

SEBI (Investment Advisers) Regulations, 2013

1. Objective

This Board Memorandum proposes certain regulatory changes including amendments to the SEBI (Investment Advisers) Regulations, 2013 and seeks the approval of the Board for the same.

2. Background

- a. SEBI (Investment Advisers) Regulations, 2013 (“IA Regulations”) were notified on January 21, 2013. The objective of the IA Regulations, inter alia, was to lay down the framework for advisers who acts in a fiduciary capacity towards their clients and to address the conflict of interest arising due to the dual role played by the entity as adviser and distributor of financial products.
- b. Under these regulations, Investment Adviser (IA) is required to comply with various requirements such as qualification criteria, net worth criteria, disclosures, maintenance of records etc. Further, the investment advisers are mandated to do appropriate risk profiling and have a process to arrive at suitable investment advice in line with the clients’ requirements.
- c. As on January 31,2020, the category wise number of registered investment advisers is as under;

Category	No. of Registered Investment Advisers
Body Corporate	332
Individual & Partnership Firms	895
Limited Liability Partnership	50
Grand Total	1277

- d. SEBI had issued three consultation papers dated October 7, 2016, June 22, 2017 and January 2, 2018 (**Annexure I**) seeking public comments on various proposals including segregation of advisory and distribution activities at entity level i.e. Individuals registered as investment advisers were proposed not to provide any distribution services in financial products, either directly or through any of their immediate relatives and vice versa. The same proposition was stated for Banks, NBFCs, Body Corporates, LLPs and firms also. Other major proposals were usage of nomenclature “Independent Financial Adviser” by Distributors, investment advisory through subsidiary instead of separately identifiable department or division (SIDD) etc. These consultation paper received diverse views.
- e. In order to address the diverse views received during the aforesaid consultation process, SEBI constituted a working group to:
- Evaluate the proposals stated in the three consultation papers issued by SEBI and recommend the implementation measures thereof.
 - Examine the model of client level segregation of advisory and distribution activities, highlight the risks in the model and mitigating factors for each risk.
 - Review of SEBI IA Regulations.

The Working Group deliberated on the various proposals stated in three consultation papers, aforesaid model of client level segregation, issues observed in complaints against IAs such as assured returns being offered, charging exorbitant fees, mis-selling by IAs, non-disclosure of complete service fees/charges etc. The Working Group submitted its report to SEBI in December 2019.

3. Public Consultation

- a. Based on internal deliberations on the Working Group recommendations, SEBI placed a consultation paper (**Annexure I**) on January 15,2020 on its website, seeking public comments on the following proposals:
- Segregation of advisory and distribution activities at client level i.e. an entity can provide both advisory and distribution but not to the same client.
 - Implementation (execution) services in direct schemes/direct code in the securities market may be allowed to all IAs.
 - IAs to provide a document to the client detailing the terms and conditions of the investment advisory services.
 - To curb the instances of charging unfair and unreasonable fees to the client, a cap on fees is proposed at 2.5 percent of Assets Under Advice (AUA) or INR 75000 fixed per annum per family.
 - Enhanced qualification, experience and net worth requirement for investment advisers.
 - Maintenance of record of interactions with clients
 - Discontinuation of Continuing Professional Education (CPE) program conducted by NISM for validity of the registration as Investment Adviser.
 - Filing on adverse findings in Compliance audit along with action taken thereof to SEBI within specified timelines
- b. Public comments on the consultation paper were sought till January 30, 2020.

- c. In response to the Consultation Paper, more than 2800 comments (**Annexure II**) have been received from the public. Comments were received from various stakeholders such as investors, registered investment advisers, industry bodies, distributors etc.

4. Regulatory changes pursuant to consultation paper (2020)

Taking into consideration the comments received on the consultation paper, the following regulatory changes are proposed:

I. Client Level Segregation of Advisory & Distribution Activities

A. Suggestions in the Consultation paper:

- a. There should be clear segregation between the two services provided to the client i.e. investment advice and distribution of the investment products.
- b. Non-individual entities will have client level segregation at a group level i.e. the same client cannot be accepted for offering both advisory and distribution services within the group of the non-individual entity. A client can either be an advisory client where no distributor consideration is received at the group level or distribution services client where no advisory fee can be collected from the client at the group level.

