

**THE GAZETTE OF INDIA**

**EXTRAORDINARY**

**PART – III – SECTION 4**

**PUBLISHED BY AUTHORITY**

**NEW DELHI, JANUARY 7, 2014**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**NOTIFICATION**

**Mumbai, the 7<sup>th</sup> January, 2014**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**(FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014**

No. LAD-NRO/GN/2013-14/36/12.- In exercise of the powers conferred by sub-section (1) of Section 30 read with sub-section (1) of Section 11, clause (ba) of sub-section (2) of Section 11 and sub-sections (1) and (1A) of Section 12 of the Securities and Exchange Board of India Act, 1992, and under Section 25 of the Depositories Act, 1996, the Securities and Exchange Board of India hereby, makes the following regulations, to put in place a framework for registration and procedures with regard to foreign investors who propose to make portfolio investment in India, namely,—

**CHAPTER I**

**PRELIMINARY**

**Short title and commencement.**

9. (1) These regulations may be called the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**Definitions.**

9. (1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions and variations shall be construed accordingly,—

- (a) “Act” means the Securities and Exchange Board of India Act, 1992;
- (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Act;
- (c) "certificate" means a certificate of registration granted to a foreign portfolio investor by the designated depository participant on behalf of the Board under these regulations;
- (d) “custodian of securities” means a person registered under the Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996;
- (e) "designated bank" means a scheduled bank in India, which has been authorized by the Reserve Bank of India to act as a banker to foreign portfolio investors;
- (f) “designated depository participant” means a person who has been approved by the Board under Chapter III of these regulations;
- (g) "foreign institutional investor" means an institution who is registered under the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995;
- (h) “foreign portfolio investor” means a person who satisfies the eligibility criteria prescribed under regulation 4 and has been registered under Chapter II of these regulations, which shall be deemed to be an intermediary in terms of the provisions of the Act:

Provided that any foreign institutional investor or qualified foreign investor who holds a valid certificate of registration shall be deemed to be a foreign portfolio investor till the expiry of the block of three years for which

fees have been paid as per the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995;

- (i) "Form" means a form specified in the First Schedule to these regulations;
  - (j) "offshore derivative instrument" means any instrument, by whatever name called, which is issued overseas by a foreign portfolio investor against securities held by it that are listed or proposed to be listed on any recognised stock exchange in India, as its underlying;
  - (k) "qualified depository participant" means a depository participant approved by the Board to act as qualified depository participant;
  - (l) "qualified foreign investor" means a person who has opened a dematerialized account with a qualified depository participant as a qualified foreign investor;
  - (m) "Schedule" means a schedule to these regulations;
  - (n) "sub-account" means a person who is registered under the Securities and Exchange Board of India (Foreign Institutional Investor) Regulations, 1995.
- (2) Words and expressions used and not defined in these regulations, but defined in the Act or the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 or the rules and regulations made thereunder shall have the same meaning respectively assigned to them in those Acts or rules or regulations or any statutory modification or re-enactment thereto.

## **CHAPTER II**

### **REGISTRATION OF FOREIGN PORTFOLIO INVESTORS**

#### **Application for grant of certificate as foreign portfolio investor.**

1. (1) No person shall buy, sell or otherwise deal in securities as a foreign portfolio investor unless it has obtained a certificate granted by the designated depository participant on behalf of the Board:

Provided that a foreign institutional investor or sub-account may, subject to payment of conversion fees as specified in Part A of the Second Schedule, continue

to buy, sell or otherwise deal in securities subject to the provisions of these regulations, till the expiry of its registration as a foreign institutional investor or sub-account, or until he obtains a certificate of registration as foreign portfolio investor, whichever is earlier:

Provided further that a qualified foreign investor may continue to buy, sell or otherwise deal in securities subject to the provisions of these regulations, for a period of one year from the date of commencement of these regulations, or until he obtains a certificate of registration as foreign portfolio investor, whichever is earlier.

(2) An application for the grant of certificate as foreign portfolio investor shall be made to the designated depository participant in Form A of the First Schedule and shall be accompanied by the fee specified in Part A of the Second Schedule.

**Eligibility criteria of foreign portfolio investor.**

2. The designated depository participant shall not consider an application for grant of certificate of registration as a foreign portfolio investor unless the applicant satisfies the following conditions namely, -

- (a) the applicant is a person not resident in India;
- (b) the applicant is resident of a country whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to bilateral Memorandum of Understanding with the Board;
- (c) the applicant being a bank, is a resident of a country whose central bank is a member of Bank for International Settlements;
- (d) the applicant is not resident in a country identified in the public statement of Financial Action Task Force as:
  - (i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

- (ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
- (e) the applicant is not a non-resident Indian;
- (f) the applicant is legally permitted to invest in securities outside the country of its incorporation or establishment or place of business;
- (g) the applicant is authorized by its Memorandum of Association and Articles of Association or equivalent document(s) or the agreement to invest on its own behalf or on behalf of its clients;
- (h) the applicant has sufficient experience, good track record, is professionally competent, financially sound and has a generally good reputation of fairness and integrity;
- (i) the grant of certificate to the applicant is in the interest of the development of the securities market;
- (j) the applicant is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008; and
- (k) any other criteria specified by the Board from time to time.

Explanation.- For the purposes of this regulation:

- (i) The term “person” shall have the same meaning as assigned to it under section 2 (31) of the Income-tax Act, 1961;
- (ii) The term “non-resident” shall have the same meaning as assigned to it under the Income-tax Act, 1961;
- (iii) The term “resident in India” shall have the same meaning as assigned to it under the Income-tax Act, 1961;
- (iv) “Bilateral Memorandum of Understanding with the Board” shall mean a bilateral Memorandum of Understanding between the Board and the overseas regulator that, *inter alia*, provides for information sharing arrangements under clause (ib) of sub section (2) of Section 11 of the Act.

**Categories of foreign portfolio investor.**

3. An applicant shall seek registration as a foreign portfolio investor in one of the categories mentioned hereunder or any other category as may be specified by the Board from time to time:

(a) "Category I foreign portfolio investor" which shall include Government and Government related investors such as central banks, Governmental agencies, sovereign wealth funds and international or multilateral organizations or agencies;

(b) "Category II foreign portfolio investor" which shall include:

- (i) appropriately regulated broad based funds such as mutual funds, investment trusts, insurance/reinsurance companies;
- (ii) appropriately regulated persons such as banks, asset management companies, investment managers/ advisors, portfolio managers;
- (iii) broad based funds that are not appropriately regulated but whose investment manager is appropriately regulated:

Provided that the investment manager of such broad based fund is itself registered as Category II foreign portfolio investor:

Provided further that the investment manager undertakes that it shall be responsible and liable for all acts of commission and omission of all its underlying broad based funds and other deeds and things done by such broad based funds under these regulations.

