FREQUENTLY ASKED QUESTIONS (FAQs)

SEBI (FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014

Disclaimer: *These FAQs are prepared with a view to guide market participants on SEBI (Foreign Portfolio Investors) Regulations, 2014 ("the Regulations"). For full particulars of laws governing the Foreign Portfolio Investors (FPI), please refer to the Acts/Regulations/Guidelines/Circulars etc. appearing under the Legal Framework Section of SEBI website i.e. www.sebi.gov.in. Any queries about the FPI Regime can be addressed to the Investment Management Department, SEBI.*

I. Transition from FII to FPI Regime

Q 1. Can the existing Foreign Institutional Investors (FIIs)/Sub Accounts (SA) continue to buy, sell or deal in securities till the expiry of their current registration without payment of conversion fees during the validity of their registration?

Ans. Yes. The existing FIIs/SAs may continue to buy, sell or deal in securities till the expiry of their current registration. Such FII/SAs shall be required to pay conversion fees on or before the expiry of their current registration. At the time of conversion, the FII must return the certificate of registration in original to the DDP. *[Ref. Regulation 3(1)].*

Q 2. Whether the original validity of registration as FII/SA will remain the same upon conversion as FPI?

Ans. Yes. The original validity of registration as FII/SA will remain the same upon conversion as FPI. *[Ref. Regulation 3(1)].*

Q 3. Whether it is mandatory for a SA to convert as FPI, if its FII chooses to convert as FPI?

Ans. If an FII or any of its proprietary SAs chooses to convert as FPI, then all of its SAs shall be required to convert as FPI. However, if any SA other than proprietary SA chooses to convert as FPI, then the respective FII and its other SAs whether proprietary or broad based need not convert as FPI till the validity of their registrations. *[Ref. Regulation 3(1)].*

Q 4. Whether the existing FIIs and SAs that do not meet the eligibility requirements as stipulated under these regulations, can continue to deal in Indian securities e.g. where a fund (currently registered as a SA) is resident in a jurisdiction whose security market regulator doesn't fulfil the conditions prescribed under the Regulation 4(b) can continue to deal in Indian securities as FPI?

Ans. Yes. All existing FIIs and SAs are deemed FPIs. They can continue to deal in Indian securities till the validity period of FII/SA registration for which fee has been paid. After the validity period, they can continue to deal as FPIs subject to payment conversion and registration fees. *[Ref. Regulation 2(h)].*

Q 5. How will the proprietary SAs of FIIs be categorized in the FPI regime?

Ans. Proprietary SAs of FIIs shall be converted as FPIs in one of three categories based on its establishment/structure/constitution. *[Ref. Regulation 5].*

Q 6. Can an entity obtain more than one FPI registration (similar to the one allowed for MIM structures in the FII regime)?

Ans. Yes. In the FII regime, wherever an entity engages Multiple Investment Managers (MIM structure) it can obtain multiple registrations with SEBI. These applicants are required to appoint the same local custodian. Further, investments made under such multiple registrations are clubbed for the purpose of investment limits. The same position shall continue in the FPI regime.

Q 7. Whether the requirement of registering a broad based fund by non fund FIIs as stipulated under Regulation 6 (1) (d) (ii) and (iii) of SEBI (FII) Regulations, 1995 continue in FPI regime?

Ans. No, pursuant to the implementation of FPI regime, the requirement of registering a broad based fund by non fund entities shall no longer be applicable.

Q 8. FII and its SA are considered as Person Acting in Concert (PAC) for SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations). With respect to SAST Regulation, what is the requirement for FPIs?

Ans. The deeming clause on PAC mentioned in SAST Regulations has been omitted vide gazette notification dated January 07, 2014. However, if the facts and circumstances show that a set of FPIs are acting in concert then the provisions of SAST Regulations shall apply.*[Ref. Regulation 46]*

Q 9. Whether the existing FII/Sub-Account has to submit Form A as per FPI Regulations at the time of conversion as FPI?

Ans. Yes. At the time of conversion as FPI, the erstwhile FII/SA shall make an application to DDP in Form A along with supporting documents as provided in the FPI Regulations. Conversion fee of USD 1000 shall be paid at the time of conversion. *[Ref. Regulations 3(1) and 7(3)]*

Q 10. Whether existing FIIs/SAs be required to open new custody account, depository account, and bank account upon conversion to FPI or can they retain their existing accounts?

