fees for providing investment advice from a client in the manner as specified by the Board.”

XIII. in regulation 18, sub-regulations (2) and (3) shall be omitted;

XIV. in regulation 19, -

(i) clause (d) of sub-regulation (1) shall be substituted by the following clause, namely, -

“(d) Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;”

(ii) in sub-regulation (3), after the words “Institute of Company Secretaries of India” the words “and submit a report of the same as may be specified by the Board” shall be inserted.

XV. Regulation 22 shall be substituted with the following regulation, namely, -

“Client level segregation of advisory and distribution activities.

22 (1) An individual investment adviser shall not provide distribution services.

(2) The family of an individual investment adviser shall not provide distribution services to the client advised by the individual investment adviser and no individual investment adviser shall provide advice to a client who is receiving distribution services from other family members.

(3) A non-individual investment adviser shall have client level segregation at group level for investment advisory and distribution services.

Explanation. —

(i) The same client cannot be offered both advisory and distribution services within the group of the non-individual entity.

(ii) A client can either be an advisory client where no distributor consideration is received at the group level or distribution services client where no advisory fee is collected from the client at the group level.

(iii) ‘Group’ for this purpose shall mean an entity which is a holding, subsidiary, associate, subsidiary of a holding company to which it is also a subsidiary or an investing company or the venturer of the company as per the provisions of Companies Act, 2013 for non-individual investment adviser which is a company under the said Act and in any other case, an entity which has a controlling interest or is subject to the controlling interest of a non-individual investment adviser.

(4) Non-individual investment adviser shall maintain an arm’s length relationship between its activities as investment adviser and distributor by providing advisory services through a separately identifiable department or division.

(5) Compliance and monitoring process for client segregation at group or family level shall be in accordance with the guidelines specified by the Board.”

XVI. after Regulation 22 and before regulation 23, the following regulation shall be inserted, namely, -

“Implementation of advice or execution.

22A (1) Investment adviser may provide implementation services to the advisory clients in securities market:

Provided that investment advisers shall ensure that no consideration including any commission or referral fees, whether embedded or indirect or otherwise, by whatever name called is received; directly or indirectly, at investment adviser’s group or family level for the said service, as the case maybe.

(2) Investment adviser shall provide implementation services to its advisory clients only through direct schemes/products in the securities market.

- (3) Investment adviser or group or family of investment adviser shall not charge any implementation fees from the client.
- (4) The client shall not be under any obligation to avail implementation services offered by the investment adviser.”
- XVII. In sub-regulation (1) of regulation 25, the word “representative of investment adviser” shall be substituted with the words and symbols, “partners, directors, principal officer and persons associated with investment advice”.
- XVIII. In sub-regulation (3) of regulation 25, after the word “partners” and before the word “or”, the words and symbol “, principal officer and persons associated with investment advice” shall be inserted.
- XIX. In clause (a) of regulation 27, after the words “investment adviser” and before the words “not to provide”, the words and symbols “, partners, directors, principal officer and persons associated with investment advice” shall be inserted.
- XX. In clause (c) of regulation 27, after the words “investment adviser” and before the words “from operating”, the words and symbols “, partners, directors, principal officer and persons associated with investment advice” shall be inserted.
- XXI. in the First Schedule, in FORM A, -
- i. in item 1,
 - a. in clause (c), after the word “persons(s)”, the words “and principal officer” shall be inserted.
 - b. in clause (d), the words and symbol “, body corporate (including company), partnership firm or limited liability partnership” shall be substituted with the words “or non-individual”.
 - c. In clause (i), the following words shall be omitted.
“(For renewal application, provide details of existing investment advisory services including number and type of clients, assets under advice, revenue, profitability, products/ securities on which investment advice was provided, etc.)”.
 - ii. in item 2,
 - a. clause 1 of sub-item (I), shall be substituted with the following, namely,-
*“(1) Whether the applicant and persons associated with investment advice comply with qualification and certification requirements under regulation 7 and applicant has submitted a declaration with respect to the same.
 (Provide self-certified copies of supporting documents).”*
 - b. in clause 2 of sub-item I, the following shall be omitted.
“(If the applicant is an existing investment adviser applying for fresh registration, then provide a declaration stating that it shall obtain such certification within two years from the date of commencement of these regulations and submit a copy of the certification to the Board within 15 days of receipt of such certification.)”.
 - c. in sub-item I, clause 3 shall be substituted by the following clause, namely, -
“3. Number of persons associated with investment advice, if any, who shall render investment advice under these regulations on behalf of the applicant. Provide documents as mentioned in points 1 to 2 above for such persons associated with investment advice.”
 - d. in clause 4 of sub-item I, after the word “applicant”, the words “and persons associated with investment advice” shall be inserted.
 - e. in clause 2 of sub-item II, the words “employees and agents of the applicant (hereinafter referred to as ‘representatives’)” shall be substituted with the words “persons associated with investment advice”.
 - f. in sub-item II, clause 3 shall be substituted with the following clause, namely, -
“3. Declaration by the applicant that its principal officer and persons associated with investment advice currently comply with the certification, qualification

