

# **Invitation for public comments on proposed International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021**

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International Financial Services Centres Authority (IFSCA) has been established as a unified regulator to develop and regulate financial products, financial services and financial institutions in the International Financial Services Centres (IFSCs) in India.

The intermediaries play an important role by providing the intermediation facilities between their clients and the various regulated financial products and financial services in the IFSC. The intermediaries are also essential for building the ecosystem of capital markets in the IFSC.

IFSCA proposes to enact a regulatory framework for the intermediaries in the capital markets operating in IFSC, focusing on ease of doing business and consistent with the fundamental principles laid down by International Organization of Securities Commissions.

The proposed IFSCA (Capital Market Intermediaries) Regulations, 2021 (Intermediaries Regulations) inter alia provide for regulatory requirements in respect of registration, obligations and responsibilities, inspection and enforcement of various types of capital market intermediaries such as broker dealers, clearing members, depository participants, investment bankers, portfolio managers, investment advisers, custodians, credit rating agencies, debenture trustees and account aggregators.

Further, the proposed Intermediaries Regulations envisage registered capital market intermediaries to undertake cross-border business in capital markets in India and foreign jurisdictions, subject to certain conditions such as ring fencing of operations, appropriate risk management and internal controls, maintenance of records etc.

The consultation paper is available on the website of IFSCA at the weblink - <https://ifsc.gov.in/PublicConsultation>.

Comments and suggestions from public are invited on the proposed Intermediaries Regulations by August 18, 2021.

## **CONSULTATION PAPER ON PROPOSED IFSCA (CAPITAL MARKET INTERMEDIARIES) REGULATIONS, 2021**

### **Objective**

1. The objective of this consultation paper is to seek comments / views from public on the proposed International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 (Intermediaries Regulations).

### **Background**

2. The International Financial Services Centres Authority (IFSCA) is the unified regulator for development and regulation of financial products, financial services and financial institutions in the International Financial Services Centres (IFSC) in India.
3. The following regulations have been notified for capital market activities in IFSC:
  - a) IFSCA (Market Infrastructure Institutions) Regulations, 2021; and
  - b) IFSCA (Issuance and Listing of Securities) Regulations, 2021.
4. The intermediaries play an important role by providing the intermediation facilities between their clients and the various regulated financial products / financial services. The International Organization of Securities Commissions (IOSCO), the standard setting body for securities markets, has *inter alia* specified the following fundamental principles for the market intermediaries:
  - a) The market intermediaries should observe high standards of integrity and fair dealing;
  - b) The market intermediaries should act with due care and diligence in the best interests of their clients and the integrity of the market;
  - c) The market intermediaries should observe high standards of market conduct;
  - d) The market intermediaries should not place their interests above those of their clients and should give similarly situated treatment to similarly situated clients; and
  - e) The market intermediaries should comply with any law, code or standard relevant to securities regulation as it applies to them.

In addition, regulation of the various types of market intermediaries should aim to provide for:

- a) proper ongoing supervision with respect to market intermediaries;

- b) the right to inspect the books, records and business operations of the market intermediaries;
  - c) a full range of investigatory powers and enforcement remedies available to the regulator or other competent authority in cases of suspected or actual breaches of regulatory requirements;
  - d) a fair and expeditious process leading to discipline and, if necessary, suspension or withdrawal of a licence; and
  - e) the existence of an efficient and effective mechanism to address investor complaints.
5. The capital market intermediaries in IFSC are currently regulated by the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 and various regulations / circulars issued by Securities and Exchange Board of India (SEBI). Additionally, IFSCA and/or SEBI have specified specific operating guidelines / circulars for the following activities in IFSC:
- a) Stock brokers and clearing members;
  - b) Portfolio managers;
  - c) Investment advisers; and
  - d) Custodians.
6. IFSCA proposes to enact a comprehensive regulatory framework for the intermediaries in the capital markets operating in IFSC focusing on ease of doing business and consistent with the fundamental principles laid down by IOSCO.

### **Intermediaries Regulations**

7. The following are the different categories of capital market intermediaries that are covered in the proposed Intermediaries Regulations:
- a) Broker dealers
  - b) Clearing members
  - c) Depository participants
  - d) Investment bankers
  - e) Portfolio managers
  - f) Investment advisers

- g) Custodians
- h) Credit rating agencies
- i) Debenture trustees
- j) Account aggregators; and
- k) Any other intermediaries as may be specified by the IFSCA from time to time.

8. The salient features of the proposed Intermediaries Regulations are as follows:

#### **A. Registration Requirements**

8.1. It shall be mandatory for broker dealers, clearing members, depository participants, investment bankers, portfolio managers, investment advisers and custodians to obtain registration from IFSCA prior to providing any financial products or financial services in the IFSC. Additionally, the credit rating agencies, debenture trustees and account aggregators may register with the IFSCA and shall comply with all the applicable requirements specified in the Intermediaries Regulations.