Ans. All existing FIIs and SAs can continue to retain their existing accounts. *[Ref. Regulation 3(1)].*

Q 11. The FII Regulations provide that investments by each FII/ SA shall not exceed ten percent of the total issued capital of an Indian company, while in the FPI regulations the applicable investment limit for each FPI is below ten percent. Whether the FIIs and SAs who hold 10% be required to disinvest the excess holdings?

Ans. Where a Foreign Portfolio Investor already holds 10% of equity shares in an Indian company, no fresh purchases by such FPI shall be allowed in that company till its holdings fall below 10%. However there will be no need to divest its existing holdings. *[Ref. Regulation 21(7)]*

Q 12. Can existing investments made as FIIs/SAs/Qualified Foreign Investors (QFIs) be retained under the FPI regime?

Ans. Yes, all existing investments made by the FIIs/SAs/QFIs are grandfathered. However, in respect of those securities, where FPIs are not allowed to invest (e.g. unlisted securities) no fresh purchase shall be allowed as FPI. They can only sell their existing investments in such securities.

II. Transition from QFI to FPI Regime

Q 13. Can the existing QFIs continue to buy, sell or deal in securities without payment of conversion fees?

Ans. Yes. The existing QFIs may continue to buy, sell or deal in securities for a period of one year from the date of commencement of FPI Regulations i.e. till January 06, 2015 or until it obtains a certificate of registration as FPI, whichever is earlier. *[Ref. Regulation 3(1)].*

Q 14. How will the QFIs be categorized in the FPI regime?

Ans. The existing QFIs, which are in the nature of corporate bodies/individuals, will fall under the Category III of the FPI regime. However, if a QFI fulfils the eligibility requirements applicable to Category I or Category II then it can be categorised accordingly. *[Ref. Regulation 5].*

Q 15. Whether an NRI, who has opened depository account as QFI, shall be deemed FPI in the FPI regime?

Ans. As per the Regulations, all QFIs are allowed to continue to buy, sell or otherwise deal in securities subject to the provisions of these regulations, *for* a period of one year from the date of commencement of the regulations, or until he obtains a certificate of registration as FPI, whichever is earlier. An NRI cannot seek registration as FPI. *[Ref. Regulation 3 (1)].*

III. Eligibility of FPIs

Q 16. Whether entities which are not regulated eligible to register as FPIs?

Ans. Entities which are not appropriately regulated can register as Category III FPIs . *[Ref. Regulation 5(c)]*

Q 17. What is a Foreign Government Agency?

Ans. Foreign Government Agency is an arm/department/body corporate of government or is set up by a statute or is majority (i.e. 50% or more) owned by the government of a foreign country. *[Ref. Regulation 5(a)].*

Q 18. What is meant by "regulated or supervised in same capacity in which it proposes to make investments in India"?

Ans. To ascertain whether an entity is regulated in the same capacity, the DDP may verify whether the FPI applicant is permitted to carry out such activity under its license/registration granted by its regulator. *[Ref. Regulation 5(b) Explanation 1]*

Q 19. Whether it is necessary for the FPI applicant to be regulated in its home jurisdiction?

Ans. In certain cases while an entity may be incorporated in one jurisdiction it may be regulated by a regulator in another jurisdiction since it may be providing services in that jurisdiction. Accordingly, as long as the FPI applicant is regulated by an "Appropriate Regulator" they would be considered to be regulated for the purpose of FPI Regulations. *[Ref. Regulation 5(b) Explanation 1]*

Q 20. How would the Private Banks and Merchant Banks be classified? Should they be considered as appropriately regulated if they are regulated or supervised by the banking regulator of the concerned foreign jurisdiction and thus qualify to be Category II FPI?

Ans. Private Banks and Merchant Banks that are regulated by an "appropriate regulator" may be classified as Category II. Further, such entities shall be allowed to undertake only proprietary investments. *[Ref. Regulation 5(b)]*

Q 21. Can a Private Bank/Merchant Bank invest on behalf of its clients?

Ans. No. Private Bank/Merchant Bank cannot invest on behalf of their clients. They are only permitted to make proprietary investments.

Q 22. Certain Jurisdictions e.g. Singapore treats certain intermediaries such as Merchant Banker/Broker Dealer as Exempt Financial Advisor. Whether such Exempt Financial Advisor can be registered as FPI in the category of Investment Advisor?