(iv) university funds and pension funds; and

(v) university related endowments already registered with the Board as foreign institutional investors or sub-accounts.

Explanation 1.- For the purposes of this clause, an applicant seeking registration as a foreign portfolio investor shall be considered to be "appropriately regulated" if it is regulated or supervised by the securities market regulator or the banking regulator of the concerned foreign jurisdiction, in the same capacity in which it proposes to make investments in India.

Explanation 2.-

A) For the purposes of this clause, "broad based fund" shall mean a fund, established or incorporated outside India, which has at least twenty investors, with no investor holding more than forty-nine per cent of the shares or units of the fund:

Provided that if the broad based fund has an institutional investor who holds more than forty nine per cent of the shares or units in the fund, then such institutional investor must itself be a broad based fund.

B) For the purpose of clause A of this Explanation, for ascertaining the number of investors in a fund, direct investors as well as underlying investors shall be considered.

C) For the purpose of clause B of this Explanation, only investors of entities which have been set up for the sole purpose of pooling funds and making investments, shall be considered for the purpose of determining underlying investors.

(c) "Category III foreign portfolio investor" which shall include all others not eligible under Category I and II foreign portfolio investors such as endowments, charitable societies, charitable trusts, foundations, corporate bodies, trusts, individuals and family offices.

**Furnishing of information, clarification and personal representation.**

4.(1) The Board or the designated depository participant may require the applicant to furnish such further information or clarification as may be considered necessary to grant certificate of registration as a foreign portfolio investor.

(2)The applicant or his authorized representative shall, if so required by the Board or designated depository participant, appear before them for personal representation in connection with the grant of a certificate.

**Procedure and grant of certificate.**

5. (1) The designated depository participant may grant certificate of registration as prescribed in Form B of First Schedule to an applicant if it is satisfied that the applicant is eligible and fulfils the requirements as specified in these regulations.

(2) The designated depository participant shall endeavor to dispose of the application for grant of certificate of registration as soon as possible but not later than thirty days after receipt of application by the designated depository participant or, after the information called for under regulation 6 has been furnished, whichever is later.

(3) Upon grant of certificate of registration to the foreign portfolio investor, the designated depository participant shall forthwith collect the fees, as specified in Part A of the Second Schedule, from foreign portfolio investor on behalf of the Board and shall remit fees to the Board.

(4) If an applicant seeking registration as a foreign portfolio investor has any grievance with respect to its application or if the designated depository participant has any question in respect of interpretation of any provision of this regulation, it may approach the Board for appropriate instructions.

**Application to conform to the requirements.**

6. An application for grant of certificate of registration to act as a foreign portfolio investor, which is not complete in all respects or is false or misleading in any material particular shall be deemed to be deficient and liable to be rejected by the designated depository participant:

Provided that, before rejecting any such application, the applicant shall be given a reasonable opportunity to remove the deficiency, within the time as specified by the designated depository participant.

**Procedure where certificate is not granted.**

7.(1) Where an application for grant of a certificate does not satisfy the requirements specified in these regulations, the designated depository participant may reject the application after giving the applicant a reasonable opportunity of being heard.

(2) The decision to reject the application shall be communicated by the designated depository participant to the applicant in writing stating therein the grounds on which the application has been rejected.

(3) The applicant, who is aggrieved by the decision of the designated depository participant under sub-regulation (1) may, within a period of thirty days from the

date of receipt of communication under sub-regulation (2), apply to the Board for reconsideration of the decision of the designated depository participant.

(4) The Board shall, as soon as possible, in the light of the submissions made in the application for reconsideration made under sub-regulation (3) and after giving a reasonable opportunity of being heard, convey its decision in writing to the applicant.

**Suspension, cancellation or surrender of certificate.**

**8.** (1) Subject to compliance with the provisions of the Act, these regulations and the circulars issued thereunder, the registration granted by the designated depository participant on behalf of the Board under these regulations shall be permanent unless suspended or cancelled by the Board or surrendered by the foreign portfolio investor.

(2) Suspension and cancellation of registration granted by the Board under these regulations, shall be dealt with in the manner as provided in Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

(3) Any foreign portfolio investor desirous of giving up its activity and surrendering the certificate of registration may make a request for such surrender to the designated depository participant who shall accept the surrender of registration after obtaining approval from the Board to do so.

(4) While accepting the surrender of registration under sub-regulation (3), the designated depository participant may impose such conditions as may be specified by the Board and such person shall comply with such conditions.

### **CHAPTER III**

#### **APPROVAL OF DESIGNATED DEPOSITORY PARTICIPANT**

**Application for approval to act as designated depository participant.**

**9.** (1) No person shall act as designated depository participant unless it has obtained the approval of the Board:

Provided that a custodian of securities which is registered with the Board as on the date of commencement of these regulations, shall be deemed to have been granted approval as designated depository participant subject to the payment of fees as specified in Part B of Second Schedule:

Provided further that a qualified depository participant which has been granted approval by the Board prior to the commencement of these regulations, having opened qualified foreign investor account as on date of notification of these regulations, shall be deemed to have been granted approval as designated depository participant subject to the payment of fees as specified in Part B of Second Schedule.

(2) An application for approval to act as designated depository participant shall be made to the Board through the depository in which the applicant is a participant and shall be accompanied by the application fee specified in Part A of the Second Schedule which shall be paid in the manner specified therein.

(3) The depository shall forward to the Board the application, as early as possible, but not later than thirty days from the date of receipt by the depository, along with its recommendations and certifying that the participant complies with the eligibility criteria as provided for in these regulations.

**Eligibility criteria of designated depository participant.**

**10.** (1) The Board shall not consider an application for the grant of approval as designated depository participant unless the applicant satisfies the following conditions, namely:

- (a) the applicant is a participant registered with the Board;
- (b) the applicant is a custodian of securities registered with the Board;
- (c) the applicant is an Authorized Dealer Category-1 bank authorized by Reserve Bank of India;
- (d) the applicant has multinational presence either through its branches or through agency relationships with intermediaries regulated in their respective home jurisdictions;
- (e) the applicant has systems and procedures to comply with the requirements of Financial Action Task Force Standards, Prevention of Money Laundering

Act, 2002, Rules prescribed thereunder and the circulars issued from time to time by the Board;

(f) the applicant is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008; and

(g) any other criteria specified by the Board from time to time.

(2) Notwithstanding anything contained in sub-regulation (1) of this regulation, the Board may consider an application from a global bank, regulated in its home jurisdiction, for grant of approval to act as designated depository participant, if it is satisfied that it has sufficient experience in providing custodial services and the grant of such approval is in the interest of the development of the securities market:

Provided that such global bank shall be registered with the Board as a participant, custodian of securities, and shall have tie up with Authorized Dealer Category-1 bank.

**Furnishing of information, clarification and personal representation.**

**11.** (1) The Board may require the applicant or the depository of which the applicant is a participant to furnish such further information or clarification as may be considered necessary for grant of approval to act as designated depository participant.

