THE GAZETTE OF INDIA

EXTRAORDINARY

PART – III – SECTION 4

PUBLISHED BY AUTHORITY

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 5th May, 2021

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) (SECOND AMENDMENT) REGULATIONS, 2021

No. SEBI/LAD-NRO/GN/2021/20. ─ In exercise of the powers conferred under 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 (Intermediaries) Regulations, 2008, namely: –

1. These regulations may be called the Securities and Exchange Board of India (Intermediaries) (Second Amendment) Regulations, 2021**.**

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 (Intermediaries) Regulations, 2008, –

I. after regulation 30, the following shall be inserted namely-

"30A. Special procedure for action on expulsion from membership of the stock exchange(s) or clearing corporation(s) or termination of all the depository participant agreements with depository(ies)

(1) While disposing of the proceedings under this regulation, the Board shall not be bound by the procedure specified in the foregoing provisions of this Chapter.

(2) On receipt of intimation from all the stock exchange(s) or clearing corporation(s) of which the stock-broker or clearing member, as the case may be, was a member, that such stock broker or clearing member, has been expelled from its membership, the Board may issue a notice to such stock broker or clearing member calling upon the noticee to make its submission(s), if any, within a period not exceeding twenty-one days from the date of service thereof, through a written reply, along with documentary evidence, as to why the certificate of registration, granted under the Act or the regulations made thereunder, should not be cancelled.

(3) On receipt of intimation from all the depositories where the participant was admitted, that the depository participant agreement has been terminated by the depository(ies), the Board may issue a notice to such participant calling upon the noticee to make its submission(s), if any, within a period not exceeding twenty-one days from the date of service thereof, through a written reply, along with documentary evidence, as to why the certificate of registration, granted under the Act or the regulations made thereunder, should not be cancelled.

(4) No opportunity of personal hearing shall be granted while disposing of the proceedings under this regulation.

(5) After considering the facts and circumstances of the case, material on record and the written submissions, if any, the Board shall endeavor to pass an order within twenty days from the date of receipt of written submissions.

(6) The Board may, while passing such order, impose such conditions upon the person as it deems fit to protect the interest of the investors or its clients or the securities market.

(7) The Board may require the person concerned to satisfy the Board the factors as it deems fit, including but not limited to the following -

(a) the arrangements made by the person for maintenance and preservation of records and other documents required to be maintained under the relevant regulations;

(b) redressal of investor grievances;

(c) transfer of records, funds or securities of its clients;

(d) the arrangements made by it for ensuring continuity of service to the clients;

(e) defaults or pending action, if any.

(8) On and from the date of cancellation of the certificate, the person concerned shall-

(a) return the certificate of registration so cancelled to the Board and shall not represent itself to be a holder of certificate for carrying out the activity for which such certificate had been granted;

(b) cease to carry on any activity in respect of which the certificate had been granted;

(c) transfer its activities to another person holding a valid certificate of registration to carry on such activity and allow its clients or investors to withdraw or transfer their securities or funds held in its custody or to withdraw any assignment given to it, without any additional cost to such client or investor;

(d) make provisions as regards liability incurred or assumed by it;

(e) take such other action including the action relating to any record(s) or document(s) and securities or money of the investors that may be in custody or control of such person, within the time period and in the manner, as may be required under the relevant regulations or as may be directed by the Board while passing order under this Chapter or otherwise.

(9) A copy of the order passed under this regulation shall be sent to the noticee and also uploaded on the website of the Board.

(10) The intimation of the cancelation of the certificate of registration shall be sent to the stock exchange(s) or the clearing corporation(s) or the depository (ies), as the case may be."

AJAY TYAGI
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA

Footnote:

1. The Securities and Exchange Board of India (Intermediaries) Regulations, 2008 was published in the Gazette of India, Part III Section 4 on May 26, 2008 vide notification No. LAD-NRO/GN/2008/11/126538.

2. The Securities and Exchange Board of India (Intermediaries) Regulations, 2008 was subsequently amended on:-

a) August 11, 2008 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2008, vide notification No. LAD-NRO/GN/2008/20/134766.

b) July 14, 2009 by the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2009, vide notification No. LAD-NRO/GN/2009-10/12/169546.

c) January 7, 2014 by the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, vide notification No. LAD-NRO/GN/2013-14/36/12.

d) May 25, 2016 by the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2016, vide notification No. SEBI/LAD-NRO/GN/2016-17/006.

e) November 21, 2017, by the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2017, vide notification no. SEBI/LAD-NRO/GN/2017-18/021.

f) April 17, 2020, by the Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, vide notification no. SEBI/LAD-NRO/GN/2020/10.

g) January 21, 2021, by the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2021, vide notification no. SEBI/LAD-NRO/GN/2021-07

****