8. Policy Developments

Regulation in India is constrained to meet multiple objectives, some of which are investor protection, fair, transparent and efficient markets, and systemic risk minimization. Apart from these there are longer terms goals like encouraging small investors, attracting new players, new products and enhancing operational efficiencies. The landscape went through a number of changes last year, driven by the Ministry of Finance, the Securities and Exchange Board of India (SEBI), and the Reserve Bank of India (RBI).

Policies and programmes initiated by the regulators for the period January 2018–December 2018 are discussed in this section under five major heads: *Issuer related reforms, investor related reforms, stock exchange related reforms, International Financial Services Centre (IFSC) related reforms and foreign institutional investor related reforms.* Changes are typically made through circulars issued by different regulatory agencies, and we highlight some of them below.

8.1 Issuer Related Circulars

Review of Offer for Sale of Shares through Stock Exchange Mechanism (SEBI: December 28, 2018)

SEBI has issued comprehensive guidelines on Offer for Sale of Shares (OFS) through stock exchange mechanism vide circular dated July 18, 2012.

Considering that the OFS mechanism has been successfully used to divest stake by promoters and large shareholders of top 200 companies by market capitalization, market representations indicated that the OFS mechanism may be extended to a wider set of companies. Further, market feedback also indicated that clarity is required in conditions relating to the cancellation of OFS in light of modifications to framework carried out vide circular dated February 15, 2016.

Accordingly, the OFS framework has been modified as under:

i. OFS mechanism shall be available to companies with market capitalization of Rs10bn and above, with the threshold of market capitalization computed as the average daily market capitalization for a period of six months prior to the month in which the OFS opens.

ii. If the seller fails to get sufficient demand from non-retail investors at or above the floor price on T day, then the seller may choose to cancel the offer post bidding, in full (both retail and non-retail) on T day and not proceed with offer to retail investors on T+1 day.

Fund Raising by Issuance of Debt Securities by Large Entities (SEBI: November 26, 2018)

With a view to operationalising the Union Budget announcement for 2018-19, which, *inter-alia*, stated that "SEBI will also consider mandating, beginning with large entities, to meet about one-fourth of their financing needs from the debt market", SEBI came out with a discussion paper on July 20, 2018.

Based on feedback received on the discussion paper and wider consultation with market participants including entities, the detailed guidelines for operationalising the above budget announcement are given below:

i. For entities following April-March/January-December as their financial year, the framework shall come into effect from April 01, 2019/January 01, 2020 respectively.

ii. The framework shall be applicable for all listed entities (except for Scheduled Commercial Banks), which as on last day of the FY (i.e. March 31 or December 31):

    a. Shall have specified securities or debt securities or non-convertible redeemable preference shares listed on a recognised stock exchange

    b. Have an outstanding long term borrowing of Rs1bn or above

    c. Have a credit rating of 'AA' and above

iii. A listed entity, fulfilling the criteria as specified above shall be considered as a "Large Corporate" (LC) and such an LC shall raise not less than 25% of its incremental borrowings, during the financial year subsequent to the financial year in which it is identified as an LC, by way of issuance of debt securities.

iv. Further, disclosure requirements for these LCs are provided in the Annexure of the circular.

v. The responsibilities of the stock exchange include:

    a. Collate the information about the LC, disclosed on their platform, and submit the same to the Board within 14 days of the last date of submission of annual financial results.

    b. In the event of a short fall in the requisite borrowing, the Stock Exchanges shall collect the fine (details in the circular). Such fines collected shall be remitted by the stock exchanges to SEBI IPEF fund within 10 days from the end of the month in which the fine was collected.

Disclosures regarding Commodity Risks by Listed Entities (SEBI: November 15, 2018)

Regulation 34(3) read with clause 9(n) of Part C of Schedule V of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations") mandates listed entities to make disclosures regarding commodity price risk and hedging activities in the Corporate Governance Report section of the Annual Report of a listed entity.

In order to benefit the shareholders and to bring further clarity in disclosures to be made in the annual reports by listed entities, the Corporate Governance Committee formed under the Chairmanship of Shri Uday Kotak has recommended in its report dated October 5, 2017, the following:

i. The listed entities should disclose their risk management activities during the year, including their commodity hedging positions in a more transparent, detailed and uniform manner for easy understanding and appreciation by the shareholders.

ii. For the consistent implementation of the requirements of the SEBI LODR Regulations regarding disclosure of commodity risks and other hedging activities across listed companies, a detailed format along with the periodicity of the disclosures may be outlined by SEBI which would depict the commodity risks they face, how these are managed and also the policy for hedging commodity risk, etc. followed by the company for the purpose of disclosures in the annual report.

These recommendation of the Committee was accepted by the SEBI Board in its meeting held on March 28, 2018 and it was decided to implement the same through a circular.

Accordingly, all listed entities shall make the disclosures in the format as placed at the Annexure as part of the Corporate Governance Report in the Annual Report under clause 9(n) of Part C of Schedule V.

Streamlining the Process of Public Issue of Equity Shares and Convertibles (November 1, 2018)[1]

In order to provide an efficient mechanism for raising funds, SEBI has been continuously striving to streamline the process and methodologies associated with raising fund through public issues of equity shares and convertibles. As part of this effort, SEBI has introduced Unified Payments Interface (UPI) as a payment mechanism with Application Supported by Block Amount (ASBA) for applications in public issues by retail individual investors through intermediaries (Syndicate members, Registered Stock Brokers, Registrar and Transfer agents and Depository Participants). The proposed process is expected to increase efficiency by eliminating the need for manual intervention at various stages and free up investors' locked funds by reducing the time duration from the issue closure to listing by up to three working days.

To ensure complete and smooth transition to UPI payment mechanism, the proposed alternate payment mechanism and consequent reduction in timelines is proposed to be introduced in a phased manner:

Phase I: The UPI mechanism for retail individual investors through intermediaries will be made effective from January 1, 2019 along with the existing process and existing timeline of T+6 days for a period of three months or floating of five main board public issues, whichever is later.

Phase II: The existing process of submitting bid forms physically (through intermediaries) to Self-Certified Syndicate Banks (SCSBs) for blocking of funds shall be discontinued and UPI mechanism will continue or a period of three months or floating of five main board public issues, whichever is later.

Phase III: The final reduced timeline will be made effective using the UPI mechanism.

Guidelines for Preferential Issue of Units by Infrastructure Investment Trusts (InvITs) (SEBI: June 5, 2018)[2]

Regulation 14(4)(b) read with Regulation 2(1)(zo) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("InvIT Regulations") provides for any subsequent issue of units after an initial offer in a manner specified by Board from time to time. Accordingly, the detailed guidelines for preferential issue by an InvIT are provided herein:

i. *Conditions for preferential issue:* The conditions for issuing preferential shares have been listed in the circular such as completing allotment within 12 days, allotment to a minimum of two investors and a maximum of 1000 investors in a financial year, units to be used in a dematerialized form only, among others.

ii. *Placement Document:*

   a. The InvIT may appoint one or more SEBI registered intermediaries to carry out the obligations relating to the issue.

   b. The preferential issue of units by an InvIT shall be done on the basis of a placement document, which shall contain disclosures as specified in Annexure I of the circular.

   c. The placement document shall be serially numbered and copies shall be circulated only to select investors subject to compliance with clause 2.7 of the circular.