8.2. The banking units recognised by the IFSCA shall be permitted to function as bankers to an issue in the capital markets in IFSC, without any additional registration requirement, subject to compliance with the regulatory provisions that may be specified by the IFSCA from time to time.

#### **B. Simplified Application**

8.3. Considering that IFSC is currently at a nascent stage and various categories of intermediaries shall be required for the financial products and financial services in the capital markets, it has been proposed that the intermediaries already registered in India or a Foreign Jurisdiction<sup>1</sup> may seek registration with simplified application form until March 31, 2022, provided they are compliant with the fit and proper and net worth requirements specified in the Intermediaries Regulations.

8.4. The entity would be required to comply with all the provisions of Chapter II for continuing to operate as a capital market intermediary, within a period of 1 year from the date of registration.

#### **C. Structure**

8.5. The capital market intermediaries seeking registration with the Authority shall be required to be present in IFSC by establishing a branch or forming a company or

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<sup>1</sup> Jurisdictions meeting the following criteria - (a) FATF Compliant and (b) securities market regulator is signatory to IOSCO MMOU or bilateral MOU with IFSCA

LLP or body corporate or partnership firm or proprietorship firm or any other form as may be permitted by IFSCA.

8.6. The branch structure shall be permitted only for the intermediaries that are already registered in India or a Foreign Jurisdiction for conducting similar activities or with the IFSCA in any capacity.

8.7. Further, the entities operating as a branch in IFSC shall comply with the following conditions:

- a) The entities shall adequately ring fence the operations of their branch in IFSC;
- b) The entities shall comply with the minimum net worth requirements specified in these regulations which may be maintained at the parent level;
- c) The custodians operating as branch shall ensure financial segregation by allocating the amount specified by IFSCA towards its branch in IFSC; and
- d) The broker dealers and clearing members by foreign entities shall comply with additional requirements including base minimum capital specified by IFSCA.

#### **D. Net Worth Requirements**

8.8. The entities shall comply with the below specified minimum net worth requirements at all times:

S. No.	Category	Net worth	
		Entities incorporated in India (including IFSC)	Foreign Entities
1	Broker dealer	As specified by recognised stock exchange	As specified by recognised stock exchange, subject to minimum of USD 135,000
2	Clearing Member	As specified by recognised clearing corporation	As specified by recognised clearing corporation, subject to minimum of USD 1,350,000
	Self-clearing member	As specified by recognised clearing corporation	As specified by recognised clearing corporation, subject to minimum of USD 675,000
3	Depository Participant	As specified by depository	As specified by depository
4	Investment Banker	USD 750,000	USD 1.5 million
5	Portfolio Manager	USD 750,000	USD 1.5 million

6	Investment Adviser	USD 700,000	USD 1.5 million
7	Custodian	USD 7 million	USD 7 million (If entity is already registered and regulated as custodian in a FATF compliant jurisdiction)
			USD 35 million (If entity is already registered and regulated as any other capital market intermediary in a FATF compliant jurisdiction)
			USD 70 million (Entities not falling under the above categories)
8	Credit Rating Agency	USD 3 million	USD 6 million
9	Debenture Trustee	USD 1.5 million	USD 3 million
10	Account aggregator	USD 750,000	USD 1.5 million

## E. Registration Requirements

8.9. The IFSCA shall consider the following factors for registration of capital market intermediaries:

- a) past experience;
- b) necessary infrastructure;
- c) compliance with eligibility criteria, net worth and applicable fund allocation requirements; and
- d) compliance with fit and proper requirements by the applicant and its directors, key managerial personnel and controlling shareholders.

## F. General obligations and responsibilities

8.10. The registered capital market intermediaries shall be required to comply with the general obligations and responsibilities specified in the Intermediaries Regulations including, -

- a) code of conduct;
- b) maintenance of books of account, records and other documents in electronic retrieval form for minimum of 20 years;

- c) submission of information and furnishing of returns and statements to the IFSCA;
- d) redressal of investor grievances;
- e) maintaining a business continuity plan;
- f) cyber security and cyber resilience;
- g) risk management and internal controls; and
- h) annual audit.

### **G. Specific obligations and responsibilities**

8.11. Further, the registered capital market intermediaries shall be required to comply with the detailed obligations and responsibilities specified for the respective categories in the Intermediaries Regulations.

### **H. Cross-Border Business**

8.12. The registered capital market intermediaries may undertake cross-border business in capital markets in India or a Foreign Jurisdiction, subject to the following conditions:

- a) The intermediaries shall ensure that their cross-border business activities in capital markets are in compliance with the applicable regulatory requirements of the other jurisdiction;
- b) The intermediaries shall ring fence their IFSC related capital market activities with their cross-border operations;
- c) The intermediaries shall ensure that they have appropriate risk management and internal controls to ensure that the interests of their clients and investors in IFSC are adequately protected;
- d) The intermediaries shall perform KYC norms, client due diligence, Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) in accordance with the following, -
  - i. Applicable norms in IFSC in respect of clients onboarded in IFSC; and
  - ii. Applicable norms in IFSC or other jurisdiction in respect of clients onboarded in other jurisdiction.
- e) The intermediaries shall maintain records (including details of client, KYC, details of transactions etc.) of their cross-border activities in electronic

retrieval form for a period of 20 years and the same shall be made available to the Authority as and when required;

- f) The intermediaries shall have policies and procedures pertaining to handling of complaints in respect of their cross-border operations; and
- g) The intermediaries shall furnish to the Authority such reports as may be specified by the Authority from time to time.

