

**MEMO# 22429**

April 15, 2008

## **Institute's Letter to Securities and Exchange Board of India - Margining of Institutional Trades**

[22429]

April 15, 2008

TO: INTERNATIONAL COMMITTEE No. 12-08    RE: INSTITUTE'S LETTER TO SECURITIES AND EXCHANGE BOARD OF INDIA - MARGINING OF INSTITUTIONAL TRADES

On March 19, 2008, the Securities and Exchange Board of India (SEBI) issued Circular no. MRD/DoP/SE/Cir-06/2008 regarding "Margining of institutional trades in the cash market" (Circular). The Circular imposes new margin requirements on purchase and sales transactions by institutional investors, including US-registered investment companies, with a first phase effective date of April 21, 2008, and a second phase effective date of June 21, 2008. It is our understanding that, as of April 15, 2008, the Indian stock exchanges have not issued guidance regarding the implementation of the new rules and considerable uncertainty exists regarding the details of their operation and the effect of these requirements on US funds.

The Institute submitted the attached letter to SEBI on April 14, 2008. The letter raises concerns regarding whether the margin requirements may potentially prohibit US-registered investment companies from engaging in transactions in the Indian market due to the Investment Company Act's rules on custody. To the extent that the organization holding the assets deposited as margin is not an eligible foreign custodian or foreign securities depository permitted to hold a US fund's assets, US funds will be prohibited from purchasing or selling securities on the Indian market. This is an issue with serious implications, and we understand that many of the Institute's members are carefully evaluating whether the Indian entity that will be holding the margin assets is eligible to hold US fund assets.

The letter also expresses concerns regarding the adverse effect of the margin requirements

on performance returns, the increased costs of investing in the Indian market, and the additional risks to which US funds will be subject as a result of the new margin requirements, such as foreign exchange risk and the risk of front running.

Further, the letter explains that the margin requirements will result in the Indian market being substantially less attractive to US funds and encourages SEBI to reconsider the imposition of the margin requirements as contemplated by the Circular. If SEBI does not rescind or modify the margin requirements, the letter requests that SEBI delay the effective dates of the requirements.

Eva M. Mykolenko  
Assistant Counsel - International Affairs

[Attachment](#)

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.