



# R.B.JAJU SECURITIES INDIA Pvt.Ltd.

#3-5-141/3/A/1, opp. Rukmini Apartments, Ramkoti, Eden Bagh, Hyderabad, Telangana 500001

## **ADVISORY FOR INVESTORS**

An Investor Advisory Policy establishes guidelines for how financial professionals and brokerages communicate with, protect, and advise their clients. It mandates strict KYC (Know Your Customer) verifications, risk-profiling frameworks, and transparent fee structures, ensuring clients receive unbiased, compliant, and regulated guidance without falling for guaranteed returns or market scams.

### **Key Guidelines and Best Practices**

When engaging with investment advisers or participating in the securities market, several key principles make up a standard advisory and protection policy:

#### **1. Deal with Registered Entities Only**

Always work with professionals or brokerages that are officially licensed by your local market regulator (e.g., [SEBI registered entities](#) in India).

Verify credentials and avoid unlicensed individuals, "dabba trading" (illegal informal trading), or unauthorized associates.

#### **2. Risk Profiling**

Before giving specific recommendations, a fiduciary or adviser is required to assess your risk tolerance, investment horizon, and financial goals

Recommendations must strictly align with this risk profile rather than generic, one-size-fits-all tips.

#### **3. Transparency in Fees and Returns**

Advisory fees should be paid only via official banking channels (no cash) against duly signed receipts.

**Warning:** Be highly suspicious of any "guaranteed returns," "fixed profits," or capital protection promises; these are red flags for fraud.

#### **4. Account Management & Security**

**No Idle Funds:** Do not leave your funds or securities idle with your broker. Ensure your accounts are settled periodically (every 30 to 90 days depending on the mandate you selected).

**Avoid General PoA:** Limit the use of Power of Attorney (PoA); instead, rely on secure online depository platforms (like Speed-e or Easiest) for the delivery of securities.

**Review Statements:** Promptly verify trade contract notes and check regular SMS/email updates sent by the Stock Exchange to track your daily trades and balances.

#### **5. Do Not Follow Unsolicited Tips**

Ignore unfounded rumors, social media tips, unsolicited SMS/WhatsApp messages, or blogs promoting specific stocks. Always conduct fundamental research or act on verified advice.

If you encounter fraudulent activities, unauthorized trading, or assured-return schemes, you can formally report them to the market regulator through official grievance redressal mechanisms (like the SEBI SCORES platform).

**MASTER CIRCULAR**

**SEBI/HO/MIRSD-PoD-2/P/CIR/2023/89**

**June 15, 2023**

To,

**All Investment Advisers registered with Securities and Exchange Board of India**

Dear Madam / Sir,

**Subject: Master Circular for Investment Advisers**

1. Securities and Exchange Board of India (SEBI), from time to time, has been issuing various circulars/directions to Investment Advisers (IAs). In order to enable users to have access to the applicable circulars at one place, this Master Circular in respect of IAs is being issued.
2. The Master Circular is a compilation of all the existing/ applicable circulars issued by SEBI pertaining to IAs.
3. The list of SEBI circulars compiled in this Master Circular is given in Appendix at the end of this Master Circular. From the date of issuance of this Master Circular, the circulars mentioned in Appendix shall stand rescinded to the extent applicable to IAs.
4. Notwithstanding such rescission,
  - a) Anything done or any action taken or purported to have been done or taken under the rescinded circulars, prior to such rescission, shall be deemed to have been done or taken under the corresponding provisions of this Master Circular;
  - b) Any application made to the Board under the rescinded circulars, prior to such rescission, and pending before it shall be deemed to have been made under the corresponding provisions of this Master Circular;

- c) The previous operation of the rescinded circulars or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the rescinded circulars, any penalty, incurred in respect of any violation committed against the rescinded circulars, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, shall remain unaffected as if the rescinded circulars have never been rescinded.
5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
6. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) .

Yours faithfully

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## I. GUIDELINES FOR INVESTMENT ADVISERS

### 1. Guidelines for Investment Advisers<sup>1</sup>

1.1. SEBI, after considering the inputs from public consultation, reviewed the framework for regulation of IAs and notified Securities and Exchange Board of India (Investment Advisers) (Amendment) Regulations, 2020 on July 03, 2020. These amendments came into force on September 30, 2020.

1.2. In accordance with the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 ('the IA Regulations'), IAs shall ensure compliance with the following guidelines:

(i) Client Level Segregation of Advisory and Distribution Activities

To ensure client level segregation at IA's group/family<sup>2</sup> level, as per Regulation 22(5) of the IA Regulations, following compliance and monitoring process shall be adopted:

(a) Existing clients, who wish to take advisory services, will not be eligible for availing distribution services within the group/family of IA. Similarly, existing clients who wish to take distribution services will not be eligible for availing advisory services within the group/family of IA.

(b) A new client will be eligible to avail either advisory or distribution services within the group/family of IA. However, the option to avail either advisory services or distribution services shall be made available to such client at the time of on boarding.

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<sup>1</sup> Reference: Circular SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020

<sup>2</sup> "Group" and "family of an individual investment adviser" shall be as per Regulation 22(3)(iii) and Regulation 2(gc) respectively of the IA Regulations

- (c) Client under these guidelines shall include individual client or non-individual client.
- (d) The client shall have discretion to continue holding assets prior to the applicability of this segregation under the existing advisory/distribution arrangement. However, the client shall not be forced to liquidate/switch such existing holdings.
- (e) Permanent Account Number (PAN) of each client shall be the control record for identification and client level segregation.
- (f) In case of an individual client, “family of client”<sup>3</sup> shall be reckoned as a single client and PAN of all members in “family of client” would jointly and severally be the control record. However, the same is not applicable for non-individual clients.
- (g) The dependent family members shall be those members whose assets on which investment advisory is sought/provided, originate from income of a single entity i.e. earning individual client in the family. The client shall provide an annual declaration or periodic updation as the case maybe in respect of such dependent family members.
- (h) IA shall, wherever available, advise direct plans (non-commission based) of products only.
- (i) The IAs shall maintain on record an annual certificate from an auditor (in case of individual IA) and its statutory auditor (in case of a non-individual IA) confirming compliance with the client level

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<sup>3</sup> “Family of client” and “AUA” shall be as per Regulation 2(gb) and Regulation 2(aa) respectively of the IA Regulations

segregation requirements as specified in Regulation 22 of the IA Regulations. Such annual certificate shall be obtained within 6 months of the end of the financial year and form part of compliance audit, in terms of Regulation 19(3) of the IA Regulations.

(ii) Agreement between IA and the client

- (a) Regulation 19(1)(d) of the IA Regulations provides that IA shall enter into an investment advisory agreement with its clients. The said agreement shall mandatorily cover the terms and conditions provided in **Annexure A**.
- (b) IA can include additional terms and conditions in the agreement without diluting the provisions of the IA Regulations and amendments thereto as well as circulars issued thereunder.
- (c) IA shall ensure that neither any investment advice is rendered nor any fee is charged until the client has signed the aforesaid agreement and provided copy of signed agreement to the client.

(iii) Fees

Regulation 15A of the IA Regulations provides that IAs shall be entitled to charge fees from a client in the manner as specified by SEBI. Accordingly, IAs shall charge fees from the clients in either of the two modes:

(A) Assets under Advice (AUA) mode

- (a) The maximum fees that may be charged under this mode shall not exceed 2.5 percent of AUA per annum per client across all services offered by IA.

(b) IA shall be required to demonstrate AUA with supporting documents like demat statements, unit statements etc. of the client.

(c) Any portion of AUA held by the client under any pre-existing distribution arrangement with any entity shall be deducted from AUA for the purpose of charging fee by the IA.

(B) Fixed fee mode

The maximum fees that may be charged under this mode shall not exceed INR 1,25,000 per annum per client across all services offered by IA.

General conditions under both modes

(a) In case “family of client” is reckoned as a single client, the fee as referred above shall be charged per “family of client”.

(b) IA shall charge fees from a client under any one mode i.e. (A) or (B) on an annual basis. The change of mode shall be effected only after 12 months of on boarding/last change of mode.

(c) If agreed by the client, IA may charge fees in advance. However, such advance shall not exceed fees for 2 quarters.

In the event of pre-mature termination of the IA services in terms of agreement, the client shall be refunded the fees for unexpired period. However, IA may retain a maximum breakage fee of not greater than one quarter fee.

### Investment Advisory Services for Accredited Investors<sup>4</sup>

In case of accredited investors, the limits and modes of fees payable to the IA shall be governed through bilaterally negotiated contractual terms and the provisions of clause 1.2(iii) shall not be applicable.

(iv) Qualification and certification requirement

Regulation 7 of the IA Regulations specifies the minimum qualification and certification requirements for IAs. Further, in terms of second proviso of regulation 7 (1), existing individual IAs above fifty years of age (as on September 30, 2020) shall not be required to comply with the qualification and experience requirements specified under Regulation 7(1)(a) and 7(1)(b) of the IA Regulations. However, such IAs shall hold National Institute of Securities Market (NISM) accredited certifications and comply with other conditions as specified under Regulation 7(2) of the IA Regulations at all times.

(v) Registration as Non Individual Investment Advisor

- a. As per Regulation 13(e) of the IA Regulations, an individual IA shall apply for registration as non-individual investment adviser on or before reaching 150 clients.
- b. Such application for registration shall be made in FORM-A as per the IA Regulations, along with the requisite fee and same shall be assessed in accordance with the provisions of the IA Regulations and amendments thereto as well as circulars issued thereunder.
- c. Once number of clients reaches 150 and till grant of registration as a non-individual IA, Individual IA shall not on-board fresh clients.

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<sup>4</sup> Reference: Circular No. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/694 dated December 21, 2021

However, during the period of examination of application by SEBI, individual IA shall continue to service existing clients. In case the aforesaid IA does not get registration as non-individual IA, such IA shall continue the advisory activities as an Individual IA while ensuring that the numbers of clients does not exceed 150 in total.

- d. As per Regulation 13(e) of the IA Regulations, existing Individual IA having more than 150 clients as on September 30, 2020 shall not on-board fresh clients and such Individual IA shall apply for registration as non-individual IA latest by April 01, 2021. However, during the period of examination of application by SEBI, individual IA shall continue to service existing clients.