(2) The applicant or his authorized representative shall, if so required by the Board, appear before it for personal representation in connection with the grant of approval.

**Procedure and grant of approval to designated depository participant.**

**12.** (1) After considering an application made under regulation 11, the Board may grant approval to the applicant, if it is satisfied that the applicant is eligible and fulfills the requirements as specified in these regulations including payment of fees as specified in Part B of Second Schedule.

(2) The Board shall dispose of the application for grant of approval as soon as possible but not later than one month after receipt of application by the Board or,

after the information called for under regulation 13 has been furnished, whichever is later.

**Application to conform to the requirements.**

**13.** An application for grant of approval to act as designated depository participant which is not complete in all respects or is false or misleading in any material particular, shall be deemed to be deficient and shall be liable to be rejected by the Board:

Provided that, before rejecting any such application, the applicant shall be given a reasonable opportunity to remove the deficiency, within the time as specified by the Board.

**Procedure where approval is not granted.**

**14.** (1) Where an application for grant of an approval does not satisfy the requirements specified in these regulations, the Board may reject the application after giving the applicant a reasonable opportunity of being heard.

(2) The decision to reject the application shall be communicated by the Board to the applicant in writing stating therein the grounds on which the application has been rejected.

(3) The applicant, who is aggrieved by the decision of the Board under sub-regulation (1) may, within a period of thirty days from the date of receipt of communication under sub-regulation (2), apply to the Board for reconsideration of its decision.

(4) The Board shall, as soon as possible, in the light of the submissions made in the application for reconsideration made under sub-regulation (3) and after giving a reasonable opportunity of being heard, convey its decision in writing to the applicant.

**Validity of approval.**

**15.** Subject to compliance with the provisions of the Act, these regulations and the circulars issued thereunder, the approval granted by the Board under these regulations shall be permanent unless suspended or withdrawn by the Board or surrendered by the designated depository participant.

**Suspension or withdrawal of approval.**

16. Where any designated depository participant who has been granted approval under these regulations-

(a) fails to comply with any conditions subject to which an approval has been granted to him under these regulations;

(b) contravenes any of the provisions of the securities laws or directions, instructions or circulars issued thereunder;

the Board may, without prejudice to any action under the securities laws or directions, instructions or circulars issued thereunder, by order suspend or withdraw such approval after providing the designated depository participant a reasonable opportunity of being heard.

**Surrender of approval.**

17. (1) Any designated depository participant, who has been granted approval under these regulations, desirous of giving up its activity and surrendering the approval granted, may make a request for such surrender to the Board.

(2) While accepting the surrender under sub-regulation (1), the Board may impose such conditions as it deems fit for protection of investors or the clients of designated depository participants or the securities market and such person shall comply with such conditions.

**CHAPTER IV****INVESTMENT CONDITIONS AND RESTRICTIONS****Commencement of investment.**

18. No foreign portfolio investor shall make any investments in securities in India without complying with the provisions of this Chapter.

**Investment restrictions.**

19. (1) A foreign portfolio investor shall invest only in the following securities, namely-

(a) Securities in the primary and secondary markets including shares, debentures and warrants of companies, listed or to be listed on a recognized stock

exchange in India;

- (b) Units of schemes floated by domestic mutual funds, whether listed on a recognized stock exchange or not;
- (c) Units of schemes floated by a collective investment scheme;
- (d) Derivatives traded on a recognized stock exchange;
- (e) Treasury bills and dated government securities;
- (f) Commercial papers issued by an Indian company;
- (g) Rupee denominated credit enhanced bonds;
- (h) Security receipts issued by asset reconstruction companies;
- (i) Perpetual debt instruments and debt capital instruments, as specified by the Reserve Bank of India from time to time;
- (j) Listed and unlisted non-convertible debentures/bonds issued by an Indian company in the infrastructure sector, where 'infrastructure' is defined in terms of the extant External Commercial Borrowings (ECB) guidelines;
- (k) Non-convertible debentures or bonds issued by Non-Banking Financial Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank of India;
- (l) Rupee denominated bonds or units issued by infrastructure debt funds;
- (m) Indian depository receipts; and
- (n) Such other instruments specified by the Board from time to time.

(2) Where a foreign institutional investor or a sub account, prior to commencement of these regulations, holds equity shares in a company whose shares are not listed on any recognized stock exchange, and continues to hold such shares after initial public offering and listing thereof, such shares shall be subject to lock-in for the same period, if any, as is applicable to shares held by a foreign direct investor placed in similar position, under the policy of the Government of India relating to foreign direct investment for the time being in force.

(3) Nothing contained in sub-regulation (2) shall be deemed to prejudice the applicability of any other law, regulation or guideline.

(4) In respect of investments in the secondary market, the following additional conditions shall apply:

- (a) A foreign portfolio investor shall transact in the securities in India only on the basis of taking and giving delivery of securities purchased or sold;
- (b) Nothing contained in clause (a) shall apply to:
  - (i) any transactions in derivatives on a recognized stock exchange;
  - (ii) short selling transactions in accordance with the framework specified by the Board;
  - (iii) any transaction in securities pursuant to an agreement entered into with the merchant banker in the process of market making or subscribing to unsubscribed portion of the issue in accordance with Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;
  - (iv) any other transaction specified by the Board.
- (c) No transaction on the stock exchange shall be carried forward;
- (d) The transaction of business in securities by a foreign portfolio investor shall be only through stock brokers registered by the Board;
- (e) Nothing contained in clause (d) of this sub-regulation shall apply to:
  - (i) transactions in Government securities and such other securities falling under the purview of the Reserve Bank of India which shall be carried out in the manner specified by the Reserve Bank of India;
  - (ii) sale of securities in response to a letter of offer sent by an acquirer in accordance with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
  - (iii) sale of securities in response to an offer made by any promoter or acquirer in accordance with the Securities and Exchange Board of India (Delisting of Equity shares) Regulations, 2009;
  - (iv) sale of securities, in accordance with the Securities and Exchange Board of India (Buy-back of securities) Regulations, 1998;
  - (v) divestment of securities in response to an offer by Indian Companies in accordance with Operative Guidelines for Disinvestment of Shares

by Indian Companies in the overseas market through issue of American Depository Receipts or Global Depository Receipts as notified by the Government of India and directions issued by Reserve Bank of India from time to time;

(vi) any bid for, or acquisition of, securities in response to an offer for disinvestment of shares made by the Central Government or any State Government;

(vii) any transaction in securities pursuant to an agreement entered into with merchant banker in the process of market making or subscribing to unsubscribed portion of the issue in accordance with Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;

(viii) any other transaction specified by the Board.

(f) A foreign portfolio investor shall hold, deliver or cause to be delivered securities only in dematerialized form:

Provided that any shares held in non-dematerialized form, before the commencement of these regulations, can be held in non-dematerialized form, if such shares cannot be dematerialized.