Ans. In the FII regime, Exempt Financial Advisor, which is appropriately regulated, can be registered as FII in the category of Investment Advisor. The same position shall continue in the FPI regime and will be eligible to be registered as category II FPI. *[Ref. Regulation 5(b)]*

Q 23. Whether an FPI applicant having bank as an investor be considered to fulfil the broad based criteria?

Ans. In case an FPI applicant has a bank as an investor, then such FPI shall be deemed to be broad based for the purpose of Regulation 5(b) of the Regulations. This position is the same as in the FII regime. *[Ref. Regulation 5(b)]*

Q 24. What is the recourse available to an FPI applicant if its registration application has been rejected by the DDP?

Ans. An FPI applicant who is aggrieved by the decision of the DDP may, within a period of 30 days from the date of receipt of communication of rejection, apply to SEBI for reconsideration of the decision of the DDP. However, such application to SEBI for reconsideration shall not be made where the rejection was made for technical reasons such as submission of incomplete information or non-submission of documents which are required to be submitted under FPI Regulation or for commercial reasons such as quantum of charges levied. *[Ref. Regulation 9(3)]*

Q 25. Whether a fund having NRIs as its investors, eligible for grant of registration as FPI?

Ans. Presently, a fund having NRIs as its investors is not prohibited from obtaining registration as FII/SA. The same practice shall continue in the FPI regime.

Q 26. Whether opaque structures are eligible to register as FPIs?

Ans. No. Opaque structures are not be eligible to register as FPIs. In this regard, SEBI Circular No. CIR/IMD/FIIC/1/2010 dated April 15, 2010 requires FII/SA applicants to submit declaration and undertakings. This shall continue under the FPI regime. However, an FPI applicant will not be considered as opaque structure and will be considered for grant of registration if it is required by its regulator or under any law to ring fence its assets and liabilities from other funds/ sub funds. Such applicants shall be eligible to be register as FPIs only upon meeting the following criteria:

a) the applicant is regulated in its home jurisdiction;
b) each fund/ sub fund in the applicant satisfies broad based criteria, and
c) the applicant gives an undertaking to provide information regarding its beneficial owners as and when SEBI seeks this information.

The above is in line with SEBI circular ref. no. CIR/IMD/FIIC/21/2013 dated December 19, 2013.

[Ref. Regulation 32(1)(f)]

Q 27. What is the maximum time period within which the securities have to be transferred to the new custodian in case of change in DDP/Custodian?

Ans. Once the change of DDP/Custodian is approved by SEBI, the FPI will need to transfer accounts and assets to the new DDP/Custodian within a period of 30 days. In case the transition does not take place within the stipulated time, the FPI shall provide reasons for the same and seek extension from SEBI. *[Ref. Clause 5.4 of SEBI circular ref. no. CIR/IMD/FIIC/02/2014 dated January 08, 2014]*

Q 28. Who would consider application for free of cost transfer of assets?

Ans. The request for free of cost transfer of assets by the FPI should be forwarded to SEBI for its consideration through the concerned DDP

Q 29. In those cases where a broad based fund which is categorized as Category-II FPI has a multiclass structure with a segregated portfolio, if one or more of the share classes loses its broad based nature, how should this overall fund be treated?

Ans. In such cases, the procedure mentioned at Q. No. 49 shall be followed.

Q 30. Where an FPI ceases to fulfil the applicable eligibility requirements for a particular category, can such FPI continue to trade?

Ans. If an FPI registered under a particular category fails to comply with applicable eligibility requirements, it shall be reclassified under appropriate category. For this purpose, FPI shall be required to provide the DDP with additional KYC documents as applicable.

In this regard, the concerned Custodian shall not allow such FPI to make fresh purchases till the time KYC documentary requirements, as applicable, are complied with. However, such FPI shall be allowed to continue to sell the securities already purchased by it. *[Ref. SEBI circular ref. no. CIR/IMD/FIIC/02/2014 dated January 08, 2014]*

IV. <u>Role and Responsibilities of Designated Depository Participant (DDP)</u>

Q 31. How can the DDP determine if the applicant is regulated or supervised by: (a) the securities market regulator or (b) the banking regulator of the concerned foreign jurisdiction?

