Amendment to SEBI (Foreign Portfolio Investors) Regulations, 2019, for mandating additional disclosures from Foreign Portfolio Investors (FPIs) that fulfil certain objective criteria

1. Objective

1.1. This Board Memorandum proposes to amend the SEBI (Foreign Portfolio Investors) Regulations, 2019 ("FPI Regulations") for

1.1.1. mandating additional disclosures around ownership of, economic interest in, and control of specified, objectively identified Foreign Portfolio Investors (FPIs) that have either concentrated single corporate group exposures and/ or significant overall holdings in their India equity investment portfolio. This is with an objective to guard against 1) possible circumvention of regulations such as the requirement for Minimum Public Shareholding ("MPS") or disclosures under Substantial Acquisition of Shares and Takeovers Regulations, 2011, ("SAST") and 2) possible misuse of the FPI route to circumvent the requirements of Press Note 3 ("PN3"); and

1.1.2. aligning the existing threshold for conformance with UNSC Sanctions List, as mentioned in the eligibility criteria in the FPI Regulations, with the threshold prescribed in the Prevention of Money Laundering (Maintenance of Records Rules), 2005 (PML Rules).

2. Extant regulations on disclosure of ownership of, economic interest in, and control over FPIs

2.1. In India, Prevention of Money Laundering Act, 2002 ('PMLA') and the Prevention of Money Laundering (Maintenance of Records Rules), 2005 (PML Rules) provide the framework for identifying the Beneficial Owners (BOs) of legal entities, which is broadly in line with the recommendations of Financial Action Task Force (FATF).

2.2. As per PMLA, BO means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person.

2.3. Rule 9(3) of the PML Rules specifies the thresholds based on ownership, or entitlement to capital or profits (i.e., economic interest), for identifying the BO of legal entities. The thresholds are 10% for companies and trusts, and 15% for partnerships and unincorporated association or body of individuals etc. It also specifies that BO includes those natural persons who exercise ultimate effective control over a legal person or arrangement. "Control" includes the right to appoint a majority of the Directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders' agreements or voting agreements.

2.4. In essence, BOs can emanate either from ownership criteria, or through economic interest, or through control. All such BOs need to be identified for each entity. Further, where no natural person is identified on the basis of control through ownership or economic interest (based on thresholds), or control through other means, the BO is the relevant natural person who holds the position of Senior Managing Official (SMO).

2.5. The FPI Regulations and the circulars framed thereunder, require Designated Depository Participants ('DDP')/ Custodians to identify all BOs of FPIs on a look through basis, in accordance with Rule 9 of the PML Rules, and maintain a list of such BOs. Under these regulations, the materiality threshold to identify the BOs (either via ownership and/ or economic interest/ control criteria) is first applied at the level of the FPI. If any entity exceeds such materiality threshold at the level of the FPI, in turn, BOs of such intermediate entities are identified on a look through basis (after applying the threshold criteria) till all natural person BOs at the end of the chain are reached. Further, any change in the same needs to be communicated by the FPIs to their DDPs within 7 working days of such change.

2.6. As per Rule 9 (14) (i) of the PML Rules, regulators (such as SEBI) may prescribe simplified or enhanced measures to verify the client's identity as deemed necessary.

2.7. Regulation 3 (2) of the FPI Regulations requires FPI applicants to apply to DDPs in the Form and manner specified by the Government or SEBI, which is to be supported by the fee and any documents in the manner specified by the Board from time to time.

2.8. Regulation 22(1)(j) of the FPI Regulations requires the FPIs to provide any additional information or documents including beneficiary ownership details of their clients as may be required by the designated depository participant or the Board or any other enforcement agency to ensure compliance with the Prevention of Money Laundering Act, 2002 and the rules and regulations specified thereunder, the Financial Action Task Force standards and circulars issued from time to time by the Board.

2.9. Regulation 44 of the FPI Regulations empowers the Board to issue clarifications and guidelines in the form of circulars or issue separate circular or guidelines or framework for each category of FPI or DDP, in order to remove any difficulties in the application or interpretation of the provisions of the FPI regulations.

2.10. Also, as part of the eligibility criteria, Regulation 4 (f) of the FPI Regulations specifies as under: -

"A DDP shall consider an application for grant of certificate of registration as a FPI if the applicant satisfies the following conditions namely: -

(a)..

(b)..

..

..

