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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 1st January, 2019

SECURITIES AND EXCHANGE BOARD OF INDIA (CUSTODIAN OF SECURITIES) (AMENDMENT) REGULATIONS, 2018

No. SEBI/LAD-NRO/GN/2019/01. – 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 (Custodian of Securities) Regulations, 1996, namely :-

1. These Regulations may be called the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 2018.

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 (Custodian of Securities) Regulations, 1996 –

    I. the title "Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996", shall be substituted with the title "Securities and Exchange Board of India (Custodian) Regulations, 1996".

II. the words “custodian of securities” wherever they occur, shall be substituted with the word “custodian”.

III. in regulation 2, -

i. in clause (e), -

1. after the words “in relation to securities” and before the words “of a client”, the words “or goods” shall be inserted.
2. the word “the” shall be inserted before the word “safekeeping”.
3. after the words “such securities” and before the words “or gold”, the words “or goods” shall be inserted..
4. in sub-clause (i), after the words “of securities” and before the words “or gold”, the words “or goods” shall be inserted.
5. in sub-clause (ii), after the words “in respect of securities” and before the words “or gold”, the words “or goods” shall be inserted.
6. after existing sub-clause (iii), the following new clause shall be inserted, namely, -

   “(iiia) keeping the client informed of the actions taken or to be taken with respect to the goods held on its behalf;”
7. in sub-clause (iv), the symbol “(iii)” shall be substituted with the symbol “(iiia)”.

ii. after clause (h), the following new clause shall be inserted, namely,-

“(ha) ‘goods’ means the goods notified by the Central Government under clause (bc) of section 2 of the Securities contracts (Regulation) Act, 1956 and forming the underlying of any commodity derivative contract;”

iii. after clause (j), the following new clause shall be inserted, namely, -
“(k) "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.”

IV. in regulation 6, in sub-regulation (1), in clause (ba), after the words "custodial services in respect of" and before the words "gold or", the words "goods of a client or" shall be inserted.

V. in regulation 8, -

i. in sub-regulation (3), in the proviso, -

1. after the words "respect of securities or" and before the words "in respect of gold", the words "goods of a client or" shall be inserted; and

2. the word "client" appearing after the words "gold related instruments of a", shall be substituted with the word "mutual fund".

ii. after sub-regulation (5), the following new sub-regulation shall be inserted, namely,-

"(6) A custodian holding a certificate of registration as on the date of commencement of the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 2018, may provide custodial services in respect of goods only after taking prior approval of the Board."

VI. in regulation 15, in the proviso, -

i. after the words "physical safekeeping of" and before the words "gold belonging", the words "goods or" shall be inserted;

ii. the word "being" occurring after the word "client" shall be substituted with the word "including";

iii. in clause (a), after the words “safekeeping of the” and before the words “gold kept”, the words “goods or” shall be inserted;

iv. in clause (b), after the words “records relating to the” and before the words “gold so kept”, the words “goods or” shall be inserted;

v. in clause (c), after the words “relating to the” and before the words “gold so kept”, the words “goods or” shall be inserted.

VII. in regulation 17, -

i. in clause (a), after the word “securities” and before the symbol and word “, assets”, the symbol and word “, goods” shall be inserted;

ii. in clause (c), after the words “on the securities” and before the words “of the client”, the words “or goods” shall be inserted.

VIII. in regulation 18, -

i. in sub-regulation (1), -

1. after the word “securities” and before the words “and rights”, the symbol and word “, goods” shall be inserted;

2. after the words “rights or entitlements arising from the securities” and before the words “held by it”, the words “and goods” shall be inserted.

ii. in sub-regulation (2), after the word “securities” and before the symbol and word “, assets”, the symbol and word “, goods” shall be inserted.

IX. in regulation 19, in sub-regulation (1), in clause (a), after the word “securities” and before the symbol and word “, assets”, the symbol and word “, goods” shall be inserted.

X. in the First Schedule, in Form A, in the Application for grant of certificate of registration as Custodian, -

i. in clause 8, the existing sub-clause (iv) shall be substituted with the following sub-clause:

“(iv) details of vault or warehouse, for each vault or warehouse (in case the vault or warehouse is built to any specific standard, give details and documentary evidence thereof).”

ii. in clause 10, -

1. in sub-clause (i), before the words “vault security”, the word and symbol “warehouse,” shall be inserted;

2. in sub-clause (ii), after the word “securities” and before the symbol “ ; ”, the words “and goods” shall be inserted.

XI. in the Third Schedule, in Code of Conduct, in clause 3, -

i. after the words “movement of securities” and before the words “in and out”, the words “or goods” shall be inserted;

ii. the word “the” shall be inserted before the word “custody”;

iii. the words “Securities and Exchange Board of India” shall be substituted by the word “Board”.

4. From the date of publication of these regulations in the Official Gazette, any reference to the Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996 in any regulation, guideline, circular or direction issued by the Board shall be deemed to be referring to the Securities and Exchange Board of India (Custodian) Regulations, 1996 and any reference to the words "custodian of securities" therein shall refer to the term "custodian".

sd/-

AJAY TYAGI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnotes:

(1) The Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996, the Principal Regulations were published in the Gazette of India on May 16, 1996 vide S.O. No. 344(E).

(2) The Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996 were subsequently amended –

(i) on December 4, 1996 by the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 1996 vide S.O. No.851(E).

(ii) on October 17, 1997 by the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 1997 vide S.O. No.732 (E).

(iii) on January 5, 1998 by the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 1998 vide S.O. No.17 (E).

(iv) 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).

(v) 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).

(vi) 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).

(vii) 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).

(viii) on January 12, 2006 by the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 2006 vide S.O. No.39 (E).

(ix) on October 31, 2006 by the Securities and Exchange Board of India (Custodian of Securities) (Second Amendment) Regulations, 2006 vide No. S.O.1860(E).

(x) 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.

(xi) on July 4, 2008 by the Securities and Exchange Board of India (Custodian of Securities) (Amendment) Regulations, 2008 vide No.11/LC/GN/15/2008/130775.

(xii) on June 19, 2009 by the Securities and Exchange Board of India (Facilitation of Issuance of Indian Depository Receipts) (Amendment) Regulations, 2009 vide No. LAD-NRO/GN/2009-2010/10/166936.

(xiii) on June 29, 2009 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2009 vide No. LAD-NRO/GN/2009-10/11/167759.

(xiv) on May 23, 2014 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2014 vide No. LAD-NRO/GN/2014-15/03/1089.

(xv) on March 6, 2017 by the Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide notification no. SEBI/LAD/NRO/GN/2016-17/037 read with notification no. SEBI/LAD/NRO/GN/2016-17/38 dated March 29, 2017.

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