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[1] https://www.sebi.gov.in/legal/circulars/nov-2018/streamlining-the-process-of-public-issue-of-equity-shares-and-convertibles_40923.html

[2] https://www.sebi.gov.in/legal/circulars/jun-2018/guidelines-for-preferential-issue-of-units-by-infrastructure-investment-trusts-invits-_39178.html

d. The InvIT shall, while seeking in-principle approval from the recognised stock exchange, furnish a copy of the placement document, a certificate issued by its merchant banker or statutory auditor confirming compliance with the provisions of these Guidelines and any other documents as required by the stock exchange.

e. The placement document shall also be placed on the website of the concerned stock exchange and the InvIT with a disclaimer to the effect that it is in connection with a preferential issue and that no offer is being made to the public or to any other investor.

iii. *Pricing:*

a. The preferential issue shall be made at a price not less than the average of the weekly high and low of the closing prices of the units quoted on the stock exchange during the two weeks preceding the relevant date.

b. The InvIT shall not allot partly paid-up units.

c. The prices determined for preferential issue shall be subject to appropriate adjustments

iv. *Restriction on allotment:*

a. No allotment shall be made, either directly or indirectly, to any party to the InvIT or their related parties except to the sponsor only to the extent that is required to ensure compliance with regulation 12 (3) of the InvIT Regulations.

b. The applicants in preferential issue shall not withdraw their bids after the closure of the issue.

v. *Transferability of Units:* The units allotted under preferential issue shall not be sold by the allottee for a period of one year from the date of allotment, except on a recognised stock exchange.

Circular for Implementation of Certain Recommendations of the Committee on Corporate Governance under the Chairmanship of Shri Uday Kotak (SEBI: May 10, 2018)[3]

The Committee on Corporate Governance under the Chairmanship of Shri Uday Kotak made several recommendations in the report submitted to SEBI on October 5, 2017. Most of the amendments necessary to implement these recommendations have been made in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 vide notification dated May 9, 2018. There are a few recommendations as accepted by the Board, which are to be implemented through issue of a circular.

Accordingly, the following provisions shall apply to entities whose equity shares are listed on a recognized stock exchange:

1. Disclosures on board evaluation: The listed entity may consider the following as a part of its disclosures on board evaluation:

   o Observations of board evaluation carried out for the year

   o Previous year's observations and actions taken

   o Proposed actions based on current year observations.

[3] https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/may-2018/1525953384071.pdf#page=1&zoom=auto,-23,800

2. Group Governance Unit: Where the listed entity has a large number of unlisted subsidiaries:
    - o The listed entity may monitor their governance through a dedicated group governance unit or Governance Committee comprising the members of its board of directors.
    - o A strong and effective group governance policy may be established by the entity.
    - o The decision of setting up of such a unit/committee or having such a policy shall lie with the board of directors of the listed entity.
3. Medium-term and long-term strategy: The listed entity may consider the following with respect to disclosure of medium-term and long-term strategy of the entity:
    - o It may disclose, under the Management Discussion and Analysis section of the Annual report, within the limits set by its competitive position, its medium-term and long-term strategy based on a time frame as determined by its board of directors
    - o The listed entity may articulate a clear set of long-term metrics specific to the company's long term strategy to allow for appropriate measurement of progress.

Guidelines for Issuance of Debt Securities by Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) (SEBI: April 13, 2018)

SEBI Regulations for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvIT) have been amended in the December 15, 2017 circular. REITs and InvITs are now allowed to issue debt securities. For issuance of these securities, the following provisions need to be followed:

- REITs/InvITs shall follow provisions of SEBI (Issue and Listing of Debt Securities Regulations), 2008 ("ILDS Regulations") in the following manner:
    - o Regulation 4 (5) and Regulation 16 (1) of SEBI ILDS Regulations, 2008 shall not be applicable for issuance of debt securities by REITs/InvITs.
    - o The compliances required to be made with respect to Companies Act, 2013 or any filing to be made to Registrar of Companies in terms of the ILDS Regulations, shall not be applicable
    - o All other provisions of ILDS Regulations shall apply subject to no conflict with REIT Regulations and/or InvIT Regulations. In case of conflict, the REIT/InvIT Regulations would prevail.
- REITs/InvITs shall appoint one or more debenture trustees registered with SEBI under (Debenture Trustees) Regulations, 1993.
- Any secured debt securities issued by REITs/InvITs shall be secured by the creation of a charge on the assets of the REIT/InvIT or holding company or SPV, having a value which is sufficient for the repayment of the amount of such debt securities and interest thereon
- In addition to the disclosures and compliances prescribed, REITs/InvITs which have issued debt securities shall be required to comply with following continuous disclosure requirements:-
    - o Comply with all applicable provisions of the LODR
    - o Additional financial disclosures include debt related ratios, quarterly statements of any material deviation and audit reports having a bearing on the interest payment/ redemption / principal repayment capacity of the REITs/InvITs

Manner of Achieving Minimum Public Shareholding (SEBI: February 22, 2018)

In an earlier circular dated November 30. 2015, SEBI outlined various methods that may be used by a listed entity to achieve compliance with the minimum public shareholding requirements mandated in the LODR (i.e. a minimum public holding of 25%). In addition to the methods mentioned in the November circular, SEBI has provided two additional methods to raise the public holding:

1. Open Market Sale: Sale of shares held by the promoters/promoter group up to 2% of the total paid-up equity share capital of the listed entity in the open market, subject to five times average monthly trading volume of the shares of the listed entity.
2. Qualified Institutions Placement: Allotment of eligible securities through Qualified Institutions Placement (QIP) in terms of Chapter VIII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

If a listed entity is using the first method, i.e., open market sale, then it needs to do so on the following conditions:

a. Disclose the following details to the exchange, at least one day prior to the proposed sale:
    - the intention of the promoter/promoter group to sell and the purpose of sale;
    - the details of promoter(s)/promoter group, who propose to divest their shareholding;
    - total number of shares and percentage of shareholding proposed to be divested; and
    - the period within which the entire divestment process will be completed
b. The listed entity shall also give an undertaking to the recognized stock exchange(s) that the promoter(s) would not buy any shares from the open market sale.
c. The listed entity, its promoter(s) and promoter group shall ensure compliance with all applicable legal provisions.

8.2 Investor Related Circulars

Standardised Norms for Transfer of Securities in Physical Mode (SEBI: November 6, 2018)

SEBI has prescribed requirements for transfer of securities in physical mode vide Regulation 40 and Schedule VII of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR").

SEBI had received representations, highlighting difficulties faced by transferees in providing various documents sought by RTAs for transfer of securities. SEBI also had meetings with Registrars Association of India (RAIN) and Depositories in this regard. Pursuant to the meetings, RAIN had submitted a proposal of standardised procedure for transfer of securities in physical mode. SEBI examined the proposal and modified the documentation/procedure for transfer of physical securities as under:

i. Transfer deeds executed prior to notification of LODR (i.e. December 1, 2015) may be registered with or without the PAN of the transferor as per the requirement of quoting PAN under the applicable Income Tax Rules.
ii. In case of mismatch of name in PAN card vis-à-vis share certificate/transfer deed, transfer shall be registered on submission of any of the four additional documents explaining the difference in names: Passport, Legally recognised Marriage Certificate, Gazette notification regarding name change or Aadhar card.

iii. In case of non-availability or major mismatch in transferor's signature the transferor is required to update his/ her signature as per the procedures laid down in the LODR.

Participation of Eligible Foreign Entities (EFEs) in the Commodities Derivatives Market (SEBI: October 09, 2018)

Foreign entities that import/export various commodities from/to India, by virtue of their actual exposure to the various commodities in Indian market, are valuable stakeholders in the value chain of such commodities and are also exposed to price uncertainty of Indian commodity markets. Therefore, these foreign entities should be allowed to hedge their price risk in the Indian commodity derivatives market. Prior to this circular, such foreign entities were not permitted to directly participate in the Indian commodity derivatives market.

Taking cognizance of the fact that participation by such foreign participants would be conducive for the overall development of the commodity derivatives market in India, SEBI published a consultation paper on May 18, 2018 to discuss the suitable framework for allowing foreign participants to hedge their commodity exposure. Pursuant to feedback received from the market participants during the consultative process, it has been decided to permit foreign entities having actual exposure to Indian commodity markets, to participate in the commodity derivative segment of recognized stock exchanges for hedging their exposure. Such foreign entities shall be known as "Eligible Foreign Entities" (EFEs). The detailed regulatory framework for participation by the EFEs have been outlined in the Annexure to the circular.

Investor Grievance Redress Mechanism – new policy measures (SEBI: March 28, 2018)

In an earlier circular dated December 18, 2014, SEBI had consolidated all the provisions of the SEBI Complaints Redress System (SCORES) platform, which allowed investors to register any grievances pertaining to the securities market (listed companies and registered intermediaries) through this electronic mode. The SCORES platform would be easily accessible 24x7 and would enhance the turnaround time and speed of redressal of a compliant.