(f) the applicant or its underlying investors contributing **twenty-five percent** or more in the corpus of the applicant or identified on the basis of control, shall not be the person(s) mentioned in the Sanctions List notified from time to time by the United Nations Security Council and is not a resident in the country identified in the public statement of Financial Action Task Force as –

(i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

(ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the

Financial Action Task Force to address the deficiencies." (emphasis supplied).

3. Issues identified

3.1. Concentrated group investments by FPIs and the potential circumvention of SEBI regulatory requirements such as maintenance of MPS and SAST Regulations

3.1.1. Some FPIs have been observed to concentrate a substantial portion of their equity portfolio in a single investee company/ corporate group. In some cases, these concentrated holdings have also been near static and maintained for a long time. Such concentrated investments raise the concern and possibility that promoters of such corporate groups, or other investors acting in concert, could be using the FPI route for circumventing regulatory requirements such as that of disclosures under SAST Regulations or maintaining MPS in the listed company. Further, if this were the case, the apparent free float in a listed company may not be its true free float, increasing the risk of price manipulation in such scrips.

3.1.2. To confirm that there is no such circumvention of MPS or SAST or other related regulations, it is necessary to obtain granular information around the ownership of, economic interest in, and control of FPIs with concentrated equity holdings in single companies or corporate groups.

3.2. Potential misuse of the FPI route for circumvention of PN3 stipulations:

3.2.1. The Government of India has recognized the inherent risks of opportunistic takeover/ acquisition of Indian companies and issued PN3 dated April 17, 2020 for amending the FDI policy as contained in Consolidated FDI Policy, 2017. As per PN3, an entity of a country that shares land border with India, or where the BO of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route.

3.2.2. While PN3 is not applicable to FPI investments, the FPI route could potentially be misused to circumvent the stipulations of the same. To

this end, there is a need to examine if FPIs with large Indian equity portfolios, with the potential to disrupt orderly functioning of Indian securities markets by their actions, have substantial number of investors from countries that share land borders with India. In certain instances, it has been observed that while the FPI with large Indian equity portfolio may itself be situated out of a non–land bordering country, the first level/ intermediate investors in such FPIs may be based out of land – bordering countries. This reiterates the need to obtain granular information around the ownership of, economic interest in, and control of such FPIs.

3.3. **Issues in identification of natural person as BO in FPIs based on economic interest**

3.3.1. As required by the FPI Regulations and PMLA and PML Rules, while BO details based on control or fund ownership have generally been made available, it is often observed that no natural person is identified as the BO of FPIs based on economic interest, since each investor entity in the FPI is generally found to be below the threshold prescribed under PML Rules. However, there is a possibility that the same natural person holds a significant aggregate economic interest in the FPI via different investment entities, each of which are individually below the threshold for identification as a BO.

3.3.2. Since granular details of all underlying investors with ownership, economic, or control interest in entities below the threshold is currently not required to be made available with the DDP/Custodian, it is not possible to determine whether the above scenario may be playing out. It has further been observed in some cases that entities having economic interest in an FPI are in jurisdictions where the equivalent PML Act or Rules require BO identification only on the basis of control or ownership, leaving ambiguity regarding entities that have economic interest but no ostensible control in the fund.

3.3.3. In such cases, it is often observed that control is ostensibly provided to another entity (such as the investment manager/ trustee etc.) through arrangements such as voting shares/ management shares, and the person in control of such entity or the SMO is then identified as the BO of the FPI. While the same may be in compliance with the letter of the

regulations, the actual investing constituents with substantial economic interest may not be identified as BOs of the FPI. This issue can be further accentuated if holdings of such investors are spread through multiple FPIs.

3.4. **Aligning the threshold given in the eligibility criteria in the FPI Regulations for UNSC Sanctions List with PML Rules**

3.4.1. Vide amendments to PML Rules notified on March 07, 2023, the threshold for identification of BOs has been modified to 10% for companies and trusts, and 15% for partnerships and unincorporated association or body of individuals. However, as mentioned at Para 2.10 above, the eligibility criteria for FPIs as per the FPI Regulations requires that applicants or underlying investors contributing 25% or more in the corpus of the applicant or identified on the basis of control shall not be the person(s) mentioned in the Sanctions List notified by UNSC, irrespective of the structure of the FPI.

3.4.2. It is desirable that the abovementioned thresholds specified in the FPI Regulations for not appearing in the UNSC Sanctions List should be aligned with the threshold for identification of BO as updated in the PML Rules from time to time. It may be noted that details of BOs and intermediate shareholders are available with DDPs, in compliance with the PML Rules and FPI Regulations.

