



SECURITIES AND EXCHANGE BOARD OF INDIA

**Consultative Paper
on
Draft Securities and Exchange Board of India (Intermediaries) Regulations, 2007**

12th July 2007

I. BACKGROUND

1. Investor protection regulation of the securities markets, and development of the securities market are the primary responsibilities of the Securities and Exchange Board of India (SEBI). Section 11 of the Securities and Exchange Board of India Act, 1992 empowers SEBI to regulate the working of various intermediaries/entities in the market including depositories, depository participants, custodians of securities, mutual funds, foreign institutional investors, credit rating agencies etc.
2. In the past 15 years SEBI has notified more than a dozen regulations, each with the objective of regulating a different category of intermediary/entity. As each of these regulation was drafted in order to provide a framework which would enable SEBI to better regulate and monitor intermediaries/entities, the broad framework of such regulations is very similar to one another.
3. It has been observed that every regulation seeking to regulate an intermediary incorporates some basic provisions regarding registration, general obligations, inspection and investigation, default etc. In addition to the above, the general requirements of the Code of Conduct provided in almost all the regulations are also similar in nature. Except for the clauses



relating to the specific requirements of, and particular concerns in, each category, the content of all the regulations is common either in language or in spirit, if not in both.

4. Given the overlap in content and the fact that many requirements and obligations of most intermediaries are common, SEBI now proposes to consolidate the common requirements under these regulations and put in place a comprehensive regulation which will apply to all intermediaries and prescribe the obligations, procedure, limitations etc in so far as the common requirements are concerned. Some of the salient features of the proposed draft regulations are summarized below:-

II. REGISTRATION

The new regulations will make the registration process of persons as intermediaries/specified entities less burdensome and cost effective without diluting the regulatory requirements.

III. REGISTRATION FORM

The person making an application to register as an intermediary under the proposed regulations will be required to file certain information in the prescribed form alongwith the prescribed application fee. The information provided in the said form shall be segregated in two parts i.e Part I and Part II. Part I of the form shall be published on the SEBI website and shall be available to the general public. Part II of the form which may contain confidential information would be retained with SEBI as regulatory filing. The intermediary shall be required to update all material changes promptly and annually certify the correctness of the Form.

IV. TRANSITIONAL PROVISIONS

- (a) Intermediaries who are currently registered with SEBI and are required to renew their registration at the expiry of 3/5 years as applicable, may continue to

operate with their present registration, till the expiry of the same. Such intermediaries may, within two years of notification of the proposed regulations or 3 months before the expiry of the current registration, whichever is earlier, make a fresh application under the proposed regulation along with the requisite form as prescribed under the relevant regulations for registration in the particular category of intermediaries.

(b) Persons who are currently registered with the Board under regulations which grant perpetual registration shall be required to apply for a fresh registration under the new framework within two years of notification of the proposed regulations.

V. MULTIPLE FORMS- SIMPLIFIED

At present, a person who is desirous of registering as an intermediary in more than one category is required to file a separate application form for every registration in the each category as prescribed under the relevant regulations. This will no longer be the case under the current proposal. A person is required to file the detailed form prescribed under the proposed Intermediaries Regulations along with a short form for registering a particular activity (under the specific regulations). In the event such person wishes to operate in a capacity as an intermediary in a new category, such person need only file the additional shortened forms disclosing the specific requirements of the new category as per the relevant regulations. As a result of the above SEBI will need to review only one detailed form containing the common requirements for each person once as against the existing practice of reviewing the same information for the same entity on each application for registration. This ensures that the process is faster and more cost effective for both the intermediaries and SEBI.

Example: Once a person has filed the common form and the short form for registering as a broker, when the same person seeks Depository Participant

registration, he would need to file a very short form giving such additional details as may be required under the updated Depository Participant regulations.

VI. ANNUAL FEE

In the current framework only four intermediaries namely Custodians of Securities, Depositories, Depository Participants and Mutual Funds are required to file disclosures annually and pay an annual fee as prescribed under the relevant regulations. The proposed draft extends this requirement to all intermediaries i.e every intermediary will now be required to certify annually that the disclosures made in the form are accurate and to pay an annual fee. This requirement ensures simplification of compliance without compromising or diluting the standard of monitoring and regulatory oversight.

VII. PERMANENT REGISTRATION

Registration granted under the respective regulations is sought to be made permanent for all intermediaries, subject to compliance with law, updation of relevant disclosures and payment of annual fees. Registration may be withdrawn voluntarily subject to investor protection conditions. Registration may be suspended and/or cancelled in case of non-compliance or mis-conduct.

VIII. SHORTENED REGULATIONS TO REPLACE EXISTING REGULATIONS

While recognizing that many requirements in the separate regulations are common, it is understood that some provisions including some definitions in the individual regulations are specific to the particular intermediary. Hence, while the common requirements will be governed with the new regulations, the specific requirements will continue to be as per the relevant regulations applicable to individual intermediaries. However, the existing relevant regulations are proposed to be replaced with a set of shortened regulations in consonance with the presently proposed common regulations.

IX. PUBLIC AFFIXATION OF CERTIFICATE AND COMPLIANCE OFFICER DETAILS

Each intermediary shall prominently affix a photo copy of its registration certificate at each office/branch where any public interaction with investors is expected. The intermediary shall also prominently display the name and contact details of the compliance officer to whom complaint may be made in the event of any investor grievance.

X. HIGHLIGHTS OF PROPOSED CHANGES

- Registration is proposed to be made permanent for all intermediaries subject to compliance with law, updation of relevant disclosures and payment of annual fees.
- As updation is required either promptly or annually, thus more accurate filing of material developments is made available to SEBI and to the public.
- Conducting multiple activities by the same intermediary becomes a simpler process without reducing the regulatory rigours previously imposed.
- Substantial amounts of filing details will enter the public domain, thus allowing investors to assess the appropriateness of using the intermediary.
- The number of investor grievances not addressed beyond a particular period will need to be disclosed, thus incentivising early resolution of complaints by the intermediary.
- The code of conduct rules will be found in one place making compliance with the code easier.
- The bulk of regulations is reduced.
- Consistency across regulation of various intermediaries stand improved.
- Fit and Proper person requirements are rationalized and inserted into these draft regulations.
- The intermediary shall prominently display the registration certificate and the name and contact details of the compliance officer to whom complaint may be made.

- Rationalisation of prior approval upon change in status and constitution of the intermediary.

PUBLIC COMMENTS SOUGHT

The above is one of the initiatives undertaken by SEBI to facilitate the transition from the current framework to a regulatory regime which is simpler, more efficient, transparent and alive to current market needs. The draft proposal is placed on the SEBI website to invite comments from the public. Suggestions are also invited on simplifying the language of the regulation as SEBI seeks to move towards plain English language regulations. Comments should reach SEBI on or before 12th August 2007.

The comments may be sent by e-mail to the following addresses –

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Comments may also be sent physically to the following address:-

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