Group of Companies will be as per the provisions of Companies Act, 2013. Similar reference may be made for LLP.

- c. Individual Investment Advisers may also be allowed to provide both IA services and distribution services provided client level segregation is adhered to. To enable IAs to distribute, they may obtain appropriate distribution registration. To address the issue of conflict of interest, a client can either be an advisory client where no distributor consideration is received at the family level or distribution services client where no advisory fee can be

collected from the client at the family level, where “family” shall include individual, spouse, dependent children and dependent parents.

- d. To ensure client level segregation at group/family level, following compliance and monitoring processes shall be adopted:
 - i. PAN of each client shall be the control record for identification and client level segregation.
 - ii. Family of client would be reckoned as a single client and PAN of all the family members would jointly and severally be the control record, where “family” shall have the same meaning as defined above. A client may decide to transition out of advisory by terminating clients’ advisory mandate and entering into a fresh mandate in relation to distribution services or vice versa.
 - iii. A choice shall be given to all the existing clients to choose between the activities they would like to continue with the group/family of service providers. In case of existing clients who wish to take advisory services, the same client cannot be accepted for offering distribution services within the group/family. Similarly, in case of existing clients who wish to take distribution services, the same client cannot be accepted for offering advisory services within the group/family.
 - iv. In case of new clients, the same client cannot be accepted for offering both advisory and distribution services. Clients new to the group/family to be informed about the option of availing advisory services or distribution services. Accordingly, once the new client has made the choice then the client should be on-boarded for the relevant services.
 - v. The investment adviser shall maintain on record an annual certificate from an auditor (in case of individual IA) and its statutory auditor (in case of a non-individual IA) confirming compliance with the client level segregation requirements.

- vi. IA shall, wherever available, advice direct version (non-commission based) products only.

B. Public comments

The summarized analysis of the comments received is as under:

- i. Individual Investment Advisers should not be allowed to provide both IA services and distribution services. Individual investment advisers should not be permitted to distribute any securities or investment product directly or indirectly to clients. This is the only way to avoid conflict of interest.
- ii. Some comments suggested client level segregation by Non-individual entities at company level instead of proposed group level.
- iii. Family members having independent source of income may have different financial needs and thus need not be included under the definition of family, for clubbing as a single client.

Majority of the public comments received on this suggestion have opposed allowing distribution by Individual IA's.

C. Consideration of Issues

- a. It is considered appropriate not to allow individual Investment Advisers to offer distribution services for anyone.
- b. The "family of a client" may constitute individual, dependent spouse, dependent children and dependent parents for the purpose of client level segregation.
- c. To avoid conflict of interest, segregation at group level is envisaged.

D. Proposal

- a. Individual IA shall not be allowed to be a distributor. Further, “family of IA” shall not provide distribution services to the client advised by IA. Similarly, IA cannot provide advice to a client who is receiving distribution services from other family members of IA. “Family of IA” shall include individual, spouse, children and parents.

- b. For non-individual IA including partnerships, it is proposed to have client level segregation at a group level i.e. the same client cannot be offered both advisory and distribution services within the group of the non-individual entity. A client can either be an advisory client where no distributor consideration is received at the group level or distribution services client where no advisory fee can be collected from the client at the group. Group for this purpose will be as per the provisions of Companies Act, 2013. Similar provisions may be made for partnerships/LLP. Further, non-individual IA shall maintain arms length relationship between its activities as investment adviser and distributor by providing advisory through a SIDD.

- c. To ensure client level segregation at group/family level, compliance and monitoring processes as per para 1 A (d) above shall be adopted, with following modification:
 - i. Family of client would be reckoned as a single client and PAN of all the family members would jointly and severally be the control record, where “family of client” shall mean individual, dependent spouse, dependent children and dependent parents.

- d. Timeline of 6 months may be provided to entities (both individuals and non- individuals) for ensuring the clients level segregation.