4. Consultation with stakeholders

4.1. To mitigate the risk of circumvention of regulations such as MPS and SAST, and to prevent potential misuse of the FPI route to circumvent PN3 stipulations, it was felt that enhanced transparency measures for fully identifying all holders of ownership, economic, and control rights may be mandated for certain objectively identified FPIs that fulfil specified criteria. Particularly, such identification should be done on a look through basis down to the level of natural persons, government-owned entities, public retail funds, or large listed corporates, without applying any materiality thresholds, and notwithstanding any equivalent PMLA rules or secrecy laws that may be applicable in other jurisdictions of their domicile.

4.2. A detailed framework for implementing the aforementioned proposal was formulated and preliminary discussions on the same was held in the meeting of SEBI's FPI Advisory Committee ("FAC") dated May 30, 2023.

4.3. SEBI then issued a consultation paper on the framework for mandating additional disclosures from FPIs that fulfil certain objective criteria on May 31, 2023, soliciting comments from public on the proposals made therein. Thereafter, a detailed discussion on the proposed framework was held with DDPs and Custodians during meetings held on June 13, 2023 and June 19, 2023. The feedback received from DDPs/ Custodians has been duly considered while formulating the final proposal. Further, the consultation paper was once again discussed in the meeting of the FAC held on June 20, 2023 which was also attended by some Custodians/ DDPs as special invitees.

The FAC, while deliberating on the proposal, acknowledged that the extant regulatory framework already provides, inter-alia, as part of the General Obligations, that the FPIs shall provide additional information or documents including BO details of clients as may be required by the DDP or the Board or any other enforcement agency to ensure compliance with the PMLA. In this backdrop, it was noted that the proposed framework envisages seeking such additional information upon triggering of certain objectively identified criteria, as a tool to identify the issues flagged regarding circumvention of regulations around MPS, SAST, or the spirit of PN3.

4.4. A total of 33 responses to the consultation paper have been received from the stakeholders such as FPIs, DDPs, Custodians, Investment Managers, Industry association, Law Firms, etc. A copy of the consultation paper and summary of comments received is attached as **Annexure A** and **Annexure B** respectively.

4.5. One of the feedback received is that rather than characterising some FPIs as "high-risk", the nomenclature for categorizing FPIs that are required to make additional disclosures may be modified suitably to indicate whether the FPI needs to report additional disclosures or not.

The said comment merits consideration since the objective is to identify FPIs that will be required to make additional disclosures under the proposed

framework. It is proposed to classify FPIs who will be required to provide additional disclosures and those who will be exempted from such additional disclosures as ‘reportable for additional disclosures’ and ‘non-reportable for additional disclosures’.

4.6. Another feedback received from commenters is that existing FPIs that are in breach of the limits mentioned in the consultation paper and are therefore required to make additional disclosures, may be given a timeline of 2- 3 months to bring down their exposure below the prescribed limits, instead of the proposed timeline of 6 months in the consultation paper, as such FPIs would only need to offload the excess holdings beyond 50% in a corporate group/ 25,000 crore equity AUC overall. Similarly, in case of new FPIs, a timeline of 3 months from the date of first trading activity by the FPI in the Indian securities markets should be sufficient for new FPIs to comply with the 50% concentration threshold.

Considering the fact that the FPI Regulations provide a timeline of 180 days to liquidate their entire positions in the Indian securities market in case of non-compliance with specified eligibility criteria, the said suggestion merits consideration and may be accepted. The said suggestion was also discussed in the meeting of the FAC and in the meeting with DDPs/Custodians and all the FAC members and stakeholders concurred with the suggestion of reducing the proposed timeline from 6 months to 3 months.

4.7. Some commenters have suggested that in order to have consistent practice across the industry and to avoid regulatory arbitrage amongst DDPs, a Standard Operating Procedure (SOP) may be prepared and followed by all DDPs. In this regard, it may be stated that SEBI has already engaged with DDPs for developing such an SOP for ensuring consistent practices across the industry.

4.8. One of the commenter (name has been excised for reasons of confidentiality) has suggested mandating all FPIs (existing and new) to provide their active LEI at the time of registration, which may be utilized for monitoring purposes including compliance with clubbing requirements.

In this regard, it may be noted that there is already a field in the Common Application Form ("CAF"), which captures the LEI of FPI applicants. RBI has also made LEI mandatory for certain transactions, because of which LEI data of most non – individual FPIs is available with their DDPs. In view of the same, the said comment merits consideration since this will ensure that all non-individual FPIs have an LEI which is available with the DDPs. It is accordingly proposed that as a matter of good practice, the requirement of obtaining LEI may be made mandatory for all non-individual FPIs. All existing FPIs that have not already provided their LEIs to the DDPs shall be provided a time period of 6 months from the date of issuance of mandate by SEBI for providing their LEI to the DDPs, failing which their account shall be blocked for further purchases until LEI is provided to the DDPs.
However, this does not address the requirement of additional disclosures as the LEI data stops at the parent entity level and does not provide the details of natural persons in control of the entity.

