

**MEMO# 35425**

August 30, 2023

# **Securities and Exchange Board of India's Updated Guidance on Foreign Portfolio Investors Senior Managing Official Requirements**

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TO: Asia Regulatory and Policy Committee  
Bank, Trust and Retirement Advisory Committee  
Broker/Dealer Advisory Committee  
Global Tax Committee  
Operations Committee  
Tax Committee

Transfer Agent Advisory Committee SUBJECTS: International/Global RE: Securities and Exchange Board of India's Updated Guidance on Foreign Portfolio Investors Senior Managing Official Requirements

On July 26, 2023, ICI Global—together with the Asia Securities Industry and Financial Markets Association's Asset Management Group (ASIFMA AMG), the European Fund and Asset Management Association (EFAMA), and the Securities Industry and Financial Markets Association's Asset Management Group (SIFMA AMG)—[sent a joint letter](#) to the Securities and Exchange Board of India (SEBI) expressing concerns regarding SEBI's revised (and in part non-public) guidance for custodians and Foreign Portfolio Investors (FPIs) in relation to disclosures of the details of their beneficial owner(s) (BO) and senior managing official(s) (SMO).

The guidance from SEBI earlier this year regarding FPIs included lowering the ownership thresholds for identifying and reporting BOs, revising the requirement to report SMOs at the end of the legal ownership chain for funds, and requiring FPIs to report any material changes within seven working days. The deadline set by SEBI for compliance with the new requirements is September 30, 2023. Non-compliance could lead to potential risks including loss of the FPI license.

In response to the letter and subsequent advocacy, SEBI informed ICI Global that on August 30, 2023, it provided the below updated guidance to the Custodians/Designated Depository Participants (DDPs) in India:

- a) If the Foreign Portfolio Investor (FPI) is not a legal entity, it shall identify a legal entity that owns/controls it at any level in the chain of arrangement;
- b) If the FPI is a legal entity, it shall either identify itself or a legal entity that owns/controls it at any level in the chain of arrangement;
- c) FPI shall also identify the beneficial owner (BO) as per the extant provisions of the Prevention of Money-laundering Act, 2005 and the Prevention of Money-laundering (Maintenance of Records) Rules, 2005;
- d) In instances where the senior managing official (SMO) is to be identified as the BO, the FPI shall identify the SMO of that legal entity identified above at (a) or (b) as the BO of the FPI.

It may also be noted that as per the 'Master Circular for Foreign Portfolio Investors, the Designated Depository Participants and Eligible Foreign Investors' dated December 19, 2022, the term SMO, for identification as the BO, shall mean the individual(s) as designated by the FPI who holds a senior management position and makes key decisions relating to the FPI.

Other directions and timelines specified in the email dated February 03, 2023 shall remain unchanged.

It appears from this communication that the concerns regarding the identification of the SMO of the FPI have been resolved. However, members may wish to discuss the updated requirements with their custodians if there are remaining issues.

We continue to engage with SEBI regarding the remaining concerns and clarifications on BO reporting and the seven-day notification period, and welcome members' continued input and engagement on this matter.

Matthew Mohlenkamp  
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