

## **FREQUENTLY ASKED QUESTIONS (FAQs)**

### **SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013**

**Disclaimer:** These FAQs are prepared with a view to guide market participants on SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations"). For full particulars of laws governing the Investment Advisers (IAs), please refer to the Acts/Regulations/Guidelines/Circulars etc. appearing under the Legal Framework Section of SEBI website i.e. [www.sebi.gov.in](http://www.sebi.gov.in). Any queries about the IA Regulations can be addressed to the Investment Management Department-Division of Funds 1, SEBI. For an interpretation of a specific provision of the Regulations, informal guidance may be sought as specified under SEBI (Informal Guidance) Scheme 2003.

#### **1. How are investment advisers regulated in India?**

The SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations") have been notified on January 21, 2013. The IA Regulations came into effect from April 21, 2013. The regulations specify conditions for registration, certification, capital adequacy, risk profiling and suitability, disclosures to be made, code of conduct, records to be maintained, manner of conducting inspection, etc.

In terms of the IA Regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI on and from the commencement of IA Regulations unless an exemption specifically applies. The IA Regulations are available on the SEBI website [www.sebi.gov.in](http://www.sebi.gov.in). [Ref. Regulation 3(1)]

If any person found to be engaged in providing investment advisory services without getting registered with SEBI, appropriate action as deemed fit, under SEBI Act, 1992 may be initiated. [Ref. Regulation 3(1)].

#### **2. What is an Investment Advice?**

"Investment advice" is an advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.

Provided that the investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of IA regulations. However, investment advisers who make public appearance or make recommendations or offer an opinion concerning securities or public offers through public media while making recommendations through

public media, are required to comply with the relevant provisions of SEBI (Research Analysts) Regulations, 2014,

**3. What is the procedure of obtaining registration as an investment adviser from SEBI?**

Application shall be made in Form A as specified in First Schedule of IA Regulations with necessary supporting documents. The procedure for obtaining registration as an Investment Adviser is available on SEBI website under "Info for>Investment Advisers>How to get registered as an Investment Adviser".

**4. Who is required to make an application to get registration under IA Regulations?**

Any person, who for consideration, is engaged or willing to engage in the business of providing investment advice to clients or other persons or group of persons is required to make an application to get registration under IA Regulations unless specifically exempted under IA Regulations. A sole proprietor can also make an application for registration as an Investment Adviser, which will be processed as in the case of individual applicant.

The regulations provide exemptions to certain persons such as insurance agents, pension advisers, mutual fund distributors, stock broker or sub-broker , , portfolio managers, fund manager, advocate, solicitor or law firm, etc., from obtaining registration under regulation 4 of IA Regulations subject to the fulfillment of the conditions stipulated. *[Ref. Regulation 2(1)(m) and Regulation 4]*

**5. Where to make an application to get registered as an investment adviser?**

The application for registration as an investment adviser under IA Regulations shall be filed with the Head Office (HO) or the concerned Regional Office(RO) / Local Office(LO) of SEBI under the jurisdiction where the registered address of the applicant is located. The addresses of offices of SEBI are available on the website at [www.sebi.gov.in](http://www.sebi.gov.in) and also on the link [http://www.sebi.gov.in/sebiweb/stpages/contact\\_us.jsp](http://www.sebi.gov.in/sebiweb/stpages/contact_us.jsp)

**6. Whether a bank or an NBFC which proposes to undertake investment advisory services is required to get registered under IA Regulations?**

Yes. A bank or an NBFC which proposes to undertake investment advisory services has to first obtain permission by Reserve Bank of India and then shall make an application for grant of registration under IA Regulations through a subsidiary or separately identifiable department or division (SIDD). *[Ref. Regulation 6(j)]*

**7. How can a body corporate make an application for grant of registration as an investment adviser?**

In case of a body corporate, which proposes to undertake investment advisory services in addition to its existing activities including but not limited to distribution or execution services, the application for grant of registration as an investment adviser has to be made through a separately identifiable department or division. A body corporate which proposes to undertake only investment advisory services has to make the registration application directly and not through a separately identifiable department or division.