After receiving feedback from listed companies and intermediaries that investor grievances can be resolved faster if the grievance is taken up directly with the entity at the first instance, SEBI has introduced new policy measures. Effective from August 01, 2018, following procedure shall be followed for filing and redressal of investor grievances using SCORES:

Investors who wish to lodge a complaint on SCORES would register themselves on www.scores.gov.in and provide details such as Name of the investor, PAN, Contact details, Email id, Aadhaar card number (optional), CKYC ID (optional) etc. for effective communication and speedy redressal of the grievances.

a. An investor shall use login credentials for lodging complaint on SCORES

b. The complainant may use SCORES to submit the grievance directly to companies/intermediaries and the complaint shall be forwarded to the entity for resolution. The entity is required to redress the grievance within 30 days, failing which the complaint shall be registered in SCORES.

c. Presently, the limitation period for filing an arbitration reference with stock exchanges is three year. In line with the same and in order to enhance ease, speed and accuracy in redressal of investor grievance, the investor may lodge a complaint on SCORES within three years from the date of cause of complaint, where;

   i. Investor's compliant was rejected by the concerned party

   ii. Investor does not receive any communication regarding his compliant

iii. Investor is not satisfied with the reply given for his complaint

Compensation to Retail Individual Investors (RIIs) in an IPO (SEBI: February 15, 2018)

Although the process of Applications Supported By Block Amount (ASBA) has resulted in almost complete elimination of complaints pertaining to refunds, there have been instances where the applicants in an Initial Public Offering (IPO) have failed to get allotment of specified securities and in the process may have suffered an opportunity loss due to factors such as:

i. Failure on part of the Self Certified Syndicate Banks (SCSBs) to make bids in the concerned Exchange system even after the amount has been blocked in the investors' bank account with such SCSB.

ii. Failure on part of the SCSBs to process the ASBA applications even when they have been submitted within time.

iii. Any other failures on part of SCSBs, which have resulted in the rejection of the application form.

Therefore, SEBI has formulated a uniform policy for calculation of minimum compensation payable to investors in scenarios mentioned above. The following factors have been taken into account to calculate the minimum compensation amount:

i. the opportunity loss suffered by the investor due to non-allotment of shares;

ii. the number of times the issue was oversubscribed in the relevant category;

iii. the probability of allotment; and

iv. the listing gains if any on the day of listing.

The proposed formula for calculation of minimum fair compensation is as follows:

Compensation = (Listing Price – Issue Price)*	x	*No. of shares that would have been allotted if bid was successful*	x	*Probability of allotment of shares determined on the basis* of allotment

**Listing price shall be taken as the highest of the opening prices on the day of listing across the Recognized Stock Exchanges.*

In case of issues which are subscribed between 90-100%, i.e. non-oversubscribed issues, the applicants shall be compensated for all the shares, which they would have been allotted.

No compensation shall be payable to the applicant in case the listing price is below the issue price.

Any applicant, whose application has not been considered for allotment due to failure on the part of the SCSB, shall have the option to seek redressal of the same within three months of the listing date with the concerned SCSB. On receipt of such application/s, the SCSB are required to resolve the same within 15 days, failing which it would have to pay interest at the rate of 15% per annum for any delay beyond the said period of 15days. SEBI may also initiate additional action as deemed fit.

8.3 Exchange Related Circulars

Physical Settlement of Stock Derivatives (SEBI: December 31, 2018)

In reference to SEBI, vide circular dated April 11, 2018, captioned 'Review of Framework for Stocks in Derivatives Segment', it had decided that physical settlement shall be made mandatory for all stock derivatives in a phased manner.

As per the April 11 circular, a new stock, on which option and future contracts are to be introduced shall conform to the following broad eligibility criteria:

i. The stock shall be chosen from amongst the top 500 stocks in terms of average daily market capitalization and average daily traded value in the previous six months on a rolling basis.

ii. The stock's median quarter-sigma order size over the last six months, on a rolling basis, shall not be less than Rs25Lakh.

iii. The market wide position limit in the stock shall not be less than Rs5bn on a rolling basis, and

iv. Average daily delivery value in the cash market shall not be less than Rs100mn in the previous six months on a rolling basis.

The abovementioned criteria are to be met for a continuous period of six months.

The circular also mentioned that the derivatives on stocks (new/existing) which meet the above mentioned enhanced eligibility criteria shall be cash settled. However, if these stocks failed to satisfy any of the enhanced eligibility criteria for a continuous period of three months, they shall be moved from cash settlement to physical settlement. After moving to physical settlement, if such stocks did not meet any of the eligibility criteria (specified vide SEBI circular dated July 23, 2012) for a continuous period of three months, the stocks shall be removed from derivatives segment.

The circular specified that stocks which are in the derivatives segment and meet the eligibility criteria (specified vide circular dated July 23, 2012) but do not meet the enhanced criteria shall be physically settled.

The circular also specified that only those stocks which met the enhanced eligibility criteria shall remain in derivatives segment after a period of one year.

According to the December 31 circular, stock derivatives which are presently being cash settled shall move to physical settlement in the following manner:

i. Stocks which are being cash settled shall be ranked in descending order based on daily market capitalization averaged for the month of December 2018.

ii. Based on the ranking arrived in the point above, the bottom 50 stocks shall move to physical settlement from April 2019 expiry, the next 50 stocks from the bottom shall move to physical settlement from July 2019 expiry, and the remaining stocks shall move to physical settlement from October 2019 expiry.

iii. Derivatives introduced on new stocks, meeting the enhanced eligibility criteria (specified vide SEBI circular dated April 11, 2018) after the date of this circular, shall also be physically settled.

iv. All other conditions specified in the SEBI circular dated April 11, 2018, shall continue to remain in force.

Early Warning Mechanism to Prevent Diversion of Client Securities (SEBI: December 17, 2018)

There have been instances where stock brokers had diverted clients' securities received as collaterals towards margin obligations and/or settlement obligations, for raising loan against shares on their own account and/or for meeting securities shortages in settlement obligations on his/her own account.

Therefore, SEBI has mandated to put in place an Early Warning Mechanism and sharing of information between Stock Exchanges, Depositories and Clearing Corporations with effect from February 1, 2019.

The mechanism will help detect such diversion of client's securities by the stock broker at an early stage so that appropriate preventive measures can be taken. The threshold for such early warning signals shall be decided by the Stock Exchanges, Depositories and Clearing Corporations with mutual consultation.

1. Early warning signals for prevention of diversion of clients' securities may include the following:
    i. Deterioration in financial health of the stock broker/ depository participant based on the parameters mentioned in the circular.
    ii. Information related to certain securities pledging transactions (defined in the circular) by the stock brokers that depositories are required to share with the stock exchanges.
    iii. Increase in number of investor complaints against the stock broker/depository participant alleging unauthorized trading/unauthorized delivery instructions being processed, non-receipt of funds and securities and non-resolution of the same.
    iv. Alerts generated from the monthly/weekly submissions made by stock broker under Risk Based Supervision (RBS) or Enhanced Supervision to the Stock Exchanges.
    v. Disabling of stock brokers' terminals for certain number of days in any segment/Stock Exchange in the previous quarter.
2. Stock Exchanges and Depositories shall frame an internal policy/guidelines regarding the time period and the type of documents critical for closing the inspection of stock brokers and depository participants.
3. Stock Exchanges/Clearing Corporations/ Depositories shall devise a mechanism to detect diversion of clients' securities and share the information among themselves.
4. Alerts with respect to a stock broker/depository participant triggered at one Stock Exchange/ Clearing Corporation/Depository through the early warning mechanism shall be immediately shared with other Stock Exchanges/Depositories.
5. If it is established, based on the data from the early warning mechanism, that the stock broker's financial health has deteriorated and/or he has made unauthorized transfer of fund /securities of the client, the Stock Exchanges/Depositories shall jointly take preventive actions on the stock broker as mentioned in the circular.

