

MEMO# 31381

September 10, 2018

SEBI Consultation on Recommendations of Working Group Regarding KYC Requirements for FPIs - Comments Due to SEBI by September 17

[31381]

September 10, 2018 TO: ICI Global Investing Subcommittee

ICI Global Regulated Funds Committee

International Operations Advisory Committee

SEC Rules Committee

Securities Operations Advisory Committee

Tax Committee RE: SEBI Consultation on Recommendations of Working Group Regarding KYC Requirements for FPIs - Comments Due to SEBI by September 17

As you are aware, in April 2018 the Securities and Exchange Board of India (SEBI) issued a circular outlining new know your client (KYC) requirements for foreign portfolio investors (FPIs). These revised requirements have raised significant concerns for FPIs that are regulated funds, as well as other investors in India.^[1] ICI Global submitted a letter expressing our primary concerns with the Circular on August 1, and certain of the compliance requirements were subsequently delayed by SEBI from October 10 to December 31.^[2] SEBI had indicated that further revisions to the requirements are under consideration.

On September 8, SEBI issued for public comment the “Interim recommendation on Know Your Client Requirements for Foreign Portfolio Investors” submitted by a working group that was established to redraft SEBI FPI Regulations, 2014, under the Chairmanship of Shri Harun R. Khan (Deputy Governor, retd., Reserve Bank of India).^[3] This working group was formed prior to the issuance of the April Circular in order to recommend revisions to the FPI regulations that would improve and ease access to the Indian markets for FPIs. Due to the volume of concerns expressed regarding the April Circular, SEBI requested the working group to examine the issues raised and provide recommendations for improvement.

The working group has recommended a number of relaxations to the revised requirements, and certain of the recommendations address issues that were raised in our letter, including no clubbing based on a common senior managing official (SMO) identified as beneficial owner. The working group also recommends that SEBI formulate a suitable policy for

sharing of personal information of beneficial owners, which recognizes the concern we raised regarding providing personal information such as social security or passport number, but does not fully address our issue.

SEBI has provided a very short consultation period; comments are due by noon (Mumbai time) on Monday, September 17. We are reviewing the recommendations in detail and considering our response, which we will submit by COB Friday. If you would like to discuss the recommendations and/or intend to separately file a response, please contact me at emykolenko@ici.org or 202-326-5837.

Eva M. Mykolenko
Associate Chief Counsel - Securities Regulation

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.

[2] Our letter is available at <https://www.iciglobal.org/iciglobal/pubs/memos/memo31311> and our memorandum regarding the change in compliance date is available at <https://www.iciglobal.org/iciglobal/pubs/memos/memo31361>.

[3] The consultation is available at https://www.sebi.gov.in/reports/reports/sep-2018/interim-report-of-working-group-on-kyc-requirements-for-fpis_40279.html.