4.9. Some comments have been received suggesting the retail funds in certain jurisdictions which could be considered as PRFs. The comment merits consideration and shall be deliberated upon with the DDPs for inclusion in the SOP.

4.10. A few comments were received suggesting that Private Equity (PE) funds shall be impacted by the proposal. Generally, PE funds have a master fund which sets up different SPVs that make concentrated investments in various jurisdictions/ corporates. Thus, while the investments may be concentrated in a single corporate/ corporate group at the FPI level, at the master fund level, the investments are diversified. In this regard, however, the general feedback received from stakeholders is that PE funds would largely be unaffected by the proposal as their investments are mostly in the non – public market.

4.11. Some commenters have suggested that in case of passive breaches, the FPI may not be required to comply with additional disclosure requirements or bring down its exposure provided the FPI does not make incremental investments in a single corporate group. However, there could be scenarios where the FPI initially takes position in different corporate groups in compliance with the 50% threshold; however, subsequently,

disposes off its holdings in other groups and remains invested beyond 50% in a single corporate group for circumventing the MPS requirement in that group. A passive breach may occur due to change in valuations and it might not be feasible to carve out exemptions for each such case. Further, sufficient time is also being provided to the FPIs to bring down their holdings within the prescribed threshold, in the event of passive, unintended breaches. Finally, the only requirement for funds that are in excess of the threshold is to provide additional granular data around BOs. Hence, the comment may not be accepted.

4.12. Some commenters have suggested that for the sake of consistency, the timeline provided for complying with the threshold, in cases of breach, should be same for both scenarios i.e. more than 50% equity concentration in a single corporate group or total equity holdings in India more than INR 25,000 crore.

However, the two scenarios are different. Due to the sheer size of holdings, it is probable that the breach beyond INR 25,000 crore could be significantly high due to factors such as sudden market movement, change in valuation etc. Accordingly, a higher time frame needs to be provided for coming within the threshold in such cases.

4.13. Many commenters, including the FAC, have suggested reconsidering the proposal of seeking upfront undertaking from FPIs confirming that they have suitable mechanisms/ agreements in place with their investors (on a full look through basis), which shall include waiving off their privacy rights in their respective home jurisdictions in favour of SEBI. They have cited operational and legal challenges in entering into such agreements with their investors. It has also been pointed out that while seeking registration, FPIs provide an undertaking to provide additional information/ documents (including KYC documents exempted by SEBI and RBI) as may be required without delay to ensure compliance with circulars issued by SEBI.

The comment merits consideration. The regulatory intent of prescribing the framework is to obtain additional disclosures in case the prescribed limits are breached. FPIs have already provided an undertaking for providing additional information as and when required. In addition, both existing and

new FPIs shall affirm and acknowledge to their DDP that they understand and agree to abide by the new rules and consequences thereof as described herein under.

4.14. Few commenters have expressed a view that the term Assets under Management ('AUM') used in the context of FPIs' India holdings, maybe changed to Assets under Custody ('AUC') or 'Net Assets' as AUM also includes investments in cash, derivatives etc. which may not be relevant in the current context, as the focus is on equity investments by the FPIs. The intent here is to consider the FPI's India or corporate group equity exposure across securities. To that extent, the term AUM in the context of this board note may be clarified to mean net equity exposures to India or a corporate group, as shall be described in the SOP.

5. Proposal

5.1. Taking into account the recommendations of FAC, comments received from DDPs, Custodians, public at large and internal deliberations, it is proposed that the Board may consider and approve the following framework for seeking additional disclosures from FPIs to guard against possible misuse of FPI route for circumvention requirements of MPS, SAST or those stipulated under PN3:

5.1.1. The below mentioned FPIs shall be required to provide granular data of all entities with any ownership, economic interest, or control rights in the FPI on a full look through basis, up to the level of all natural persons without any threshold:

(i) FPIs holding more than 50% of their Indian equity AUM (i.e., net equivalent equity exposure across all securities) in a single Indian corporate group; (or)

(ii) FPIs that individually, or along with their investor group as defined under Regulation 22(3) of the FPI Regulations, hold more than INR 25,000 crore of equity AUM in the Indian markets.