II. **Implementation of Advice (Execution)**

A. **Suggestions in Consultation paper:**

- a. Implementation services in securities market may be allowed to IAs. However, IAs shall ensure that while providing implementation services to the advisory clients, no consideration (including any embedded/indirect/in kind commission or referral fees by any name) is received directly or indirectly at IAs group/family level. IA shall provide implementation services to its advisory clients only through direct schemes/direct code in the securities market.
- b. IA is not entitled to charge any implementation fees from the client. Further, group/family of IA also cannot charge any implementation fees from the client.
- c. The client may not be under any obligation to avail implementation services offered by the investment adviser i.e. the client may choose to avail implementation services from any other entity (outside the group/family) .

B. **Public comments**

The summarized analysis of the comments received is as under:

- i. Some comments suggested that implementation fee should be allowed to be charged to the client.
- ii. Further, some comments also suggested that IA may be permitted to provide implementation services to its advisory clients through regular schemes/ products and receive consideration including embedded commission for the same, if the same is disclosed to client.

Majority of the comments received were not in favor of the suggestions.

C. Consideration of Issues

Implementation of regular schemes/products and receiving consideration for the same by IA is similar to distribution and may lead to conflict of interest.

D. Proposal

Suggestions at para II (A) above may be accepted.

III. Terms and Conditions of Investment Advisory Services

A. Suggestions in Consultation paper:

The consultation paper suggested 23 clauses in the document stating terms and conditions of Investment Advisory services. Some major clauses proposed in the document are as under:

- (i) IAs to provide a document to the client detailing the terms and conditions of the investment advisory services offered to the client. IAs shall ensure that neither any investment advice is rendered nor any fee is charged until consent is received from the client on the terms and conditions.
- (ii) Consent of the client, on the cover page, about understanding the terms and conditions of investment advisory services provided by the IA including fee structure and mechanism for charging & payment of fee.
- (iii) Declaration by IA as under, on the cover page:
 - IA shall not manage funds and securities on behalf of the client and that it shall only receive such sums of monies from the client

as are necessary to discharge the client's liability towards fees owed to the IA.

- IA shall not, in the course of performing its services to the client, hold out any investment advice implying any assured returns or minimum returns or target return or percentage accuracy or service provision till achievement of target returns or any other nomenclature that gives the impression to the client that the investment advice is risk-free and/or not susceptible to market risks and or that it can generate returns with any level of assurance.
- (iv) The Investment Adviser to clearly declare that it shall not seek any power of attorney or authorizations from its clients for auto implementation of investment advice.
- (v) The payment of fees shall be through any mode which shows traceability of funds. Such modes may include account payee crossed cheque/ Demand Drafts or by way of direct credit to the bank accounts through NEFT/ RTGS/ IMPS/ UPI or any other mode specified by SEBI from time to time. However, the fees cannot be accepted in cash.
- (vi) Death or Disability of investment adviser: Every individual investment adviser must appoint one of its legal heirs, executor, trustee, administrator of estate of the deceased (the "Obligor") as the person-in-charge in the event of investment adviser's death / disability.

B. Public comments

The summarized analysis of the comments received is as under:

- (i) Allow limited POA to ease implementation including auto execution,

auto rebalancing and monitoring of assets under advice.

(ii) Allowing payment through payment gateways.

(iii) Suggestions about certain clauses related to liability in case of death of individual IA.

Majority of the Comments received have welcomed the proposal to have a written document of rights and obligations of IA and clients.

C. Consideration of Issues

- a. POA has not been envisaged for an IA, as the IA is expected to give unbiased advice after doing risk profiling of the clients and not managing the funds/securities of the client.
- b. Allowing payment through payment gateways may be taken up after the issuance of guidelines by RBI (Discussion Paper on Payment Gateways and Payment Aggregators is issued on September 17, 2019).
- c. Liability of inheritor of estate of deceased individual IA, including advisory fee of clients, is proposed to be part of the document.

D. Proposal

- a. In order to ensure the enforceability, it is proposed to mandate an agreement between IA and the client incorporating the terms and conditions in the document as specified by SEBI.

