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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 21 February, 2012

SECURITIES AND EXCHANGE BOARD OF INDIA

(MUTUAL FUNDS) (AMENDMENT) REGULATIONS, 2012

LAD-NRO/GN/2011-12/38/4290 – In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, namely:—

1. These regulations may be called the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2012.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996,—

(i) in regulation 2, for clause (b), the following shall be substituted, namely:—

“(b) “advertisement” shall include all forms of communication issued by or on behalf of the asset management company/mutual fund that may influence investment decisions of any investor/prospective investors;”;

(ii) in regulation 25, after the sub-regulation (18), the following sub-regulations shall be inserted, namely:—

“(19) The asset management company shall compute and carry out valuation of investments made by its scheme(s) in accordance with the investment valuation norms specified in Eighth Schedule, and shall publish the same.

(20) The asset management company and the sponsor of the mutual fund shall be liable to compensate the affected investors and/or the scheme for any unfair treatment to any investor as a result of inappropriate valuation.

(21) The asset management company shall report and disclose all the transactions in debt and money market securities, including inter scheme transfers, as may be specified by the Board.”;

(iii) in regulation 30,

(a) in sub-regulation (1),

1. the words, “in respect of every scheme” appearing after the word “Advertisement”, and before the words, “shall be in conformity with” shall be omitted;
2. the symbols and figure, “(1)” shall be omitted;

(b) sub-regulation (2) shall be omitted;

(iv) for regulation 47, the following shall be substituted, namely:—

“Valuation of investments

47. Every mutual fund shall ensure that the asset management company computes and carries out valuation of investments made by its scheme(s) in accordance with the investment valuation norms specified in Eighth Schedule, and publishes the same.”;

(v) after regulation 75, the following regulation shall be inserted, namely:—

“Action against mutual fund and/or asset management company

75A. Without prejudice to regulation 68, a mutual fund and/or asset management company shall be liable for action under the applicable provisions of the Act and the Regulations framed thereunder,—

- (a) in case the advertisement issued is in contravention with the Advertisement Code specified in Sixth Schedule;
- (b) in case the valuation of securities is in contravention of the Principles of Fair Valuation specified in Eighth Schedule.”;

(vi) for the Sixth Schedule, the following schedule shall be substituted, namely:—

“SIXTH SCHEDULE
Securities and Exchange Board of India (Mutual Funds) Regulations, 1996
[Regulation 30]

ADVERTISEMENT CODE

- (a) Advertisements shall be accurate, true, fair, clear, complete, unambiguous and concise.
- (b) Advertisements shall not contain statements which are false, misleading, biased or deceptive, based on assumption/projections and shall not contain any testimonials or any ranking based on any criteria.
- (c) Advertisements shall not be so designed as likely to be misunderstood or likely to disguise the significance of any statement. Advertisements shall

not contain statements which directly or by implication or by omission may mislead the investor.

- (d) Advertisements shall not carry any slogan that is exaggerated or unwarranted or slogan that is inconsistent with or unrelated to the nature and risk and return profile of the product.
 - (e) No celebrities shall form part of the advertisement.
 - (f) Advertisements shall not be so framed as to exploit the lack of experience or knowledge of the investors. Extensive use of technical or legal terminology or complex language and the inclusion of excessive details which may detract the investors should be avoided.
 - (g) Advertisements shall contain information which is timely and consistent with the disclosures made in the Scheme Information Document, Statement of Additional Information and the Key Information Memorandum.
 - (h) No advertisement shall directly or indirectly discredit other advertisements or make unfair comparisons.
 - (i) Advertisements shall be accompanied by a standard warning in legible fonts which states ‘Mutual Fund investments are subject to market risks, read all scheme related documents carefully.’ No addition or deletion of words shall be made to the standard warning.
 - (j) In audio-visual media based advertisements, the standard warning in visual 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 14 words running for at least 5 seconds may be considered as clear and understandable.”;
- (vii) in the Eighth Schedule,
- (a) in the reference title, the word and number, “regulation 47” shall be substituted with the word and numbers “regulations 25(19), 47”;
 - (b) the words and symbol “Mutual fund shall value its investments according to the following valuation norms:” appearing under the heading “Investment Valuation Norms”, shall be omitted;
 - (c) after the heading “Investment Valuation Norms”, the following sub-headings and clauses shall be inserted, namely:—