**8. What is the criteria for Net worth certificate?**

Applicants are required to submit the net worth certificate by a chartered accountant and it shall include the membership number of the chartered accountant in the certificate. The Networth certificate should not be more than 6 months old at the time of filing of application.

**9. What is the fee structure and capital adequacy requirement for getting registration as an investment adviser?**

The fee structure and capital adequacy requirement for getting registered as an investment adviser is as under:

Category of the Applicant	Amount in Rs.		
	Application Fee* (in Rs.)	Registration/Renewal Fee* (In Rs.)	Capital Adequacy
Individual/Partnership Firm	5,000/-	10,000/-	1,00,000/-
Body Corporate/Limited Liability Partnership Firm	25,000/-	5,00,000/-	25,00,000/-

\* Application fees must be paid along with the application form for grant of fresh/renewal registration. Registration/renewal registration fee must paid only after receipt of communication for payment of fee from SEBI. [Ref. Regulation 3(2) read with SEBI (Payment of Fees) (Amendment) Regulations, 2014 and Ref. Regulation 8 ]

**10. How long does the certificate of registration remain valid and what is the procedure for renewal of registration?**

The certificate of registration remains valid for five years or till suspended. Investment Adviser has to apply for renewal of its registration certificate to SEBI, atleast 3 months before the expiry of the validity of the certificate, if it wishes to continue as a registered investment adviser. [Ref. Regulation 10 and Regulation 11]

### **11. What are the qualification and certification requirements specified under IA Regulations?**

An individual registered as an investment adviser under these regulations and partners and representatives of an investment adviser who are rendering investment advice on behalf of the investment adviser, as the case may be, shall fulfill with the minimum qualification and certification requirements as specified under regulation 7(1) and regulation 7(2) of IA Regulations at all times. With regard to certification requirement, the said persons are required to obtain NISM-Series-X-A: Investment Adviser (Level 1) as well as NISM-Series-X-B: Investment Adviser (Level 2) certification.

Further, time period till April 20, 2015 was provided to the existing investment advisers who are engaged in providing investment advisory services prior to notification of the regulations. All others are required to obtain both levels of NISM certification at the time of making an application for grant of registration.

It shall be the responsibility of the Investment Adviser to ensure that its representatives and partners, as the case may be, comply with the certification and qualification requirements under Regulation 7 at all times.

### **12. Whether insurance agent or insurance broker is exempted from obtaining registration under IA Regulations?**

Insurance Agents or Insurance Brokers registered with IRDA who provide advice in various insurance products across manufacturers shall be regulated by IRDA only. If such Insurance Agents or Insurance Brokers expand their activities to include investment advice on other financial products, then they may be registered and regulated under IA Regulations for such other financial products other than insurance products.

### **13. Whether pension advisor is exempted from obtaining registration under IA Regulations?**

The PFRDA Act envisages registration of pension Advisors by PFRDA. Such Pension Advisors will be registered and regulated by PFRDA. If such advisors advice on other financial products, then they may be subjected to regulation under IA Regulations for their conduct relating to advice of financial products other than pension products.

### **14. What does 'incidental activity' mean with respect of distributor of mutual fund?**

Mutual Fund Distributors registered with Association of Mutual Funds in India (AMFI) can only provide basic advice to its mutual funds clients incidental to its distribution activity. Incidental activities with respect to distribution of mutual

funds means providing basic advice pertaining to investment in mutual fund schemes limited to such schemes / products being distributed by him to his clients/ investors or any other MF product.

However, if a distributor of mutual fund is engaged in providing investment advice to general investors other than or in addition to mutual fund clients, and in securities (such as shares, debentures, bonds, derivatives, securitised instruments, structured products, units of AIF, REIT, InvIT, etc.) other than or in addition to Mutual Fund Schemes distributed by him, then such distributor is required to get registration as an investment adviser. An investment adviser has fiduciary obligations.

**15. Whether a person acting in multiple capacities such as insurance agent, pension advisor, mutual fund distributor, etc. is exempted from obtaining registration under IA Regulations?**

A person acting in multiple capacities such as insurance agent, pension advisor, mutual fund distributor, etc. and expand his scope of activities to include investment advice on other financial products or engaged in the financial planning of the clients, then he may be registered and regulated under IA Regulations for advising on such other financial products or financial planning of the clients.

