

Board memorandum on Participation of Institutional Investors in Commodity Derivatives Markets in India

1. Objective

1.1. This Board memorandum proposes to amend SEBI (Mutual Funds) Regulations, 1996 and SEBI (Portfolio Managers) Regulations, 1993 to enable participation in exchange traded commodity derivatives in India. It also proposes to make certain amendments to SEBI (Alternative Investment Funds) Regulations, 2012 with the same objective.

2. Background

2.1. SEBI has constituted the Commodity Derivatives Advisory Committee (CDAC) to advise in matters connected to regulations and development of the Indian Commodity Derivatives Markets. Based on the suggestions of one of its sub-group, CDAC had recommended that the commodity derivatives market should be opened up to institutional participants i.e. both domestic as well as international in a phased manner:

Phase-1:

- Category III Alternative Investment Fund (AIF),
- Portfolio Management Services (PMS),
- Mutual Funds,
- Direct participation of foreign participants having exposure to commodities.

Phase-2:

- Banks,
- Insurance/reinsurance companies,
- Foreign Portfolio Investors (FPIs),
- Pension Funds.

- 2.2. CDAC further advised SEBI to adopt a calibrated approach before opening up the commodity derivatives markets to foreign participants where, presently the domestic institutional participation is also not allowed.
- 2.3. Out of the institutions recommended to be covered in the first phase, SEBI has already permitted participation of Category III Alternative Investment Funds (AIFs) and Eligible Foreign Entities (having exposure to Indian Commodity Markets) in commodity derivatives markets.
- 2.4. Commodity derivatives would be a new asset class for the investors and can be used as hedge against inflation. Investment in commodity derivatives in a portfolio may also benefit the investors in terms of better portfolio diversification.
- 2.5. Currently, a substantial number of investors (including retail investors) are not able to directly access the Commodity Derivatives Markets due to lack of knowledge and expertise. Therefore, domestic institutional participants like mutual funds and portfolio managers may act as a vehicle for participation of such investors in commodity derivatives markets.

3. Existing Regulatory Framework

3.1. For Mutual Funds

- 3.1.1. Regulation 43(1) of SEBI (Mutual Funds) Regulations, 1996 allows a mutual fund to invest moneys collected under any of its schemes in various instruments including 'securities' as defined under Securities Contracts (Regulation) Act 1956.
- 3.1.2. Regulation 43(4) of SEBI (Mutual Funds) Regulations, 1996 states that moneys collected under any gold exchange traded fund scheme shall be invested only in gold or gold related instruments, in accordance with sub-regulation (5) of regulation 44.
- 3.1.3. 'Derivatives' are already covered under 'Securities' definition as per Securities Contracts (Regulation) Act, 1956 and definition of 'Derivatives' includes 'Commodity Derivatives'.

Existing regulatory provisions applicable for mutual funds, allow mutual funds to launch only one kind of mutual fund scheme having exposure to commodities markets i.e. in physical gold through Gold Exchange Traded Funds (Gold ETFs). Gold ETFs are required to invest at least 95% of the asset under management in gold and gold related instruments. Gold related instruments include gold deposit scheme and gold monetization scheme. There are Gold Fund of Fund schemes (Gold FoFs) investing mainly in units of Gold ETFs.

3.2. For Portfolio Managers

3.2.1. Portfolio Managers provide a customized service of advising or managing the portfolio of securities or funds of their clients. Such services are provided pursuant to an agreement between the client and the Portfolio Manager, which governs the nature and scope of the services.

Portfolio Managers provide the following services:

- a) Discretionary Portfolio Management Services
- b) Non-Discretionary Portfolio Management Services
- c) Advisory Services

3.2.2. Regulation 16(3) of SEBI (Portfolio Managers) Regulations, 1993 allows a Portfolio Manager to invest funds of clients in money market instruments or derivatives or as specified in the contract. However, SEBI, vide its circular No. SEBI/HO/CDMRD/DMP/P/CIR/2016/100 dated September 27, 2016 in line with the stipulation by erstwhile FMC, stated that Portfolio Management Services would not be permissible in Commodity Derivatives Markets.

3.2.3. Regulation 16B (2)(a) of SEBI (Portfolio Managers) Regulations, 1993 permits Portfolio Managers to carry out operations without appointment of Custodian, provided the value of total assets under management of the Portfolio Manager is less than five hundred crore rupees.