(5) In respect of investments in the debt securities, the foreign portfolio investors shall also comply with terms, conditions or directions, specified or issued by the Board or Reserve Bank of India, from time to time, in addition to other conditions specified in these regulations.

Explanation.- For the purposes of this sub-regulation, the expression “debt securities” shall include dated Government securities, commercial paper, treasury bills, listed or to be listed corporate debt, units of debt oriented mutual funds, unlisted non-convertible debentures / bonds in the infrastructure sector, security receipts issued by asset reconstruction companies or any other security, as specified by the Board from time to time.

(6) Unless otherwise approved by the Board, securities shall be registered in the name of the foreign portfolio investor as a beneficial owner for the purposes of the Depositories Act, 1996.

(7) The purchase of equity shares of each company by a single foreign portfolio investor or an investor group shall be below ten percent of the total issued capital of the company.

(8) The investment by the foreign portfolio investor shall also be subject to such other conditions and restrictions as may be specified by the Government of India from time to time.

(9) In cases where the 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, the Board may, during the validity of such agreements or treaties, recognize them as such, subject to conditions as may be specified by it.

(10) A foreign portfolio investor may lend or borrow securities in accordance with the framework specified by the Board in this regard.

Explanation.- For the purposes of this regulation, the words ‘security receipts’, ‘asset reconstruction’, ‘securitisation company’ and ‘reconstruction company’ shall have the meanings respectively assigned to them under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

#### **Conditions for issuance of offshore derivative instruments.**

**20.** (1) No foreign portfolio investor may issue, subscribe to or otherwise deal in offshore derivative instruments, directly or indirectly, unless the following conditions are satisfied:

- (a) such offshore derivative instruments are issued only to persons who are regulated by an appropriate foreign regulatory authority;
- (b) such offshore derivative instruments are issued after compliance with ‘know your client’ norms:

Provided that those unregulated broad based funds, which are classified as Category II foreign portfolio investor by virtue of their investment manager being appropriately regulated shall not issue, subscribe or otherwise deal in offshore derivatives instruments directly or indirectly:

Provided further that no Category III foreign portfolio investor shall issue, subscribe to or otherwise deal in offshore derivatives instruments directly or indirectly.

(2) A foreign portfolio investor shall ensure that further issue or transfer of any offshore derivative instruments issued by or on behalf of it is made only to persons who are regulated by an appropriate foreign regulatory authority.

(3) Foreign portfolio investors shall fully disclose to the Board any information concerning the terms of and parties to off-shore derivative instruments such as participatory notes, equity linked notes or any other such instruments, by whatever names they are called, entered into by it relating to any securities listed or proposed to be listed in any stock exchange in India, as and when and in such form as the Board may specify.

(4) Any offshore derivative instruments issued under the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 before commencement of these regulations shall be deemed to have been issued under the corresponding provision of these regulations.

## **CHAPTER V**

### **GENERAL OBLIGATIONS AND RESPONSIBILITIES OF FOREIGN PORTFOLIO INVESTORS**

#### **General obligations and responsibilities of foreign portfolio investors.**

**21.** (1) The foreign portfolio investor shall-

- (a) comply with the provisions of these regulations, as far as they may apply, circulars issued thereunder and any other terms and conditions specified by the Board from time to time;
- (b) forthwith inform the Board and designated depository participant in writing, if any information or particulars previously submitted to the Board or designated depository participant are found to be false or misleading, in any material respect;
- (c) forthwith inform the Board and designated depository participant in writing, if

- there is any material change in the information previously furnished by him to the Board or designated depository participant;
- (d) as and when required by the Board or any other government agency in India, submit any information, record or documents in relation to its activities as a foreign portfolio investor;
  - (e) forthwith inform the Board and the designated depository participant, in case of any penalty, pending litigations or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by an overseas regulator against it;
  - (f) obtain a Permanent Account Number from the Income Tax Department;
  - (g) in relation to its activities as foreign portfolio investor, at all times, subject itself to the extant Indian laws, rules, regulations and circulars issued from time to time and provide an express undertaking to this effect to the designated depository participant;
  - (h) provide such declarations and undertakings as required by the designated depository participant; and
  - (i) provide any additional information or documents as may be required by the designated depository participant to ensure compliance with the Prevention of Money Laundering Act, 2002 and rules and regulations prescribed thereunder, Financial Action Task Force standards and circulars issued from time to time by the Board.
- (2) In case of jointly held depository accounts, each of the joint holders shall meet the requirements specified for foreign portfolio investor and each shall be deemed to be holding a depository account as a foreign portfolio investor.
- (3) 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 foreign portfolio investor.
- (4) In case of any direct or indirect change in structure or beneficial ownership of the foreign portfolio investor, it shall bring the same to the notice of its designated depository participant forthwith.

**Code of conduct.**

22. A foreign portfolio investor shall, at all times, abide by the code of conduct as specified in Third Schedule.

**Engagement of designated depository participant.**

23. An applicant seeking registration as a foreign portfolio investor shall engage a designated depository participant to avail its services for obtaining a certificate of registration as foreign portfolio investor.

**Appointment of custodian of securities.**

24. (1) A foreign portfolio investor or a global custodian who is acting on behalf of the foreign portfolio investor, shall enter into an agreement with the designated depository participant engaged by it to act as a custodian of securities, before making any investment under these regulations.

(2) In addition to the obligation of custodian of securities under any other regulations, the custodian of securities shall:

- (a) report to the depositories and the Board on a daily basis the transactions entered into by the foreign portfolio investor in the form and manner prescribed by the Board and/or depositories from time to time;
- (b) monitor investment of the foreign portfolio investors;
- (c) maintain the relevant true and fair records, books of accounts, and documents including the records relating to transactions of foreign portfolio investors;
- (d) report the holdings of foreign portfolio investors who form part of investor group to the depositories and the depositories shall club the investment limits to ensure that combined holdings of all these foreign portfolio investors remains below ten per cent of the issued capital of the investee company at any time.

**Appointment of designated bank.**

25. A foreign portfolio investor shall appoint a branch of a bank authorized by the Reserve Bank of India for opening of foreign currency denominated account and special non-resident rupee account before making any investments in India.

**Appointment of compliance officer.**

**26.** (1) Every foreign portfolio investor shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines and instructions issued by the designated depository participant or the Board or the Central Government:

Provided that in case of a foreign portfolio investor who is an individual, such individual shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines and instructions issued by the designated depository participant or the Board or the Central Government.

(2) The compliance officer shall immediately and independently report to the Board and the designated depository participant regarding any non-compliance observed by him.

**Investment advice in publicly accessible media.**

**27.** (1) A foreign portfolio investor, or any of its employees shall not render directly or indirectly any investment advice about any security in the publicly accessible media, whether real-time or non real-time, unless a disclosure of his interest including long or short position in the said security has been made, while rendering such advice.