(vi) Maintenance of record

Regulation 19(1) of the IA Regulations provides that IA shall maintain records with respect to his activities as an IA. In this regard, it is clarified that:

- a. IA shall maintain records of interactions, with all clients including prospective clients (prior to onboarding), where any conversation related to advice has taken place inter alia, in the form of:
  - i. Physical record written & signed by client,
  - ii. Telephone recording,
  - iii. Email from registered email id,
  - iv. Record of SMS messages,
  - v. Any other legally verifiable record.
- b. Such records shall begin with first interaction with the client and shall continue till the completion of advisory services to the client.
- c. IAs shall be required to maintain these records for a period of five

years. However, in case where dispute has been raised, such records shall be kept till resolution of the dispute or if SEBI desires that specific records be preserved, then such records shall be kept till further intimation from SEBI.

(vii) Audit

- a. As per regulation 19(3) of the IA Regulations, IA shall ensure that annual audit in respect of compliance of the IA Regulations and circulars issued thereunder is conducted. The audit shall be completed within six months from the end of each financial year.
- b. The adverse findings of the audit, if any, along with action taken thereof duly approved by the individual IA/management of the non-individual IA, shall be reported to respective SEBI office (based on the registered address of IA) within a period of one month from the date of the audit report but not later than October 31st of each year for the previous financial year starting with the financial year ending March 31,2021.

(viii) Risk profiling and suitability for non-individual clients

- a. Regulations 16 and 17 of the IA Regulations mandate risk profiling and suitability for all categories of clients.
- b. In order to further enhance the risk profiling and encompass suitable factors in case of non-individual clients, IA shall use the investment policy as approved by board/management team of such non-individual clients for risk profiling and suitability analysis.
- c. The discretion to share the investment policy/relevant excerpts of the policy shall lie with the non-individual client. However, IA shall have discretion not to onboard non-individual clients if they are

unable to do risk profiling of the non-individual client in the absence of investment policy.

(ix) Display of details on website and in other communication channels

In order to protect the interest of investors and bring more transparency in the functioning of the IAs, the IAs shall display the following information prominently on its website, mobile app, printed or electronic materials, know your client forms, client agreements and other correspondences with the clients:

- Complete name of Investment Adviser as registered with SEBI,
- Type of Registration-Individual, Non-Individual,
- Registration number, validity of registration,
- Complete address with telephone numbers,
- Contact details of the Principal Officer –contact no, email id etc.,
- Corresponding SEBI regional/local office address.

### 1.3. **Applicability**

Client level segregation of advisory and distribution activities, agreement and fees to be charged are aligned together.

## II. MEASURES TO STRENGTHEN THE CONDUCT OF INVESTMENT ADVISERS

### 2. Measures to strengthen the conduct of Investment Advisers<sup>5</sup>

#### 2.1 Restriction on free trial

As per the IA Regulations, investment advice can be given after completing risk profiling of the client and ensuring suitability of the product. It has come to the notice that IAs are providing advice on free trial basis without considering risk profile of the client. Hence the IAs shall not provide free trial for any products/services to prospective clients. Further, IAs shall not accept part payments (where some part of the fee is paid in advance) for any product/service.

#### 2.2 Proper risk profiling and consent of client on risk profiling

Risk profiling of the client is essential to provide advice on suitable product based on various criteria like income, age, securities market experience etc. Registered IAs shall provide investment advice only after completing the following steps: a. Complete the risk profile of the client based on information provided by the client. b. Obtain consent of the client on completed risk profile either through registered email or physical document.

#### 2.3 Receiving fees through banking channel only

It is observed that the IAs are receiving advisory fee in the form of cash deposit in their bank accounts or through payment gateways which does not provide proper audit trail of fees received from the clients. To bring transparency in dealing with the clients, IAs shall accept fees strictly by account payee crossed cheques / demand draft or by way of direct credit

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<sup>5</sup> Reference: Circular No. SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019

into their bank account through NEFT/ RTGS/IMPS/UPI. It is clarified that, IAs shall not accept cash deposits.

#### 2.4 Display of complaints status on website

In order to bring more transparency and enable the investors to take informed decision regarding availing of advisory services, IAs shall display the following information on the homepage (without scrolling) of their website/mobile app. The information should be displayed properly using font size of 12 or above and made available on monthly basis (within 7 days of end of the previous month) in a format as per **Annexure C**<sup>6</sup>:

### III. ADMINISTRATION AND SUPERVISION OF INVESTMENT ADVISERS

#### 3. Administration and Supervision of Investment Advisers<sup>7</sup>

3.1 SEBI, vide Circular SEBI/HO/MRD/DSA/CIR/P/2016/113 dated October 19, 2016, allowed registered IAs to use infrastructure of the stock exchanges to purchase and redeem mutual fund units directly from Asset Management Companies on behalf of their clients.

3.2 As per Regulation 14 of the IA Regulations, SEBI can recognize any body/body corporate for the purpose of regulating IAs. It further provides that SEBI may, at the time of recognition of such body or body corporate, delegate administration and supervision of IAs to such body or body corporate on such terms and conditions as may be specified.

3.3 Further, the second proviso to Regulation 38 (2) of the Securities Contracts

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<sup>6</sup> Reference: Circular No. SEBI/HO/IMD/IMD-II CIS/P/CIR/2021/0686 dated December 13, 2021

<sup>7</sup> Reference: Circular No. SEBI/HO/IMD/DF1/CIR/P/2020/148 dated August 06, 2020

(Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 states, inter alia, that a recognized stock exchange may engage in activities, whether involving deployment of funds or otherwise that are unrelated or not incidental to its activity as a stock exchange, through a separate legal entity and subject to approval of the Board.

- 3.4 Considering the growing number of registered IAs and the above mentioned provisions, it was decided to recognize a wholly-owned subsidiary of the stock exchange (stock exchange subsidiary) to administer and supervise IAs registered with SEBI.

#### **A. Criteria for grant of recognition**

The recognition of stock exchange subsidiary, in terms of the aforesaid Regulation 14, shall be based on the eligibility of the parent entity, i.e. the stock exchange, for which the following eligibility criteria is laid down:

- i. Number of years of existence: Minimum 15 years.
- ii. Stock exchanges having a minimum networth of INR 200 crores.
- iii. Stock exchanges having nation-wide terminals.
- iv. Investor grievance redressal mechanism including Arbitration.
- v. Capacity for investor service management gauged through reach of Investor Service Centers (ISCs): Stock exchanges having ISCs in at least 20 cities.

#### **B. Setting up of requisite systems by stock exchanges for the purpose**

- i. The stock exchange shall either form a subsidiary or designate an existing subsidiary for the purpose of regulating IAs.
- ii. The subsidiary shall include in its MoA, AoA and bye-laws, requisite provisions to fulfil the below mentioned responsibilities.

- iii. The subsidiary shall put in place systems/process for grievance redressal, administrative action against IAs, governing IAs, maintaining data, sharing of information with SEBI etc.
- iv. The subsidiary shall have the necessary infrastructure like adequate office space, equipment and manpower to effectively discharge the below mentioned activities. Infrastructure may be shared with other group entities where required.

### **C. Responsibilities of subsidiary of a stock exchange**

The subsidiary of a stock exchange shall have following responsibilities:

- i. Supervision of IAs including both on-site and offsite
- ii. Grievance redressal of clients and IAs
- iii. Administrative action including issuing warning and referring to SEBI for enforcement action
- iv. Monitoring activities of IAs by obtaining periodical reports
- v. Submission of periodical reports to SEBI
- vi. Maintenance of database of IAs.

## **4. Framework for administration and supervision of Investment Advisers under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013<sup>8</sup>**

- 4.1 As per Regulation 14 of the IA Regulations, SEBI may, inter-alia, recognize any body or body corporate for the purpose of regulating the IAs and delegate administration and supervision of the IAs on such terms and conditions as may be specified. Accordingly, an entity granted recognition under the aforesaid Regulation shall be designated as “Investment Adviser Administration and Supervisory Body” (“IAASB”) and shall be entrusted with the administration and supervision of IAs.

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<sup>8</sup> Reference: Circular No. SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/579 dated June 18, 2021

- 4.2 In this regard, BSE Administration & Supervision Limited (BASL), a wholly owned subsidiary of BSE Limited, has been granted recognition as IAASB for a period of three years from June 01, 2021. The details may be perused in the Press Release issued by SEBI on June 14, 2021 and available at [https://www.sebi.gov.in/media/press-releases/jun-2021/bse-administration-and-supervision-limited-granted-recognition-for-administration-and-supervision-of-investment-advisers\\_50540.html](https://www.sebi.gov.in/media/press-releases/jun-2021/bse-administration-and-supervision-limited-granted-recognition-for-administration-and-supervision-of-investment-advisers_50540.html), which also provides a link for the Standard Operating Procedure (SOP) and the Frequently Asked Questions (FAQs) issued by BASL.
- 4.3 IAASB shall inter-alia have following responsibilities:
- i. Supervision of IAs including both on-site and offsite
  - ii. Grievance redressal of clients and IAs
  - iii. Administrative action including issuing warning and referring to SEBI for enforcement action
  - iv. Monitoring activities of IAs by obtaining periodical reports
  - v. Submission of periodical reports to SEBI
  - vi. Maintenance of database of IAs
- 4.4 The Board of the IAASB shall, at all times, be chaired by a Public Interest Director and shall also have, at all times, a Director who will bring investor perspective.
- 4.5 SEBI shall continue to concurrently administer and supervise all registered IAs and IAASB shall be subject to periodic inspection by SEBI.
- 4.6 Pursuant to grant of aforementioned recognition, SEBI registered IAs are required to ensure compliance with the following:

i. Membership of IAASB

In order to ensure compliance with Regulation 6(n) of the IA Regulations and to keep their registration in force, existing IAs shall seek membership of IAASB in such manner as may be specified by the IAASB.

ii. Payment of fees

- a. The fees payable to SEBI has been modified by way of amendment to the IA Regulations, with effect from April 01, 2021, details of the same are available at [https://www.sebi.gov.in/legal/regulations/jan-2021/securities-and-exchange-board-of-india-investment-advisers-amendment-regulations-2021\\_49541.html](https://www.sebi.gov.in/legal/regulations/jan-2021/securities-and-exchange-board-of-india-investment-advisers-amendment-regulations-2021_49541.html) and [https://www.sebi.gov.in/legal/regulations/jan-2021/corrigendum-to-the-securities-and-exchange-board-of-india-investment-advisers-amendment-regulations-2021\\_48848.html](https://www.sebi.gov.in/legal/regulations/jan-2021/corrigendum-to-the-securities-and-exchange-board-of-india-investment-advisers-amendment-regulations-2021_48848.html).
- b. Accordingly, unless specified otherwise by SEBI, existing IAs shall be required to pay membership fees to IAASB in a manner prescribed by IAASB, at the time of payment of fees to SEBI as per Second Schedule to the IA Regulations, to keep their registration in force. Any subsequent payment of membership fees shall be in the manner specified by IAASB.