5.1.2. The granular level data shall be provided by the FPIs to their DDPs in the format as may be specified by the Board.

5.1.3. It is recognized that providing granular details as described in 5.1.1 can potentially be onerous for some large FPIs, and can detract from their ease of doing investments in India. At the same time, any lingering doubts that some FPI may be facilitating circumvention of regulations around MPS, SAST, or the spirit of PN3, can materially both weaken the trust in, and increase the risk to the financial markets ecosystem.

5.1.4. There is a need therefore, to both minimize Type II errors (where legitimate FPIs and their investors face challenges of onerous regulatory requirements) and Type I errors (where FPIs that may be breaching regulations, circumvent the need to make disclosures that would bring such breaches to light).

5.1.5. With both these objectives in mind, the core principle of 'trust - but verify' was applied to arrive at a set of objective criteria (elaborated in 5.1.7 below) to identify FPIs that may be exempted from making additional disclosures even if they met the conditions stipulated in 5.1.1 (i) and 5.1.1 (ii) above. These criteria were broadly enumerated in the public consultation paper, and further refined in discussion with DDPs, the FAC, and other stakeholders.

5.1.6. The application of these criteria (elaborated in Para 5.1.7 below) have helped bring down the reportable FPIs significantly (as shown later in Para 6 below) thereby reducing Type II errors. At the same time, the application of these criteria should not add to Type I errors, since they are based on the core 'trust - but verify' principle. Any further changes to the SOP, over and above the list enumerated below, would be strictly based on such an application of the core principles of minimising Type II errors without adding to Type I errors, through the 'trust - but verify' route.

5.1.7. In line with the aforesaid principles, the below mentioned FPIs shall be exempt from making the additional disclosures as stated in Para 5.1.1 above:

(i) Government and Government related investors registered as FPIs under Regulation 5 (a)(i) of the FPI Regulations.

(ii) Public Retail Funds (PRFs) as defined under Regulation 22(4) of the FPI Regulations and Pension Funds, subject to the ability of DDPs to independently validate and confirm the status of such FPIs as Pension Funds and PRFs, as per the SOP devised in consultation with SEBI.

(iii) Listed Exchange Traded Funds (with less than 50% exposure to India and India-related equity securities) and listed entities resident in jurisdictions as may be notified by the Board.

(iv) FPIs that are pooled investment vehicles registered with/ regulated by a Government/ regulatory authority in their home jurisdiction, where:

- their Indian equity AUM in an Indian corporate group is below 25% of their overall global AUM at a scheme level, in case of FPIs falling under Para 5.1.1(i) above.; or
- their equity AUM in the Indian markets is below 50% of their overall global AUM at a scheme level, in case of FPIs falling under Para 5.1.1 (ii) above.

This exemption shall be subject to availability of a public disclosure of such holdings along with the ability to independently validate the same. Such validation may be through various means such as regulatory filing and confirmation from the Global Custodians. 'Scheme' for this purpose shall mean pooled investment vehicles with structures similar to 'Scheme' as defined in SEBI (Mutual Funds) regulations, 1996.

(v) FPIs that are unable to liquidate their excess investments due to statutory restrictions (such as lock in restrictions of anchor investors in IPOs, moratoriums, freeze on accounts or shares due to regulatory orders etc.), till the time such restrictions exist.

(vi) Newly registered FPIs, for the first 3 months from the date of first trade by the FPI in India.

(vii) FPIs in the process of winding down their investment that have applied to their DDP for surrender of FPI registration. Such FPIs shall be required to bring down their holdings to 'nil' within 6 months from the date of application for surrender.

A pictorial representation of the scenarios depicted above has been provided in **Annexure C**.

5.1.8. In order to have consistent practice across the industry and to avoid regulatory arbitrage amongst DDPs, a Standard Operating Procedure (SOP) shall be prepared and followed by all DDPs for independently validating conformance of FPIs with the conditions mentioned in Para 5.1.7 above, while providing exemptions from the requirements of Para 5.1.1.

5.1.9. Where the entity identified on the look through basis, as stated in Para 5.1.1. above, falls under any of the sub - categories specified in Para 5.1.7 above, it is not necessary to further identity entities having ownership, economic interest, or control rights of such an entity.

5.1.10. FPIs that are required to make the additional disclosures as stated at Para 5.1.1. above may be exempted from making the additional disclosures in case they bring their investments within the specified limits within the below mentioned timelines:

(i) For FPIs breaching limit of 50% of their Indian Equity AUM in a single Indian corporate group: 10 trading days from the date of such breach. Such FPIs shall not make fresh purchases of the securities of any corporate belonging to the investee group in which the 50% limit was breached, during the next 30 days from the date of such breach.

