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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 11th August, 2008

SECURITIES AND EXCHANGE BOARD OF INDIA

(PORTFOLIO MANAGERS) (AMENDMENT) REGULATIONS, 2008

No. LAD-NRO/GN/2008/19/134764 - 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 (Portfolio Managers) Regulations, 1993, namely :-

1. These Regulations may be called the Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2008.
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 (Portfolio Managers) Regulations, 1993: -
 - (i) in regulation 6, in sub regulation (2), in clause (d), for the words ‘experience as portfolio manager or stock broker or investment manager’ the words ‘experience in related activities in portfolio management or stock broking or investment management’ shall be substituted;
 - (ii) in regulation 7, -
 - (a) for the words “fifty lacs rupees” occurring at the end, the words “two crore rupees” shall be substituted;
 - (b) before the Explanation, the following provisos shall be inserted, namely:-

“Provided that a portfolio manager, who was granted a certificate under these regulations prior to the commencement of the Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2008, shall raise its networth to not less than one crore rupees within six months from such commencement and to not less than two crore rupees within six months thereafter;

Provided further that the portfolio manager shall fulfill capital adequacy requirement under these regulations, separately and independently, of capital adequacy requirements, if any, for each activity undertaken by it under the relevant regulations.”

- (iii) in regulation 16, for sub - regulation (8), the following shall be inserted namely:-

“ (8) The portfolio manager shall not hold the listed securities, belonging to the portfolio account, in its own name on behalf of its clients either by virtue of contract with clients or otherwise:

Provided that any portfolio manager holding the listed securities belonging to the portfolio account in its own name on behalf of its clients on the date of commencement of the Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2008 shall segregate each clients’ listed securities and keep them separately within six months from such commencement:

Provided further that the Board may in the interest of investors or for the development of securities market, on an application made in this behalf by a portfolio manager with respect to any specific investment existing on the date of commencement of the Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2008, relax the strict enforcement of this regulation.”

- (iv) in Schedule I-

(A) in Form A-

(I) in part I-

(a) in clause 2.3, the words and commas “partnership, proprietary,” shall be omitted;

(b) in clause 2.5, the marks and words “/partners/Proprietor” shall be omitted;

(c) in clause 5.1, notes 1 and 2 occurring at the end shall be omitted;

(II) in part II-

- (a) clause 7.3 shall be omitted;
 - (b) in clause 7.4 the word “scheme” shall be omitted;
 - (c) in clause 7.5, the words and brackets “(Clientwise and Schemewise)” shall be omitted;
 - (d) in clause 8.3, in para (a), the words “Average period of Portfolio Management Schemes ” wherever they occur shall be omitted;
- (III) in declaration-
- (a) for the instruction, the following shall be substituted, namely:-

“This Declaration must be signed by Two Directors”
 - (b) words and marks “/ Partner or Sole Proprietor” wherever they occur shall be omitted;
- (B) in Form C, in clause (ii) word “Scheme” occurring at the end shall be omitted;
- (v) in Schedule IV, in clause 5, sub-clause (ii) shall be omitted;
 - (vii) in Schedule V, under the heading ‘MODEL DISCLOSURE DOCUMENT FOR PORTFOLIO MANAGEMENT’-
 - (I) in item I, sub-item (iv) shall be omitted;
 - (II) In item III, in sub-item (6)-
 - (a) for clause (i), the following shall be substituted, namely:-
“(i) Statement to the effect that securities investments are subject to market risks and there is no assurance or guarantee that the objective of investments will be achieved.”
 - (b) for clause (ii), the following shall be substituted, namely:-
“(ii) Statement to the effect that the past performance of the portfolio manager does not indicate its future performance.”
 - (c) for clause (v), the following shall be substituted, namely:-
“(v) If the portfolio manager has no previous experience/track record a disclosure to that effect shall be made.”

C. B. BHAVE
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADVT. III/IV/69ZB/2008/Exty.]

Footnotes:

1. The principal regulations, SEBI (Portfolio Managers) Regulations, 1993 were issued under S.O. No. SEBI/LE/93/III dated January 7, 1993 published in the Gazette of India, Part II, Section 3(ii) dated January 7, 1993.
2. The Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, were subsequently amended on: –
 - a. November 28, 1993 by, SEBI (Portfolio Managers) (Amendment) Regulations, 1993 published in the Official Gazette vide S.O. No. 939(E).
 - b. November 28, 1995 by SEBI (Payment of Fees) (Amendment) Regulations, 1995 vide S.O No.939 (E).
 - c. January 05, 1998 by SEBI (Portfolio Managers) (Amendment) Regulations, 1998 published in the Official Gazette vide S.O. No. 20 (E).
 - d. September 30, 1999 by SEBI (Portfolio Managers) (Amendment) Regulations, 1999 published in the Official Gazette vide S.O. No. 793 (E).
 - e. February 22, 2000 by SEBI (Portfolio Managers) (Amendment) Regulations, 2000 published in the Official Gazette vide S.O. No. 146 (E).
 - f. March 28, 2000 by SEBI (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000 published in the Official Gazette vide S.O no. 278(E).
 - g. May 29, 2001 by SEBI (Investment Advice by Intermediaries) (Amendment) Regulations, 2001 vide S.O no. 476 (E).
 - h. September 27, 2002 by SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 vide S.O. No. 1045 (E).
 - i. October 11, 2002 by SEBI (Portfolio Managers) (Amendment) Regulations, 2002 vide S.O no. 1087 (E).
 - j. 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).
 - k. May 27, 2004 by SEBI (Portfolio Managers) (Amendment) Regulations, 2004 vide S.O no. 654 (E).
 - l. July 5, 2006 by SEBI (Portfolio Managers) (Amendment) Regulations, 2006 vide S.O no. 997 (E).
 - m. September 7, 2006 by SEBI (Portfolio Managers) (Second Amendment) Regulations, 2006 vide S.O no. 1450 (E).
 - n. November 30, 2006 by SEBI (Portfolio Managers) (Third Amendment) Regulations, 2006 vide S.O No. 2053 (E).