(2) In case, an employee of the foreign portfolio investor is rendering such advice, he shall also disclose the interest of his dependent family members and his employer including their long or short position in the said security, while rendering such advice.

**Maintenance of proper books of accounts, records and documents.**

**28.** (1) Every foreign portfolio investor shall keep or maintain, as the case may be, the following books of accounts, records and documents, namely:-

- (a) true and fair accounts relating to remittance of initial corpus for buying, selling and realising capital gains of investment made from the corpus;

- (b) accounts of remittances to India for investments in India and realising capital gains on investments made from such remittances;
  - (c) bank statement of accounts;
  - (d) contract notes relating to purchase and sale of securities; and
  - (e) communication from and to the designated depository participants, stock brokers and depository participants regarding investments in securities.
- (2) The foreign portfolio investor shall intimate to its designated depository participants, in writing, the location where such books, records and documents will be kept or maintained.

**Preservation of books of accounts, records and documents.**

29. Subject to the provisions of any other law, for the time being in force, every foreign portfolio investor shall preserve the books of accounts, records and documents specified in regulation 30 for a minimum period of five years.

**CHAPTER VI**  
**GENERAL OBLIGATIONS AND RESPONSIBILITIES OF DESIGNATED**  
**DEPOSITORY PARTICIPANTS**

**Obligations and responsibilities of designated depository participants.**

30. (1) All designated depository participants who have been granted approval by the Board shall -
- (a) comply with the provisions of these regulations, as far as they may apply, circulars issued thereunder and any other terms and conditions specified by the Board from time to time;
  - (b) forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading, in any material respect;
  - (c) forthwith inform the Board in writing, if there is any material change in the information previously furnished by him to the Board;

- (d) furnish such information, record or documents to the Board and Reserve Bank of India, as may be required, in relation to his activities as a designated depository participant;
- (e) ensure that only registered foreign portfolio investors are allowed to invest in securities market;
- (f) ensure that foreign portfolio investor does not have opaque structure(s):

Explanation 1.- For the purposes of this clause, "opaque structure" shall mean any structure such as protected cell company, segregated cell company or equivalent, where the details of the ultimate beneficial owners are not accessible or where the beneficial owners are ring fenced from each other or where the beneficial owners are ring fenced with regard to enforcement:

Provided that the foreign portfolio investor satisfying the following criteria shall not be treated as having opaque structure:

- (i) the applicant is regulated in its home jurisdiction
- (ii) each fund or sub fund in the applicant satisfies broad based criteria, and
- (iii) the applicant gives an undertaking to provide information regarding its beneficial owners as and when Board seeks this information.

Explanation 2.- For the purposes of Explanation 1, the definition of ultimate beneficial owner shall be as provided under the Master circular on Anti Money Laundering Standards or Combating the Financing of Terrorism, issued by the Board from time to time.

- (g) have adequate systems to ensure that in case of jointly held depository accounts, each of the joint holders meet the requirements specified for foreign portfolio investors and shall perform KYC due diligence for each of the joint holders;
- (h) in case of any penalty, pending litigations or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by any regulator against a designated depository participant, the designated depository participant shall bring such information forthwith, to the attention of the Board, depositories and stock exchanges;
- (i) be guided by the relevant circular on Anti-Money Laundering or Combating the Financing of Terrorism specified by the Board from time to time.

- (j) ensure that foreign portfolio investor submits an undertaking along with a certificate from chartered accountant to the authorized dealer certifying that all taxes have been paid or funds have been set aside to meet the tax liability before remittance of any sum out of India.
- (2) The designated depository participant engaged by an applicant seeking registration as foreign portfolio investor shall:-
  - (a) ascertain at the time of granting registration and whenever applicable, whether the applicant forms part of any investor group;
  - (b) open a dematerialized account for the applicant only after ensuring compliance with all the requirements under Prevention of Money Laundering Act, 2002 and rules and regulations prescribed thereunder, Financial Action Task Force standards and circulars issued by the Board in this regard, from time to time and shall also ensure that foreign portfolio investors comply with all these requirements on an ongoing basis;
  - (c) carry out necessary due diligence and obtain appropriate declarations and undertakings from applicant to ensure that no other depository account is held by any of the concerned applicant as a foreign portfolio investor or as a non resident Indian, before opening a depository account;
  - (d) ensure that equity shares held by foreign portfolio investors are free from all encumbrances;
  - (e) collect and remit fees to the Board, in the manner as specified in Part A of Second Schedule; and
  - (f) in case of change in structure or constitution or direct or indirect change in beneficial ownership reported by the foreign portfolio investor, re-assess the eligibility of such foreign portfolio investor.

**Maintenance of proper books of accounts, records and documents.**

- 31.** (1) Every designated depository participant shall keep or maintain, as the case may be, the relevant true and fair records, books of accounts, and documents including the records relating to registration of foreign portfolio investors.
- (2) The designated depository participant shall intimate to the Board in writing the location where such books, records and documents will be kept or maintained.

(3) Subject to the provisions of any other law for the time being in force, every designated depository participant shall preserve the books of accounts, records and documents specified in this regulation at all times.

**Appointment of compliance officer.**

**32.** (1) Every designated depository participant shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines and instructions issued by the Board or the Central Government.

(2) The compliance officer shall immediately and independently report to the Board any non-compliance observed by him.

**Information to the Board/Reserve Bank of India.**

**33.** Every designated depository participant shall, as and when required by the Board or the Reserve Bank of India, submit to the Board or the Reserve Bank of India, as the case may be, any information, record or documents in relation to activities of foreign portfolio investor as the Board or as the Reserve Bank of India may require.

**Investment advice in publicly accessible media.**

**34.** (1) A designated depository participant, or any of its employees shall not render directly or indirectly any investment advice about any security in the publicly accessible media, whether real-time or non real-time, unless a disclosure of his interest including long or short position in the said security has been made, while rendering such advice.

(2) In case, an employee of the designated depository participant is rendering such advice, he shall also disclose the interest of his dependent family members and his employer including their long or short position in the said security, while rendering such advice.

**CHAPTER VII  
INSPECTION**

**Board's right to inspect.**

**35.** The Board may *suo motu* or upon receipt of information or complaint appoint one or more persons as inspecting authority to undertake inspection of the books of account, records and

documents relating to a designated depository participant for any of the following purposes, namely,-

- (a) to ensure that the books of account, records including telephone records and electronic records and documents are being maintained by the designated depository participants;
- (b) to ascertain whether any circumstances exist which would render the designated depository participants unfit or ineligible;
- (c) to inquire into the complaints received from investors, clients, other market participants or any other person on any matter having a bearing on the activities of the designated depository participants;
- (d) to ascertain whether the provisions of the securities laws and the directions or circulars issued thereunder are being complied with by the designated depository participants;
- (e) to ascertain whether the systems, procedures and safeguards which have been established and are being followed by the designated depository participants are adequate; and
- (f) to investigate *suo motu* into the affairs of the designated depository participants in the interest of the securities market or in the interest of investors.