(ii) For FPIs, including their investor group, breaching the limit of overall holding in the Indian equity markets of INR 25,000 crore: 3 months from date of such breach. Accounts of all FPIs, individually or belonging to such investor group, shall be blocked for further equity purchases until the breach is rectified.

5.1.11. In case the FPI is unable to bring down its equity investments below the thresholds within the timelines specified above, it shall be required to make the additional disclosures as mentioned in Para 5.1.1 above to its DDP within the next 30 working days. Failure to do so would render the registration of the FPI invalid because of non-compliance with the FPI Regulations. The FPI's account would thereafter be blocked for further purchases by its DDP. The FPI shall then be required to dispose of its securities and exit the Indian securities market within the next 6

months, during which its voting rights in the investee group companies shall be restricted to shareholding corresponding to 50% of its AUM. Failure to do so shall render such FPIs liable for regulatory action as stipulated by the Board.

5.1.12. In terms of Regulation 22 (1)(c) of the FPI Regulations, any change in the entities identified in terms of Para 5.1.1 above shall be considered as a material change, and shall need to be informed to the DDP in writing, as soon as possible but not later than seven working days from the date of change, till the time the FPI is in breach of the limits specified at Para 5.1.1.

5.1.13. Existing FPIs in breach of the limits specified in Para 5.1.1 above shall be provided a window of three months to bring down such exposure within the limits, before the need for such additional disclosure requirements become effective.

5.1.14. All existing and new FPIs shall affirm and acknowledge to their DDP that they understand and agree to abide by the new rules and consequences thereof as described herein under.

5.1.15. While the primary responsibility of monitoring the status vis-à-vis concentration and AUM size thresholds shall rest with the FPI, the responsibility of monitoring the same, informing the FPI regarding exceeding the threshold, if any, rectification of the same and taking further actions would rest with the DDP of the FPI. Monitoring of equity holdings of FPI investor groups with INR 25,000 crore limit shall rest with the Depositories, since data of FPIs forming part of investor group is available with the Depositories.

5.1.16. Based on data around promoters, a pro-forma corporate group repository was put together by SEBI and shared with the DDPs for preliminary impact assessment. SEBI is now in discussion with Market Infrastructure Institutions (MIIs) for formulating such a repository on an ongoing basis, containing names of companies forming a part of each Indian corporate group and their market capitalization, which shall in turn be accessible to FPIs and DDPs. The said formal system is

expected to be put in place in 2 months. This repository shall serve as the reference point for the FPIs as well as Custodians/ Depositories/ SEBI in monitoring compliance of investments of the FPIs with the specified threshold.

5.2. To implement the proposal at Para 5.1 above, the following sub – regulation may be inserted after sub – regulation (5) of Regulation 22 of the FPI Regulations:

"(6) A foreign portfolio investor that fulfils the criteria specified by the Board from time to time, shall provide information or documents in relation to the persons with any ownership, economic interest, or control, in the foreign portfolio investor, in such manner as may be specified by the Board from time to time".

5.3. For aligning the threshold given in the eligibility criteria for UNSC Sanctions List with those mentioned in the PML Rules, it is proposed that clause (f) of Regulation 4 of the FPI Regulations may be amended to read as under:

"4 (f) the applicant or its underlying investors contributing **more than the prescribed threshold under sub rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005** in the corpus of the applicant or identified on the basis of control, shall not be the person(s) mentioned in the Sanctions List notified from time to time by the United Nations Security Council and is not a resident in the country identified in the public statement of Financial Action Task Force as –

(i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

(ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;"

5.4. With respect to LEI, it is proposed that the requirement of obtaining the same may be made mandatory for all non-individual FPIs. All existing FPIs that have not already provided their LEIs to the DDPs shall be provided a time period of 6 months from the date of issuance of mandate by SEBI for providing their LEI to the DDPs, failing which their account shall be blocked for further purchases until LEI is provided to the DDPs.

5.5. To implement the proposals at Para 5.4 above, enabling provisions as mentioned at Paras 2.7-2.9 above are present in the FPI Regulations.

5.6. The operational modalities to implement the aforesaid proposals at Paras 5.1 and 5.4 may be specified by way of a circular to modify the existing provisions in the Master Circular for FPIs and DDPs.