Ans. The DDP may verify if the applicant is regulated or supervised, by the securities market regulator or banking regulator through any one of the following:

a) Obtain a copy of certificate issued by such regulator or;
b) verify the registration details directly from the registry or the website of such regulator.
[Ref. Regulation 4(b)].

Q 32. How can the DDP determine if the FPI applicant is resident of a country whose securities market regulator is a signatory to (a) IOSCO's MMOU (Appendix A Signatories) or a signatory to bilateral MOU with SEBI; (b) whose central bank is a member of Bank for International Settlements (BIS); (c) not listed in the public statements issued by FATF?

Ans. The residency status of the FPI applicant may be ascertained from the tax residency status or from the place of incorporation/establishment through appropriate document such as ID issued by the Income Tax authority or appropriate incorporation document.

List of countries where the securities market regulator is a signatory to IOSCO MMOU shall be verified by the DDP from the website of IOSCO. The current weblink is given below:

http://www.iosco.org/library/index.cfm?section=mou_siglist

List of countries that have bilateral MOU with SEBI shall be verified by the DDP from the website of SEBI. The current weblink is given below:

http://www.sebi.gov.in/cms/sebi_data/attachdocs/MoUSebi.pdf

The list of countries whose Central Bank is a member of the BIS shall be verified by the DDP from the website of BIS. The current weblink is given below:

http://www.bis.org/about/orggov.htm

List of countries that are listed in the public statements issued by FATF shall be verified by the DDP from the website of FATF. The current weblink is given below:

http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions

[Ref. Regulation 4(b), 4(c) and 4(d)].

Q 33. How can the DDP verify the eligibility of Category I FPI?

Ans. In this regard, the DDP may obtain a declaration from the applicant that it fulfils the eligibility criteria of category I FPI. Additionally, the DDP may verify the relevant details under which the entity has been established – e.g. Govt Charter, Act, Legislation, the shareholding pattern provided by the FPI applicant, etc.

For existing FIIs/ SAs, the DDP may continue to use the categories such as Sovereign Wealth Fund, Foreign Government Agency, Foreign Central Bank, International / Multilateral organization / agency under which the investor is already registered with SEBI.
[Ref. Regulation 5(a)].

Q 34. Whether a DDP is required to check validity of the document which shows the regulated status of the FPI applicant?

Ans. Yes. The DDP is required to check that the registration/license granted by its regulator has not been cancelled and is still valid.

Q 35. Whether any past action against the FPI applicant by its regulator render the applicant ineligible for FPI registration?

Ans. Any past action taken by an applicant's regulator may not necessarily render such an applicant ineligible as long as such action did not result in cancellation of its registration. Where the action was in the nature of suspension of registration with the regulator and the period of suspension has elapsed, then the applicant shall not be rendered ineligible by such suspension of registration.

Q 36. For the purpose of determining whether an applicant meets the Broad Based Fund criteria, what information should be obtained by the DDPs?

Ans. DDPs may obtain investor information from the FPI applicant in the below format which is in line with the format prescribed in erstwhile FII Regulations.

S. No.	**Generic Type of Investors**	**No. of Investors**	**Percentage of Holding**
Total			

Generic types of investors include Mutual Funds, Investment Trusts, Pension Funds, Insurance, Collective Investment Schemes, Endowments, Charitable Trusts, Corporates, Individuals, etc.

In this regard, the DDP may satisfy itself that the applicant meets the broad based fund criteria i.e. at least twenty investors with no investor holding more than forty-nine per cent of the shares or units of the fund as laid down in the Regulations. For this purpose, the DDP may take all the requisite steps including obtaining necessary declaration/s from the applicant.
[Ref. Regulation 5(b)]

Q 37. How can the DDP determine whether an entity has been set up for the sole purpose of pooling funds and making investments?

Ans. The DDP may obtain suitable declaration from the FPI applicant. Further, the DDP may also obtain the prospectus or placement memorandum or an equivalent document containing necessary details such as objectives of the applicant, purpose of setting up the applicant etc.

However, for the purpose of considering entities for pooling of funds, the DDP may also consider banks, pension funds, mutual funds, insurance and re-insurance companies to be investment pooling vehicles. *[Ref. Regulation 5(b) Explanation 2]*

Q 38. How can the DDP verify whether applicant is legally permitted to invest in securities outside the country of its incorporation or establishment?

