



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

DEPUTY GENERAL MANAGER
INVESTMENT MANAGEMENT DEPARTMENT
DIVISION OF FUNDS-1

IMD/ DoF-1/IA/30267 / 2017
December 05, 2017

Capstocks and Securities (India) Private Limited
Capstocks Tower,
Thakaraparambu Road, Fort P.O,
Thiruvananthapuram-695023

Sir/ Madam,

Sub:- Request for an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 by Capstocks and Securities (India) Private Limited ("Capstocks").

1. This has reference to your letter dated October 05, 2017, seeking an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 in connection with the SEBI (Investment Advisers) Regulations, 2013 {IA Regulations}:-
2. In your letter under reference you have *inter alia* represented that Capstocks is registered with SEBI as Stock Broker, Depository Participant, Portfolio manager and Research Analyst.
3. On the said basis, you have sought an interpretive letter under SEBI (Informal Guidance) Scheme, 2003 from SEBI on the following points:
 - i. Is it necessary for a stock broker , who is also a registered Portfolio Manager and Research Analyst , to obtain registration, for functioning as an Investment Adviser under IA Regulations?
 - ii. Whether an investment adviser can charge variable fees to their clients on a " Post Profit sharing basis", as per the IA Regulations.
 - iii. Whether an investment adviser can avail an option of charging fixed fees on a " Post Profit sharing basis".
 - iv. Is there any ceiling on fixed fees to be levied on clients or is it left to the discretion of the investment adviser?
 - v. Whether a stock broker can offer investment advisory services to individuals other than its clients.
 - vi. Is it necessary to execute an agreement with the clients/individuals, who avail investment advisory services?

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सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर.एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनिमय बोर्ड
**Securities and Exchange
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4. Our Comments

The submissions made in your letter has been considered and without necessarily agreeing with your analysis, our views on the issues raised in your letter under reference are as under:-

- a. With regard to your query mentioned at Para. 3(i) above, it is stated as under:
 - i. In terms of regulation 4(g) of IA Regulations, any stock broker or sub-broker registered under SEBI (Stock Broker and Sub- Broker) Regulations, 1992, portfolio manager registered under SEBI (Portfolio Managers) Regulations, 1993 or merchant banker registered under SEBI (Merchant Bankers) Regulations, 1992, who provides any investment advice to its clients incidental to their primary activity is exempted from registration as an investment adviser. However, such intermediaries are required to comply with the general obligation(s) and responsibilities as specified in Chapter III of IA regulations.
- b. With regard to your query mentioned at Para. 3(ii), 3(iii) and 3(iv) it is stated as under:
 - i. In terms of clause 6 of code of conduct provided under sub- regulation 9 of regulation 15 of IA Regulations, an investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board, if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.
 - ii. Linking of advisory fees being charged to the profit/loss is not envisaged by the existing framework of IA Regulations.
- c. With regard to your query mentioned at Para. 3(v) above, it is stated as under:
 - i. If a stock broker is engaged in providing investment advice to general investors other than or in addition to broking clients, then such stock broker is required to get registration as an investment adviser.
 - ii. Further, you may also like to refer to Question 17 of the FAQs to the SEBI (Investment Advisers) regulations, 2013 which deals with the same query.
- d. With regard to your query mentioned at Para. 3(vi) it is stated as under:
 - i. As per sub- regulation 1 of regulation 18 of IA Regulations, the investment adviser shall disclose all the material information including terms and conditions on which it offers advisory services.





अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनिमय बोर्ड
*Securities and Exchange
Board of India*

- ii. As per sub- regulation 1(d) of regulation 19 of IA regulations, investment advisers are required to maintain copies of agreements with the clients, if any.
 - iii. It is desirable that the investment advisory services should be based on the terms and conditions mutually agreed between both the parties i.e. investment adviser and its client.
5. This position is based on the representation made to the Division in your letters under reference. Different facts or conditions might require a different result. This letter does not express decision of the Board on the questions referred.
6. You may note that the above views are expressed only with respect to the clarification sought on SEBI (Investment Advisers) Regulations, 2013 and do not affect the applicability of any law and other SEBI Regulations, guidelines and circulars administered by SEBI or any other authority.

Yours faithfully,

Naveen Sharma

Ms. Richa Goel Agarwal – DGM
Investment Management Department
Division of Funds-1, SEBI
SEBI Bhavan, Plot No C4- A, G Block
Bandra Kurla Complex,
Mumbai – 400051

भा. प्र. वि. बो. SEBI
सं/No 10/1707

October 5, 2017

नांक
05 OCT 2017

Sir,

Sub: Request for informal guidance by way of Interpretative letter under SEBI (Informal Guidance Scheme) 2013, in connection with SEBI (Investment Advisors) Regulations, 2013.

We are a Stock broking company, established in the year 1989, with a service record of over 28 years, in the Securities market. Over the years, we have had the opportunity of serving around 34,000 Investors / Clients, across South India. We have memberships in NSE & BSE. We are also a Depository Participant of CDSL and a SEBI registered Portfolio Manager and Research Analyst.

We now propose to offer Investment Advisory Services to our Clients / Investors, in consonance with the SEBI (Investment Advisors) Regulations, 2013. In this regard, we look forward for your Interpretation / Clarification w.r.t Registration as an Investment Adviser by a Stock Broker and also Fees / Charges that can be levied on Clients / Investors. In accordance to 4 (g) of the above Regulation, a Stock Broker / Portfolio manager, who provides any Investment advice to its clients, incidental to their primary activity are deemed to be exempt from obtaining registration under SEBI (Investment Advisors) Regulations, 2013.

Further, as per 15(9) of SEBI (Investment Advisors) Regulations, 2013 "An Investment Advisor shall abide by the code of conduct as specified in the third schedule, to the Regulation. As per Clause 6 i.e "Fair and reasonable charges" of the third schedule "An Investment Advisor advising a client may charge fee, subject to any ceiling as may be specified by the Board, if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable".

Apropos to the above regulation, we request your interpretation / clarification, on the following:

1. is it necessary for a Stock Broker, who is also a registered Portfolio Manager & Research Analyst, to obtain registration, for functioning as an Investment Advisor, under SEBI (Investment Advisors) Regulations, 2013.
2. Whether an Investment Advisor can charge variable fees to their Clients, on a "Post Profit sharing basis", as per the Investment Advisers Regulation.



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3. Whether an Investment Advisor can avail the option of charging Fixed fees on a "Post Profit sharing basis".
4. Is there any ceiling on Fixed fees, to be levied on Clients or is it left to the discretion of the Investment Advisor.
5. Whether a Stock Broker, can offer investment advisory services to individuals other than its Clients.
6. Is it necessary to execute an Agreement with the Clients/Individuals, who avail Investment Advisory services?


We are enclosing herewith a DD for Rs 25,000/- bearing no: 278913 drawn on 04/Oct/2017 HDFC Bank, Trivandrum, towards fees for Informal Guidance.

Looking forward for an early response.

Thanking you

Yours truly

For Capstocks and Securities (India) Pvt. Ltd.


Authorised Signatory



*No Payee
Not Negotiable*

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BANK DATA FORMS CTS 2010 3/17