Review of Risk Management Framework for Equity Derivatives Segment (SEBI: December 17, 2018)

The Principles for Financial Market Infrastructures (PFMI) *inter alia* prescribe that a central counterparty (CCP) should identify and consider a number of elements, including Margin Period of Risk (MPOR) or close-out period, when constructing an appropriate margin system to address risks that arise from the products cleared. The assumed MPOR or close-out period should incorporate the market depth and characteristics of the products cleared. ACCP should consider multiple MPOR assumptions or seek to ensure that a single MPOR assumption is appropriate for all cleared products in case it clears products with different market characteristics.

Based on the recommendation made by Risk Management Review Committee (RMRC) and in consultation with the Clearing Corporations, it has been decided that Exchanges/Clearing Corporations shall:

i. Estimate the appropriate MPOR, subject to a minimum of two days, for each equity derivative product based on liquidity therein and scale up the initial margins and exposure margins accordingly.

ii. For initial margins, the revised MPOR shall be given effect by way of scaling up the Price Scan Range (PSR) used for computing the Worst Scenario Loss.

iii. It has further been decided to stipulate PSR for computation of initial margins across index options and index futures contracts as three standard deviations (3σ) or 5% of the underlying value, whichever is higher.

iv. The Short Option Minimum Charge (SOMC) for index option contracts stands revised to 5%.

v. In order to make risk management framework more robust, the payment of MTM shall now mandatorily be made by all the members on T+0 basis i.e. before start of trading on the next day.

This provisions of this circular shall come into effect from January 21, 2019.

Noncompliance with Provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Standard Operating Procedure for Suspension and Revocation of Trading of Specified Securities (SEBI: May 3, 2018)[4]

SEBI had issued a circular, bearing reference number CIR/CFD/CMD/12/2015 dated November 30, 2015, specifying the uniform structure for imposing fines as a first resort for non-compliance with certain provisions of the Listing Regulations and the standard operating procedure for suspension of trading in case the non-compliance is continuing and/or repetitive.

Thereafter, SEBI had issued another circular bearing reference number SEBI/HO/CFD/CIR/P/2016/116 dated October 26, 2016 specifying the manner of freezing of holdings of the promoter and promoter group of a listed entity that failed to pay fines levied by the stock exchange(s).

In order to streamline the process and adopt a uniform approach in levying fines for non-compliance as mentioned above, SEBI has issued this circular in supersession of the above circulars. With effect from September 30, 2018, stock exchanges shall:

i. take action in case of non-compliance with the Listing Regulations as specified in Annexure I of the circular, and

ii. follow the Standard Operating Procedure ("SOP") for suspension and revocation of suspension of trading of specified securities as specified in Annexure II of the circular.

Stock Exchanges may deviate from the above, if found necessary, only after recording reasons in writing.

The depositories, on receipt of intimation from the concerned recognized stock exchange, shall freeze or unfreeze (as the case may be) the entire shareholding of the promoter and promoter group in such non-compliant listed entity as well as all other securities held in the demat account of the promoter and promoter group. Further, if a non-compliant entity is listed on more than one recognized stock exchange, the concerned exchanges shall take uniform action (under this circular) in consultation with each other.

The recognized stock exchanges shall disclose on their website the action(s) taken against the listed entities; including the details of the respective requirement, amount of fine levied, the period of suspension, details regarding the freezing of shares, etc.

4 https://www.sebi.gov.in/legal/circulars/may-2018/non-compliance-with-provisions-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-and-standard-operating-procedure-for-suspension-and-revocation-of-trading-of-specified-securi-_38841.html

Additional Risk Management Measures for Derivatives Segment (SEBI: May 02, 2018)

Based on the feedback received from the Clearing Corporations and the recommendations of the Risk Management Review Committee (RMRC) of SEBI, the following additional risk management measures are required to be complied with and implemented by the stock exchanges/clearing corporations for derivatives segment:

i. Margin Collection Requirement: For the Equity Derivatives segment, the client margins which are required to be compulsorily collected and reported to the Exchange/Clearing Corporation, as the case may be, by the Clearing members/ Trading members shall include initial margin, exposure margin/extreme loss margin, calendar spread margin and mark to market settlements.

ii. Margin Enforcement Requirement: With reference to SEBI circular CIR/DNPD/7/2011 dated August 10, 2011 captioned "Short-collection/Non-collection of client margins (Derivatives segments)", it is clarified that the 'margins', for both Equity Derivatives Segment and Currency Derivatives Segment, shall include margins as specified in Para 2 of this circular, mark to market settlements or any other margin as prescribed by the Exchange/Clearing Corporation to be collected by Clearing Members from their clients (i.e. Custodial Participants and Trading Members -for their proprietary positions) and by Trading Members from their clients.

iii. Computation of Liquid Net worth: Further to SEBI circular IES/DC/Cir-4-99 dated 28th July, 1999, it is clarified that for the equity derivatives segment, the liquid net worth shall be arrived at by deducting initial margin and the exposure margin/extreme loss margin from the liquid assets of the clearing member

This circular has come into effect from June 1, 2018.

Measures to Strengthen Algorithmic Trading and Co-location/Proximity Hosting Framework (SEBI: April 09, 2018)[5]

In order to address the concerns relating to algorithmic trading and co-location/proximity hosting facility offered by stock exchanges and to provide a level playing field between Algorithmic/ Co-located trading and manual trading, SEBI had issued a discussion paper on August 5, 2016 requesting market participants to provide their views on the efficacy and need to introduce further mechanisms to address the aforementioned concerns. In light of the public comments received and in consultation with Technical Advisory Committee (TAC) of SEBI and Secondary Market Advisory Committee (SMAC) of SEBI, it has been decided to introduce the following measures in connection with algorithmic trading and co-location /proximity hosting framework facility offered by stock exchanges.

i. In order to facilitate small and medium sized Members, who otherwise find it difficult to avail colocation facility, exchanges are required to allocate a space/rack in a co-location facility to eligible vendors along with provision for receiving market data for further dissemination of the same to their client trading members and the facility to place orders (algorithmic / non-algorithmic) by the client trading members from such facility.

ii. The vendors shall provide the technical know how, hardware, software and other associated expertise as services to the client trading members and shall be responsible for upkeep and maintenance of all infrastructure in the racks provided to them.

iii. Stock exchanges shall supervise and monitor such facilities on a continuous basis.

[5] https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/apr-2018/1523271816354.pdf#page=1&zoom=auto,-23,792

iv. Further, in order to have fair competition, stock exchanges are advised to ensure that multiple vendors are permitted for providing Managed Co-location Services at their co-location facility.

Role of the Independent Oversight Committee for Product Design (SEBI: January 22, 2018)

In an earlier circular dated November 26, 2015, SEBI had provided the timelines for compliance with various provisions of securities law by commodity derivatives exchanges. Among these guidelines, it was noted that commodity derivatives exchanges shall constitute an oversight committee for 'Product design', chaired by a Public Interest Director, within three months.

However, it is observed that exchanges have been adopting varied approaches in complying with this requirement both in the constitution and the functioning of the oversight committee. In order to bring uniformity with respect to the role of the oversight committee, SEBI has laid out the functions of the committee as follows:

i. To oversee matters related to product design such as introduction of new products/contracts, modifications of existing product/contract designs etc. and review the design of the already approved and running contracts.

ii. To oversee SEBI inspection observation on Product Design related issues.

iii. To estimate the adequacy of resources dedicated to Product design related function.

The heads of departments handling the above matters would be required to report to the committee and the Managing Director of the company. This rule would be applicable to all exchanges operating in IFSC as well. The provisions would be in effect from 30 days from the date of the circular. The exchanges would be required to make all relevant amendments in the bye-laws, rules and regulations for the implementation of the same, and also inform all members the provisions in this circular and disseminate the same on their website.

8.4 Circulars Related IFSC

Operating Guidelines for Alternative Investment Funds in International Financial Services Centres (IFSC) (SEBI: November 26, 2018)

Based on the deliberations in Alternative Investment Policy Advisory Committee (AIPAC) and consultations with other stakeholders, SEBI has put in place ‘Operating Guidelines for Alternatives Investment Funds in IFSC’.