Ans. For this purpose, the DDP may take all requisite documents such as memorandum or articles including obtaining a declaration from the FPI applicant. For Category III non individual FPI applicant, supporting documents may be obtained in addition to the declaration. *[Ref. Regulation 4(f)]*

Q 39. How can the DDP verify whether the applicant is authorized by its Memorandum of Association and Articles of Association or equivalent document(s) to invest?

Ans. For this purpose, the DDP may take all requisite steps including obtaining a declaration from the FPI applicant. *[Ref. Regulation* 4*(g)]*

Q 40. What are the indicative parameters based on which the applicant shall be considered as having sufficient experience, good track record, professionally competent, financially sound and having a generally good reputation of fairness and integrity?

Ans. The DDP shall be required to satisfy itself that applicant has sufficient experience, good track record, is professionally competent, is financially sound and has a generally good reputation of fairness and integrity. For this purpose, the DDP may take all requisite steps including obtaining a declaration from the applicant. Further, for Category III applicants, DDP may also advise them to furnish a certificate from its bank certifying that the applicant is having satisfactory banking relationship for more than a year. *[Ref. Regulation 4(h)]*

Q 41. How can the DDP verify if the grant of certificate as FPI to the applicant is in the interest of the development of the securities market?

Ans. The DDP shall be required to satisfy itself that the grant of certificate as FPI to the applicant is in the interest of the development of the securities market. For this purpose, the DDP may take all requisite steps including obtaining a declaration from the FPI applicant confirming that it has not been restricted or constrained by local regulators / court order / etc. from investing in its home country and or overseas. The DDP may also perform a check for any such orders as may be available on public websites. Additionally, the applicant shall not be convicted for money laundering related offences and shall not belong to a country which is listed in public statement issued by FATF. [*Ref. Regulation 4(i)]*

Q 42. What procedures should the DDP adhere to, to determine if the FPI is a 'fit and proper person' ?

Ans. The DDP shall be required to satisfy itself that the FPI is a 'fit and proper person' as per Schedule II of the SEBI (Intermediaries) Regulations, 2008. For this purpose, the DDP may take all requisite steps including obtaining a declaration from the FPI applicant. *[Ref. Regulation 4(j)]*

Q 43. Is it necessary for the DDP to complete KYC process before grant of registration to the new FPI applicant?

Ans. Yes.

Q 44. What is the manner of computing the thirty day period available to DDP for disposing of an application?

Ans. The time period of thirty days will be calculated from the date of receipt of complete / last set of information/documents. *[Ref. Regulation 7(2)]*

Q 45. Can a DDP consider an FPI application which has been previously rejected by another DDP?

Ans. Before considering such an application, the DDP shall ascertain the reasons for which the application was rejected. In case the application was rejected on technical grounds, the DDP shall ensure that such deficiencies have been rectified by the applicant, before assessing the application afresh on its own merits.

If the application has been rejected for any other reason, then the DDP shall assess the application on its own merit as per FPI Regulations.

Q 46. How will a DDP know whether the applicant's registration application was rejected by some other DDP and what were the reasons for such rejection?

Ans. The depositories (NSDL and CDSL) will maintain a database of FPI applicants. Every DDP shall input the details of FPI applicants in the database as soon as received. Where an FPI application is rejected by a DDP, the DDP shall mention the reason for such rejection in the database, which would be accessible to all DDPs. *[Ref. Regulation 8 and 9]*

Q 47. How will a DDP ensure that equity shares held by FPIs are free from all encumbrances?

Ans. The DDP shall be required to satisfy itself that the equity shares held by an FPI are free from all encumbrances. For this purpose, the DDP may take all requisite steps including obtaining a declaration from the FPI applicant. *[Ref. Regulation 32(2)(d)]*

Q 48. How can the DDP ascertain that the FPI applicant does not have opaque structure(s)?

Ans. In this regard, the DDP may be guided by SEBI circular ref. no. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010 as well as SEBI Circular No.CIR/IMD/FIIC/21/ 2013 dated December 19, 2013. *[Ref. Regulation 32(1)(f)]*

Q 49. Does every fund / sub fund / share class need to separately fulfil broad based criteria? Is prior approval required for launch of new share class from DDP?

Ans. Yes, every fund / sub fund / share class needs to separately fulfil broad based criteria, where segregated portfolio is maintained.