*For details with respect to membership process, membership fee structure as well as contact details of IAASB, FAQs under the link provided in the Press release issued by SEBI upon recognition of IAASB (please refer clause 4.2), may be referred.*

iii. Reporting

All SEBI registered IAs shall submit periodic reports to IAASB in such

manner as may be specified by IAASB.

#### IV. TECHNOLOGY RELATED

##### 5. Advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions<sup>9</sup>

5.1 Ministry of Electronics & Information Technology, Govt. of India (MoE&IT), has informed SEBI that the financial sector institutions are availing or thinking of availing Software as a Service (SaaS) based solution for managing their Governance, Risk & Compliance (GRC) functions so as to improve their cyber Security Posture. As observed by MoE&IT, though SaaS may provide ease of doing business and quick turnaround, but it may bring significant risk to health of financial sector as many a time risk and compliance data of the institution moves beyond the legal and jurisdictional boundary of India due to nature of shared cloud SaaS, thereby posing risk to the data safety and security.

5.2 In this regard, Indian Computer Emergency Response Team (CERT-in) has issued an advisory for Financial Sector organizations. The advisory has been forwarded to SEBI for bringing the same to the notice of financial sector organization. The advisory can be viewed at **Annexure D**.

5.3 It is advised to ensure complete protection and seamless control over the critical systems at your organizations by continuous monitoring through direct control and supervision protocol mechanisms while keeping the critical data within the legal boundary of India.

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<sup>9</sup> Reference: Circular No. SEBI/HO/MIRSD2/DOR/CIR/P/2020/221 dated November 03, 2020. SEBI vide e-mail dated November 14, 2022 communicated the extended timeline for compliance by IAs to BSE Administration & Supervision Limited

- 5.4 The compliance of the advisory shall be reported half yearly by IAs to SEBI with an undertaking, “Compliance of the SEBI circular for Advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions has been made.”

## V. INVESTOR COMPLAINTS

### 6. Redressal of investor grievances through SEBI Complaints Redress system (SCORES) Platform<sup>10</sup>

- 6.1. SEBI has been taking various measures to create awareness among investors about grievance mechanisms available to them through workshops as well as through print and electronic media.
- 6.2. As an additional measure and for information of all investors who deal/ invest/ transact in the market, the IAs shall prominently display in their offices the following information about the grievance redressal mechanism available to investors:

Dear Investor,

*In case of any grievance / complaint against the investment adviser:*

- Please contact Compliance Officer of the investment adviser (Name and Address) / email-id (xxx.@email.com) and Phone No. - 91- XXXXXXXXXX.

<sup>10</sup> Reference: Circular No.CIR/MIRSD/3/2014 dated August 28, 2014 and SEBI/HO/OIAE/IGRD/P/CIR/2022/0150 dated November 07, 2022

- You may also approach CEO / Partner / Proprietor (Name) / email- id (xxx.@email.com) and Phone No. - 91-XXXXXXXXXX.
- If not satisfied with the response of the investment adviser you can lodge your grievances with SEBI at <http://scores.gov.in> or you may also write to any of the offices of SEBI. For any queries, feedback or assistance, please contact SEBI Office on Toll Free Helpline at 1800 22 7575 / 1800 266 7575.

6.3. IAs are also advised to refer to Master Circular issued by SEBI on the redressal of investor grievances through the SEBI Complaints Redress System (SCORES) platform at the following link: [https://www.sebi.gov.in/legal/master-circulars/nov-2022/master-circular-on-the-redressal-of-investor-grievances-through-the-sebi-complaints-redress-system-scores-platform\\_64742.html](https://www.sebi.gov.in/legal/master-circulars/nov-2022/master-circular-on-the-redressal-of-investor-grievances-through-the-sebi-complaints-redress-system-scores-platform_64742.html)

## **7. Publishing Investor Charter and disclosure of Investor Complaints by Investment Advisers on their websites/mobile applications<sup>11</sup>**

7.1 In order to facilitate investor awareness about various activities which an investor deals with while availing the services provided by IAs, SEBI has developed an Investor Charter for Investment Advisers. This Charter is a brief document containing details of service provided to investors, their rights, dos and don'ts, responsibilities, investor grievance handling mechanism and timelines thereof etc., at one single place, in a lucid language, for ease of reference.

7.2 All registered IAs are advised to bring to the notice of their clients the Investor Charter as provided at **Annexure B** by prominently displaying on their websites and mobile applications. IAs not having websites/mobile applications shall, as a one-time measure, send Investor Charter to the investors on their registered e-mail address.

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<sup>11</sup> Reference: Circular No. SEBI/HO/IMD/IMD-II CIS/P/CIR/2021/0686 dated December 13, 2021

- 7.3 IAs shall disclose the details of investor complaints by 7th of the succeeding month in the revised format as per **Annexure C** on a monthly basis. IAs not having websites/mobile applications shall send status of Investor Complaints to the investors on their registered email on a monthly basis.
- 7.4 Further, the IAs are advised to display link/option to lodge complaint with them directly on their websites and mobile apps. Additionally, link to SCORES website/ link to download mobile app (SEBI SCORES) may also be provided.
- 7.5 The disclosure requirements under this clause came into effect from January 01, 2022.

## VI. MISCELLANEOUS

### 8. Procedure for seeking prior approval for change in control<sup>12</sup>

- 8.1. Regulation 15(11) of the IA Regulations, IA shall obtain prior approval of SEBI in case of change in control.
- 8.2. To streamline the process of providing approval to the proposed change in control of IA (hereinafter referred as IA or applicant), it has been decided as under:
- i. IA shall make an online application to SEBI for prior approval through the SEBI Intermediary Portal ('SI Portal') (<https://siportal.sebi.gov.in>).

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<sup>12</sup> Reference: Circular No. SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2022/163 dated November 28, 2022

- ii. The online application in SI portal shall be accompanied by the following information/ declaration/ undertaking about itself, the acquirer(s)/ the person(s) who shall have the control and the directors/ partners of the acquirer(s)/ the person(s) who shall have the control:
  - a. Current and proposed shareholding pattern of the applicant
  - b. Whether any application was made in the past to SEBI seeking registration in any capacity but was not granted? If yes, details thereof.
  - c. Whether any action has been initiated/ taken under Securities Contracts (Regulation) Act, 1956 (SCRA)/ Securities and Exchange Board of India Act, 1992 (SEBI Act) or rules and regulations made thereunder? If yes, the status thereof along with the corrective action taken to avoid such violations in the future. The acquirer/ the person who shall have the control shall also confirm that it shall honour all past liabilities/ obligations of the applicant, if any.
  - d. Whether any investor complaint is pending? If yes, steps taken and confirmation that the acquirer/ the person who shall have the control shall resolve the same.
  - e. Details of litigation(s), if any.
  - f. Confirmation that all the fees due to SEBI have been paid.
  - g. Declaration cum undertaking of the applicant and the acquirer/ the person who shall have the control (in the format specified at **Annexure E**), duly stamped and signed by their authorized signatories that:

- i. there will not be any change in the Board of Directors of incumbent, till the time prior approval is granted;
  - ii. pursuant to grant of prior approval by SEBI, the incumbent shall inform all the existing investors/ clients about the proposed change prior to effecting the same, in order to enable them to take informed decision regarding their continuance or otherwise with the new management; and
  - iii. the 'fit and proper person' criteria as specified in Schedule II of Securities and Exchange Board of India (Intermediaries) Regulations, 2008 are complied with.
- h. In case the incumbent is a registered stock broker, clearing member, depository participant, in addition to the above, it shall obtain approval /NOC from all the stock exchanges/clearing corporations/depositories, where the incumbent is a member/depository participant and submit self-attested copy of the same to SEBI.
- iii. The prior approval granted by SEBI shall be valid for a period of six months from the date of such approval within which the applicant shall file application for fresh registration pursuant to change in control.
- 8.3. To streamline the process of providing approval to the proposed change in control of an IA in matters which involve scheme(s) of arrangement which needs sanction of the National Company Law Tribunal ("NCLT") in terms of the provisions of the Companies Act, 2013, the following has been decided:
- i. The application seeking approval for the proposed change in control of the IA shall be filed with SEBI prior to filing the application with NCLT.

- ii. Upon being satisfied with compliance of the applicable regulatory requirements, an in-principle approval will be granted by SEBI;
- iii. The validity of such in-principle approval shall be three months from the date issuance, within which the relevant application shall be made to NCLT.
- iv. Within 15 days from the date of order of NCLT, the IA shall submit an online application in terms of clause 8.2 along with the following documents to SEBI for final approval:
  - a. Copy of the NCLT Order approving the scheme;
  - b. Copy of the approved scheme;
  - c. Statement explaining modifications, if any, in the approved scheme vis-à-vis the draft scheme and the reasons for the same; and
  - d. Details of compliance with the conditions/ observations, if any, mentioned in the in-principle approval provided by SEBI.

## **9. Advertisement code and usage of brand name/trade name<sup>13</sup>**

9.1. Investment Advisers shall ensure compliance with the advertisement code as prescribed below:

### **a. Forms of communication:**

- i. Advertisement shall include all forms of communications, issued by or on behalf of IA, that may influence investment decisions of any investor or prospective investor.