IV. **Fees**

A. Suggestions in Consultation paper:

- a. An investment adviser shall be entitled to charge fees in either of the following modes to a particular client:
 - (i) Assets under advice (AUA) i.e. aggregate net asset value of securities and investment products for which the investment adviser has rendered investment advice and either implementation services provided by IA or concluded by the client directly/through other service providers. The maximum fees that can be charged under this mechanism shall be 2.5 percent of AUA per annum per family across all schemes/ products/ services provided.
 - (ii) Fixed fees i.e. maximum fixed fees of INR 75000 per annum per family across all schemes/ products/ services provided by IA.
- b. IA can charge fees from a client under any one mode on an annual basis. Change of mode can be effected only after 12 months of on boarding/last change of mode.
- c. IA has to demonstrate AUA with supporting documents like demat statements, unit statements etc. of the client.
- d. any portion of Assets Under Advice in relation to which the investment adviser is continuing to be / or already has been compensated under any pre-existing distribution arrangement with any third party shall be deducted from assets under advice for the purpose of charging fee.
- e. If agreed by the client, Investment Adviser can charge fees in advance. However, such advance cannot exceed fees for 2 quarters.

- f. In the event of pre-mature termination of the investment advisory services, the client shall be provided a refund of fees for unexpired period subject to a maximum breakage fee of not greater than one quarter fee can be retained by the investment adviser.

B. Public comments

The summarized analysis of the comments received is as under:

- (i) Some comments suggested that fixed fee of Rs 75,000 is too low.
- (ii) Some comments suggested that profit sharing model may also be introduced.

Majority of the comments received were not in favor of regulatory stipulation on cap on fee.

C. Consideration of Issues

- a. SEBI has received various complaints from investors against investment advisers regarding charging of unreasonable fees to the client, forcing clients to pay additional fees for buying weekly reports, assured returns etc. Such conduct of IA is against the interest of the investors. Hence a regulatory stipulation on fees is proposed.
- b. Based on public comments, cap on fixed fee may be enhanced.
- c. IA is expected to provide advice based on the risk profiling of the client. Since investment advisory activity is not akin to Portfolio Management Services, performance based fees model is not desirable for advisory services.

D. Proposal

Suggestions at para IV (A) above may be accepted subject to the following modifications:

- Cap on fixed fee enhanced from INR 75,000 to INR 1, 25,000 per annum per “family of client” across all schemes/ products/ services offered by IA.
- The maximum fees that can be charged under AUA mechanism shall be 2.5 percent of AUA per annum per “family of client” across all schemes/ products/ services offered by IA.
- “Family of client” constitutes individual, dependent spouse, dependent children and dependent parents.

V. Eligibility Criteria for IAs

A. Suggestions in Consultation paper:

a. Individual registered as an investment adviser under these regulations and principal officer in case of non-individual IA shall meet the following minimum qualification criteria, at all times i.e. a professional qualification or post-graduate degree or post graduate diploma (minimum two years) plus experience of at least five years plus a certification on the subject matter directly related to the investment advice being offered to the clients, from:

(i) NISM; or

(ii) any other organization or institution including Chartered Financial Analyst Certification Programme, Financial Planning Standards Board of USA or any recognized stock exchange in India provided that such certification is accredited by NISM.

However, all persons associated with investment advice shall comply with aforesaid requirements with minimum two years of experience.

“principal officer” shall mean the managing director or designated director or managing partner or executive chairman of the board (or equivalent management body) who is responsible for the overall function of the business and operations of non-individual investment adviser.

“persons associated with investment advice” shall mean any member, partner, officer, director or employee or any sales staff of such investment adviser (including any person occupying a similar status or performing a similar function irrespective of the nature of association with the IA) who is engaged in providing investment advisory services to the clients of the investment adviser. All client-facing operations such as sales, service relationship managers and client relationship managers etc. by whatever name called shall be deemed to be persons associated with investment advice. However, it shall not include persons whose functions are clerical or facilities / office administrative in nature where there is no client interface.

- b. The existing non individual investment advisers holding registration under these regulations shall ensure that the principal officer and persons associated with investment advice obtain such eligibility conditions within three (3) years.