and experience requirements under regulation 7.”

g. in clause 4 of sub-item II, the word “representatives” shall be substituted with the words “principal officer and persons associated with investment advice”.

h. in sub-item II, the following clause 8 shall be inserted, namely,-

“8. Enclose identity proof and address proof of the applicant, principal officer and persons associated with investment advice.”

i. in clause 1 of sub-item III, after the word “partners”, wherever it occurs, the words and symbol “, principal officer and persons associated with investment advice” shall be inserted.

j. clause 2 of sub-item III shall be substituted with the following, namely,-

“2. Whether the aforesaid principal officer and persons associated with investment advice comply with certification and qualification requirements under regulation 7 and applicant has submitted a declaration with respect to the same.

(Provide self-certified copies of supporting documents).”

k. in sub-item III, clause 3 shall be substituted with the following clause, namely, -

“3. Copy of certification obtained by the aforesaid principal officer and persons associated with investment advice in accordance with regulation 7(2).”

l. in clause 4 of sub-item III, the word “partners” shall be substituted with the words “principal officer and persons associated with investment advice”.

m. in clause 5 of sub-item III, the word “net tangible assets” shall be substituted by “networth”.

n. in clause 1 of sub-item IV, after the word “directors”, wherever it occurs, the words and symbol “, principal officer and persons associated with investment advice” shall be inserted.

o. in clause 3 of sub-item IV, the words “employees and agents of the applicant (hereinafter referred to as ‘representatives’)” shall be substituted with the words “principal officer and persons associated with investment advice”.

p. in sub-item IV, clause 4 shall be substituted with the following clause, namely, -

“4. Declaration by the applicant that its principal officer and persons associated with investment advice currently comply with the certification and qualification requirements under regulation 7.”

q. in clause 5 of sub-item IV, the word “representatives” shall be substituted with the words “principal officer and persons associated with investment advice.”

iii. item 5 shall be substituted with the following, namely,-

“IMPLEMENTATION OF ADVICE OR EXECUTION SERVICES.

“1. Provide a declaration that no consideration including any commission or referral fees whether embedded or indirect or otherwise by whatever name called shall be received directly or indirectly at Investment Adviser’s group or family level for the said service, as the case maybe.

2. If the applicant is a non-individual, whether the applicant proposes to offer distribution services.”

iv. in item 6,

a. in clause (d), after the word “partners” and before the word “have”, the words and symbol “, principal officer and persons associated with investment advice”.

b. in clause (f), the words “representatives” shall be substituted with the words “directors, principal officer, persons associated with investment advice”.

XXII. in the Third Schedule, -

- a. in clause 6, after the word “Board” and before the symbol “.”, the words and symbols “, if any” shall be omitted.
- b. in clause (8), the words “representative(s)” shall be substituted with the words and symbol “partners, principal officer and persons associated with investment advice”.

AJAY TYAGI, Chairman

[ADVT.-III/4/Exty./111/2020-2021]

Footnote:

1. The Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 were published in the Gazette of India on January 21, 2013 vide No. SEBI/LAD-NRO/GN/2012-13/31/1778.
2. The Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 were subsequently amended on, –
 - (1) 23rd May, 2014 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2014 vide LAD-NRO/GN/2014-15/03/1089.
 - (2) 8th December, 2016 by the Securities and Exchange Board of India (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2016 vide No. SEBI/LAD-NRO/GN/2016-17/023.
 - (3) 17th April, 2020 by SEBI (Regulatory Sandbox) (Amendment) Regulations, 2020 No. SEBI/LAD-NRO/GN/2020/10.