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<sup>13</sup> Reference: Circular Nos. SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2023/51 dated April 05, 2023 and SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2023/52 dated April 06, 2023

- ii. The forms of communications, to which the advertisement code shall be applicable, shall include pamphlets, circulars, brochures, notices, research reports or any other literature, document, information or material published, or designed for use in any publication or displays (such as newspaper, magazine, sign boards/hoardings at any location), in any electronic, wired or wireless communication (such as electronic mail, text messaging, messaging platforms, social media platforms, radio, telephone, or in any other form over the internet) or over any other audio-visual form of communication (such as television, tape recording, video tape recordings, motion pictures) or in any other manner whatsoever.

**b. Information/disclosures in the advertisement:**

The information/disclosures that the advertisement shall contain, include the following-

- i. Name of the IA/RA as registered with SEBI, registered office address, SEBI Registration No., logo/brand name/trade name of IA, and CIN of the IA, if applicable.
- ii. Information which is accurate, true and complete in unambiguous and concise language.
- iii. Standard warning in legible fonts (minimum 10 font size) which states “Investment in securities market are subject to market risks. Read all the related documents carefully before investing”. No addition or deletion of words shall be made to/from the standard warning.
- iv. In audio-visual media based advertisements, the standard warning in visual media based advertisement and accompanying voice over reiteration shall be audible in a clear and understandable manner.

For example, in standard warning both the visual and the voice over reiteration containing 20 words running for at least 10 seconds may be considered as clear and understandable.

- v. Whenever the advertisement is being issued in a language other than English, it will be ensured that the standard warning is accurately translated in the language of the advertisement.
- vi. In case the mode of advertisement is SMS/Message/Pop-up, social media etc. and the details such as full name, logo/brand name, full registered office address, SEBI registration number, membership number of a SEBI recognized supervisory body and standard disclaimer are not mentioned, then official website hyperlink should be provided in such SMS/Message/Pop-up, etc. and the website must contain all such details.
- vii. In case any specific security/ securities are displayed in the advertisement as examples, disclaimer that "The securities quoted are for illustration only and are not recommendatory" should be mentioned.
- viii. Advertisements and communications/correspondences with clients shall include the disclaimer that "Registration granted by SEBI, membership of BASL and certification from NISM in no way guarantee performance of the IA or provide any assurance of returns to investors."

**c. Prohibitions in the advertisement:**

The advertisement shall not contain:

- i. Anything which is prohibited for publication under the law.

- ii. Statements which are false, misleading, biased or deceptive, based on assumptions or projections.
- iii. Any misleading or deceptive testimonials.
- iv. Statements which, directly or by implication or by omission, may mislead the investor.
- v. Any statement likely to be misunderstood or likely to disguise the significance of the same or any other statement contained in the advertisement.
- vi. Any statement designed to exploit the lack of experience or knowledge of the investors.
- vii. Any statement that is exaggerated or is inconsistent with or unrelated to the nature and risk and return profile of the product.
- viii. Extensive use of technical or legal terminology or complex language and the inclusion of excessive details which may distract the investors.
- ix. Reference to any report, analysis, or service as free, unless it actually is free and without condition or obligation.
- x. Any promise or guarantee of assured or risk free return to the investors.

The advertisement shall not imply any assured returns or minimum returns or target return or percentage accuracy or service provision till achievement of target returns or any other nomenclature that gives the impression to the client that the investment advice is risk-

free and/or not susceptible to market risks and/or that it can generate returns with any level of assurance.

- xi. Any statement which directly or indirectly discredits other advertisements or intermediaries or makes unfair comparisons or ascribes any qualitative advantage over other intermediaries directly or indirectly.
- xii. Reference to past performance of the IA.
- xiii. Superlative terms such as “Best”, “No. 1”, Top Adviser, “Leading”, “One of the best amongst market leaders”, etc. so as to provide any endorsement of quality or standing of the IA. However, factual details of awards received by the IA from independent organizations may be included.
- xiv. Advertisements shall not include SEBI Logo.

**d. Other compliances/requirements:**

- i. Prior approval for the advertisement/material shall be obtained from SEBI recognized supervisory body (BSE Administration & Supervision Ltd. (BASL)) before issue.
- ii. In the event of suspension of any IA by SEBI and/or by SEBI recognized supervisory body, the IA so suspended shall not issue any advertisement either singly or jointly with any other IA, during the period of suspension.
- iii. The IA/RA shall not engage in games, leagues, schemes, competitions etc. which may involve distribution of prize monies, medals, gifts, etc.

- iv. These norms shall be applicable to any other investment/research/consultancy agency associated with the IA concerned and issuing advertisement wherein the IA has been named in the advertisement.
- v. Copy of the advertisement shall be retained by IA for a period of five years in terms of Regulation 19(2) of the IA Regulations.
- vi. Any additional guidelines as may be specified by SEBI or SEBI recognized supervisory body from time to time.

9.2. In order to ensure the transparency in usage of brand name/trade name/logo, IA/RA shall ensure that:

- i. The information such as name of the IA as registered with SEBI, its logo, its registration number and its complete address with telephone numbers shall be prominently displayed on portal/web site, if any, notice board, display boards, advertisements, publications, know your client forms and client agreements.
- ii. The information such as name of the IA as registered with SEBI, its logo, its registration number, its complete address with telephone numbers, the name of the compliance officer, his telephone number and e-mail address, the name, telephone number and e-mail address of the grievance officer or the grievance redressal cell shall be displayed prominently in statements or reports or any other form of correspondence with the client.
- iii. Disclaimer that “Registration granted by SEBI, membership of BASL and certification from NISM in no way guarantee performance of the IA or provide any assurance of returns to investors” shall be mentioned on portal/web site, if any, notice board, display boards, advertisements,

publications, know your client forms, client agreements, statements or reports or any other form of correspondence with the client.

iv. SEBI logo shall not be used by IA.

9.3. The aforesaid provisions on advertisement code and usage of brand name/trade name became applicable with effect from May 01, 2023.

#### **10. Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure<sup>14</sup>**

Registered IAs are allowed to use infrastructure of the recognized stock exchanges to purchase and redeem mutual fund units directly from Mutual Fund/ Asset Management Companies on behalf of their clients, including direct plans.

#### **11. Unauthenticated news circulated by SEBI Registered Market Intermediaries through various modes of communication<sup>15</sup>**

IAs are directed that:

- a. Proper internal code of conduct and controls should be put in place.
- b. Employees/temporary staff/voluntary workers etc. employed/working in the Offices of market intermediaries do not encourage or circulate rumours or unverified information obtained from client, industry, any trade or any other sources without verification.
- c. Access to Blogs/ Chat forums/Messenger sites etc. should either be restricted under supervision or access should not be allowed.

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<sup>14</sup> Reference: Circular No. SEBI/HO/MRD/DSA/CIR/P/2016/113 dated October 19, 2016

<sup>15</sup> Reference: Circular No. CIR/ISD/1/2011 dated March 23, 2011

- d. Logs for any usage of such Blogs/Chat forums/Messenger sites (called by any nomenclature) shall be treated as records and the same should be maintained as specified by the IA Regulations.
- e. Employees should be directed that any market related news received by them either in their official mail/personal mail/blog or in any other manner, should be forwarded only after the same has been seen and approved by the IA's Compliance Officer. If an employee fails to do so, he/she shall be deemed to have violated the various provisions contained in SEBI Act/Rules/Regulations etc. and shall be liable for action. The Compliance Officer shall also be held liable for breach of duty in this regard<sup>16</sup>.

## **12. Guidelines on Outsourcing of Activities by Intermediaries<sup>17</sup>**

- 12.1. SEBI Regulations for various intermediaries require that they shall render at all times high standards of service and exercise due diligence and ensure proper care in their operations.
- 12.2. It has been observed that often the intermediaries resort to outsourcing with a view to reduce costs, and at times, for strategic reasons.
- 12.3. Outsourcing may be defined as the use of one or more than one third party – either within or outside the group - by a registered intermediary to perform the activities associated with services which the intermediary offers.
- 12.4. Principles for Outsourcing

The risks associated with outsourcing may be operational risk, reputational risk, legal risk, country risk, strategic risk, exit-strategy risk, counter party risk, concentration and systemic risk. The principles for outsourcing are

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<sup>16</sup> Circular CIR/ISD/2/2011 dated March 24, 2011.

<sup>17</sup> Circular CIR/MIRSD/24/2011 dated December 15, 2011.

given in **Annexure F**.

#### 12.5. Activities that shall not be Outsourced:

The intermediaries desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions. An example of core business activity may be – execution of orders and monitoring of trading activities of clients in case of stock brokers. Regarding Know Your Client (KYC) requirements, the intermediaries shall comply with the provisions of SEBI {KYC (Know Your Client) Registration Agency} Regulations, 2011 and Guidelines issued thereunder from time to time.

#### 12.6. Other Obligations:

**Reporting to Financial Intelligence Unit (FIU)** - The intermediaries shall be responsible for reporting of any suspicious transactions / reports to FIU or any other competent authority in respect of activities carried out by the third parties.

### **13. Framework for Regulatory Sandbox<sup>18</sup>**

13.1. The Objective of Regulatory Sandbox is to grant certain facilities and flexibilities to the entities regulated by SEBI so that they can experiment with FinTech solutions in a live environment and on limited set of real users for a limited time frame.