3.3. For Category III AIFs

3.3.1. Alternative Investment Funds may seek registration as either Category I AIF, Category II AIF or Category III AIF as prescribed in Regulation 3 (4) of SEBI (Alternative Investment Funds) Regulations, 2012. Category III Alternative Investment Funds may employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives.

3.3.2. SEBI Circular No. SEBI/HO/CDMRD/DMP/CIR/P/2017/61 dated June 21, 2017 permits Category III AIFs to participate in the commodity derivatives products that are being traded on the commodity derivatives exchanges.

4. Consultative Process

4.1. SEBI had series of meetings with various stakeholders to discuss the issues relating to participation of institutional investors in the commodity derivatives markets including mutual funds and portfolio managers. Subsequently, Association of Mutual Funds in India (AMFI) vide letter dated July 07, 2017 had submitted a detailed proposal on participation of mutual funds in commodity derivatives markets.

4.2. Based on the proposals received from AMFI and subsequent discussions with various stakeholders including mutual funds and portfolio managers, a consultation paper on 'Permitting Mutual Funds and Portfolio Managers to participate in Commodity Derivatives Market' was uploaded on SEBI website for public comments on December 07, 2017.

4.3. As per the comments received, both mutual funds and portfolio managers should be allowed to participate in exchange traded commodity derivatives.

5. Custodial Services

5.1. In case of exchange traded commodity derivatives, the derivative contracts are traded on the basis of underlying goods and most of the contracts are delivery

based i.e. the outstanding open interest on expiry of the contract is compulsorily settled by delivery of the underlying goods. Thus, participation in commodity derivatives markets may involve taking delivery of goods if the client has open position at the expiry of the derivatives contracts.

5.2. In this regard, SEBI Board in its meeting held on December 12, 2018 had approved the proposal to amend SEBI (Custodian of Securities) Regulations, 1996 to make the custodians responsible in all respects to its institutional clients for safekeeping of goods underlying the commodity derivatives markets. Subsequently, SEBI (Custodian of Securities) Regulations, 1996 were amended vide gazette notification dated January 01, 2019.

5.3. SEBI Board in its meeting held on December 12, 2018 had also decided that requisite amendments, if any, to SEBI (Mutual Funds) Regulations, 1996 and SEBI (Portfolio Managers) Regulations, 1993 for enabling participation of mutual funds and portfolio managers respectively in commodity derivatives markets be separately put up for consideration of the Board in its next meeting.

6. Proposals

6.1. For Mutual Funds

6.1.1. Mutual fund schemes may be allowed to participate in exchange traded commodity derivatives, except in exchange traded commodity derivatives on 'Sensitive Commodities' as defined vide SEBI circular no. SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

6.1.2. Mutual fund schemes investing in exchange traded commodity derivative contracts may hold the underlying goods in case of physical settlement of the such contracts.

6.1.3. Prior to participation in exchange traded commodity derivatives, the mutual funds shall appoint a dedicated fund manager with requisite skill and experience in commodities markets.

- 6.1.4. Prior to participation in exchange traded commodity derivatives, mutual funds shall appoint a custodian registered with the Board to have custody of the underlying goods in case of physical settlement of such contracts.
- 6.1.5. In case of schemes investing in exchange traded commodity derivatives, the expenses incurred towards storage and handling of goods, due to physical settlement of the said contracts may be considered as recurring expenses under Regulation 52(4)(b) of SEBI (Mutual Funds) Regulations, 1996.
- 6.1.6. The above proposals require amendment to SEBI (Mutual Funds) Regulations, 1996. The draft amendments to SEBI (Mutual Funds) Regulations, 1996 containing the existing provisions vis-a-vis the proposed amendments is placed at **Annexure-A**. Further, the operational guidelines relating to allowing mutual fund schemes to participate in exchange traded commodity derivatives may be issued by way of circular.

6.2. For Portfolio Managers

- 6.2.1. Portfolio managers may be allowed to participate in exchange traded commodity derivatives in India. Accordingly, SEBI circular No. SEBI/HO/CDMRD/DMP/P/CIR/2016/100 dated September 27, 2016 may be rescinded.
- 6.2.2. Presently, a SEBI registered Portfolio Manager who has total assets under management of value less than five hundred crore rupees, is not required to appoint a Custodian in respect of the securities managed or administered by it. However, Portfolio Managers investing in exchange traded commodity derivative contracts may hold the underlying goods in case of physical settlement of such contracts. Therefore, prior to participation in exchange traded commodity derivatives, the Portfolio Manager shall appoint a custodian registered with the Board.