Some of the important provisions of the circular are:

i. Any fund established or incorporated in IFSC in the form of a trust or a company or a limited liability partnership or a body corporate, can seek registration as Alternative Investment Funds (AIFs) for operating in IFSC, under the provisions of SEBI (Alternative Investment Funds) Regulations, 2012(‘AIF Regulations’) under the categories mentioned therein.

ii. AIFs were earlier permitted to invest in India only through the Foreign Portfolio Investment route in terms of SEBI circular dated May 23, 2017 governing permissible investments by AIFs operating in IFSC. Such AIFs shall now be allowed to invest in India through the Foreign Venture Capital Investor or Foreign Direct Investment (FDI) route also, in accordance with applicable FDI policy/ guidelines issued by Government of India and RBI in this regard.

iii. Each scheme of an AIF shall have corpus of at least US$3mn.

iv. An AIF shall accept a minimum investment value of US$150,000 from an investor. For investors are employees or directors of an AIF or employees or directors of the Manager, the minimum value of investment shall be US$40,000.

v. The Manager or Sponsor of an AIF shall have a continuing interest in the AIF of not less than 2.5% of the corpus or US$750,000, whichever is lower, in the form of investment and such interest shall not be through the waiver of management fees. In case of Category III AIF, the continuing interest shall be not less than 5% of the corpus or US$1.5mn, whichever is lower.

Provisions for Angel Funds in IFSC:

i. An angel fund shall have a minimum corpus of US$750,000.

ii. An "angel investor" shall satisfy the following financial criteria :

   a. An individual investor shall have net tangible assets of at least US$300,000 excluding value of his principal residence,

   b. A body corporate shall have a net worth of at least US$1.5mn.

iii. Investment by Angel Fund

   a. Angel funds shall invest in venture capital undertakings (VCU) in India in accordance with DIPP Guidelines as referred to in regulation 19(F)(1) (a) of AIF regulations.

   b. Angel funds shall invest in VCUs, which have a turnover of less than US$3.75mn.

   c. Angel funds shall invest in VCU which are not promoted or sponsored by or related to an industrial group, whose group turnover exceeds US$45mn.

   d. Investment by an angel fund in any VCU shall not be less than US$40,000 and shall not exceed US$1.5mn.

iv. The Manager or Sponsor of an Angel Fund shall have a continuing interest of not less than 2.5% of the corpus or US$80,000, whichever is lower and such interest shall not be through the waiver of management fees.

Segregated Nominee Account Structure in International Financial Service Centre (IFSC) (SEBI: May 24, 2018)

With a view to further facilitate ease of market access for foreign investors in IFSC, SEBI has permitted Segregated Nominee Account Structure (hereinafter referred to as ‘Providers’) in IFSC wherein orders of foreign investors may be routed through eligible Segregated Nominee Account Providers for trading on stock exchanges in IFSC while adhering to regulatory requirements, *inter alia*, relating to identification of end-client, Unique Client Code, order placement at client level, client level margining and position limits.

The broad features of the Segregated Nominee Account Structure are given in Annexure of the circular.

Stock exchanges, brokers and ‘Providers’ shall furnish to SEBI information relating to trades originated by/through ‘Providers’, including KYC details of their end-clients, as and when requested.

Stock exchanges in IFSC shall ensure that the provisions of Prevention of Money Laundering Act, 2002 (PMLA) are adhered to by ‘Providers’ for their end-clients.

Investment of Own Funds (excluding funds lying in Core Settlement Guarantee Fund) by Clearing Corporations in International Financial Services Centre (IFSC) (SEBI: May 21, 2018)

SEBI vide circular SEBI/HO/MRD/DRMNP/CIR/P/2016/54 dated May 04, 2016, has specified Investment policy of a clearing corporation. Currently, the clearing corporations are permitted to invest their own funds as well as funds lying in Core Settlement Guarantee Fund in Fixed Deposits/ Central Government Securities and Liquid schemes of Debt Mutual Funds.

Upon review of investment instruments/avenues available for Clearing Corporations in IFSC and based on the feedback received, it has been decided to permit the Clearing Corporations in IFSC to invest their own funds in AAA rated Foreign Sovereign Securities. However, the investment in such AAA rated Foreign Sovereign Securities shall not exceed a limit of 10% of the total investible resources, excluding funds lying in Core Settlement Guarantee Fund of the Clearing Corporation.

Acceptance of Bank Guarantees by Clearing Corporations in International Financial Services Centre (IFSC) (SEBI: February 20, 2018)

As per the circular, Clearing corporations in IFSC shall be permitted to accept bank guarantees issued by bank branches located in IFSC in addition to cash and cash equivalents (which shall include major foreign currencies as may be decided by the clearing corporation from time to time and term deposit receipts), Indian securities held with foreign depositories, foreign securities including units of liquid mutual funds and gold, as eligible collateral for trades in all product categories. However, cash and cash equivalents shall form at least 50% of the total liquid assets at all times.

8.5 Circulars Related Foreign Portfolio Investors (FPIs)

Clarification on Clubbing of Investment Limits of Foreign Portfolio Investors ("FPIs") (SEBI: December 13, 2018)

In its circular dated April 10, 2018 (No. SEBI/HO/IMD/FPIC/CIR/P/2018/66), SEBI had provided clarifications regarding clubbing of investment limits of foreign Government/ foreign Government related entities. After taking into account the recommendations of the SEBI Working Group under the chairmanship of Shri H R Khan (hereinafter referred as HR Khan group), SEBI has decided the following, which supersedes the directions of the April 10 circular:

i. Clubbing of investment limit for FPIs shall be on the basis of common ownership of more than 50% or based on common control. However, clubbing of investment limit of FPIs having common control shall not be done in case of:

   a. FPIs which are appropriately regulated public retail funds; or

   b. FPIs which are public retail funds with majority ownership by appropriately regulated public retail funds on look through basis; or

   c. FPIs which are public retail funds and investment managers (IMs) of such FPIs are appropriately regulated.

ii. If two or more FPIs including foreign Governments/their related entities are having direct or indirect common ownership of more than 50% or control, all such FPIs will be treated as forming part of an investor group and the investment limits of all such entities shall be clubbed as applicable to a single foreign portfolio investor.

iii. In cases where Government of India enters into agreements or treaties with other sovereign Governments and where such agreements or treaties specifically recognize certain entities to be distinct and separate, SEBI may, during the validity of such agreements or treaties, recognize such entities as distinct and separate, subject to conditions as may be specified by it.

iv. The investment by foreign Government agencies shall be clubbed with the investment by the foreign Government/ its related entities for the purpose of calculation of 10% limit for FPI investments in a single company, if they form part of an investor group.

v. The investment by foreign Government/its related entities from provinces/states of countries with federal structure shall not be clubbed if the said foreign entities have different ownership and control.

vi. In respect of any breach of the investment limit mentioned above, the FPI's shall have the following two options:

  a. FPI in breach shall have to divest its holding within five trading days from the date of settlement of the trades to bring its shareholding below 10% of the paid up capital of the company, or

  b. The said investments shall be treated as Foreign Direct Investment from the date of breach.

Know Your Client (KYC) Requirements and Eligibility Conditions for Foreign Portfolio Investors (FPIs) (SEBI: September 21, 2018)

SEBI Board in its meeting held on September 18, 2018 has after considering the interim recommendations of SEBI Working Group under the chairmanship of Shri H.R.Khan in relation to the circular dated April 10, 2018 on Know Your Client (KYC) requirements for Foreign Portfolio Investors (FPIs) and comments received from public, decided that:

i. Beneficial ownership criteria in Prevention of Money-laundering (Maintenance of Records) Rules, 2005 (hereinafter referred as PMLA Rules) should be made applicable for purpose of KYC and not for determining eligibility of FPIs.

ii. The clubbing of investment limit for FPIs should not be done on the basis of beneficial owner (BO) as per PMLA Rules.

iii. Accordingly, there will be a separate set of norms for determining conditions where Non Resident Indians (NRIs) and Overseas Citizens of India (OCIs) and Resident Indians (RIs) are constituents.