13.2. The guidelines pertaining to the functioning of the Regulatory Sandbox are available at the link below:

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<sup>18</sup> Reference: Circular No. SEBI/HO/ITD/ITD/CIR/P/2021/575 dated June 14, 2021 and SEBI/HO/MIRSD/MIRSD\_IT/P/CIR/2021/0000000658 dated November 16, 2021

[https://www.sebi.gov.in/legal/circulars/jun-2021/revised-framework-for-regulatory-sandbox\\_50521.html](https://www.sebi.gov.in/legal/circulars/jun-2021/revised-framework-for-regulatory-sandbox_50521.html) and  
[https://www.sebi.gov.in/legal/circulars/nov-2021/framework-for-regulatory-sandbox\\_53982.html](https://www.sebi.gov.in/legal/circulars/nov-2021/framework-for-regulatory-sandbox_53982.html)

#### **14. General Guidelines for dealing with Conflicts of Interest of intermediaries and their Associated Persons in Securities Market.<sup>19</sup>**

- 14.1. All intermediaries are presently governed by the provisions for avoidance of conflict of interest as mandated in the regulations read with relevant circulars issued from time to time by SEBI. On the lines of Principle 8 of the International Organisation of Securities Commissions (IOSCO) Objectives and Principles of Securities Regulations, it has been decided to put in place comprehensive guidelines to collectively cover such intermediaries, for elimination of their conflict of interest, as detailed hereunder.
- 14.2. Intermediaries shall adhere to these guidelines for avoiding or dealing with or managing conflict of interest. They shall be responsible for educating their associated persons for compliance of these guidelines.
- 14.3. For the purpose of these guidelines "associated persons" shall have the same meaning as defined in Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007.
- 14.4. Intermediaries and their associated persons shall,
- a. lay down, with active involvement of senior management, policies and internal procedures to identify and avoid or to deal or manage actual or potential conflict of interest, develop an internal code of conduct governing operations and formulate standards of appropriate conduct in

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<sup>19</sup> Reference: Circular CIR/MIRSD/5/2013 dated August 27, 2013.

the performance of their activities, and ensure to communicate such policies, procedures and code to all concerned;

- b. at all times maintain high standards of integrity in the conduct of their business;
- c. ensure fair treatment of their clients and not discriminate amongst them;
- d. ensure that their personal interest does not, at any time conflict with their duty to their clients and client's interest always takes primacy in their advice, investment decisions and transactions;
- e. make appropriate disclosure to the clients of possible source or potential areas of conflict of interest which would impair their ability to render fair, objective and unbiased services;
- f. endeavor to reduce opportunities for conflict through prescriptive measures such as through information barriers to block or hinder the flow of information from one department/ unit to another, etc.;
- g. place appropriate restrictions on transactions in securities while handling a mandate of issuer or client in respect of such security so as to avoid any conflict;
- h. not deal in securities while in possession of material non published information;
- i. not to communicate the material non published information while dealing in securities on behalf of others;
- j. not in any way contribute to manipulate the demand for or supply of securities in the market or to influence prices of securities;

- k. not have an incentive structure that encourages sale of products not suiting the risk profile of their clients;
  - l. not share information received from clients or pertaining to them, obtained as a result of their dealings, for their personal interest;
- 14.5. The Boards of intermediaries shall put in place systems for implementation of the aforementioned guidelines and provide necessary guidance enabling identification, elimination or management of conflict of interest situations. The Boards shall review the compliance of the above guidelines periodically.
- 14.6. The said guidelines shall be in addition to the provisions, if any, contained in respective regulations/ circulars issued by the Board from time to time regarding dealing with conflict of interest, in respect of intermediaries.

## **15. Approach to securities market data access and terms of usage of data provided by data sources in Indian securities market<sup>20</sup>**

- 15.1. IAs are advised to make note of the following:

“As far as the data provided by various data sources in Indian securities markets pursuant to regulatory mandates for reporting and disclosure in public domain are concerned, such data should be made available to users, ‘free of charge’ both for ‘viewing’ the data as also for download in the format as specified by regulatory mandate for reporting, as well as their usage for the value addition purposes.”

- 15.2. Further, apart from the data made available free of cost, data which is chargeable should be appropriately identified as such in public domain.

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<sup>20</sup> Reference: Circular SEBI/HO/DEPA-III/DEPA-III\_SSU/P/CIR/2022/25 dated Feb 25,2022

## 16. Reporting Requirements under Foreign Account Tax Compliance Act<sup>21</sup>

- 16.1. India joined the Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information on June 03, 2015. In terms of the MCAA, all countries which are signatory to MCAA, are obliged to exchange a wide range of financial information after collecting the same from financial institutions in their country / jurisdiction.
- 16.2. On July 09, 2015, the Governments of India and United States of America (USA) signed an agreement to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) in India. The USA enacted FATCA in 2010 to obtain information on accounts held by US taxpayers in other countries. As per the aforesaid agreement, foreign financial institutions (FFIs) in India will be required to report tax information about US account holders / taxpayers directly to the Indian Government which will, in turn, relay that information to the U.S. Internal Revenue Service (IRS).
- 16.3. For implementation of the MCAA and agreement with USA, the Government of India has made necessary legislative changes to Section 285BA of the Income Tax Act, 1961. Further, the Government of India has notified Rules 114F to 114H (herein after referred to as “the Rules”) under the Income Tax Rules, 1962 and form No. 61B for furnishing of statement of reportable account specified in the Rules. The Rule is available at <http://www.incometaxindia.gov.in/communications/notification/notification%20no.%2062%20dated%2007-08-2015.pdf>
- 16.4. A “Guidance Note on implementation of Reporting Requirements under Rules 114F to 114H of the Income Tax Rules” as issued by the Department of Revenue, Ministry of Finance vide F.No.500/137/2011-FTTR-III dated

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<sup>21</sup>Reference: Circular CIR/MIRSD/2/2015 dated August 26, 2015 and Circular CIR/MIRSD/3/2015 dated September 10, 2015.

August 31, 2015 is available at

[http://www.incometaxindia.gov.in/communications/notification/guidance\\_notes\\_on\\_implementation\\_31\\_08\\_2015.pdf](http://www.incometaxindia.gov.in/communications/notification/guidance_notes_on_implementation_31_08_2015.pdf), for information and necessary action.

16.5. IAs shall take necessary steps to ensure compliance with the requirements specified in the aforesaid Rules after carrying out necessary due diligence.

**17. Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) / Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed there under**

IAs are advised to refer to SEBI's Master Circular issued on February 03, 2023 with respect to 'Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) /Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed there under' available at the following link:

<https://www.sebi.gov.in/legal/master-circulars/feb-2023/guidelines-on-anti-money-laundering-aml-standards-and-combating-the-financing-of-terrorism-cft-obligations-of-securities-market-intermediaries-under-the-prevention-of-money-laundering-act-2002-a-67833.html>

## VII. REPORTING REQUIREMENTS

### 1. Complaint Data to be displayed by IAs on their website/ mobile application by 07<sup>th</sup> of the succeeding month

**Formats for investors complaints data to be disclosed monthly by IAs on their website/mobile application:**

Data for the month ending - \_\_\_\_\_

Sr. No.	Received from	Pending at the end of last month	Received	Resolved *	Total Pending #	Pending complaints > 3 months	Average Resolution time^ (in days)
1	Directly from Investors						
2	SEBI (SCORES )						
3	Other Sources (if any)						
	<b>Grand Total</b>						

\* Inclusive of complaints of previous months resolved in the current month.

# Inclusive of complaints pending as on the last day of the month

^ Average Resolution time is the sum total of time taken to resolve each complaint in days, in the current month divided by total number of complaints resolved in the current month.

**Trend of monthly disposal of complaints**

Sr. No.	Month	Carried forward from previous month	Received	Resolved*	Pending#
1	April, YYYY				
2	May, YYYY				
3	June, YYYY				
4	.....				
5	March, YYYY				
	<b>Grand Total</b>				

\* Inclusive of complaints of previous months resolved in the current month. #Inclusive of complaints pending as on the last day of the month.

**Trend of annual disposal of complaints**

Sr. No.	Year	Carried forward from previous year	Received	Resolved*	Pending#
1	2018-19				
2	2019-20				
3	2020-21				
4	20XX-XX				
	<b>Grand Total</b>				

\* Inclusive of complaints of previous years resolved in the current year.

# Inclusive of complaints pending as on the last day of the year.

**2. Undertaking on compliance of the advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions to be submitted half yearly**

The compliance of the advisory shall be reported by IA to SEBI with an undertaking, "Compliance of the SEBI circular for Advisory for Financial Sector

Organizations regarding Software as a Service (SaaS) based solutions has been made.”

**3. To conduct annual audit and submit a report and adverse findings, if any**

In terms of regulation 19(3) of the IA Regulations, IA is required to conduct annual audit in respect of compliance with the IA regulations and circulars issued thereunder from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India within six months from the end of each financial year. Submit a report of the same and adverse findings of the audit, if any, along with action taken thereof duly approved by the individual IA/management of the non-individual IA within a period of one month from the date of the audit report but not later than October 31st of each year for the previous financial year.

**VIII. ANNEXURES**

**ANNEXURE A**

**TERMS AND CONDITIONS OF AGREEMENT BETWEEN IA AND THE CLIENT**

Investment Adviser shall ensure that the following terms and conditions are incorporated in the Investment Advisory Agreement:

1. Appointment of the Investment Adviser: In accordance with the applicable laws, client hereby appoints, entirely at his / her / its risk, the Investment Adviser to provide the required services in accordance with the terms and conditions of the agreement as mandated under Regulation 19(1)(d) of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.

2. The agreement shall clearly provide for in the first page:
- a) the consent of the client on the following understanding:
    - “I / We have read and understood the terms and conditions of Investment Advisory services provided by the Investment Adviser along with the fee structure and mechanism for charging and payment of fee.
    - Based on our written request to the Investment Adviser, an opportunity was provided by the Investment Adviser to ask questions and interact with ‘person(s) associated with the investment advice’”.
  - b) Declaration from the Investment Adviser that:
    - Investment Adviser shall neither render any investment advice nor charge any fee until the client has signed this agreement.
    - Investment Adviser shall not manage funds and securities on behalf of the client and that it shall only receive such sums of monies from the client as are necessary to discharge the client’s liability towards fees owed to the Investment Adviser.
    - Investment Adviser shall not, in the course of performing its services to the client, hold out any investment advice implying any assured returns or minimum returns or target return or percentage accuracy or service provision till achievement of target returns or any other nomenclature that gives the impression to the client that the investment advice is risk-free and/or not susceptible to market risks and or that it can generate returns with any level of assurance.
  - c) Fees specified under Investment Adviser Regulations and relevant circulars issued thereunder. (to be specifically mentioned here)
  - d) Fees charged to the client. (to be specifically mentioned here)

3. Scope of services: The services to be provided by the Investment Adviser to be described in detail. However, the same shall be subject to the activities permitted under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013. The Investment Adviser shall act in a fiduciary capacity towards its clients at all times.
4. Functions of the Investment Adviser: Functions, obligations, duties and responsibilities of the Investment Adviser (including principal officer and all persons associated with the investment advice), with specific provisions covering, inter alia,:
  - a) Terms of compliance with the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 and its amendments, rules, circulars and notifications.
  - b) Compliance with the eligibility criteria as specified under the Investment Adviser Regulations at all times.
  - c) Risk assessment procedure of client including their risk capacity and risk aversion.
  - d) Providing reports to clients on potential and current investments.
  - e) Maintenance of records i.e. client-wise KYC, risk assessment, analysis reports of investment advice and suitability, terms and conditions document, related books of accounts and a register containing list of clients along with dated investment advice and its rationale in compliance with the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.
  - f) Provisions regarding audit as per the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.
  - g) Undertaking to abide by the Code of Conduct as specified in the Third Schedule of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.
5. Investment objective and guidelines:
  - a) Types of securities in which investment advice would be provided, including an

undertaking from the investment adviser to recommend direct implementation of advice i.e. through direct schemes/direct codes, and other client specifications / restrictions on investments, if any.