6.2.3. The above proposals require amendment to SEBI (Portfolio Managers) Regulations, 1993. The draft amendments to SEBI (Portfolio Managers) Regulations, 1993 containing the existing provisions vis-a-vis the proposed amendments is placed at **Annexure-B**. Further, the operational guidelines relating to allowing portfolio managers to participate in exchange traded commodity derivatives may be issued by way of circular(s).

6.3. For Alternative Investment Funds

6.3.1. Category III AIFs investing in exchange traded commodity derivatives may have exposure to the underlying goods arising due to physical settlement of such contracts. To enable Category III AIFs to deal in such goods received in delivery against physical settlement of such contracts, suitable amendments to SEBI (Alternative Investment Funds) Regulations, 2012 are proposed for consideration.

6.3.2. The draft amendments to SEBI (Alternative Investment Funds) Regulations, 2012 containing the existing provisions vis-a-vis the proposed amendments is placed at **Annexure-C**.

7. Proposals for Consideration and Approval

7.1. The Board may consider and approve the proposals at paragraphs 6.1, 6.2 and 6.3 above.

7.2. The Board may authorize the Chairman to take steps to implement the proposals by amending SEBI (Mutual Funds) Regulations, 1996, SEBI (Portfolio Managers) Regulations, 1993 and SEBI (Alternative Investment Funds) Regulations, 2012 and issuance of circulars on operational guidelines, wherever necessary, with consequential and appropriate changes, as may be required, and to take consequent steps as may be deemed appropriate to give effect to the decision.

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
1	2	<p>Definitions</p> <p>Insertion of new provision</p>	<p>Definitions</p> <p><u>(md) “goods” means the goods notified by the Central Government under clause (bc) of section 2 of the Securities Contracts (Regulation) Act, 1956 and forming the underlying of any commodity derivative contract;</u></p>	<p>The definition of ‘goods’ may be included in the MF Regulations</p>
2	2	<p>Definitions</p> <p>(q) “mutual fund” means a fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for investing in securities</p>	<p>Definitions</p> <p>(q) “mutual fund” means a fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for investing in securities</p>	

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
		<p>including money market instruments or gold or gold related instruments or real estate assets:</p> <p>Provided that infrastructure debt fund schemes may raise monies through private placement of units, subject to conditions specified in these regulations;</p>	<p>including money market instruments or gold or gold related instruments or real estate assets:</p> <p>Provided that infrastructure debt fund schemes may raise monies through private placement of units, subject to conditions specified in these regulations;</p> <p><u>Provided further that mutual fund schemes investing in exchange traded commodity derivative contracts may hold the underlying goods in case of physical</u></p>	<p>The second proviso is proposed to be included in the definition of mutual fund to enable mutual fund schemes investing in commodity derivative contracts, to hold the underlying goods in case of</p>

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
			<u>settlement of such contracts.</u>	<i>physical settlement of such contracts.</i>
3	7	<p>Eligibility criteria</p> <p>(g) appointment of custodian in order to keep custody of the securities or gold and gold related instrument or other assets of the mutual fund held in terms of these regulations, and provide such other custodial services as may be authorised by the trustees.</p>	<p>Eligibility criteria</p> <p>(g) appointment of custodian in order to keep custody of the securities <u>or goods</u> or gold and gold related instrument or other assets of the mutual fund held in terms of these regulations, and provide such other custodial services as may be authorised by the trustees.</p>	<p><i>The proposed amendment is in line with the recent amendments to SEBI (Custodian of Securities) Regulations, 1996 and to ensure that the assets of the mutual fund schemes (including 'goods') are kept in custody of a custodian registered with the Board.</i></p>
4	26	<p>Appointment of custodian</p> <p>(1) The mutual fund shall appoint a Custodian to carry out the custodial</p>	<p>Appointment of custodian</p> <p>(1) The mutual fund shall appoint a Custodian to carry out the custodial services</p>	