- c. The existing individual investment advisers holding registration under these regulations shall ensure that the individual adviser and persons associated with investment advice obtain such eligibility conditions within three (3) years. Individual investment advisers may opt for corporate structure within the said period to fulfil aforesaid requirements. For instance, there is a possibility of individual investment advisers fulfilling the educational requirement but not fulfilling experience requirement. Such advisers who may not be able to comply with 5 years' experience

condition, can corporatize and employ principal officer to meet the qualification criterion.

- d. Individual Investment advisers shall have net worth not less than ten lakh rupees whereas non individual Investment advisers shall have a net worth not less than fifty lakh rupees.
- e. The existing investment advisers shall comply with the aforementioned net worth requirement within three (3) years.
- f. Further, any individual registered as investment advisers whose number of clients exceed 150 or whose asset under advice exceed forty crore rupees shall compulsorily re-register itself as non-individual investment adviser within 6 (six) months of the trigger event.

Individual			
	Current	Proposed	PAA*
Education+ Relevant Experience +Certification	Graduate+5 years + NISM	PG+5 years + NISM	PG+2 years + NISM
	PG + 0 years+ NISM		
Net worth	1 lakh	10 lakh	
Non-Individual			
	Current (for representatives)	Proposed (for Principal Officer)	Proposed (for PAA*)
Education+ Relevant Experience +Certification	Graduate+5 years + NISM	PG+5 years + NISM	PG+2 years +NISM
	PG+0 years+ NISM		
Net worth	25 lakh	50 lakh	

*PAA – Persons associated with Investment Advice including representatives

B. Public comments

The summarized analysis of the comments received is as under:

- (i) A post graduate qualification or relevant work experience should continue and both conditions should not be made compulsory.
- (ii) Existing IAs having graduation only with multiple years of relevant work experience may not be mandated to pursue post-graduation at an advanced age.
- (iii) Professions which require skills only should not have net worth requirements. Advisory business does not require high capital as it is a service and skill oriented practice.
- (iv) It should be left to the discretion of the Investment Adviser to decide his organizational structure irrespective of the number of clients or AUA.

Majority of the comments received are not in favor of enhanced qualification, net worth and trigger for corporatization of individual IA.

C. Consideration of Issues

- a. IA should have professional qualification and requisite experience which will provide them technical skills to gauge the securities market and market dynamics so that advisory service is discharged effectively.

- b. Considering the public comments it is felt appropriate to grandfather the existing Individual Investment Advisers above 50 years of age from complying with the revised qualification criteria.
- c. The present net worth requirement were stipulated in IA regulations in the year 2013 and thus need enhancement considering the infrastructure including systems/hardware, research package etc. required for advisory.
- d. Since AUA basis may be subject to frequent variations, the number of clients may be more appropriate basis for corporatization of Individual Investment Advisers as his capacity to service clients beyond a reasonable number may be inadequate.

D. Proposal

Suggestions at V (A) of consultation paper may be accepted subject to the following modifications:

- Existing Individual Investment Advisers above 50 years of age may be exempted from complying with the revised qualification criteria (except NISM certification requirement).
- The trigger to corporatize should only be applicable for the individual IA whose number of clients exceed 150. IAs to ensure compliance of corporatization within six months from the date of trigger.

VI. **Maintenance of record**

A. **Suggestions in Consultation paper:**

- a. IA shall maintain records of interactions with the client including prospective clients, inter alia, in the form of:
 - i. Physical record written & signed by client,
 - ii. Telephone recording,
 - iii. Email from registered email id,
 - iv. Record of SMS messages,
 - v. Any other legally verifiable record.
- b. Such records shall begin with first interaction with the client and shall continue till the completion of advisory services for the client.
- c. IAs shall be required to maintain these records for a period of five years. However, in cases where dispute has been raised, such records shall be kept till final resolution of the dispute. If SEBI desires that specific records be preserved, then such records shall be kept till further intimation from SEBI.

B. **Public comments**

The summarized analysis of the comments received is as under:

- (i) The comments suggested that maintenance of records may infringe on privacy of the clients.
- (ii) The cost required to maintain these records cannot be overlooked.

Majority of the comments were not in favor of the suggestion of maintenance of records of interactions.