- b) Particulars regarding financial plan or model or strategy as agreed with the client (based on the risk profiling conducted for the client, total AUA of the client and time period for deployment).
  - c) Tax related aspects pertaining to investment advice and as applicable on the investment adviser's fee.
6. Risk Factors: A detailed statement of risks associated with each type of investment covering the standard risks associated with each type of investment in securities and investment products.
7. Validity of advisory services: Minimum period if any, and provision for renewal, if any, along with terms and conditions for such renewal.
8. Amendments – The agreement may be amended by mutual written consent of the parties.
9. Termination – This Agreement may be terminated under the following circumstances, namely-
- a) Voluntary/ mandatory termination by the Investment Adviser.
  - b) Voluntary/ mandatory termination by the client.
  - c) Suspension/ Cancellation of registration of Investment Adviser by SEBI.
  - d) Any other action taken by other regulatory body/ Government authority.

In case of a voluntary termination of the agreement, the client would be required to give a 30 days prior written notice while the Investment Adviser would be required to give a 30 days prior written notice.

In case of suspension of the certificate of registration of the IA, the client may be provided with the option to terminate the agreement.

10. Implications of Amendments and termination: The implications of Amendment, Termination and assignment, such as set off of fees received by the Investment Adviser, refund of fees, completion/termination of investment-in-progress, transition support obligations of the Investment Adviser, etc. shall also be provided in detail.
11. Relationship with related parties: The Investment Adviser to clearly declare that it is carrying on its activities independently, at an arms-length basis with its related parties. Disclosures of conflicts to be made.
12. Investment Adviser engaged in other activities:
- i. The Investment Adviser (individual) to represent to the client that it maintains an arms-length relationship between its activities as an investment adviser and other activities and to covenant that this arm's length relationship shall be maintained throughout the tenure of advisory service;
  - ii. In case of Investment Adviser who are individuals:
    - (a) to represent that they shall not provide any distribution services.
    - (b) to represent that the family of an individual Investment Adviser shall not provide distribution services to the client advised by the individual Investment Adviser, for securities and investment products.
    - (c) to represent that they shall not provide investment advisory services, for securities and investment products, to a client who is receiving distribution services from other family members;
  - iii. The Investment Adviser (non-individual);
    - (a) to represent that they shall not provide any distribution services, for securities and investment products, either directly or through their group to an advisory client.
    - (b) to represent that they shall not provide investment advisory services, for

securities and investment products, either directly or through their group to the distribution client.

13. Representation to client: The investment adviser to ensure that it will take all consents and permissions from the client prior to undertaking any actions in relation to the securities or investment product advised by the investment adviser.
14. No right to seek Power of Attorney: The Investment Adviser to clearly declare that it shall not seek any power of attorney or authorizations from its clients for implementation of investment advice.
15. No conflict of interest: The Investment Adviser to clearly declare that it will disclose all conflicts of interest as and when they arise and not derive any direct or indirect benefit out of the client's securities/investment products.
16. Maintenance of accounts and confidentiality: Investment Adviser shall be responsible for maintenance of client accounts and data as mandated under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.
17. Terms of fees and billing:
  - (a) Provide specific details on the following:
    - i. The quantum and manner of payment of fees for investment advice rendered.
    - ii. Fee modalities and periodicity, by attaching a detailed fee schedule to the agreement;
    - iii. Illustration(s) on how the fee will be determined;
    - iv. whether payment to be made in advance;
    - v. type of documents evidencing receipt of payment of fee;
    - vi. Periodicity of billing with clear date and service period
  - (b) The payment of fees shall be through a mode which shows traceability of funds. Such modes may include account payee crossed cheque/ Demand Drafts or by way of direct credit to the bank accounts through NEFT/ RTGS/ IMPS/ UPI or any other mode specified by SEBI from time to time. However, the fees shall not be

accepted in cash.

18. Liability of Investment Adviser: The agreement to clearly state that the Investment Adviser shall not incur any liability by reason of any loss, which a client may suffer by reason of any depletion in the value of the assets under advice, which may result by reason of fluctuation in asset value, or by reason of non-performance or underperformance of the securities/funds or any other market conditions.
19. Representations and covenants: Adequate and appropriate representations about qualifications of the adviser, principal officer, persons associated with the investment advice, receipt of all applicable approvals and consents (from regulatory / statutory bodies, third party consents, corporate approvals etc.) and covenant to maintain them throughout the validity of advisory service.
20. Death or Disability of client: Provisions in relation to continuation / termination of the advisory service in event of client's death / disability, succession, nomination, representation etc. to be incorporated.
21. Death or Disability of investment adviser: Every individual investment adviser must appoint one of its legal heirs, executor, trustee, administrator of estate of the deceased (the "Obligor") as the person-in-charge in the event of investment adviser's death / disability. The agreement must set out the full name, PAN and contact details of such Obligor. The agreement must disclose the steps to be taken by the Obligor in the event of the above eventuality in order to ensure protection of interest of the clients and redressal of clients' claims, including but not limited to (a) giving notice to all clients of the occurrence of the eventuality and confirmation of having taken charge over by the Obligor (b) settlement of account with the client (fees payable and/or fees refundable), (c) completion of transition of any outstanding business to another duly registered investment adviser, (d) redressal of any outstanding or new disputes / claims of clients.
22. Settlement of disputes and provision for arbitration: Adequate provisions to cover protection of acts done in good faith as well as for dispute resolution mechanism including arbitration that may be specified under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013.

23. Adherence to grievance redressal timelines: Investment Adviser shall be responsible to resolve the grievances within the timelines specified under SEBI circulars.
24. Severability: If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby.
25. Force Majeure: The Investment Adviser shall not be liable for delays or errors occurring by reason of circumstances beyond its control, including but not limited to acts of civil or military authority, national emergencies, work stoppages, fire, flood, catastrophe, acts of God, insurrection, war, riot, or failure of communication or power supply. In the event of equipment breakdowns beyond its control, the Advisor shall take reasonable steps to minimize service interruptions but shall have no liability with respect thereto.
26. Miscellaneous: Each party agrees to perform such further actions and execute such further agreements as are necessary to effectuate the purposes hereof.

## ANNEXURE B

### INVESTOR CHARTER IN RESPECT OF IAs

#### A. Vision and Mission Statements for investors

- Vision  
Invest with knowledge & safety.
- Mission  
Every investor should be able to invest in right investment products based on their needs, manage and monitor them to meet their goals, access reports and enjoy financial wellness.

**B. Details of business transacted by the Investment Adviser with respect to the investors**

- To enter into an agreement with the client providing all details including fee details, aspect of Conflict of interest disclosure and maintaining confidentiality of information.
- To do a proper and unbiased risk – profiling and suitability assessment of the client.
- To obtain registration with Know Your Client Registration Agency (KRA) and Central Know Your Customer Registry (CKYC).
- To conduct audit annually.
- To disclose the status of complaints in its website.
- To disclose the name, proprietor name, type of registration, registration number, validity, complete address with telephone numbers and associated SEBI regional/local Office details in its website.
- To employ only qualified and certified employees.
- To deal with clients only from official number
- To maintain records of interactions, with all clients including prospective clients (prior to onboarding), where any conversation related to advice has taken place.

**C. Details of services provided to investors (No Indicative Timelines)**

- Onboarding of Clients

- Sharing of agreement copy
- Completing KYC of clients
  
- Disclosure to Clients
  - To provide full disclosure about its business, affiliations, compensation in the agreement.
  - To not access client's accounts or holdings for offering advice.
  - To disclose the risk profile to the client.
  
- To provide investment advice to the client based on the risk-profiling of the clients and suitability of the client.

**D. Details of grievance redressal mechanism and how to access it**

1. In case of any grievance / complaint, an investor should approach the concerned Investment Adviser and shall ensure that the grievance is resolved within 30 days.
  
2. If the investor's complaint is not redressed satisfactorily, one may lodge a complaint with SEBI on SEBI's 'SCORES' portal which is a centralized web based complaints redressal system. SEBI takes up the complaints registered via SCORES with the concerned intermediary for timely redressal. SCORES facilitates tracking the status of the complaint.
  
3. With regard to physical complaints, investors may send their complaints to: Office of Investor Assistance and Education, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (E), Mumbai - 400 051.

**E. Expectations from the investors (Responsibilities of investors)**

- Do's

- i. Always deal with SEBI registered Investment Advisers.
- ii. Ensure that the Investment Adviser has a valid registration certificate.
- iii. Check for SEBI registration number.

Please refer to the list of all SEBI registered Investment Advisers which is available on SEBI website in the following link:  
<https://www.sebi.gov.in/sebiweb/other/OtherAction.do?doRecognisedFpi=yes&intmId=13>

- iv. Pay only advisory fees to your Investment Adviser. Make payments of advisory fees through banking channels only and maintain duly signed receipts mentioning the details of your payments.
- v. Always ask for your risk profiling before accepting investment advice. Insist that Investment Adviser provides advisory strictly on the basis of your risk profiling and take into account available investment alternatives.
- vi. Ask all relevant questions and clear your doubts with your Investment Adviser before acting on advice.
- vii. Assess the risk–return profile of the investment as well as the liquidity and safety aspects before making investments.
- viii. Insist on getting the terms and conditions in writing duly signed and stamped. Read these terms and conditions carefully particularly regarding advisory fees, advisory plans, category of recommendations etc. before dealing with any Investment Adviser.
- ix. Be vigilant in your transactions.
- x. Approach the appropriate authorities for redressal of your doubts / grievances.
- xi. Inform SEBI about Investment Advisers offering assured or guaranteed returns.