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined>)	Rational for the proposed Amendment
		<p>services for the schemes of the fund and sent intimation of the same to the Board within fifteen days of the appointment of the Custodian:</p> <p>Provided that in case of a gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board.</p> <p>Provided further that in case of a real estate mutual fund</p>	<p>for the schemes of the fund and send intimation of the same to the Board within fifteen days of the appointment of the Custodian:</p> <p>Provided that in case of a gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board.</p> <p>Provided further that in case of a real estate mutual fund scheme,</p>	

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
		scheme, the title deed of real estate assets held by it may be kept in the custody of a custodian registered with the Board.	<p>the title deed of real estate assets held by it may be kept in the custody of a custodian registered with the Board.</p> <p><u>Provided also that mutual fund schemes investing in exchange traded commodity derivative contracts may appoint a custodian to have custody of the underlying goods in case of physical settlement of such contracts.</u></p>	<p>The proposed amendment is to ensure that in case of mutual fund schemes investing in exchange traded commodity derivative contracts, the exposure to the underlying goods arising due to physical settlement of such contracts, shall be kept in the custody of a custodian registered with the Board.</p>
5	44	Investment, borrowing, restriction, etc.	Investment, borrowing, restriction, etc.	

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
		<p>(1) Any investment to be made under regulation 43 shall be invested subject to the investment restriction specified in the Seventh Schedule:</p> <p>Provided that nothing in the Seventh Schedule shall apply to a gold exchange traded fund scheme.</p>	<p><i>Provided that nothing in the Seventh Schedule, <u>save clause 14 therein</u>, shall apply to a gold exchange traded fund scheme.</i></p>	<p>Currently, seventh schedule on restrictions on investments is not applicable for Gold ETFs. However, in view of the proposed amendment to include a general clause (i.e. clause 14) on investment restrictions on participation in exchange traded commodity derivatives in the seventh schedule (as proposed in Para-7 below), which will be applicable for Gold</p>

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
				<i>ETFs, it is proposed to amend the proviso to Reg. 44(1) accordingly.</i>
6	52	<p>Limitation on fees and expenses on issue of schemes</p> <p>(4)(b) recurring expenses including:—</p> <p>(i)</p> <p>(ii).....</p> <p>(xii-a) in case of a gold exchange traded fund scheme, recurring expenses incurred towards storage and handling of gold;</p> <p>.....</p>	<p>Limitation on fees and expenses on issue of schemes</p> <p>(4)(b) recurring expenses including:—</p> <p>(i)</p> <p>(ii).....</p> <p>(xii-a) in case of a gold exchange traded fund scheme, recurring expenses incurred towards storage and handling of gold;</p> <p>.....</p> <p><u>(xii-e) in case of schemes investing in exchange traded commodity derivative</u></p>	<p><i>Mutual fund schemes investing in exchange traded commodity derivative contracts can</i></p>

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
		(xiii) such other costs as may be approved by the Board.	<u>contracts, recurring expenses incurred towards storage and handling of the underlying goods, due to physical settlement of such contracts.</u> (xiii) such other costs as may be approved by the Board.	charge the recurring expenses incurred towards storage and handling of underlying goods, due to physical settlement of such contracts.
7	SEVENTH SCHEDULE	Seventh Schedule to Mutual Fund Regulations on 'Restrictions on Investments' Insertion of new provision In the Seventh Schedule, currently there is no provisions on investment restrictions for investment in gold or	Seventh Schedule to Mutual Fund Regulations on 'Restrictions on Investments' <u>14. A mutual fund scheme may invest in exchange traded commodity derivatives subject to such investment restrictions as may be specified by</u>	As to start with, participation of mutual fund schemes in exchange traded commodity derivatives would be subject to certain investment restrictions. The same may be reviewed and