C. Consideration of Issues

Considering the nature of investor complaint received, the record of interaction with clients will be an evidence in resolving disputes. In view of the interest of investors, the concerns related to the cost involved in maintaining such records may not be accepted.

D. Proposal

Suggestions at para VI (A) above may be accepted. However, it is proposed to maintain records of interactions only where advice is given or any conversation related to advice has taken place.

VII. Discontinuation of CPE program for validity of the registration as Investment Adviser

A. Suggestions in Consultation paper:

All IAs shall be required to obtain fresh certification each time before the expiry of existing certificate to ensure compliance with certification requirement. The revalidation through CPE program may be discontinued after making necessary changes in existing provisions of SEBI (Certification of Associated Persons in the Securities market), 2007 and other applicable legal provisions, if any.

B. Public comments

Majority of the comments received are not in favor of the proposal. The comments suggested that Compulsory re-certification should be dropped, and CPE hours requirements should be retained at current levels.

C. Consideration of Issues

In order to keep pace with the dynamic and evolving nature of securities market and risk involved, periodic certification of IAs (once in every three years) is felt essential.

D. Proposal

Suggestions at para VII (A) above may be accepted.

VIII. Compliance audit requirement

A. Suggestions in Consultation paper:

An investment adviser should complete the compliance audit within three months from end of each financial year and post completion of said audit must report the adverse findings along with action taken thereof to SEBI within a period of one month from the date of the audit report i.e. not later than July 31st of each year for the previous financial year.

B. Public comments

Majority of the comments suggested to consider additional time for this proposal. The time frame for the compliance audit should be aligned with that of the statutory audit, with a further period provided post that to respond to any adverse findings and the action taken on the same.

C. Consideration of Issues

The compliance audit requirement may be carried out along with the statutory audit and extension of the timeline may be considered accordingly.

D. Proposal

An investment adviser should complete the compliance audit within six months from end of each financial year and post completion of said audit must report the adverse findings, if any along with action taken thereof duly approved by the competent authority as specified, to SEBI within a period of one month from the date of the compliance audit report i.e. not later than October 31st of each year for the previous financial year.

5. Regulatory changes pursuant to Consultation Papers (2016, 2017 & 2018)

SEBI had issued three consultation papers as referred under para 2(d) above and two of them were placed before the Board in September 2016 and December 2017. As already stated, in light of diverse comments, the Working Group set up in 2019 deliberated on the proposals contained in the consultation papers and public comments received. The recommendations of the Working Group have been suitably captured in consultation paper issued on January 15, 2020. Accordingly most of the proposals contained in three consultation papers have been dealt in consultation paper issued in 2020. While few proposals have been implemented in due course, the remaining proposals can be implemented by issuance of circular and some proposals may not be taken up further. The brief content of proposals and their present status have been summarized in the table given below:

Proposals already covered in the consultation paper in 2020/Board Memorandum		
Clause No. (CP 2016)	Content (CP)	Present Status
4.3	Investment advisory services to be offered only through separate subsidiary.	Covered in Consultation Paper in 2020
4.7	Clarification in respect of receipt of consideration	Consultation paper issued in 2020 does not allow Investment Advisers to

		receive any consideration other than advisory fee and thus, the expansion of definition of term consideration is not taken further.
4.10	Clarity on compliance audit requirement.	Covered in consultation paper issued on January 15, 2020.
4.11	Clarity on modes of acceptance of fees	SEBI has issued circular dated December 27, 2019 on the subject and also covered in consultation paper issued on January 15, 2020.
4.12	'Rights and Obligations' document to the clients	Covered in consultation paper issued on January 15, 2020.
Clause No. (CP 2017)	Content (CP)	Reasons
1	Clear segregation between the investment advisory activities and distribution/execution services. An entity offering investment advisory services shall not be permitted to offer distribution/execution services.	Proposed client level segregation in Consultation paper dated January 15, 2020 ensure segregation at client level instead of entity level, as proposed earlier.
4	Relaxation in registration requirements	The proposal was to promote the migration of mutual fund distributors to Investment advisers. Since it is proposed to have client level segregation in consultation paper issued on January 15, 2020, this proposal is not taken up further.
Clause No. (CP 2018)	Content (CP)	Reasons
1	Clear segregation between the two activities of the entity i.e. providing	Covered in Consultation paper dated January 15, 2020 by segregation at