The Board broadly accepted the recommendations of HR Khan group, and decided to put in place the following eligibility norms. The Amendments in SEBI (FPI) Regulations, 2014, wherever necessary, will be notified separately.

1. NRIs and OCIs shall have the same meaning as assigned to them under regulation 2 of the Foreign Exchange Management (Transfer or issue of security by a Person Resident outside India) Regulations, 2017.
2. NRIs/OCIs/Resident Indians shall be allowed to be constituents of FPIs based on certain conditions
3. FPIs can be controlled by investment managers (IMs) which are controlled and /or owned by NRI/ OCI/ RI based on certain conditions
4. A non-investing FPI may be directly or indirectly fully owned and/or controlled by a NRI/ OCI/ RI.
5. The restriction that NRI/OCI/RI should not be in control of FPI shall also not apply to FPIs, which are 'offshore funds' for which no-objection certificate has been provided by the Board in terms of SEBI (Mutual Funds) Regulations, 1996.
6. The restrictions in point 2 above will not be applicable to FPIs investing only in mutual funds in India.

7. Existing FPIs and new applicants shall be given a time period of two years from the date of coming into force of the amended regulations or from the date of registration, whichever is later in order to satisfy these eligibility conditions.
8. In case of temporary breach a time period of 90 days will be given to ensure compliance with above conditions.

Further, FPIs shall comply with the following Know Your Client (KYC) requirements:

1. Identifications and verification of Beneficial Owners (BOs)
   - i. FPIs are required to provide a list of BOs as per Annexure A of the circular. BOs of FPIs having General Partner/Limited Partnership structure shall be identified on ownership or entitlement basis and control basis.
   - ii. In respect of FPIs coming from "high risk jurisdictions" (as referred in SEBI Master circular No. SEBI/ HO/ MIRSD/ DOS3/ CIR/ P/2018/ 104 dated July 04, 2018) the intermediaries may apply lower materiality threshold of 10% of the Assets under Management (AuM) for identification of BO.
   - iii. If the controlling ownership interest in the FPI is held by another entity (intermediate entity), the materiality threshold to identify the beneficial owner should be first applied at the level of FPI and next look through basis shall be applied to identify the beneficial owner of the intermediate shareholder/owner entity. For intermediate material shareholder/ owner entity/ ies, name and percentage holding shall also be disclosed as per Annexure B of the circular.
   - iv. If no BO can be identified using the materiality threshold criteria for ownership and control, then a senior managing official (SMO) of the FPI is the designated BO. An SMO is an official who holds senior management position and makes key decisions. BO should not be a nominee of another person.
   - v. No foreign company shall be entitled to exemption under Rule 9(3)(f) of PMLA Rules.
   - vi. In case of companies/trusts represented by service providers like lawyers/ accountants, FPIs should provide information of the real owners/ effective controllers of those companies/trusts. If the BO exercises controls through means like voting rights, agreements, arrangement etc., that should be specified by the FPI. It is clarified that BO should not be a nominee of another person and real BO should be identified.
   - vii. Offshore Derivative Instrument (ODI) issuing FPIs shall also identify and verify the BOs in the subscriber entities, as per these guidelines.
2. Periodic KYC Review

   The KYC review (including change in BOs / their holdings) should be done based on risk categorization of FPIs.
   - i. In case of Category II and Category III FPIs from high risk jurisdictions, KYC review should be done on yearly basis.
   - ii. In case of all other clients, the KYC review should be conducted at the time of continuance of FPI registration.
   - iii. In the event of non-submission of KYC documents, if any, no further purchase transactions shall be permitted to such clients.

3. KYC documentation for Category III FPIs

   SEBI has prescribed that submission of financial data is mandatory for Category III FPIs.

   i. In this regard, it is clarified that audited Annual financial statement or a certificate from auditor certifying networth may be obtained from Category III FPIs.

   ii. In case of new funds/ companies/ family offices, the audited financial statement of promoter person may be obtained.

   iii. Prospectus and information memorandum are acceptable in lieu of an official constitutive document.

4. Exempted documents to be provided during investigations/ enquiry

   i. In respect of exempted documents, FPIs concerned should submit an undertaking to DDP/ Custodians that the relevant documents would be provided upon demand by Regulators/ Law Enforcement Agencies.

   ii. Category III FPIs shall provide addresses of the BOs, Senior Management and Authorised Signatories on the letter head.

5. Data Security

   The KYC Registration Agencies (KRAs) shall lock personal information with regard to beneficial owner including SMO of FPI. Such information should be made available to intermediaries only on 'need to know basis' using an authentication method.

6. Period for maintenance of records

   i. The Custodian should maintain the KYC records in original for a minimum period of five years from the date of cessation of the transactions with the said FPI.

   ii. In case of any pending litigation, these records should be maintained till the completion of the proceedings.

7. Timelines for compliance

   i. Category II and III FPIs registered prior to this circular (existing FPIs) should provide the list of BOs (as per Annexure A) and applicable KYC documentation within six months from the date of this circular.

   ii. If an existing FPI fails to comply with the applicable KYC requirements by the given deadline, the concerned Custodian shall not allow such FPI to make fresh purchases till the time KYC documentation requirements are complied with. However, such an FPI shall be allowed to continue to sell the securities already purchased by it within 180 days from the expiry of the above deadline. In case the FPI remains non-compliant with this requirement even after 180 days from the said deadline, its FPI registration will no longer be valid and it would need to disinvest its holdings immediately.

Investment by Foreign Portfolio Investors (FPIs) through Primary Market Issuances (SEBI: July 13, 2018)

Regulation 21(7) of SEBI (Foreign Portfolio Investors) Regulations, 2014 mandates that the purchase of equity shares of each company by a single foreign portfolio investor or an investor group shall be below

10% of the total issued capital of the company. Further, the regulations require that in case the same set of ultimate beneficial owner(s) invest through multiple entities, such entities shall be treated as part of same investor group and the investment limits of all such entities shall be clubbed at the investment limit as applicable to a single FPI.

For the purpose of identifying the investor group:

i. The Designated Depository Participant (DDP) shall obtain the details provided by the FPI under clause 2.2 of the FPI Application form (Form A) specified in First Schedule of FPI Regulations.

ii. The monitoring of investment limits at the level of investor group shall be performed by the depositories based on the information provided by DDPs.

To ensure compliance of the above, at the time of finalization of basis of allotment during primary market issuances, Registrar and Transfer Agents ('RTAs') shall:

a. Use Permanent Account Number (PAN) issued by Income Tax Department of India for checking compliance for a single FPI; and

b. Obtain validation from Depositories for the FPIs who have invested in the particular primary market issuance to ensure there is no breach of investment limit within the timelines for issue procedure, as prescribed by SEBI from time to time.

The depositories shall put in place the necessary systems for sharing of information with RTAs within the timelines for issue procedure, as prescribed by SEBI from time to time.

Review of Investment by Foreign Portfolio Investors (FPI) in Debt (RBI/SEBI: June 15, 2018)

In accordance with RBI circular A.P. (DIR Series) Circular No. 31 dated June 15, 2018, the changes to operational aspects of FPI investment in debt are set forth below:

i. It has been decided to withdraw minimum residual maturity restriction of three years for investment by FPIs in G-Secs and SDLs. Further, the auction process being carried out by BSE/ NSE shall be discontinued from the date of this circular.

ii. Till date, depositories were monitoring the G-Sec/ SDLs utilisation limits and reporting to SEBI. Henceforth, the overall monitoring of G-Sec/ SDLs will be done by Clearing Corporation of India Ltd.(CCIL)

iii. Thus, any circular(s) previously issued by SEBI for monitoring of G-Sec and SDLs stands withdrawn and hence, shall not be applicable to FPIs for investments in G-Secs and SDLs from June 1, 2018. However, FPIs may be guided by RBI circular dated June 15, 2018 referred above for the requirements of G-Secs and SDLs.

iv. Further, revised requirements for FPIs investments in corporate debt securities are placed as Annexure (see circular link for details).

v. It is clarified that the primary responsibility of complying with monitoring the corporate debt investment limits is with the FPIs on whose behalf depositories will monitor the investment limits. As the depositories are maintaining the data on investor group level, depositories shall monitor the investments at the investor group level. Custodians shall be responsible for monitoring their own clients.

vi. At the time of monitoring the corporate debt investment limits, depositories shall identify the FPIs in breach and inform to their respective custodians who in turn shall advise their FPI clients for the needful. For the monitoring of G-Secs/ SDLs utilisation limits by CCIL, depositories shall share the investor group data with RBI and CCIL on a monthly basis.

vii. The stock exchanges and depositories shall put in place the necessary systems for the online monitoring of the investment limits.

