

MEMO# 31311

August 1, 2018

Letter to Securities and Exchange Board of India on KYC Norms for Foreign Portfolio Investors

[31311]

August 1, 2018 TO: ICI Members

ICI Global Members

ICI Global Investing Subcommittee

ICI Global Regulated Funds Committee

International Operations Advisory Committee

SEC Rules Committee

Security Valuation Operations Committee

Tax Committee SUBJECTS: International/Global RE: Letter to Securities and Exchange Board of India on KYC Norms for Foreign Portfolio Investors

On August 1, 2018, ICI Global submitted a letter to the Securities and Exchange Board of India (SEBI) expressing our significant concerns with certain of the know your client (KYC) requirements included in the April 10, 2018, SEBI Circular on KYC requirements, as they apply to foreign portfolio investors (FPIs) that are regulated funds.[\[1\]](#) The Circular makes changes in the following areas: (1) identification and verification of beneficial owners (under an expanded definition), with a specific format prescribed for reporting of beneficial owner information, (2) periodical KYC review, (3) requirement for FPIs to provide an undertaking to the custodian on exempted documents, (4) clubbing of investments for the purpose of monitoring investment limits, and (5) bearer shares structure not permitted. The new requirements are applicable from the date of the Circular; existing FPIs must comply with the new norms by October 9, 2018.

Our letter states that, while we respect and appreciate SEBI's efforts to develop an even more robust KYC framework in India, the requirements to (1) provide personal information about a senior managing official (SMO) that has been designated as the beneficial owner (when one has not otherwise been identified), and (2) club (aggregate) the investments of FPIs based on a common SMO as a beneficial owner raise serious concerns for regulated funds depending on their structure and are, in our view, neither necessary nor further the goal of SEBI to develop a rigorous KYC program. With respect to the first issue, we request that SEBI limit the personal information collected to such individual's name, address, age and nationality, or alternatively require an FPI to make a declaration that it will provide such information if and when requested, without delay. With respect to the second issue,

we explain that clubbing on the basis of a common SMO does not make sense because it has no relation to economic interest in or control of the FPI; we request that SEBI specify that investments of regulated funds with a common SMO are not required to be clubbed.

We additionally request that SEBI urgently extend the compliance deadline.

Eva M. Mykolenko
Associate Chief Counsel - Securities Regulation

[Attachment](#)

endnotes

[1] The Circular is available at https://www.sebi.gov.in/legal/circulars/apr-2018/know-your-client-requirements-for-foreign-portfolio-investors-fpis-_38618.html.

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