



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

GENERAL MANAGER
INVESTMENT MANAGEMENT DEPARTMENT
DIVISION OF FUNDS-1

SEBI/HO/IMD/DF1/OW/P/2021/0000010174/1

May 11, 2021

Ms. Sangeeta Rokade

Jade Capital Markets Pvt. Ltd.
2, Ground Floor, Century Arcade,
243-244/B, Narangibaug Road,
Pune- 411001.

Madam,

Sub: Request for interpretative letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 in connection with the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 by Jade Capital Markets Pvt. Ltd.

1. This has reference to your letter dated February 24, 2021 seeking an interpretative letter under the SEBI (Informal Guidance) Scheme, 2003.
2. In your letter under reference you have represented Jade Capital Markets Pvt. Ltd. as a SEBI registered Investment Adviser ("IA") with registration number INA000013068.
3. In that context, you have sought an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 from SEBI on the following issue:
 - i. *Can Investment Adviser continue to collect performance-based fee whenever the same is due in terms of the agreement executed with Client, even if such fee is due on a date after March 31, 2021.*

4. Our Comments

The submissions made in your letter have been considered, and without necessarily agreeing with your analysis, our view on the issue raised in your letter are as under:

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

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra-Kurla Complex, Bandra (E), Mumbai - 400 051.

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- i. Regulation 15A of the SEBI (Investment Advisers) Regulations ("IA Regulations") states that "Investment Adviser shall be entitled to charge fees for providing investment advice from a client in the manner as specified by the Board."
- ii. Clause 2(iii) of SEBI Circular dated September 23, 2020 ("Circular") states as under:

"Fees

Regulation 15 A of the amended IA Regulations provide that Investment Advisers shall be entitled to charge fees from a client in the manner as specified by SEBI, accordingly Investment Advisers shall charge fees from the clients in either of the two modes:

(A) Assets under Advice(AUA) mode

.....

(B) Fixed fee mode

....."

- iii. In terms of the Circular, compliance with, *inter alia*, clause pertaining to fees was to be ensured latest by April 01, 2021.
 - iv. It is stated that, paras (c) and (d) of Clause 2 (ii) the Circular state as under:
 - c. IA shall ensure that neither any investment advice is rendered nor any fee is charged until the client has signed the aforesaid agreement and provided copy of signed agreement to the client.
 - d. IA shall enter into investment advisory agreement with its clients including existing clients latest by April 01, 2021 and submit a report, confirming the same to SEBI latest by June 30, 2021.
 - v. Further, Annexure-A to Circular stipulates, *inter alia*, the following terms and conditions to be incorporated in the Investment Advisory Agreement:
 - Fees specified under Investment Adviser Regulations and relevant circulars issued thereunder
 - Fees charged to the client
5. Thus, in terms of the aforesaid provision, IAs are not permitted to collect any fee other than the fee as specified in the aforesaid Circular. Further, IAs were mandatorily required to execute investment advisory agreement with their clients including their existing clients, which *inter alia*, incorporates the fees to be charged from the clients, including existing clients, latest by April 01, 2021.

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6. This above position is based on the information furnished in your letter under reference. Different facts or conditions might lead to different interpretation. Further this letter does not express decision of the Board on the questions referred.
7. You may note that the above views are expressed only with respect to the clarification sought in your letters under reference with respect to the SEBI (Investment Advisers) Regulations, 2013 and SEBI Circular dated September 23, 2020 and do not affect the applicability of any other law and requirements of any other SEBI Regulations, guidelines and circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,


Manaswini Mahapatra