“Principles of Fair Valuation

Mutual fund shall value its investments in accordance with the following overarching principles so as to ensure fair treatment to all investors including existing investors as well as investors seeking to purchase or redeem units of mutual funds in all schemes at all points of time:

- (a) The valuation of investments shall be based on the principles of fair valuation i.e. valuation shall be reflective of the realizable

value of the securities/assets. The valuation shall be done in good faith and in true and fair manner through appropriate valuation policies and procedures.

- (b) The policies and procedures approved by the Board of the asset management company shall identify the methodologies that will be used for valuing each type of securities/assets held by the mutual fund schemes. Investment in new type of securities/assets by the mutual fund scheme shall be made only after establishment of the valuation methodologies for such securities with the approval of the Board of the asset management company.
- (c) The assets held by the mutual funds shall be consistently valued according to the policies and procedures. The policies and procedures shall describe the process to deal with exceptional events where market quotations are no longer reliable for a particular security.
- (d) The asset management company shall provide for the periodic review of the valuation policies and procedures to ensure the appropriateness and accuracy of the methodologies used and its effective implementation in valuing the securities/assets. The Board of Trustee and the Board of asset management company shall be updated of these developments at appropriate intervals. The valuation policies and procedures shall be regularly reviewed (at least once in a Financial Year) by an independent auditor to seek to ensure their continued appropriateness.
- (e) The valuation policies and procedures approved by the Board of asset management company should seek to address conflict of interest.
- (f) Disclosure of the valuation policy and procedures (with regard to valuation of each category of securities/assets where the scheme will invest, situation where these methods will be used, process and methodology and impact of implementation of these methods, if any) approved by the Board of the asset management company shall be made in Statement of Additional Information, on the website of the asset management company /mutual fund and at any other place where the Board may specify to ensure transparency of valuation norms to be adopted by asset management company.
- (g) The responsibility of true and fairness of valuation and correct NAV shall be of the asset management company, irrespective of disclosure of the approved valuation policies and procedures i.e. if the established policies and procedures of valuation do not result in fair/ appropriate valuation, the asset management company shall deviate from the established policies and

procedures in order to value the assets/ securities at fair value:

Provided that any deviation from the disclosed valuation policy and procedures may be allowed with appropriate reporting to Board of Trustees and the Board of the asset management company and appropriate disclosures to investors.

- (h) The asset management company shall have policies and procedures to detect and prevent incorrect valuation.
- (i) Documentation of rationale for valuation including inter scheme transfers shall be maintained and preserved by the asset management company as per regulation 50 of these regulations to enable audit trail.
- (j) In order to have fairness in the valuation of debt and money market securities, the asset management company shall take in to consideration prices of trades of same security or similar security reported at all available public platform.

In addition to the above, a mutual fund may value its investments according to the following Valuation Guidelines. In case of any conflict between the Principles of Fair Valuation as detailed above and Valuation Guidelines issued by the Board hereunder or elsewhere, the Principles of Fair Valuation detailed above shall prevail.

Valuation Guidelines”;

- (d) in sub-clause (ii) of clause 2, after the words and symbol “Board of the asset management company.” and before the words, “Such decision of the Board”, the following words and symbol shall be inserted, namely:–

“For example, non traded debt and money market securities of short term maturities, as may be specified by the Board from time to time, may be valued on amortization basis provided that such valuation shall be reflective of the fair value of the securities and all investors are treated fairly.”.