	investment advice and distribution of the investment products/ execution of investment transactions.	client instead of entity level, as proposed earlier.
Proposals may be taken up separately		
4.4	Clarification in respect of investment product and advice in any electronic or broadcasting medium.	Issue is overlapping with the provisions to SEBI (Research Analyst) Regulations, 2014 and may be dealt separately.
4.8	Clarity between the activities of Investment Advisers and Research Analysts	Issue pertains to SEBI (Research Analyst) Regulations, 2014 and may be dealt separately.
4.9	Applicability of risk profiling and suitability requirement for non-individual investors.	May be clarified through issuance of circular.
4.13	Advertisement code for Investment Advisers.	May be dealt through issuance of circular.
4.14	Display of registration etc. details on website	Vide circular dated December 27, 2019, IAs are mandated to display complaint details on the website. Similarly, circular may be issued specifying the requirements such as SEBI registration number, validity of registration, complete address etc.
4.16	Investment advisers providing online investment advisory services using automated tools.	Entities providing advisory using automated tools are registered with SEBI as investment Adviser. Guidelines, if any, on additional compliances by such advisers may be issued by SEBI.
Clause No. (CP 2017)	Content (CP)	Reasons

5	The activity of ranking of MF schemes shall be brought under the regulatory ambit of SEBI (Research Analysts) Regulations, 2014.	Proposal pertains to registering entities as Research Analyst who provides ranking of mutual fund schemes and thus not related to Investment Advisers. May be taken up separately.
Proposals may not be taken up further		
Clause No. (CP 2016)	Content (CP)	Reasons
4.2	Relook on the exemptions from registration provided to certain persons engaged in providing investment advice	The said proposal is linked to migration from distribution to advisory and thus, is not taken further.
4.5	Restriction on providing trading tips promising unrealistic returns	Regulation 4(2) (k) is inserted in SEBI (PFUTP) Regulations, 2003 w.e.f. February 1, 2019 and thus, the proposal is not taken further.
4.6	No person shall organize or offer any scheme/competition/game/ league on securities or related to securities market.	Press Release issued in this regard.
4.15	Investment adviser shall not be allowed to provide free trial of trading tips to prospective clients.	SEBI has issued circular dated December 27, 2019 on the subject.
Clause No. (CP 2017)	Content (CP)	Reasons
3	Incidental advice by recognized intermediaries i.e. Stock Brokers & Portfolio Managers	The said proposal is linked to migration from distribution to advisory and thus, is not taken further.

The outstanding proposals of these consultation papers along with public comments are given below for the consideration of the Board:

I. **Usage of nomenclature “ Independent Financial Adviser”**

A. **Suggestions in Consultation paper:**

No person shall be allowed to use the name 'independent financial adviser' or 'wealth adviser' unless he obtains registration from SEBI as an investment adviser. The person who seeks to continue to engage in the distribution of mutual fund products shall use the nomenclature as 'Mutual Fund Distributor'.

B. **Public comments**

The summarized analysis of the comments received is as under:

- i. This proposed amendment should be modified to be limited to stating that no “mutual fund distributor or agent” shall be allowed to use names such as ‘independent financial adviser’ or ‘wealth adviser’.
- ii. AMFI should be instructed that the Identity Card issued by them states “AMFI Registered Mutual Fund Adviser”.
- iii. Independent Financial Adviser, Wealth Advisers etc Nomenclature should be allowed to the registered professionals since they are being certified by the AMFI which is in turn approved by SEBI.
- iv. Most of the comments received were not in favor of the proposal.

C. **Consideration of Issues**

In order to avoid confusion amongst investors regarding the roles and responsibilities of distributors including mutual fund distributors who refer to themselves as ‘independent financial adviser’ or ‘wealth adviser’, it is appropriate that the nomenclature should not mislead the investors.

D. Proposal

No person dealing in distribution of securities, shall use the nomenclature “Independent Financial Adviser (IFA) or Wealth Adviser or any other similar name”, unless registered with SEBI as Investment Adviser.