**Notice before inspection.**

**36.** (1) Before undertaking an inspection under regulation 37, the Board shall give not less than ten days notice to the designated depository participants:

Provided that where the Board is satisfied that, in the interest of the investors, no such notice should be given, it may, by an order in writing direct that such inspection be taken up without such notice.

(2) During the course of an inspection, the designated depository participants against whom the inspection is being carried out shall be bound to discharge its obligation as provided in regulation 39.

**Obligations of designated depository participants in connection with inspection by the Board.**

**37.** (1) It shall be the duty of the designated depository participants whose affairs are being inspected, and of every director, officer and employee thereof to produce to the inspecting officer such books, securities, accounts, records and other documents in its custody or

control and furnish him with such statements and information relating to its activities, as the inspecting officer may require, within such reasonable period as the inspecting officer may specify.

(2) The designated depository participants shall allow the inspecting officer to have reasonable access to the premises occupied by such designated depository participant or by any other person on its behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the designated depository participants or such other person and also provide copies of documents or other materials which in the opinion of the inspecting officer are relevant for the purposes of the inspection.

(3) The inspecting officer, in the course of inspection, shall be entitled to examine or to record the statements of any director, officer or employee of the designated depository participants.

(4) It shall be the duty of every director, officer or employee of the designated depository participants to give to the inspecting officer all assistance in connection with the inspection, which the inspecting officer may reasonably require.

**Submission of report to the Board.**

**38.** The inspecting officer shall, as soon as possible, on completion of the inspection or investigation as the case may be, submit a report to the Board:

Provided that if directed to do so by the Board, he may submit interim report(s).

**Action on inspection report.**

**39.** The Board shall after consideration of inspection report take such action as the Board may deem fit and appropriate including action under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

**Appointment of auditor.**

**40.** The Board shall have the power to appoint an auditor to inspect or investigate, as the case may be, into the books of account, records, documents, infrastructures, systems and procedures or affairs of the applicant or the designated depository participants, as the case may be:

Provided that the auditors so appointed shall have the same powers as vested in the inspecting officer under regulation 37 and the applicant or designated depository

participants and its directors, officers and employees shall be under the same obligations, towards the auditor so appointed, as are mentioned in regulation 39.

**Board to recover the expenses.**

**41.** The Board shall be entitled to recover from the designated depository participants or applicant, as the case may be, such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting or investigating the books of account, records, documents, infrastructures, systems and procedures or affairs of the designated depository participants or applicant, as the case may be.

**CHAPTER VIII**

**PROCEDURE FOR ACTION IN CASE OF DEFAULT**

**Liability for action in case of default.**

**42.** A foreign portfolio investor, designated depository participant, depository or any other person who contravenes any of the provisions of these regulations shall be liable for action under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 and/or the relevant provisions of the Act or the Depositories Act, 1996.

**CHAPTER IX**

**MISCELLANEOUS**

**Power of the Board to issue clarifications.**

**43.** In order to remove any difficulties in the application or interpretation of the provisions of these regulations, the Board may issue clarifications and guidelines in the form of circulars or issue separate circular or guidelines or framework for each category of foreign portfolio investors or designated depository participant.

**Amendments to other regulations.**

**44.** The regulations specified in the Fourth Schedule to these regulations shall be amended in the manner and to the extent stated therein.

**Repeal, rescission and saving.**

**45.** (1) The Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 shall stand repealed.

(2) On and from the commencement of these regulations, the following circulars issued by the Board shall stand rescinded:

(a) Board's circular ref. no. Cir/IMD/DF/14/2011 dated August 09, 2011;

- (b) Board's circular ref. no. Cir/IMD/FII&C/3/2012 dated January 13, 2012;
- (c) Board's circular ref. no. Cir/IMD/FII&C/4/2012 dated January 25, 2012;
- (d) Board's circular ref. no. Cir/IMD/FII&C/13/2012 dated June 07, 2012;
- (e) Board's circular ref. no. Cir/IMD/FII&C/17/2012 dated July 18, 2012;
- (f) Board's circular ref. no. Cir/IMD/FII&C/18/2012 dated July 20, 2012;
- (g) Board's circular ref. no. Cir/IMD/FII&C/13/2013 dated August 13, 2013.

(3) Notwithstanding such repeal and rescission:

- (a) anything done or any action taken or purported to have been done or taken, including suspension or cancellation of certificate of registration, any inquiry or investigation commenced or show cause notice issued under the repealed regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations;
- (b) any application for grant of certificate as a foreign institutional investor or sub-account pending before the Board shall be dealt with in accordance with the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995;
- (c) the Board may continue to grant certificate of registration as a foreign institutional investor or sub-account under the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 till March 31, 2014 which may be extended upto June 30, 2014 by the Board;
- (d) any offshore derivative instrument issued in accordance with the provisions of the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 shall be deemed to have been issued in accordance with the corresponding provisions of these regulations.

(4) After the repeal of Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995, and rescission of circulars specified in sub-regulation (2), any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

**FIRST SCHEDULE**

**FORMS**

**FORM A**

**SECURITIES AND EXCHANGE BOARD OF INDIA (FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014**

*[See regulation 3(2) and regulation 8]*

**Application Form for Grant of Certificate of Registration as Foreign portfolio investor (FPI)**

**1.0 Details of the Applicant:**

**1.1 Name of the applicant:**

--

**1.2 Address of the Applicant:**

Address			
Postal Code		Country	
Telephone No.		Fax No	
Web-site			

**1.3 Date of Birth/ incorporation/establishment / formation:**

*dd/mm/yyyy*

**1.4 Place and Country of Birth/ incorporation/establishment / formation:**

Place		Country	
-------	--	---------	--

**In case of Foreign Individual applicant, please specify the nationality and passport no. of the applicant:**

Nationality		Passport No.	
-------------	--	--------------	--

**1.5 Legal form of the applicant and the law under which it is incorporated, established or registered, if any: (not applicable to individuals )**

--

**1.6 Brief description of the principal activities: (not applicable to individuals):**

--

**1.7 Name and Brief description of the group, if any, to which the applicant belongs: (not applicable to individuals)(if applicable):**

--

**1.8 Information pertaining to the Compliance officer (not applicable to individuals):**

Name			
Job Title			
Telephone no		Fax No.	
E-mail id			

## 2 Category of the applicant

**2.1 Classification of applicant (please select the most appropriate category)\***

Type of Category	Name of Category (Please select only the most appropriate out of the categories specified)
Category-I	
Category-II**	
Category-III	

*\*The applicant should select only one category, which is most appropriate for it. If the applicant selects more than one category or selects an incorrect category, the application form shall be deemed to be defective and is liable to be rejected. The brief description for the above categories is given below for guidance:*