In case of addition of classes of shares, the FPI shall be required to obtain prior approval from DDP. For granting of such prior approval, DDPs shall obtain following documents from the FPI applicant:

a) A declaration and undertaking with respect to PCC, MCV status as specified in SEBI circular ref. no. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010;

b) In cases where segregated portfolios are maintained,

i. Where the newly added share class is already broad based, the FPI will continue to be considered as being broad based.

ii. Where the newly added share class is not broad based, then an undertaking is to be obtained by the DDP that the newly added share class will become broad based within 90 days from the date of DDP approval letter.

iii. In case of simultaneous addition of more than one share class, which are not broad based, then an undertaking is to be obtained by the DDP that all the newly added share classes will become broad based within 15 days from the date of DDP approval letter.

Q 50. The FPI regulations state that the DDP shall preserve the books of accounts, records and documents specified in this regulation at all times. Is the DDP required to maintain all registration related documentation, all transaction details, etc. permanently?

Ans. All records relating to registration of FPIs are to be maintained at all times by a DDP. For other records relating to transaction, KYC etc., the DDP shall be guided by PMLA/circulars issued by SEBI from time to time. *[Ref. Regulation 33(1)]*

Q 51. Is a DDP required to collect Form A from an FPI at the time of payment of registration fee for continuance of its registration as FPI?

Ans. In the FII regime, an FII/SA at the time of payment of registration fee for continuance of its registration as FII/SA is not required to submit Form A. However, it is required to provide certain documents namely Declaration and Undertaking as specified in SEBI Circular No. CIR/IMD/FIIC/1/ 2010 dated April 15, 2010 and Information regarding FII groups along with a confirmation to the effect that there is no change in structure of the FII and SA as compared to that furnished to SEBI earlier. The same practice shall continue in the FPI regime.

V. Generation of FPI registration certificate

Q 52. Who will generate the FPI Registration number?

Ans. With a view to have a centralized number generation system, SEBI has authorized NSDL to generate the FPI registration number. *[Ref. Regulation 7 (1)]*

Q 53. How will a CDSL DP which is acting as a DDP request for FPI registration number?

Ans. A CDSL DP which is acting as a DDP shall enter the registration data in the CDSL portal. Then, CDSL shall forward this request to NSDL. After obtaining registration number and certificate from NSDL, CDSL shall transmit the same to its DDP, who will in turn issue it to the FPI applicant. *[Ref. Regulation 7 (1)]*

Q 54. How will a NSDL DP which is acting as a DDP request for FPI registration number?

Ans. A NSDL DP which is acting as a DDP shall enter the registration data in the NSDL portal. After generation of registration number and certificate, NSDL shall transmit the same to its DDP, who will in turn issue it to the FPI applicant. *[Ref. Regulation 7 (1)].*

Q 55. Who will issue the FPI registration certificate to the FPI applicant?

Ans. The depository with which the FPI applicant proposes to open a demat account shall forward the registration certificate to the concerned DDP, who will issue the electronic registration certificate to the FPI applicant.

Q 56. Can a DDP apply for registration of an FPI applicant simultaneously with NSDL and CDSL?

Ans. No, the DDP can apply for FPI registration of an FPI applicant with only one depository.

VI. Payment of Fees by FPI

Q 57. What is the manner of remittance of fees to SEBI by DDPs?

Ans. Fees collected by DDPs from the FPI applicants during the immediate preceding month shall be remitted to SEBI electronically, by 5th working day of every month, along with the details in the format, as may be prescribed by SEBI from time to time. *[Ref. Regulation 3 and Regulation 7(3)]*

VII. Clubbing of Investment Limits

Q 58. What is the basis of clubbing of investment limit of FPIs? How will DDPs identify the entities forming part of an investor group? Also, what will be the procedure for monitoring of investment limits?

Ans. The clubbing of investment limit of FPIs is based on common Ultimate Beneficial Ownership (UBO). In case, same investor/ same set of end investors are constituents of two or more FPIs and such investor(s) have a beneficial ownership of more than 50% in those FPIs, the investment limit of such FPIs shall be clubbed at the threshold prescribed for a single FPI. All such FPIs will be treated as forming part of an investor group. *[Ref. Regulation 23 (3)].*

For the purpose of identifying the FPI group, the DDP may obtain the details provided by the FPI under clause 2.2 of the FPI Application form (Form A). The monitoring of investment limits at the level of investor group will be performed by the depositories based on the information provided by DDPs. For this purpose, necessary information shall be shared between the depositories.