Separate Limit of Interest Rate Futures (IRFs) for Foreign Portfolio Investors (FPIs) (SEBI: March 8, 2018)

Reserve Bank of India, in its Statement on Developmental and Regulatory Policies, released on August 02, 2017, proposed to allocate a separate limit of Rs50bn to Foreign Portfolio Investors (FPIs) for taking long position in Interest Rate Futures (IRFs) in order to facilitate further market development and to ensure that FPIs' access to bond futures remains uninterrupted during the phase when FPI limits on Government securities (GSec) are under auction. The limits prescribed for investment by FPIs in Government Securities (currently Rs3,015bn) are exclusively available for investment in GSec only.

The limit of Rs50bn separately allocated to FPIs for taking long position in IRFs would be calculated as follows:

i. For each interest rate futures instrument, position of FPIs with a net long position will be aggregated. FPIs with a net short position in the instrument will not be reckoned.

ii. No FPI can acquire net long position in excess of Rs18bn at any point of time

For monitoring the limit, Stock Exchanges, after consulting amongst themselves, have to adhere to the following mechanism:

a. Put in place necessary mechanism for monitoring and enforcing limits of FPIs in IRFs.

b. Aggregate net long position in IRF of all FPIs taken together at end of the day and shall jointly publish/ disseminate the same on their website on daily basis.

c. Once 90% of the limit is utilized, Stock Exchanges shall put in place necessary mechanism to get alerts and publish on their websites the available limit, on a daily basis.

d. In case, there is any breach of the threshold limit, the FPI/s whose investment caused the breach shall square off their excess position/s within five trading days or by expiry of contract, whichever is earlier.

This circular comes into effect immediately.

8.6 Circulars Related Other Stakeholders

Creation of Segregated Portfolios in Mutual Fund Schemes (SEBI: December 28, 2018)[6]

SEBI has permitted creation of segregated portfolio of debt and money market instruments by mutual funds schemes to deal with liquidity risks and to ensure fair treatment to all investors in case of a credit event.

The circular defines segregated portfolio as a portfolio comprising of debt or money market instrument affected by a credit event, which has been segregated in a mutual fund scheme.

An Asset Management Company (AMC) may create segregated portfolio in a mutual fund scheme subject to the following:

[6] https://www.sebi.gov.in/legal/circulars/dec-2018/creation-of-segregated-portfolio-in-mutual-fund-schemes_41462.html

i. Segregated portfolio may be created in case of a credit event at issuer level i.e. downgrade in credit rating by a SEBI registered Credit Rating Agency (CRA).

ii. The most conservative rating shall be considered in case of difference in rating by multiple CRAs.

iii. Creation of segregated portfolio shall be optional and at the discretion of the AMC. It shall be created only if the Scheme Information Document (SID) of the scheme has provisions for segregated portfolio with adequate disclosures.

iv. AMCs shall have a detailed written down policy on creation of segregated portfolio and the same shall be approved by the trustees.

v. Once an AMC decides to segregate portfolio, it shall:

  a. Seek approval of trustees prior to creation of the segregated portfolio.

  b. Issue a press release disclosing its intention to segregate such debt and money market instruments and its impact on the investors.

  c. Ensure that till the time trustee approval is received, which in no case shall exceed 1 business day from the day of credit event, the subscription and redemption in the scheme shall be suspended for processing.

vi. Once the trustee approval is received:

  a. Segregated portfolio shall be effective from the day of credit event.

  b. AMC shall issue a press release to that effect immediately with all relevant information pertaining to the segregated portfolio. The AMC shall also submit the details to SEBI.

  c. An e-mail or SMS to that effect shall be sent to all unit holders of the concerned scheme.

  d. The NAVs of segregated and main portfolio shall be disclosed from the day of the credit event.

  e. All existing investors in the scheme as on the day of the credit event shall be allotted equal number of units in the segregated portfolio as held in the main portfolio.

  f. No redemption and subscription shall be allowed in the segregated portfolio. However, in order to facilitate exit to the unit holders in a segregated portfolio, the AMC shall enable listing of the units of segregated portfolio on a recognized stock exchange within 10 working days of creation of the segregated portfolio and also enable transfer of such units on receipt of transfer requests.

  If the trustees do not approve the proposal to segregate portfolio, AMC shall issue a press release immediately to that effect.

vii. Valuation and processing of subscriptions and redemptions:

  a. Notwithstanding the decision to segregate the debt and money market instruments, the valuation should take into account the credit event and the portfolio shall be valued based on the principles of fair valuation (i.e. realizable value of the assets) in terms of the relevant provisions of SEBI (Mutual Funds) Regulations, 1996 and Circular(s) issued thereunder.

  b. All subscription and redemption requests for which NAV of the day of credit event or subsequent day is applicables will be processed as under:

    - Upon trustees' approval to create a segregated portfolio:

- o Investors redeeming their units will get redemption proceeds based on the NAV of main portfolio and will continue to hold the units of segregated portfolio.
- o Investors subscribing to the scheme will be allotted units only in the main portfolio based on its NAV.

- If the trustees do not approve the proposal of segregated portfolio, the subscription and redemption applications will be processed based on the NAV of the total portfolio.

viii. Total Expense Ratio (TER) for the Segregated Portfolio:

a. AMC shall not charge investment and advisory fees on the segregated portfolio. However, TER (excluding the investment and advisory fees) can be charged on a pro-rata basis only upon recovery of the investments in segregated portfolio.

b. The TER so levied shall not exceed the simple average of such expenses (excluding the investment and advisory fees) charged on daily basis on the main portfolio (in % terms) during the period for which the segregated portfolio was in existence.

c. The legal charges related to recovery of the investments of the segregated portfolio may be charged to the segregated portfolio in proportion to the amount of recovery. However, the same shall be within the maximum TER limit as applicable to the main portfolio. The legal charges in excess of the TER limits, if any, shall be borne by the AMC.

d. The costs related to segregated portfolio shall in no case be charged to the main portfolio.

ix. In order to enable the existing as well as the prospective investors to take informed decisions, the circular has also laid down various disclosure requirements for AMCs.

x. In order to ensure timely recovery of investments of the segregated portfolio and avoid its misuse, trustees shall monitor the workings of the AMCs as per the guidelines laid down in this circular.

xi. The existence of the provisions for segregated portfolio should not encourage the AMCs to take undue credit risk in the scheme portfolio. Any misuse of the provisions of segregated portfolio would be considered serious and stringent action may be taken.

Interoperability among Clearing Corporations (SEBI: November 27, 2018)

Interoperability of clearing corporations (CCs) is linking of multiple clearing corporations, which allows market participants to consolidate their clearing and settlement functions at a single clearing corporation of their choice.