5.7. A comparison of the existing provisions with the proposed amendments to the FPI Regulations is placed at **Annexure D**. The draft notification for the proposed amendments is placed at **Annexure E.**

6. Impact analysis of the above proposal

This has been excised for reasons of confidentiality.

7. Proposal to the Board:

7.1. The Board is requested to consider and approve the proposals at Para 5 above and authorize the Chairperson to make consequential and incidental changes and take necessary steps to give effect to the decisions of the Board.

Annexure A

The consultation paper is available at the following link:

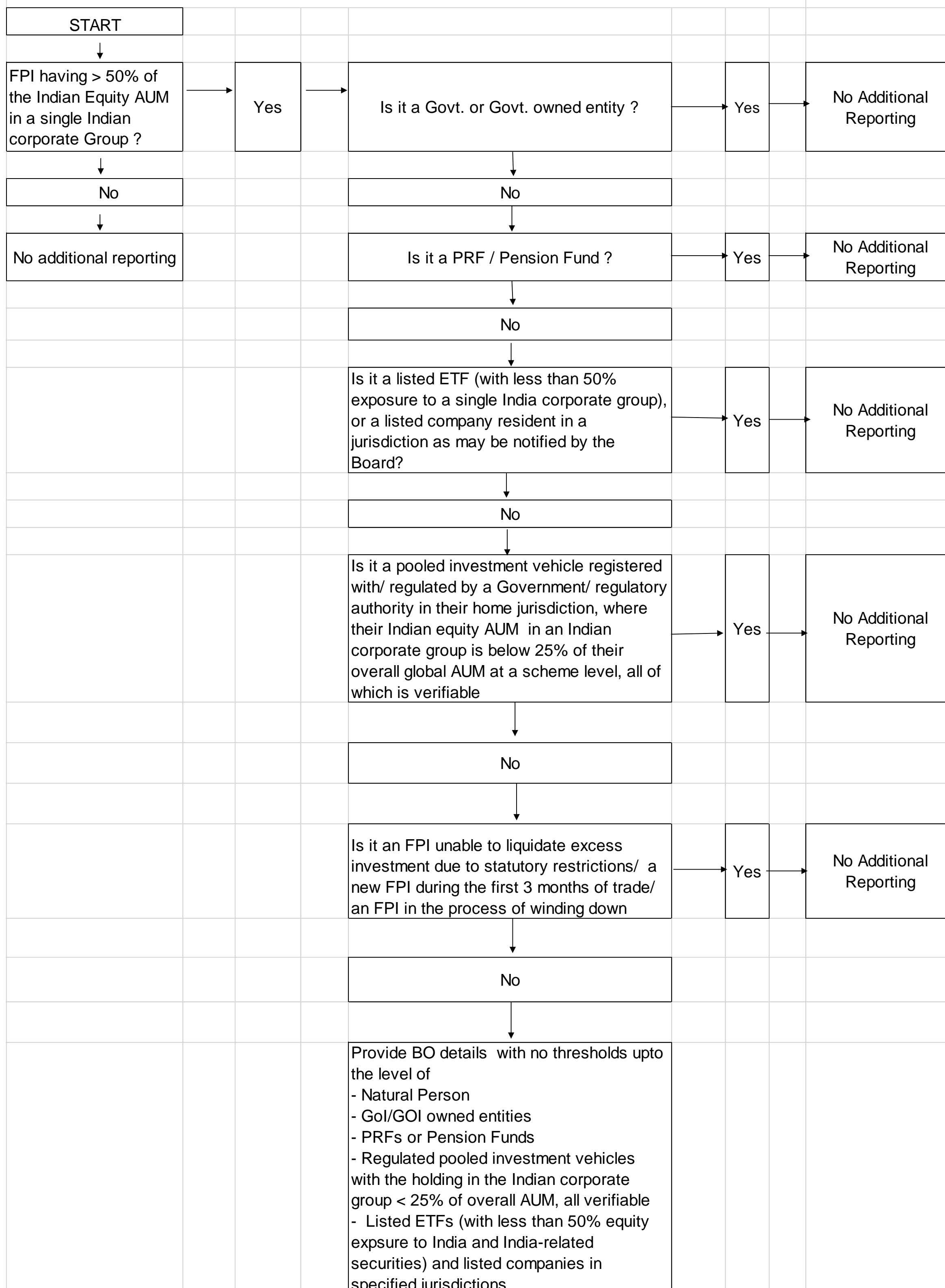
https://www.sebi.gov.in/reports-and-statistics/reports/may-2023/consultation-paper-on-framework-for-mandating-additional-disclosures-from-foreign-portfolio-investors-fpis-that-fulfil-certain-objective-criteria-to-1-guard-against-possible-circumvention-of-minim-_71946.html