VIII. FPI Investments in Debt Securities

Q 59. What are the debt instruments in which the FPIs are permitted to invest in?

Ans. FPIs are permitted to invest in only the following debt securities:

a. Dated Government Securities
b. Commercial papers issued by an Indian company
c. Rupee denominated credit enhanced bonds
d. Security receipts issued by asset reconstruction companies
e. Perpetual debt instruments and debt capital instruments, as specified by the Reserve Bank of India from time to time
f. Listed and unlisted non-convertible debentures/bonds issued by an Indian company in the infrastructure sector, where 'infrastructure' is defined in terms of the extant External Commercial Borrowings (ECB) guidelines;
g. Non-convertible debentures or bonds issued by Non-Banking Financial Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank of India;
h. Rupee denominated bonds or units issued by infrastructure debt funds;
i. Such other instruments specified by the Board from time to time.

Q 60. What are the debt investment limits available to the FPIs?

Ans. The details are as under:

S. No.	Type of Instrument	Cap (USD bn)	Cap (INR Crore)	Remarks
1	Government Debt	20	99,546	Available on demand. Eligible investors may invest only in dated securities of residual maturity of one year and above, and existing investment in Treasury Bills will be allowed to taper off on maturity/sale (Ref. SEBI circular Ref. No. CIR/IMD/FIIC/8/2014 dated April 07, 2014)
2	Government Debt	10	54,023	Available on demand for FIIs registered with SEBI as Sovereign Wealth Funds, Multilateral Agencies, Endowment funds, Insurance Funds, Pension Funds and Foreign Central Banks. Eligible investors may invest only in dated securities of residual maturity of one year and above (Ref. SEBI circular CIR/IMD/FIIC/3/2014 dated January 29, 2014)
3	Corporate Debt	51	244,323	Available on demand. Eligible investors may invest in Commercial Papers only up to US$ 2 billion within the limit of US$ 51 billion (Ref. SEBI circular CIR/IMD/FIIC/4/2014 Dated February 14, 2014)
	Total	81	397,892	

Q 61. Are FPIs permitted to invest in unlisted debt securities?

Ans. FPIs are permitted to invest in unlisted non-convertible debentures/bonds issued by corporates in the infrastructure sector, where 'infrastructure' is defined in terms of the extant External Commercial Borrowings (ECB) guidelines. (Ref. RBI/2010-11/492 A.P. (DIR Series) Circular No. 55 dated April 29, 2011). FPI can invest in privately placed bonds if it is listed within 15 days.

Q 62. Is there any change in debt limit allocation mechanism for FPIs as compared to FIIs/QFIs?

Ans. No. The same debt allocation mechanism that is in place for FIIs/QFIs will be followed for FPIs.

Q 63. Are FPIs permitted to invest in Treasury Bills (T-Bills)?

Ans. No. Vide SEBI circular Ref. No. CIR/IMD/FIIC/8/2014 dated April 07, 2014, FPIs have been prohibited from purchasing T-Bills.

Q 64. There was earlier a sub-limit of US$ 5.5 billion for FII/FPI investments in T-Bills. What happens to the FII/FPI investments in T-Bills that were made before the aforesaid SEBI circular dated April 07, 2014?

Ans. Investments in T-Bills made before the aforesaid SEBI circular shall be allowed to taper off on maturity or sale. These investment limits which get vacated at the shorter end will be available at longer maturities.

Q 65. Is there any restriction on FPI investments in G-Secs?

Ans. Yes. FPIs are permitted to invest only in G-Secs having a minimum residual maturity of one year.

Q 66. Who will monitor the FPI debt investment limits?

Ans. The depositories namely NSDL and CDSL shall jointly monitor the FPI debt investment limits. (Ref. SEBI circular CIR/IMD/FIIC/6/2013 dated April 1, 2013)

Q 67. Where can the data on debt limit utilization by FPIs be found?

Ans. The data on FPI debt utilization status is disseminated on a daily basis on the websites of NSDL (https://nsdl.co.in/index.php) and CDSL (http://www.cdslindia.com/).

Q 68. Can FPIs offer Indian debt securities held by them as collateral?

