



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

DEPUTY GENERAL MANAGER
INVESTMENT MANAGEMENT DEPARTMENT
POD-II

SEBI/HO/IMD/POD-II /37976/1
September 13, 2023

Guardian Asset Management Private Limited
4B 4th Floor Saha Building, 8-2-616/1,
Road No. 11 Banjara Hills
Hyderabad- 500034,
Telangana, India

Dear Sir,

Sub: Request for interpretative letter under the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 regarding clarification on applicability of provisions of the Securities and Exchange Board of India (Portfolio Managers) Regulation, 2020.

Ref.: Your letter dated July 26, 2023.

1. In your letter under reference you have, *inter alia*, represented as follows:

- 1.1. Guardian Asset Management Private Limited is a registered Portfolio Manager ("PM") with registration number INP000006563.
- 1.2. As per SEBI Master Circular on Portfolio Managers- SEBI/HO/IMD/IMD-POD-1/P/CIR/2023/38 dated March 20, 2023 ("PMS Master Circular"):

Investment Advisory Services: -

Under these services, the Client is advised on buy/sell decision within the overall profile without any back-office responsibility for trade execution, custody of securities or accounting functions. The PMS provider shall be solely acting as an Advisor to the Client and shall not be responsible for the investment/divestment of securities and/or administrative activities on the client's portfolio. The PMS provider shall act in a fiduciary capacity towards its Client and shall maintain arm's length relationship with its other activities. The PMS provider shall provide advisory services in accordance with guidelines and/or directives issued by the regulatory authorities and/or the Client from time to time in this regard.



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2. In view of the above, you have sought an interpretive letter under the Securities and Exchange Board of India (Informal Guidance Scheme, 2003 ("Informal Guidance Scheme") from SEBI on the following:

2.1. Can a Non- individual Portfolio Manager perform investment advisory services for its existing Portfolio Management Services client?

Illustration:

Client Mr. X invested an amount of Rs. 50 Lakhs in an Investment approach under Discretionary Portfolio Management Services (DPMS) with the portfolio manager A and Mr. X wants to invest another 50 Lakhs in some other DPMS managed by another Portfolio Manager B. Can portfolio manager A advise Mr. X to identify & invest in the other PMS under the "Investment Advisory Services" clause?

2.2. Can Mr. X be charged for such advisory services as provided in Query 1 with respect to the amount invested in another PMS with a different portfolio manager?

Illustration:

Client Mr. X invested an amount of 50L in the PMS with portfolio manager A. At the same time, he was advised by portfolio manager charge a fee for the investment advisory service along with the fee for the discretionary portfolio management service provided to the client?

3. The submissions made in your letter have been considered. Without necessarily agreeing with your analysis, our response on the queries raised in your communications are as under:

3.1. In terms of queries raised in para 2 the following is informed:

- I. The Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 ("PM Regulations, 2020") defines "*portfolio manager*" as a "*body corporate, which pursuant to a contract with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or goods or funds of the client, as the case may be*". The PM Regulations, 2020 defines "*discretionary portfolio manager*" as "*a portfolio manager who under a contract relating to portfolio management, exercises or may exercise, any degree of discretion as to the investment of funds or management of the portfolio of securities of the client, as the case may be*".



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As per Regulation 22 of the PM Regulations, 2020, a portfolio manager is required to enter into an agreement in writing with the client that clearly sets out their mutual rights, liabilities and obligations containing the details as specified in Schedule IV of the PM Regulations, 2020. Schedule IV of the PM Regulations, 2020, which details the 'Contents of Agreement between the Portfolio Manager and his Clients', *inter alia* requires that the "*types of securities in which investment would be made*" has to be mentioned in the agreement.

- II. Schedule V of the PM Regulations, 2020, which details the "Disclosure Document" provides for a model disclosure document containing essential information about portfolio services offered by a portfolio manager which inter-alia includes:
 - *The present investment objectives and policies including the types of securities in which it generally invests shall be clearly and concisely stated in the document for easy understanding of the potential investor.*
 - *Investment Approaches of the portfolio manager*
 - *The policies for investments in associates/group companies of the portfolio manager and the maximum percentage of such investments therein subject to the applicable laws/regulations/ guidelines*
- III. The above provisions of the PM Regulations, 2020 indicate that investment advice provided by portfolio manager refers to an advice related to investment in securities or goods or funds of clients. Further, in accordance with the provisions of the PM Regulations, 2020, a portfolio manager has to specify the type of securities in which the funds of their client funds may be invested.
- IV. Annexure 4B of the PMS Master Circular provides the "*Format of Investor Charter in Respect of Portfolio Management Services*" and for the clause "*Investment Advisory Services*", it mentions that "*The PMS provider shall be solely acting as an Advisor to the Client and shall not be responsible for the investment/divestment of securities and/or administrative activities on the client's portfolio.*" Therefore, for '*Investment Advisory Services*', the PMS Master Circular indicates that advisory would be in relation to securities.
- V. Thus, the PM Regulations, 2020, in letter and spirit, elucidate that investment advisory service by portfolio managers includes service to client related to securities and does not intend to include any advice to client related to identification and investment in another PMS.



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- VI. Consequent to above, no fees may be charged for the same i.e. matter stated at para 2.2.
4. 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.
5. You may note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 and the Master Circular for Portfolio Managers dated March 20, 2023 and do not affect the applicability of any other law or requirements of any other regulations, guidelines and circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,


Lakshaya Chawla