Annexure B

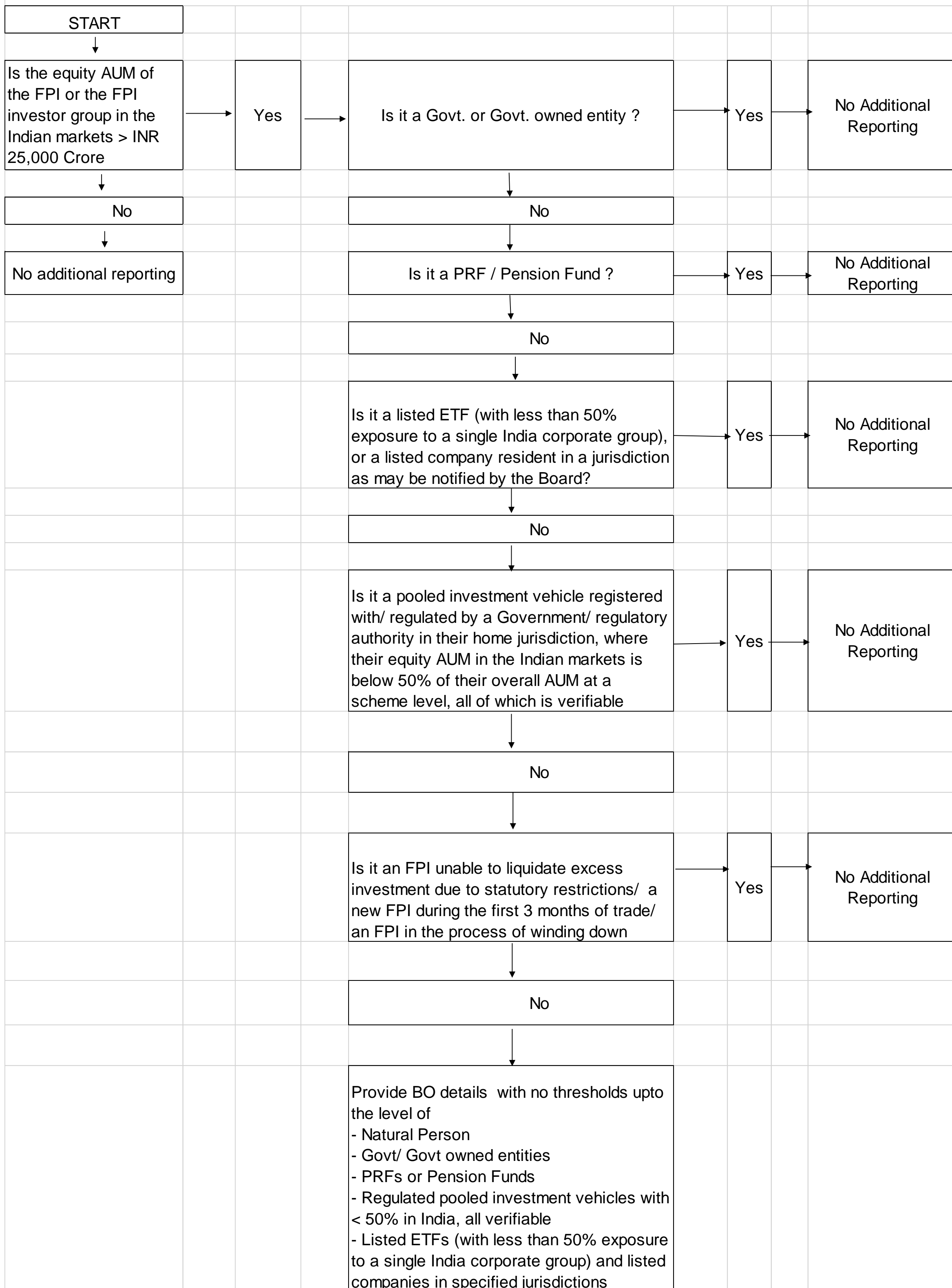
This has been excised for reasons of confidentiality

Annexure C

Flowchart depicting scenarios that would warrant additional disclosures under 5.1.1 (i)



Flowchart depicting scenarios that would warrant additional disclosures under 5.1.1 (ii)



Annexure D

Amendment to SEBI (Foreign Portfolio Investors) Regulations, 2019 shall be notified after following the due process.

Annexure E

Amendment to SEBI (Foreign Portfolio Investors) Regulations, 2019 shall be notified after following the due process.