Draft amendments to SEBI (Mutual Funds) Regulations, 1996				
Sl. No.	Reg./ Schedule	Existing Regulatory Provisions	Proposed Amendments (In italic and underlined)	Rational for the proposed Amendment
		gold related instruments.	<i><u>the Board from time to time.</u></i>	<i>revised based on the experience gained over the period of time. Therefore, it is proposed that an enabling provisions may be included in the seventh scheduled and the detailed investment restrictions may be issued through a circular.</i>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In <i>italic and underlined</i>)	Rationale for the proposed Amendment
1	2	<p>Definitions</p> <p>Insertion of new provision</p>	<p>Definitions</p> <p><i><u>(af) “custodian” means a person who has been granted a certificate of registration to carry on the business of custodian under the Securities and Exchange Board of India (Custodian) Regulations, 1996</u></i></p>	<p>Since the Portfolio Managers Regulations does not include the definition of ‘custodian’ and presence of custodian is mandatory for participation in commodity derivatives market, the amendment is proposed accordingly.</p>
2	2	<p>Definitions</p> <p>(af) “discretionary portfolio manager” means a portfolio manager who exercises or may, under a contract relating to portfolio management, exercise any degree of discretion as to</p>	<p>Definitions</p> <p><i><u>(ag) “discretionary portfolio manager” means a portfolio manager who exercises or may, under a contract relating to portfolio management, exercise any degree of discretion as to the</u></i></p>	<p>The proposed amendment is stated only for maintaining sequence of sub regulations in Regulation 2 of Portfolio Managers Regulations and not related to participation of portfolio</p>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
		the investments or management of the portfolio of securities or the funds of the client, as the case may be;	investments or management of the portfolio of securities or the funds of the client, as the case may be;	<i>managers in commodity derivatives market.</i> <i>As the definition of 'custodian' is inserted at Reg 2 (af), the definition of "discretionary portfolio manager" previously named Reg 2 (af) may be named Reg 2 (ag)</i>
3	2	Definitions Insertion of new provision	Definitions <u><i>(ba) "goods" means the goods notified by the Central Government under clause (bc) of the Securities Contracts (regulation) Act, 1956 and forming the underlying of any commodity derivative contract</i></u>	<i>The definition of 'goods' is proposed to be included in the Portfolio Managers Regulations so as to enable participation of portfolio managers in commodity derivatives market including dealing in goods resulting from physical settlement.</i>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
4	2	<p>Definitions</p> <p>(ca) “portfolio” means the total holdings of securities belonging to any person</p>	<p>Definitions</p> <p>(ca) “portfolio” means the total holdings of securities <u>and goods</u> belonging to any person</p>	<p><i>In the instance of Portfolio Manager receiving delivery of goods against physical settlement, such goods shall form part of the portfolio of the client.</i></p>
5	2	<p>Definitions</p> <p>(cb) “portfolio manager” means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or</p>	<p>Definitions</p> <p>(cb) “portfolio manager” means any person who pursuant to a contract or arrangement 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 <u>or</u></p>	

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
		administration of a portfolio of securities or the funds of the client, as the case may be;	<p><u>goods</u> or the funds of the client, as the case may be;</p> <p><i><u>Provided that the Portfolio Manager may also deal in goods arising out of physical settlement of commodity derivatives.</u></i></p>	<p>The proposed amendment is to ensure that a portfolio Manager registered with SEBI does not directly deal in physical goods and the dealing in physical goods is limited to goods received against physical settlement of Commodity Derivative contracts traded on recognised Stock Exchanges and subsequent disposal, if needed.</p>
6	2	Definitions	<p>Definitions</p> <p><i><u>(ea) 'securities' mean securities as defined in</u></i></p>	<p>Since the definition of 'securities' was not</p>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
		Insertion of new provision	<u>clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956</u>	<i>included in the Portfolio Managers Regulations, the amendment is proposed accordingly.</i>
7	2	Definitions (ea) “securities lending” means the securities lending as per the Securities Lending Scheme, 1997 specified by the Board;	Definitions <u>(eb)</u> “securities lending” means the securities lending as per the Securities Lending Scheme, 1997 specified by the Board;	<i>The proposed amendment is stated only for maintaining sequence of sub regulations in Regulation 2 of Portfolio Managers Regulations and not related to participation of portfolio managers in commodity derivatives market.</i> <i>As the definition of ‘securities’ is inserted at Reg 2 (ea), the definition of “securities lending” previously named Reg 2 (ea) may be named Reg 2 (eb).</i>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
8	14	<p>Contract with clients and disclosures-</p> <p>(1)(b)(xii) custody of securities;</p>	<p>Contract with clients and disclosures-</p> <p>(1)(b)(xii) custody of securities <u>and goods</u>;</p>	<p><i>The word 'goods' is included under the terms of agreement to ensure that responsibility of custodian with respect to dealing in goods is adequately defined therein and the same will avoid disputes, if any, between Portfolio Manager and clients.</i></p>
9	16B	<p>Appointment of custodian-</p> <p>Insertion of new provision</p>	<p>Appointment of custodian-</p> <p><u>(3) Every Portfolio Manager who deals in Commodity Derivatives shall appoint a custodian.</u></p>	<p><i>The proposed amendment is to ensure the presence of custodian in case portfolio manager deals in commodity derivatives. The</i></p>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
				<i>custodian will be responsible for protecting the interests of the clients of the portfolio manager.</i>
10	21	<p>Reports to be furnished to the client-</p> <p>(a) the composition and the value of the portfolio, description of security, number of securities, value of each security held in the portfolio, cash balance and aggregate value of the portfolio as on the date of report;</p>	<p>Reports to be furnished to the client-</p> <p>(a) the composition and the value of the portfolio, description of security <u>and goods</u>, number of securities, value of each security held in the portfolio, <u>units of goods, value of goods</u>, cash balance and aggregate value of the portfolio as on the date of report;</p>	<p><i>The amendment is proposed to ensure that for the duration that the goods received in delivery against physical settlement of Commodity Derivative contracts remain in the custody of the Portfolio Manager, the value of the physical goods shall be included in the value of total assets belonging to the client and the applicable information is disseminated to the</i></p>