II. Recognition to Chartered Financial Analyst Charter Program from CFA Institute

A. Suggestion in the Consultation paper

- a. CFA Institute’s CFA charter program shall be considered as professional qualification under Regulation 7(1) (a) of IA regulations.
- b. The individuals and representatives of firms who hold Chartered Financial Analyst charter from CFA Institute shall not be required to obtain certification from either NISM or from its accredited institutions.

B. Public comments

- a. The summarized analysis of the comments received is as under:
 - i. The CFA Charter should be recognized as the CFA program bridges current practice, investment theory, and ethical and professional standards to provide investment analysis and portfolio management skills. Examinations for the CFA Charter are also more rigorous and expansive compared to the NISM licensing exams.
 - ii. The educational qualification requirements under the RA Regulations and the IA Regulations are similar. The CFA certification is a globally recognized program, and is commonly

accepted by regulators across the world as a professional qualification for research analysts. Therefore, similar provisions relating to the CFA charter program, as are proposed to be introduced in the IA Regulations, may be introduced in the Research Regulations as well.

- iii. Few comments received on the proposal wherein majority are in the nature of suggestions

C. Consideration of Issues

CFA qualification is considered as equivalent to professional or post graduate qualification. However, the same cannot be compared with the certifications provided by NISM.

D. Proposal

The CFA Institute's CFA charter program shall be considered as eligible qualification for registration as investment adviser under Regulation 7(1) (a) of IA Regulations. However, they would need to obtain certification as specified in IA Regulations.

III. Disclosures by Mutual Fund Distributors to their clients

A. Suggestion in the Consultation paper

Mutual Fund Distributors (MFDs), while distributing their mutual fund products can explain the features of products to client, and shall ensure the principle of 'appropriateness' of products to the client. As per the extant SEBI circulars, appropriateness is defined as selling only that product categorization that is identified as best suited for the client. As part of disclosures to clients, MFDs shall disclose the list of mutual funds they are affiliated with and that the information provided is

restricted to the mutual fund products being distributed by them. However, the client may also consider other alternate products, which are not being offered by them before making investment decision.

B. Public comments

The summarized analysis of the comments received is as under:

- i. For MFDs, risk profiling must be mandatory
- ii. MFDs should not be allowed to make comprehensive financial planning.
- iii. Most of the comments received were in the form of suggestions.

C. Consideration of Issues

In the best interest of the investors, MFDs should explain about the schemes distributed by them and also inform about the availability of other alternate products not offered by them.

D. Proposal

Suggestions at para XI (A) above may be accepted and may be implemented by way of circular.

6. Proposals for consideration

- I. The Board is requested to consider and approve the proposals as mentioned at para 4 and 5 above.
- II. Upon approval of the Board, necessary amendments in SEBI (Investment Advisers) Regulations, 2013 and SEBI (Certification of Associated Persons in

the Securities market), Regulations 2007 may be carried out and placed before the Board for approval.

- III. Timeline for implementation of the above proposals may be specified by SEBI.
- IV. The Board is requested to authorize the Chairman to issue necessary Circulars/guidelines as may be deemed appropriate, to give effect to the decision of the Board.

Annexure I

Consultation Papers on SEBI (Investment Adviser) Regulations, 2013 are available on SEBI Website.

Annexure II

(This has been excised for reasons of confidentiality.)

SEBI (Investment Advisers) Regulations, 2013 - Addendum

1. Para 6(II) of the Board Memorandum no. (this portion has been excised for reasons of confidentiality), proposed that on approval of the proposals given in the said memorandum, amendments to SEBI (Investment Advisers) Regulations, 2013 may be placed before the Board for approval.
2. The draft amendments to the IA Regulations, (this portion has been excised for reasons of confidentiality), are placed at **Annexure-A**.
3. The Board may authorize the Chairman to take steps to implement the proposals made in the Board Memorandum no. (this portion has been excised for reasons of confidentiality), by amending SEBI (Investment Advisers) Regulations, 2013, issue necessary Circulars/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.

Annexure-A

Securities and Exchange Board of India (Investment Advisers) (Amendment) Regulations, 2020 shall be notified after following the due process.