Ans. Yes. FPIs may offer cash or foreign sovereign securities with AAA rating or corporate bonds or domestic Government Securities, as collateral to the recognized Stock Exchanges for their transactions in the cash as well as derivative segment of the market, subject to norms specified by RBI, SEBI and Clearing Corporations. (Ref. SEBI circular CIR/MRD/DRMNP/9/2013 dated March 20, 2013)

IX. Offshore Derivative Instruments (ODIs)

Q 69. Can category I FPIs issue, subscribe to or otherwise deal in offshore Derivatives instruments?

Ans. Yes, Category I FPIs can issue, subscribe to or otherwise deal in ODIs in the same manner as it is being presently done under the FII regime.

Q 70. ODIs have been issued to unregulated funds under the FII Regulations. Whether these ODI positions can continue under the FPI regime? Whether the existing ODI subscribers can continue to subscribe to ODIs?

Ans. ODIs issued before commencement of the Regulations as on January 07, 2014 as well as the existing ODI subscribers as on that date are grandfathered.

Accordingly, the ODI positions under FII Regulations can continue under the FPI regime. Also the subscribers who have subscribed to ODIs under FII Regulations can continue to subscribe to ODIs under the FPI regime.

Q 71. Whether an ODI issuer can issue ODIs to existing entities, which were registered as clients but did not have positions as on January 07, 2014?

Ans. Yes.

Q 72. Can an ODI issuer issue ODIs to those existing ODI clients (as on January 07, 2014) whose Investment manager undergoes a change?

Ans. ODI issuers may continue to issue ODIs to those subscribers even if there is a change in their investment manager, provided the incoming investment manager is a regulated entity.

Q 73. Can an ODI issuer continue to issue ODIs to those subscribers if there is a change in the category of such ODI subscriber, e.g. the ODI subscriber gets re-categorized by the DDP from Category II to Category III?

Ans. In case there is change in the category of ODI subscriber, the subscriber may continue to hold their existing positions till the expiry of the ODI contract. No renewal/rollover of existing positions by such ODI subscribers shall be permitted. Fresh issuance of ODIs shall be made only to eligible subscribers.

Q 74. Can Category III foreign portfolio investor issue, subscribe to or otherwise deal in offshore derivatives instruments?

Ans. No, other than those investors who have been grandfathered.

Q 75. Can Insurance and Reinsurance companies subscribe to or otherwise deal in ODIs, directly or indirectly?

Ans. SEBI vide circular CIR/IMD/FIIC/02/2014 dated January 08, 2014 clarified that insurance and reinsurance companies shall be deemed to be appropriately regulated for the purpose of the SEBI (FPI) Regulations, if they are regulated or supervised by the relevant regulator in their concerned foreign jurisdiction in the same capacity in which they propose to make investments in India. Thus insurance and reinsurance companies can subscribe to or otherwise deal in ODIs.

Q 76. Can university funds, pension funds and university related endowments already registered with SEBI as FIIs or SAs subscribe to or otherwise deal in ODIs, directly or indirectly?

Ans. If university funds, pension funds and university related endowments already registered with SEBI as on May 31, 2014 as FIIs or SAs are regulated or supervised by the relevant regulator in their concerned foreign jurisdiction, they shall deemed to be appropriately regulated and therefore subscribe to or otherwise deal in ODIs.

Q 77. Whether the FPIs are required to report the ODIs to SEBI?

Ans. Yes. All the FPIs which issue ODIs in terms of the Regulations are required to report the details of the ODIs in the same manner as it is being presently reported to SEBI under the FII regime.

Q 78. Whether the FPIs can issue ODIs to Sovereign Wealth Funds/Foreign Government Bodies?

Ans. Yes. During March 2010, SEBI had clarified that ODIs can be issued to Sovereign Wealth Funds/Foreign Government Bodies. It is further clarified that this position would continue under the FPI Regime. Accordingly, ODIs can be issued to Foreign Central Banks, Foreign Governmental Agencies, Sovereign Wealth Funds and International or Multilateral Organisations of agencies.

Q 79. Whether the ODIs can be transferred to any person?

Ans. No, the ODI issuer shall ensure that ODIs issued by it are transferred only to persons who are regulated by an appropriate foreign regulatory authority.

Q 80. Whether the phrase "appropriate foreign regulatory authority" as mentioned in Regulation 22 of the regulations has the same meaning as referred under Explanation 1 of Regulation 5 (b) of the regulations?

Ans. Yes.

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