*\*\*To indicate the name of the investment manager, if the applicant belongs to Category II (proviso to clause c) mentioned in the table below. In such case, the investment manager shall undertake that it shall be responsible and liable for all acts of commission and omission of all its underlying broad based funds and other deeds and things done by such broad based funds under these regulations:*

<b>Category</b>	<b>Eligible Foreign Investors</b>
I	Government and Government related investors such as Central Banks, Governmental Agencies, Sovereign Wealth Funds, International/ Multilateral Organizations/ Agencies
II	<p>a) Appropriately regulated broad based funds such as Mutual Funds, Investment Trusts, Insurance/Reinsurance Companies.</p> <p>b) Appropriately regulated entities such as Banks, Asset Management Companies, Investment Managers/ Advisors, Portfolio Managers.</p> <p>c) Not appropriately regulated broad based funds whose investment manager is appropriately regulated and is registered on behalf of the Board by the designated depository participant as Category II foreign portfolio investor:</p> <p>Provided that the investment manager shall be responsible and liable for all acts of commission and omission of all its underlying broad based funds and other deeds and things done by such broad based funds under these regulations.</p> <p>d) University Funds and Pension Funds</p> <p>e) University related Endowments already registered with SEBI as FII/Sub Account</p>
III	All other FPIs not eligible under Category I and II such as Endowments, Charitable Societies/ Trust, Foundations, Corporate Bodies, Trusts, Individuals, Family Offices.

## 2.2 Information regarding foreign investor groups

<b>S No.</b>	<b>Name of the reporting entity</b>	<b>Registration no. of reporting entity</b>	<b>Name of foreign portfolio investor</b>	<b>Registration no. of foreign portfolio investor</b>	<b>Demat Account No. of foreign portfolio investor</b>

			with whom the applicant shares common end beneficial owners		mentioned at col. C
A	B	C	D	E	F

**3. Details of Regulatory authority by which the applicant is regulated (If applicable)**

**3.1 Contact details:**

Name			
Country		Web-site	

**3.2 Registration Number/Code, If any:**

--

**4. Disciplinary History**

Whether there has been any instance of violation or non-adherence to the securities laws, code of ethics/conduct, code of business rules, for which the applicant, or its parent / holding company or affiliate may have been subjected to economic or criminal liability or suspended from carrying out its operations or the registration, has been revoked, temporarily or permanently.

Yes

No

If yes, please furnish details in annexure

**5. Details of the designated depository participant, custodian of securities and designated bank appointed**

### 5.1 Details of the DDP

Name	
Date of SEBI approval	

### 5.2 Details of Custodian of Securities

Name	
SEBI Registration number of custodian of securities	

### 5.3 Details of designated bank:

Name of the Bank and Branch	
Address	

## 6. Details of prior association with the Indian securities market.

(this section not applicable to individuals )

### 6.1 Whether the applicant was anytime registered as FII or Sub-account with the Securities and Exchange Board Of India

Yes  No

If yes, then please provide details:

Name of the entity	Registered as	SEBI Registration No.	Period of registration	
			From	To
			dd/mm/yyyy	dd/mm/yyyy

## 7. Declaration and Undertaking.

We declare that:

- a. We are authorized to make investments in India.
- b. The income and the source of funds of the applicant is from known and legitimate sources.
- c. The applicant is not a non-resident Indian.
- d. The applicant did not make any other application for grant of registration as foreign portfolio investor with any other designated depository participant.
- e. No winding up orders have been passed against the applicant.
- f. No order suspending or debarring the applicant from permanently carrying on activities in the financial sector has been passed by any regulatory authority.
- g. No order withdrawing or refusing to grant any license/approval to the applicant which has a bearing on the securities market has been passed by any authority in the preceding five years.
- h. Any penalty imposed (including monetary penalty) by any regulatory authority has been undergone or paid.
- i. The information supplied in the application, including the attached sheets, is complete and true.

**Undertaking.**

We undertake to:

1. Notify any change in the information provided in the application promptly.
2. Abide by operational instructions/ directives as may be issued by Securities and Exchange Board of India, Reserve Bank of India or any other authority from time to time under provisions of the Act or any other law for the time being in force.

For and on behalf of applicant \_\_\_\_\_

Signature of Authorized Signatory	
Name	
Designation ( <b>not applicable to individual persons</b> )	
Date	<i>Dd/mm/yyyy</i>

**FORM B**

**SECURITIES AND EXCHANGE BOARD OF INDIA  
(FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014**

*[See regulation 7(1)]*

## **CERTIFICATE OF REGISTRATION**

**I.** In exercise of the powers conferred by sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the regulations made thereunder the Board hereby grants a certificate of registration to \_\_\_\_\_ as a foreign portfolio investor, subject to the conditions specified in the Act and in the regulations made thereunder.

**II.** The category of the foreign portfolio investor is \_\_\_\_\_.

**III.** Registration Number for the foreign portfolio investor is .../.../.../.../....

**IV.** This certificate shall be valid till it is suspended, cancelled or surrendered in accordance with the regulations.

Date:

Place:

By Order  
Name and Designation of the Authorized Signatory of  
Designated depository participant

**Issued on behalf of  
Securities and Exchange Board of India**

## **SECOND SCHEDULE**

### **PART A**

#### **PAYMENT OF FEES APPLICABLE TO FOREIGN PORTFOLIO INVESTOR**

*[See regulation 3 and regulation 7(3)]*

##### **Conversion Fee**

(1) A foreign institutional investor or sub-account who has been granted registration by the Board prior to the commencement of these regulations shall be required to pay conversion fees of US \$ 1000 to the Board on or before the expiry of its registration as a foreign institutional investor or sub-account, by way of electronic transfer in the designated bank account of the Board, in order to buy, sell or otherwise deal in securities under the

SEBI (Foreign Portfolio Regulations), 2014.

- (2) However, no fee shall be payable by the applicant, which is an international/multilateral agency such as World Bank and other institutions, established outside India for providing aid, which have been granted privileges and immunities from payment of tax and duties by the Central Government.

### **Registration Fee**

- (3) Foreign portfolio investor belonging to Category I shall be exempted from the payment of registration fees.
- (4) Where many foreign portfolio investors have common beneficial owner(s), only one foreign portfolio investor shall be exempt from payment of registration fee under Category I and the other foreign portfolio investors shall pay registration fees as applicable to Category II, except where the beneficial owner is an international/multilateral agency such as World Bank and other institutions, established outside India for providing aid, which have been granted privileges and immunities from payment of tax and duties by the Central Government.
- (5) Foreign portfolio investor belonging to Category II and III shall pay registration fees, before commencement of its activity.
- (6) Foreign portfolio investor belonging to Category II and III shall pay registration fees of US \$ 3000 and US \$300, respectively or any other amount specified by the Board from time to time, for every block of three years, till the validity of its registration, by way of electronic transfer in the designated bank account of the Board.
- (7) The designated depository participants of the respective foreign portfolio investors shall collect the registration fees in advance once in every three years from all the foreign portfolio investors registered by it, and remit the fees to the Board in the manner prescribed by the Board from time to time.
- (8) Every designated depository participant shall remit the fees collected from the foreign portfolio investors during the immediate preceding month, to

the Board, by 5<sup>th</sup> working day of every month, along with the details in the format, as may be prescribed from time to time.