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

Footnotes:-

1. The Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, the Principal Regulations, were published in the Gazette of India on December 9, 1996 vide S.O. No. 856 (E).
2. The Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 were subsequently amended –
 - (a) on April 15, 1997 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 1997 vide S.O. No.327 (E).
 - (b) on January 12, 1998 by the Securities and Exchange Board of India (Mutual Funds)(Amendment) Regulations, 1998 vide S.O. No.32 (E).
 - (c) on December 08, 1999 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 1999 vide S.O. No.1223 (E).
 - (d) on March 14, 2000 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2000 vide S.O. No.235 (E).
 - (e) on March 28, 2000 by the Securities and Exchange Board of India (Appeal to the Securities Appellate Tribunal) (Amendment) Regulations, 2000 vide S.O. No.278 (E).
 - (f) on May 22, 2000 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2000 vide S.O. No.484 (E).
 - (g) on January 23, 2001 by the Securities and Exchange Board of India (Mutual Funds)(Amendment) Regulations, 2001 vide S.O. No.69 (E).
 - (h) on May 29, 2001 by the Securities and Exchange Board of India (Investment Advice by Intermediaries) (Amendment) Regulations, 2001 vide S.O. No.476 (E).
 - (i) on July 23, 2001 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2001 vide S.O. No.698 (E).
 - (j) on February 20, 2002 by the Securities and Exchange Board of India (Mutual Funds)(Amendment) Regulations, 2002 vide S.O. No.219 (E).
 - (k) on June 11, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2002 vide S.O. No.625 (E).
 - (l) on July 30, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2002 vide S.O. No.809 (E).
 - (m) on September 9, 2002 by the Securities and Exchange Board of India (Mutual Funds)(Fourth Amendment) Regulations, 2002 vide S.O. No.956 (E).
 - (n) on September 27, 2002 by the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 vide S.O. No.1045 (E).
 - (o) on May 29, 2003 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2003 vide S.O. No. 632 (E).
 - (p) on January 12, 2004 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2004 vide F.No. SEBI/LAD/DOP/4/2004.
 - (q) on March 10, 2004 by the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 vide S.O. No. 398 (E).
 - (r) on January 12, 2006 by the Securities and Exchange Board of India (Mutual Funds)(Amendment) Regulations, 2006 vide S.O. No. 38 (E).
 - (s) on May 22, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2006 vide S.O. No. 783 (E).
 - (t) on August 3, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2006 vide S.O. No. 1254 (E).
 - (u) on December 27, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Fourth Amendment) Regulations, 2006 vide F. No. SEBI/LAD/DOP/82534/2006.

- (v) on December 27, 2006 by the Securities and Exchange Board of India (Mutual Funds) (Fifth Amendment) Regulations, 2006 vide F. No. SEBI/LAD/DOP/83065/2006.
- (w) on May 28, 2007 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2007 vide F. No. 11/LC/GN/2007/2518.
- (x) on October 31, 2007 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2007 vide F. No. 11/LC/GN/2007/4646.
- (y) on March 31, 2008 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2008 vide F. No. 11/LC/GN/2008/21669.
- (z) on April 16, 2008 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2008 vide F. No. LADNRO/ GN/2008/03/123042.
- (za) on May 22, 2008 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2008 vide No. LADNRO/GN/2008/09/126202.
- (zb) on September 29, 2008 by the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2008 vide No. LADNRO/ GN/2008/24/139426.
- (zc) on April 8, 2009 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2009 vide No. LAD-NRO/GN/2009-10/01/159601.
- (zd) on June 5, 2009 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2009 vide No. LAD- NRO/GN/2009-10/07/165404.
- (ze) on July 29, 2010 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2010 vide No. LAD-NRO/GN/2010-11/13/13945.
- (zf) on August 30, 2011 by the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2011 vide No. LAD-NRO/GN/2011-12/27668.