**16. Whether the members of the Institute of Company Secretaries of India, Institute of Chartered Accountants of India, Institute of Cost and Works Accountants of India are exempted from obtaining registration under IA Regulations?**

Members of the Institute of Company Secretaries of India, Institute of Chartered Accountants of India, Institute of Cost and Works Accountants of India who provide investment advice to their clients incidental to their professional services are exempted from obtaining registration under IA Regulations.

For example :- An advice by a professional CA as a tax consultant to his tax client for investing in ELSS in the course of tax planning will be treated as incidental to his profession as a tax consultant.

However, if they are engaged in providing investment advisory services in securities as an activity or business to clients or investors which is not incidental to their main activity then they are required to get registration as an investment adviser.

**17. What does 'incidental activity' mean with respect to stock broker?**

Stock brokers registered under SEBI (Stock brokers and Sub-brokers) Regulations, 1992 can only provide basic advice to its broking clients incidental

to their broking activity. Incidental activity with respect to stock broking means providing basic advice pertaining to investment in securities to the broking clients.

However, if a stock broker is engaged in providing investment advice to general investors other than or in addition to broking clients, then such stock broker is required to get registration as an investment adviser. An investment adviser has fiduciary obligations.

Further, SEBI registered stock brokers, sub brokers who are exempted from registration under regulation 4(g) of IA Regulations shall comply with 'General Obligation & Responsibilities' as specified under chapter III of IA Regulations

**18. What does 'incidental activity mean' with respect of Portfolio Manager and whether they can offer only investment advisory services?**

Portfolio Managers registered under SEBI (Portfolio Managers) Regulations, 1993 can only provide advisory services to its clients as per the terms of the portfolio management agreement entered between the client and the portfolio manager.

Further, SEBI registered portfolio manager offering only investment advisory services under Portfolio Manger Registration can continue to do so till the expiry of such registration. However, such portfolio manager is required to make an application for grant of registration as an investment adviser under IA Regulations at least three months before the expiry of its certificate of registration as a portfolio manager.

**19. What does 'incidental activity' mean with respect to merchant banker?**

Incidental activities with respect to merchant banking means providing advice pertaining to merchant banking services including corporate advisory services as permitted under SEBI(Merchant Bankers) Regulations, 1996.

However, if a merchant banker is engaged in the business of providing investment advice to clients other than merchant banking and corporate advisory services, then such merchant banker is required to get registration as an investment adviser.

**20. Whether the corporate advisory services fall under the purview of IA Regulations?**

Corporate advisory services on IPOs, mergers & acquisitions, buyback, takeover, delisting, merchant banking, loan syndication, etc, to an issuer, acquirer, etc., do not fall under the purview of IA Regulations.

**21. Whether investment adviser providing investment advice exclusively to clients based out of India is exempted from obtaining registration under IA Regulations?**

In terms of Regulation 4(i) of IA Regulations, persons providing investment advice exclusively to clients based outside India are exempted from obtaining registration under IA Regulations. Persons providing investment advice to Non-Resident Indians or Persons of Indian Origin shall fall within the purview of IA regulations.

**22. What are the obligations which are required to be fulfilled by the investment adviser?**

An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise. He shall act honestly, fairly and in the best interests of its clients and in the integrity of the market. He shall maintain an arms-length relationship between his activities as an investment adviser and other activities. He shall also act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives based on risk profiling and suitability of the client

An investment adviser required to comply with general obligations & responsibilities such as general responsibility, disclosures to clients, maintenance of records, etc, as specified under chapter III of IA Regulations as well as the code of conduct as specified under third schedule of IA regulations.

**23. Whether the investment adviser is required to segregate distribution or execution services?**

Yes. Investment advisers which are banks, NBFCs and body corporate providing distribution or execution services also to their clients shall keep such activities segregated from investment advisory activities. The investment advisory service has to be provided by a separately identifiable department or division (SIDD) or a subsidiary, as the case may be and such SIDD or subsidiary shall include the words 'investment adviser' in its name.

Further, such distribution or execution services can only be offered subject to the following conditions:

- The client shall not be under any obligation to avail the distribution or execution services offered by the investment adviser or its affiliates.
- The investment adviser shall maintain arms length relationship between its activities as investment adviser and distribution or execution services.
- All fees and charges paid to distribution or execution service providers by the client shall be paid directly to the service providers and not through the investment adviser.