- (9) Any foreign portfolio investor, whose registration fee has not been received by the Board within the prescribed time, shall not make any fresh investment. The concerned designated depository participant shall immediately block/ freeze the accounts of such foreign portfolio investors and intimate the details of such foreign portfolio investors to the Board, forthwith.

## **PART B**

### **PAYMENT OF FEES APPLICABLE TO DESIGNATED DEPOSITORY PARTICIPANT**

*[See regulation 11(2) and regulation 14(1) and (3)]*

- (1) Every designated depository participant shall pay application fees and approval fees, before commencement of its activity.
- (2) Every designated depository participant shall pay application fees of INR 10,000/- at the time of making application, by way of Demand Draft in the name of “Securities and Exchange Board of India” payable at Mumbai.
- (3) Every designated depository participant shall pay approval fees of INR 5,00,000/- by way of Demand Draft in the name of “Securities and Exchange Board of India” payable at Mumbai, at the time of grant of prior approval by the Board.

## **THIRD SCHEDULE**

### **SECURITIES AND EXCHANGE BOARD OF INDIA (FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014**

#### **CODE OF CONDUCT**

*[See regulation 24]*

1. A foreign portfolio investor and its key personnel shall observe high standards of integrity, fairness and professionalism in all dealings in the Indian securities

- market with intermediaries, regulatory and other government authorities.
2. A foreign portfolio investor shall, at all times, render high standards of service, exercise due diligence and independent professional judgment.
  3. A foreign portfolio investor shall ensure and maintain confidentiality in respect of trades done on its own behalf and/or on behalf of its clients.
  4. A foreign portfolio investor shall ensure the following:
    - (a) Clear segregation of its own money/securities and its client's money/securities.
    - (b) Arms length relationship between its business of fund management/investment and its other business.
  5. A foreign portfolio investor shall maintain an appropriate level of knowledge and competency and abide by the provisions of the Act, regulations made thereunder and the circulars and guidelines, which may be applicable and relevant to the activities carried on by it. Every foreign portfolio investor shall also comply with award of the Ombudsman and decision of the Board under Securities and Exchange Board of India (Ombudsman) Regulations, 2003.
  6. A foreign portfolio investor shall not make any untrue statement or suppress any material fact in any documents, reports or information to be furnished to the designated depository participant and/or Board.
  7. A foreign portfolio investor shall ensure that good corporate policies and corporate governance are observed by it.
  8. A foreign portfolio investor shall ensure that it does not engage in fraudulent and manipulative transactions in the securities listed in any stock exchange in India.
  9. A foreign portfolio investor or any of its directors or managers shall not, either through its/his own account or through any associate or family members, relatives or friends indulge in any insider trading.
  10. A foreign portfolio investor shall not be a party to or instrumental for – a) creation of false market in securities listed or proposed to be listed in any stock exchange in India; b) price rigging or manipulation of prices of securities listed or proposed to be listed in any stock exchange in India; c) passing of price sensitive information to any person or intermediary in the securities market.

## FOURTH SCHEDULE

[See regulation 46]

### **1. Amendment to Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.**

- (i) In regulation 2, in sub-regulation (1), in clause (za), for the words “foreign institutional investor” the words “foreign portfolio investor other than Category III foreign portfolio investor” shall be substituted;
- (ii) In regulation 2, in sub-regulation (1), in clause (zb), for the words “foreign institutional investor” the words “foreign portfolio investor other than Category III foreign portfolio investor” shall be substituted;
- (iii) In regulation 2, in sub-regulation (1), in clause (zd), in sub-clause (ii), for the words “foreign institutional investor and sub account (other than a sub-account which is a foreign corporate or foreign individual)”, the words “foreign portfolio investor other than Category III foreign portfolio investor” shall be substituted;
- (iv) In Schedule VIII,
  - (a) in Part A, in para XII, in sub-para (B),
    - (i) in clause (14), in sub-clause (d), for the words “foreign institutional investors” the words “foreign portfolio investors” shall be substituted;
    - (ii) in clause (32), in sub-clause (b), for the words “foreign institutional investors” the words “foreign portfolio investors” shall be substituted;
  - (b) in Part E, in para (5), in sub-para XIX, in clause (B), for the acronym “FIIs” the words “foreign portfolio investors” shall be substituted;
- (v) In Schedule XI, in Part B, in Table (2), at serial number 1(a), for the acronym “FIIs” the words “foreign portfolio investors” shall be substituted;
- (vi) In Schedule XXI, in Part A, in para XVII, in sub-para (B), for the acronym “FIIs” the words “foreign portfolio investors” shall be substituted.

### **2. Amendment to Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.**

In regulation 2, sub-regulation (1), in clause (q), in sub-clause (2), item (ix) shall be omitted.

**3. Amendment to Securities and Exchange Board of India (Intermediaries) Regulations, 2008.**

In regulation 2, in sub-regulation (1), in clause (g),

- a. after the words "clearing corporation or clearing house" and before the words "and a trading member", the symbol and words ", foreign portfolio investors" shall be inserted;
- b. the words and symbol "foreign institutional investor," shall be omitted.

**4. Amendment to Securities and Exchange Board of India (Mutual Fund) Regulations, 1996.**

In regulation 49L, in sub-regulation (3), in clause (v), for the words "Foreign institutional investors registered with the Board", the words "Foreign portfolio investors" shall be substituted.

**5. Amendment to Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993.**

In regulation 16A, for the words "Foreign institutional investors and sub-accounts registered with the Board" the words "Foreign portfolio investors" shall be substituted.

**6. Amendment to Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007.**

In regulation 2, in sub-regulation (1), in clause (c), for the words "foreign institutional investor" the words "foreign portfolio investor" shall be substituted.

**7. Amendment to Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003.**

(i) In regulation 2, in sub-regulation (1),

- a. in clause (h), the words "Foreign Institutional Investor and" shall be omitted;
- b. In clause (i), for the words "Foreign Institutional Investor" the words "foreign portfolio investor" shall be substituted;

c. In clause (n), sub-clause (2), for the words “Foreign Institutional Investor”, wherever occur, the words “foreign portfolio investor” shall be substituted;

(ii) In regulation 6, in sub-regulation (3), for the words “Foreign Institutional Investor”, wherever occur, the words “foreign portfolio investor” shall be substituted.

**U.K. SINHA**  
**CHAIRMAN**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**