Draft amendments to SEBI (Portfolio Managers) Regulations, 1993				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
				<i>clients on periodical basis.</i>

Draft amendments to SEBI (Alternative Investment Funds) Regulations, 2012				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
1	2	Definitions Insertion of new provision	Definitions <u>(ha) “custodian” means a person who has been granted a certificate of registration to carry on the business of custodian under the Securities and Exchange Board of India (Custodian) Regulations, 1996</u>	Since SEBI (AIF) Regulations, 2012 does not include the definition of ‘custodian’ and presence of custodian is mandatory for participation in commodity derivatives market, the amendment is proposed accordingly.
2	2	Definitions Insertion of new provision	Definitions <u>(ka) “goods” means the goods notified by the Central Government under clause (bc) of the section 2 of the Securities Contracts (Regulation) Act, 1956 and forming the underlying of any</u>	The definition of ‘goods’ is proposed to be included in SEB(AIF) Regulations so as to enable participation of Category III AIF in commodity derivatives market including dealing in goods

Draft amendments to SEBI (Alternative Investment Funds) Regulations, 2012				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
			<u>commodity derivative contract</u>	resulting from physical settlement.
3	18	<p>Conditions for Category III Alternative Investment Funds</p> <p>Insertion of new provision</p>	<p>Conditions for Category III Alternative Investment Funds</p> <p><u>(aa) Category III Alternative Investment Funds may deal in goods received in delivery against physical settlement of commodity derivatives.</u></p>	<p>The proposed amendment is to ensure that exposure of Category III AIFs to physical goods is limited to the goods received in delivery against physical settlement of Commodity Derivative contracts traded on recognised Stock Exchanges.</p>
4	20	<p>General Obligations</p> <p>(2) The Sponsor or Manager of Alternative</p>	<p>General Obligations</p> <p>(2) The Sponsor or Manager of Alternative Investment Fund shall</p>	

Draft amendments to SEBI (Alternative Investment Funds) Regulations, 2012				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined>)	Rationale for the proposed Amendment
		<p>Investment Fund shall appoint a custodian registered with the Board for safekeeping of securities if the corpus of the Alternative Investment Fund is more than five hundred crore rupees:</p> <p>Provided that the Sponsor or Manager of a Category III Alternative Investment Fund shall appoint such custodian irrespective of the size of corpus of the Alternative Investment Fund.</p>	<p>appoint a custodian registered with the Board for safekeeping of securities if the corpus of the Alternative Investment Fund is more than five hundred crore rupees:</p> <p>Provided that the Sponsor or Manager of a Category III Alternative Investment Fund shall appoint such custodian irrespective of the size of corpus of the Alternative Investment Fund.</p>	

Draft amendments to SEBI (Alternative Investment Funds) Regulations, 2012				
Sl. No	Regulation	Existing regulatory Provisions	Proposed Amendments (In italic and underlined)	Rationale for the proposed Amendment
			<u>Provided further that the Custodian appointed by Category III Alternative Investment Fund shall keep custody of securities and goods arising out of physical settlement of commodity derivatives.</u>	The proposed amendment is to ensure that assets of the AIFs including 'goods' are kept in one place, under the custody of a SEBI registered custodian.