• **Don'ts**

- i. Don't fall for stock tips offered under the pretext of investment advice.
- ii. Do not provide funds for investment to the Investment Adviser.

- iii. Don't fall for the promise of indicative or exorbitant or assured returns by the Investment Advisers. Don't let greed overcome rational investment decisions.
- iv. Don't fall prey to luring advertisements or market rumors.
- v. Avoid doing transactions only on the basis of phone calls or messages from any Investment adviser or its representatives.
- vi. Don't take decisions just because of repeated messages and calls by Investment Advisers.
- vii. Do not fall prey to limited period discount or other incentive, gifts, etc. offered by Investment advisers.
- viii. Don't rush into making investments that do not match your risk taking appetite and investment goals.
- ix. Do not share login credential and password of your trading and demat accounts with the Investment Adviser.

### ANNEXURE C

#### COMPLAINT DATA TO BE DISPLAYED BY IAs

**Formats for investors complaints data to be disclosed monthly by IAs on their website/mobile application:**

Data for the month ending - \_\_\_\_\_

Sr. No.	Received from	Pending at the end of last month	Received	Resolved *	Total Pending #	Pending complaints > 3months	Average Resolution time^ (in days)
1	Directly from Investors						

2	SEBI (SCORES )						
3	Other Sources (if any)						
	<b>Grand Total</b>						

\* Inclusive of complaints of previous months resolved in the current month.

# Inclusive of complaints pending as on the last day of the month

^ Average Resolution time is the sum total of time taken to resolve each complaint in days, in the current month divided by total number of complaints resolved in the current month.

#### Trend of monthly disposal of complaints

Sr. No.	Month	Carried forward from previous month	Received	Resolved*	Pending#
1	April, YYYY				
2	May, YYYY				
3	June, YYYY				
4	.....				
5	March, YYYY				
	<b>Grand Total</b>				

\* Inclusive of complaints of previous months resolved in the current month.

# Inclusive of complaints pending as on the last day of the month

#### Trend of annual disposal of complaints

Sr. No.	Year	Carried forward from previous year	Received	Resolved*	Pending#
1	2018-19				
2	2019-20				
3	2020-21				
4	20XX-XX				
	<b>Grand Total</b>				

\* Inclusive of complaints of previous months resolved in the current month.

# Inclusive of complaints pending as on the last day of the month

## ANNEXURE D

### ADVISORY FOR FINANCIAL SECTOR ORGANIZATIONS SOFTWARE AS A SERVICE (SaaS) BASED SOLUTION

TLP:AMBER

**CERT-Fin Advisory- 201155100308**

**Advisory for Financial Sector Organisations- RBI and SEBI**

#### Overview

It has been learnt that some of the financial sector institutions are availing or thinking of availing Software as a Service (SaaS) based solution for managing their Governance, Risk & compliance (GRC) functions so as to improve their cyber security posture. Many a time the risk & compliance data of the institution moves cross border beyond the legal and jurisdictional boundary of India due to the nature of shared cloud SaaS. While SaaS may provide ease of doing business and quick turnaround, it also brings significant risk to the overall health of India's financial sector with respect to data safety and security.

#### Description

If the following data sets fall in the hands of an adversary/cyber attacker, it may lead to unprecedented increase in the attack surface area and weakening of Indian financial sector infrastructure's overall resilience.

- Credit Risk Data
- liquidity Risk Data
- Market Risk Data
- System & Sub-System Information

- Internal & Partner IP Schema
- Network Topography & Design
- Audit/Internal Audit Data
- System Configuration Data
- System Vulnerability Information
- Risk Exception Information
- Supplier Information & it's dependencies related Data

### **Solution**

The Financial Sector organisations may be advised to protect such critical data using layered defence approach and seamless protection against external or insider threat. The organisations may also be advised to ensure complete protection & seamless control over their critical system by continuous monitoring through direct control and supervision protocol mechanisms while keeping such critical data within the legal boundary of India.

The organisations may also be requested to report back to their respective regulatory authority regarding compliance to this advisory.

It is requested that you may kindly keep CERT-In informed of the actions taken and periodically provide the updated compliance to this advisory.

(It may be noted that TLP Amber means: limited disclosure, restricted to participants' organizations.

When should be used: Sources may use TLP:AMBER when information requires support to be effectively acted upon, yet carries risks to privacy, reputation, or operations if shared outside of the organizations involved.

How may it be shared: Recipients may only share TLP:AMBER information with members of their own organization, and with clients or customers who need to know the information to protect themselves or prevent further harm. Sources are at liberty to specify additional intended limits of the sharing: these must be adhered to.)

## ANNEXURE E

### DECLARATION CUM UNDERTAKING FOR SEEKING PRIOR APPROVAL FOR CHANGE IN CONTROL

We M/s. (Name of the intermediary/the acquirer/person who shall have the control), hereby declare and undertake the following with respect to the application for prior approval for change in control of (name of the intermediary along with the SEBI registration no.):

1. The applicant/intermediary (Name) and its principal officer, the directors or managing partners, the compliance officer and the key management persons and the promoters or persons holding controlling interest or persons exercising control over the applicant, directly or indirectly (*in case of an unlisted applicant or intermediary, any person holding twenty percent or more voting rights, irrespective of whether they hold controlling interest or exercise control, shall be required to fulfill the 'fit and proper person' criteria*) are fit and proper person in terms of Schedule II of SEBI (Intermediaries) Regulations, 2008.
2. We bear integrity, honesty, ethical behaviour, reputation, fairness and character.
3. We do not incur following disqualifications mentioned in Clause 3(b) of Schedule II of SEBI (Intermediaries) Regulations, 2008 i.e.
  - (i) No criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed against us by the Board and which is pending.
  - (ii) No charge sheet has been filed against us by any enforcement agency in matters concerning economic offences and is pending.
  - (iii) No order of restraint, prohibition or debarment has been passed against us by the Board or any other regulatory authority or enforcement agency in any matter concerning securities laws or financial markets and such order is in force.
  - (iv) No recovery proceedings have been initiated by the Board against us and are pending.
  - (v) No order of conviction has been passed against us by a court for any offence involving moral turpitude.

- (vi) No winding up proceedings have been initiated or an order for winding up has been passed against us.
  - (vii) We have not been declared insolvent.
  - (viii) We have not been found to be of unsound mind by a court of competent jurisdiction and no such finding is in force.
  - (ix) We have not been categorized as a wilful defaulter.
  - (x) We have not been declared a fugitive economic offender.
4. We have not been declared as not 'fit and proper person' by an order of the Board.
5. No notice to show cause has been issued for proceedings under SEBI(Intermediaries) Regulations, 2008 or under section 11(4) or section 11B of the SEBI Act during last one year against us.
6. It is hereby declared that we and each of our promoters, directors, principal officer, compliance officer and key managerial persons are not associated with vanishing companies.
7. We hereby undertake that there will not be any change in the Board of Directors of incumbent, till the time prior approval is granted.
8. We hereby undertake that pursuant to grant of prior approval by SEBI, the incumbent shall inform all the existing investors/ clients about the proposed change prior to effecting the same, in order to enable them to take informed decision regarding their continuance or otherwise with the new management.

The said information is true to our knowledge.

(stamped and signed by the Authorised Signatories)

## ANNEXURE F

### PRINCIPLES FOR OUTSOURCING FOR INTERMEDIARIES

1. **An intermediary seeking to outsource activities shall have in place a comprehensive policy to guide the assessment of whether and how those activities can be appropriately outsourced. The Board / partners (as the case may be) {hereinafter referred to as the “the Board”} of the intermediary shall have the responsibility for the outsourcing policy and related overall responsibility for activities undertaken under that policy.**
  - 1.1. The policy shall cover activities or the nature of activities that can be outsourced, the authorities who can approve outsourcing of such activities, and the selection of third party to whom it can be outsourced. For example, an activity shall not be outsourced if it would impair the supervisory authority’s right to assess, or its ability to supervise the business of the intermediary. The policy shall be based on an evaluation of risk concentrations, limits on the acceptable overall level of outsourced activities, risks arising from outsourcing multiple activities to the same entity, etc.
  - 1.2. The Board shall mandate a regular review of outsourcing policy for such activities in the wake of changing business environment. It shall also have overall responsibility for ensuring that all ongoing outsourcing decisions taken by the intermediary and the activities undertaken by the third-party, are in keeping with its outsourcing policy.
2. **The intermediary shall establish a comprehensive outsourcing risk management programme to address the outsourced activities and the relationship with the third party.**
  - 2.1. An intermediary shall make an assessment of outsourcing risk which depends on several factors, including the scope and materiality of the outsourced activity, etc. The factors that could help in considering materiality in a risk management programme include-

- 2.1.1. The impact of failure of a third party to adequately perform the activity on the financial, reputational and operational performance of the intermediary and on the investors / clients;
  - 2.1.2. Ability of the intermediary to cope up with the work, in case of non performance or failure by a third party by having suitable back-up arrangements;
  - 2.1.3. Regulatory status of the third party, including its fitness and probity status;
  - 2.1.4. Situations involving conflict of interest between the intermediary and the third party and the measures put in place by the intermediary to address such potential conflicts, etc.
- 2.2. While there shall not be any prohibition on a group entity / associate of the intermediary to act as the third party, systems shall be put in place to have an arm's length distance between the intermediary and the third party in terms of infrastructure, manpower, decision-making, record keeping, etc. for avoidance of potential conflict of interests. Necessary disclosures in this regard shall be made as part of the contractual agreement. It shall be kept in mind that the risk management practices expected to be adopted by an intermediary while outsourcing to a related party or an associate would be identical to those followed while outsourcing to an unrelated party.
- 2.3. The records relating to all activities outsourced shall be preserved centrally so that the same is readily accessible for review by the Board of the intermediary and / or its senior management, as and when needed. Such records shall be regularly updated and may also form part of the corporate governance review by the management of the intermediary.
- 2.4. Regular reviews by internal or external auditors of the outsourcing policies, risk management system and requirements of the regulator shall be mandated by the Board wherever felt necessary. The intermediary shall review the financial and operational capabilities of the third party in order to assess its ability to continue

to meet its outsourcing obligations.