*[Ref. Regulation 6(j) and 6(k) read with regulation 13 and regulation 22]*

**24. What are the disclosures to be made by the investment adviser in respect of distribution or execution services offered to its clients ?**

An investment adviser shall disclose to its client, any consideration by way of remuneration or compensation or in any other form whatsoever, received or receivable by it or any of its associates or subsidiaries for any distribution or execution services in respect of the products or securities for which the investment advice is provided to the client.

**25. What are the disclosures to be made by the investment adviser in respect of recommending the services of a stock broker or other intermediary?**

If the client desires to avail the execution services, an investment adviser shall, before recommending such services of a stock broker or other intermediary to a client, disclose any consideration by way of remuneration or compensation or in any other form whatsoever, if any, received or receivable by the investment adviser from such intermediary.

**26. What are other disclosures to be made by the investment adviser to clients?**

An investment adviser shall disclose to the client its holding or position, if any, in the financial products or securities which are subject matter of advice. He shall disclose to the client any actual or potential conflicts of interest arising from any connection to or association with any issuer of products/securities, including any material information or facts that might compromise its objectivity or independence in the carrying on of investment advisory services.

Further, investment adviser shall, while making an investment advice, make adequate disclosure to the client of all material facts relating to the key features of the products or securities, particularly, performance track record, etc. [Please refer to Regulation 18 for in respect of complete disclosures to clients]

**27. Whether an individual registered as an investment adviser can offer distribution /execution services to his clients?**

No. Individuals registered as an investment adviser shall not undertake any distribution/execution services pursuant to grant of registration from SEBI. However,

**28. Whether an individual registered as an investment adviser can receive trailing commission for the distribution services provided prior to grant of registration?**

Yes. Individuals registered as investment adviser can continue to receive the trailing commission for the distribution services provided by them prior to grant of registration as an Investment Adviser.



**29. Whether Investment Advisers are allowed to provide advice to Foreign Portfolio Investors (FPIs)?**

Yes. SEBI registered investment advisers can provide investment advisory services to FPIs.

**30. Whether investment advisers are required to comply with Know Your Client (KYC) norms specified by SEBI?**

Yes. All the investment advisers are required to comply with the KYC requirements specified by SEBI from time to time. However, the investment adviser can rely upon on the KYC of the client, if any, as per the terms specified in SEBI {KYC(Know Your Client) Registration Agency} Regulations, 2011 and circulars issued thereunder.

**31. Whether risk profiling and suitability is mandatory for institutional clients/corporate clients?**

Normally institutional/corporate clients are treated as sophisticated investors and may not require risk profiling. However, if advice relates to investment in derivatives, complex structured products, etc. risk profiling may be required.

**32. Who is required to appoint a compliance officer?**

An investment adviser which is a body corporate or a partnership firm is required to appoint a compliance officer who shall be responsible for monitoring the compliance by the investment adviser in respect of the requirements of the Act, regulations, notifications, guidelines, instructions issued by SEBI. In case of an individual he himself is responsible for such compliance. *[Ref. Regulation 20]*

**33. What fees can an investment adviser charge from its clients for the services rendered by him?**

SEBI (Investment Advisers) Regulations have not prescribed any scale of fee to be charged by the Investment Adviser to its clients. It is as per the agreement between the client and the investment adviser. An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by SEBI, if any. Further, an investment adviser shall ensure that fees charged to the clients are fair and reasonable.

**34. Where can an investor get the details about SEBI registered investment advisers?**

The list of SEBI registered investment advisers are also available on SEBI website [www.sebi.gov.in](http://www.sebi.gov.in) . Further, all the circulars, press releases and other

relevant information issued from time to time in respect of investment advisers will be made available on the SEBI website under "Info for>Investment Advisers.

**35. How can the investors lodge their complaints?**

SEBI has launched a new web based centralized grievance redress system called SEBI Complaint Redress System (SCORES). Investors can lodge their complaints at <http://scores.gov.in>. On receipt of complaints, SEBI takes up the matter with the concerned investment adviser and follows up with them for redressal.

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