SEBI issued a circular on November 27, 2018 providing a framework for Interoperability of Clearing Corporations. The interoperability framework shall be applicable to all the recognised clearing corporations excluding those operating in International Financial Service Centre (IFSC).

i. All the products available for trading on the stock exchanges excluding commodity derivatives which shall be made available at a later date under the interoperability framework.

ii. To achieve interoperability, a link is established between the two clearing corporations. A link may be set up either as a participant link or peer-to-peer link.

iii. The collateral posted by one CC with another CC shall be maintained in a separate account, which can be clearly identified in the name of the CC providing the collateral and shall not be included in the Core SGF of the CC receiving the collateral.

iv. The CCs shall undertake multilateral netting to create inter-CC net obligations and settle funds and securities on a net basis.

v. In order to mitigate any risk arising out of latency in real time flow of information between stock exchange and CC, stock brokers shall be mandatorily subject to risk reduction mode of 85% of their collateral available for adjustments against margins.

vi. In case of default by a CC, the collateral provided by the defaulting CC shall be utilised to cover losses arising from such default, as per the guideline provided in SEBI circular dated August 27, 2014.

vii. The transaction charges levied by CC shall be made known to the market participants upfront.

The Stock Exchanges and the Clearing Corporations shall take all necessary steps to operationalize interoperability at the earliest but not later than June 01, 2019.

Guidelines for Enhanced Disclosures by Credit Rating Agencies (CRAs) (SEBI: November 13, 2018)

SEBI, vide Circular dated November 01, 2016, had prescribed the standard format for press release regarding rating action by CRAs. While CRAs are required to monitor and analyse the relevant factors that affect the creditworthiness of an issuer and discuss the same in the rating notes considered by the rating committee for assignment of ratings, such relevant factors may also be suitably incorporated in the press release regarding the rating action. Accordingly, in order to enable investors to understand the underlying rating drivers better and make more informed investment decisions, CRAs shall make the following specific disclosures in the section on "Analytical Approach" in the Press Release:

i. When a rating factors in support from a Parent/ Group/ Government, with an expectation of infusion of funds towards timely debt servicing, the names of such entities, along with the rationale for such expectation, may be provided

ii. When subsidiaries or group companies are consolidated to arrive at a rating, list of all such companies, along with the extent (e.g. full, proportionate or moderate) and rationale of consolidation, may be provided.

iii. The Press Release shall also include a specific section on "Liquidity", which shall highlight parameters like liquid investments or cash balances, access to unutilised credit lines, liquidity coverage ratio, adequacy of cash flows for servicing maturing debt obligation, etc. CRAs shall also disclose any linkage to external support for meeting near term maturing obligations

Role of Sub-Broker (SB) vis-à-vis Authorizer Person (AP) (SEBI: August 03, 2018)

Under the current regulatory framework, Sub-Brokers ("SB") need to seek registration from SEBI under SEBI (Stock Broker and Sub-Broker) Regulations, 1992, and Authorized Persons ('AP') need to seek registration from the concerned Exchange. There is no difference in the operative role of a Sub-Broker and that of an Authorized Person.

In its board meeting held on June 21, 2018, SEBI has decided to discontinue with Sub-Broker as an intermediary to be registered with SEBI. The current SBs will have two options till March 31, 2019:

1. Migrate to act as an Authorized person (AP) and/or Trading Member (TM), or
2. Surrender their Sub-Broker registration

Further, the following procedure will be followed by SEBI from the date of this circular:

i. SEBI will not accept any fresh registrations for Sub-Brokers, and any pending applications with SEBI shall be returned to the concerned Stock Exchanges for onward transmission to the applicant.

ii. Consequent to migration/ deemed surrender, the certificate of registration granted by SEBI to the Sub-Brokers will be withdrawn.

The migration path for existing registered Sub-Brokers, shall be as under:

i. A registered Sub-Broker who is already approved to act as an AP in Derivatives Segment of the Exchanges, shall be registered with the Exchange to continue activities of Sub-Broker as an AP in Cash Segment.

ii. A registered Sub-Broker who is not approved by Stock Exchanges to act as an AP in Derivatives Segment, exchanges shall register him/her as an AP in Cash Segment, to continue their operations without disruption.

iii. The existing Sub-Broker has an option to become a Trading Member, if the Sub-Broker meets the eligibility criteria prescribed under Stock Exchange Bye-laws and SEBI Regulations and by complying with these Regulations.

All the existing Sub-Brokers shall be required to pay renewal fees to SEBI upto FY19; and renewal fees paid by Sub-Broker for the financial years beyond 2018-19 shall be refunded on receipt of recommendation from respective Stock Exchange. The Stock Exchanges shall put in place appropriate process for surrender or migration of Sub-Broker to AP/ TM.

Discontinuation of Acceptance of Cash by Stock Brokers (July 12, 2018)

In view of the various modes of payment through electronic means available today, SEBI has directed that Stock Brokers shall not accept cash from their clients either directly or by way of cash deposit to the bank account of the stock broker. The SEBI circular dated August 27, 2003 (regarding Mode of Payment and Delivery) has been modified accordingly. All other conditions specified in the SEBI circular dated August 27, 2003 shall continue to remain in force.

Participation by Strategic Investors in InvITs and REITs (SEBI: January 18, 2018)

SEBI has allowed strategic investors to participate in InvITs (Infrastructure Investment Trusts) or REITs (Real Estate Investment Trusts) as per the respective Regulations. In this regard, if a strategic investor wants to invest in InvITs or REITs, then the following procedure needs to be followed:

i. The strategic investor(s) shall, either jointly or severally, invest not less than 5% and not more than 25% of the total offer size.

ii. The investment manager or manager on behalf of the InvIT/REIT, shall enter into a binding unit subscription agreement with the strategic investor(s), which propose(s) to invest in the public issue of InvIT/REIT.

iii. Subscription price per unit payable by the strategic investor(s) shall be set out in the unit subscription agreement and the entire subscription price shall be deposited in a special escrow account prior to opening of the public issue.

iv. The price at which the strategic investor has agreed to buy units of the InvIT/REIT shall not be less than the issue price determined in the public issue.

v. The draft offer document or offer document, as applicable shall disclose details of the unit subscription agreement including name of each strategic investor, the number of units proposed to be subscribed by it or the investment amount, proposed subscription price per unit, etc.

vi. The unit subscription agreement shall not be terminated except in the event the issue fails to collect minimum subscription.

Lastly, the units subscribed by strategic investors, pursuant to the unit subscription agreement, will be locked-in for a period of 180 days from the date of listing in the public issue.

Enhancing Fund Governance for Mutual Funds (SEBI: February 7, 2018)

In November 2017, SEBI released a circular related to corporate governance norms for Mutual Funds. After receiving feedback from the Mutual Fund industry, SEBI has made a few amendments to the provisions as stated below:

i. Independent trustees and independent directors, who have held office for 9 years or more (as on November 30, 2017) were permitted to continue in their respective position for a maximum of one additional year. However, it is now being altered to allow IDs to comply with this provision in a phased manner, within a period of 2 years.

ii. The earlier provision stated that auditors who have conducted audit of the Mutual Fund for nine years or more (as on date of issuance of this circular) may continue for a maximum of one year from date of issuance of this circular. However, this has now been extended, allowing auditors to continue till the end of FY19.

iii. All other provisions of the November 2017 circular remain unchanged.

The following changes have been made to ensure a smooth transition to the norms mentioned in the November 2017 circular that would enhance the governance structure of Mutual Funds in India.

Margin Provisions for Intra-day Crystallised Losses (SEBI: January 8, 2018)

Previously, the margining system of Clearing Corporations levied margins based on net buy value (Buy –Sales value of underlying) of unsettled trades in the cash segment and based on the net open positions (Open Interest) in the derivatives segments. The risk of crystallised obligations (Profit/Loss on trade) incurred due to intra-day trades did not get fully captured in the margining system and consequently in the clearing corporation's risk management system.

Based on the recommendations of SEBI's Risk Management Review Committee, the following has been decided to mitigate such risks with effect from three months from the date of the circular:

i. The intra-day crystallised losses shall be monitored and blocked by Clearing Corporations from the free collateral on a real-time basis only for those transactions which are subject to upfront margining. For this purpose, crystallised losses can be offset against crystallised profits at a client level, if any.

ii. If crystallised losses exceed the free collateral available with the Clearing Corporation, then the entity shall be put into risk reduction mode as specified in circular dated December 13, 2012.

iii. Crystallised losses shall be calculated based on weighted average prices of trades executed.

iv. Adjustment of intraday crystallised losses shall not be done from exposure free liquid networth of the clearing member.