**3. The intermediary shall ensure that outsourcing arrangements neither diminish its ability to fulfill its obligations to customers and regulators, nor impede effective supervision by the regulators.**

3.1. The intermediary shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the service were provided in-house.

3.2. Outsourcing arrangements shall not affect the rights of an investor or client against the intermediary in any manner. The intermediary shall be liable to the investors for the loss incurred by them due to the failure of the third party and also be responsible for redressal of the grievances received from investors arising out of activities rendered by the third party.

3.3. The facilities / premises / data that are involved in carrying out the outsourced activity by the service provider shall be deemed to be those of the registered intermediary. The intermediary itself and Regulator or the persons authorized by it shall have the right to access the same at any point of time.

3.4. Outsourcing arrangements shall not impair the ability of SEBI/SRO or auditors to exercise its regulatory responsibilities such as supervision/inspection of the intermediary.

**4. The intermediary shall conduct appropriate due diligence in selecting the third party and in monitoring of its performance.**

4.1. It is important that the intermediary exercises due care, skill, and diligence in the selection of the third party to ensure that the third party has the ability and capacity to undertake the provision of the service effectively.

4.2. The due diligence undertaken by an intermediary shall include assessment of:

4.2.1. third party's resources and capabilities, including financial soundness, to perform the outsourcing work within the timelines fixed;

- 4.2.2. compatibility of the practices and systems of the third party with the intermediary's requirements and objectives;
  - 4.2.3. market feedback of the prospective third party's business reputation and track record of their services rendered in the past;
  - 4.2.4. level of concentration of the outsourced arrangements with a single third party; and
  - 4.2.5. the environment of the foreign country where the third party is located.
5. **Outsourcing relationships shall be governed by written contracts / agreements / terms and conditions (as deemed appropriate) {hereinafter referred to as "contract"} that clearly describe all material aspects of the outsourcing arrangement, including the rights, responsibilities and expectations of the parties to the contract, client confidentiality issues, termination procedures, etc.**
  - 5.1. Outsourcing arrangements shall be governed by a clearly defined and legally binding written contract between the intermediary and each of the third parties, the nature and detail of which shall be appropriate to the materiality of the outsourced activity in relation to the ongoing business of the intermediary.
  - 5.2. Care shall be taken to ensure that the outsourcing contract:
    - 5.2.1. clearly defines what activities are going to be outsourced, including appropriate service and performance levels;
    - 5.2.2. provides for mutual rights, obligations and responsibilities of the intermediary and the third party, including indemnity by the parties;
    - 5.2.3. provides for the liability of the third party to the intermediary for unsatisfactory performance/other breach of the contract
    - 5.2.4. provides for the continuous monitoring and assessment by the

intermediary of the third party so that any necessary corrective measures can be taken up immediately, i.e., the contract shall enable the intermediary to retain an appropriate level of control over the outsourcing and the right to intervene with appropriate measures to meet legal and regulatory obligations;

- 5.2.5. includes, where necessary, conditions of sub-contracting by the third-party, i.e. the contract shall enable intermediary to maintain a similar control over the risks when a third party outsources to further third parties as in the original direct outsourcing;
- 5.2.6. has unambiguous confidentiality clauses to ensure protection of proprietary and customer data during the tenure of the contract and also after the expiry of the contract;
- 5.2.7. specifies the responsibilities of the third party with respect to the IT security and contingency plans, insurance cover, business continuity and disaster recovery plans, force majeure clause, etc.;
- 5.2.8. provides for preservation of the documents and data by third party;
- 5.2.9. provides for the mechanisms to resolve disputes arising from implementation of the outsourcing contract;
- 5.2.10. provides for termination of the contract, termination rights, transfer of information and exit strategies;
- 5.2.11. addresses additional issues arising from country risks and potential obstacles in exercising oversight and management of the arrangements when intermediary outsources its activities to foreign third party. For example, the contract shall include choice-of-law provisions and agreement covenants and jurisdictional covenants that provide for adjudication of disputes between the parties under the laws of a specific jurisdiction;

5.2.12. neither prevents nor impedes the intermediary from meeting its respective regulatory obligations, nor the regulator from exercising its regulatory powers; and

5.2.13. provides for the intermediary and /or the regulator or the persons authorized by it to have the ability to inspect, access all books, records and information relevant to the outsourced activity with the third party.

**6. The intermediary and its third parties shall establish and maintain contingency plans, including a plan for disaster recovery and periodic testing of backup facilities.**

6.1. Specific contingency plans shall be separately developed for each outsourcing arrangement, as is done in individual business lines.

6.2. An intermediary shall take appropriate steps to assess and address the potential consequence of a business disruption or other problems at the third party level. Notably, it shall consider contingency plans at the third party; co-ordination of contingency plans at both the intermediary and the third party; and contingency plans of the intermediary in the event of non-performance by the third party.

6.3. To ensure business continuity, robust information technology security is a necessity. A breakdown in the IT capacity may impair the ability of the intermediary to fulfill its obligations to other market participants/clients/regulators and could undermine the privacy interests of its customers, harm the intermediary's reputation, and may ultimately impact on its overall operational risk profile. Intermediaries shall, therefore, seek to ensure that third party maintains appropriate IT security and robust disaster recovery capabilities.

6.4. Periodic tests of the critical security procedures and systems and review of the backup facilities shall be undertaken by the intermediary to confirm the adequacy of the third party's systems.

**7. The intermediary shall take appropriate steps to require that third parties protect confidential information of both the intermediary and its customers from**

**intentional or inadvertent disclosure to unauthorised persons.**

- 7.1. An intermediary that engages in outsourcing is expected to take appropriate steps to protect its proprietary and confidential customer information and ensure that it is not misused or misappropriated.
- 7.2. The intermediary shall prevail upon the third party to ensure that the employees of the third party have limited access to the data handled and only on a “need to know” basis and the third party shall have adequate checks and balances to ensure the same.
- 7.3. In cases where the third party is providing similar services to multiple entities, the intermediary shall ensure that adequate care is taken by the third party to build safeguards for data security and confidentiality.

**8. Potential risks posed where the outsourced activities of multiple intermediaries are concentrated with a limited number of third parties.**

In instances, where the third party acts as an outsourcing agent for multiple intermediaries, it is the duty of the third party and the intermediary to ensure that strong safeguards are put in place so that there is no co-mingling of information /documents, records and assets.

**IX. APPENDIX: LIST OF CIRCULARS / NOTIFICATIONS/  
COMMUNICATIONS**

<b>Sr. No.</b>	<b>Circular/ Notification/ Communication No.</b>	<b>Date</b>	<b>Subject</b>
1	Cir/ ISD/1/2011	23-Mar-11	Unauthenticated news circulated by SEBI Registered Market Intermediaries through various modes of communication
2	CIR/ISD/2/2011	24-Mar-11	Addendum to Circular no.

<b>Sr. No.</b>	<b>Circular/ Notification/ Communication No.</b>	<b>Date</b>	<b>Subject</b>
			Cir/ISD/1/2011 dated March 23, 2011
3	CIR/MIRSD/24/2011	15-Dec-11	Guidelines on Outsourcing of Activities by Intermediaries
4	CIR/MIRSD/3/2014	28-Aug-14	Information regarding Grievance Redressal Mechanism
5	CIR/MIRSD/5/2013	27-Aug-13	General Guidelines for dealing with Conflicts of Interest of Intermediaries and their Associated Persons in Securities Market
6	CIR/MIRSD/2/2015	26-Aug-15	Implementation of the Multilateral Competent Authority Agreement and Foreign Account Tax Compliance Act
7	CIR/MIRSD/3/2015	10-Sep-15	Reporting requirement under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS)-Guidance Note
8	SEBI/HO/MRD/DSA/CIR/P/2016/113	19-Oct-16	Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure
9	SEBI/HO/IMD/DF1/CIR/P/2019/169	27-Dec-19	Measures to strengthen the conduct of Investment Advisers (IA)
10	SEBI/HO/IMD/DF1/CIR/P/2020/04	09-Jan-20	Operating Guidelines for Investment Advisers in International Financial Services Centre
11	SEBI/HO/IMD/DF1/CIR/P/2020/31	28-Feb-20	Operating Guidelines for Investment Advisers in International Financial Services Centre (IFSC) – Clarifications
12	SEBI/HO/IMD/DF1/CIR/P/2020/148	06-Aug-20	Administration and Supervision of Investment Advisers
13	SEBI/HO/IMD/DF1/CIR/P/2020/182	23-Sep-20	Guidelines for Investment Advisers
14	SEBI/HO/IMD/DF1/CIR/P/2020/185	28-Sep-20	Operating Guidelines for Investment Advisers in International Financial

<b>Sr. No.</b>	<b>Circular/ Notification/ Communication No.</b>	<b>Date</b>	<b>Subject</b>
			Services Centre (IFSC) – Amendments
15	SEBI/HO/MIRSD2/DOR/CI R/P/2020/221	03-Nov-20	Advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions
16	SEBI/HO/IMD-1/DOF-1/P/CIR/2021/622	31-Aug-21	Extension of time for seeking membership of BSE Administration & Supervision Limited
17	SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/579	18-Jun-21	Framework for administration and supervision of Investment Advisers under the SEBI (Investment Advisers) Regulations, 2013
18	SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/632	30-Sep-21	Guidelines for Investment Advisers' - Extension of timelines
19	SEBI/HO/IMD/IMD-II CIS/P/CIR/2021/0686	13-Dec-21	Publishing Investor Charter and disclosure of Investor Complaints by Investment Advisers on their websites/mobile applications
20	SEBI/HO/IMD/IMD-I DOF1/P/CIR/2021/694	21-Dec-21	Investment Advisory Services for Accredited Investors
21	SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2022/163	28-Nov-22	Procedure for seeking prior approval for change in control
22	SEBI/HO/DEPA-III/DEPA-III_SSU/P/CIR/2022/25	25-Feb-22	Approach to securities market data access and terms of usage of data provided by data sources in Indian securities market
23	SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2023/51	05-Apr-23	Advertisement code for Investment Advisers (IA) and Research Analysts (RA)
24	SEBI/HO/MIRSD/ MIRSD-PoD-2/P/CIR/2023/52	06-Apr-23	Usage of brand name/trade name by Investment Advisers (IA) and Research Analysts (RA)

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