8.13. The registered capital market intermediaries undertaking cross-border business operations shall submit an annual certification from an external auditor to the Authority that the conditions specified in Chapter V and the regulatory requirements specified by the Authority from time to time, have been complied with, within 30 days of end of financial year.

8.14. In the event that the cross-border activities of a registered capital market intermediary raise any supervisory concern, the Authority may require the intermediary to put in place additional measures to address the supervisory concern or to discontinue the cross-border business activities.

8.15. The registered capital market intermediaries shall abide by the norms that may be specified by the Authority from time to time.

#### **I. Inspection**

8.16. The IFSCA may undertake inspection of the books, accounts, records, and documents of the capital market intermediaries. The obligations of the intermediaries and details regarding inspection procedure have been specified in the Intermediaries Regulations.

#### **Public Comments**

9. In view of the above, comments and suggestions from public are invited on the proposed IFSCA (Capital Market Intermediaries) Regulations, 2021 contained in **Annexure - I** to this paper. Comments may be sent by email to Mr. Arjun Prasad, Deputy General Manager, IFSCA at arjun.pd@ifsc.gov.in latest by August 18, 2021.

10. The comments should be in the following format:

<b>Name and occupation of the person</b>			
<b>Sr. No.</b>	<b>Number of the draft regulations</b>	<b>Proposed changes</b>	<b>Rationale</b>



**DRAFT INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY  
(CAPITAL MARKET INTERMEDIARIES) REGULATIONS, 2021**

*In exercise of the powers conferred by sub-section (1) of Section 28 read with sub-section (1) of Section 12 and sub-section (1) of Section 13 of the International Financial Services Centres Authority Act, 2019; Section 30 read with Section 28C of the Securities and Exchange Board of India Act, 1992; and Section 25 read with Section 23G of the Depositories Act, 1996, the International Financial Services Centres Authority hereby makes the following regulations, namely: -*

**CHAPTER I**

**PRELIMINARY**

**Short title and commencement**

1. These regulations may be called the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021.
2. They shall come into force on the date of their publication in the Official Gazette.

**Definitions**

3. (1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings as assigned to them below, and their cognate expressions shall be construed accordingly-
  - (a) “account aggregator” means a person that undertakes the business of providing the service of retrieving or collecting information of its customer pertaining to financial assets and consolidating, organizing and presenting such information to the customer or any other person as per the instructions of the customer;
  - (b) “Act” means the International Financial Services Centres Authority Act, 2019 (50 of 2019);
  - (c) “associate” shall have the same meaning as assigned to it under clause (a) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021;
  - (d) “Authority” means the International Financial Services Centres Authority established under sub-section (1) of section 4 of the Act;

- (e) “Banking Unit” shall have the same meaning as assigned to it under clause (c) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Banking) Regulations, 2020;
- (f) “broker dealer” means a person having trading rights in any recognised stock exchange and includes a trading member;
- (g) “clearing member” means a person having clearing and settlement rights in any recognised clearing corporation;
- (h) “control” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner:

Provided that a director or officer of a company shall not be considered to be in control over such company, merely by virtue of holding such position.

- (i) “credit rating agency” means a person which is engaged in the business of assigning credit rating;
- (j) “custodial services” in relation to financial products means safekeeping of such financial products and providing services incidental thereto, and includes:
  - a. maintaining accounts of such financial products;
  - b. collecting the benefits or rights accruing to the client in respect of such financial products;
  - c. keeping the client informed of the actions taken or to be taken by the issuer, having a bearing on the benefits or rights accruing to the client; and
  - d. maintaining and reconciling records of the services;
- (k) “custodian” means a person who carries on or proposes to carry on the business of providing custodial services;
- (l) “debenture trustee” means a trustee appointed in respect of any issue of debentures;
- (m) “depository participant” means a participant of a recognised depository;
- (n) “Foreign Jurisdiction” means a country, other than India, whose securities market regulator is a signatory to International Organization of Securities Commission’s Multilateral Memorandum of Understanding (Appendix A signatories) or a signatory to a bilateral Memorandum of Understanding with the Authority, and which is not identified in the public statement of Financial Action Task Force as:
  - (i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

- (ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
- (o) “inspecting authority” means one or more persons appointed by the Authority to undertake inspection of the books, accounts, records and documents of a capital market intermediary in terms of these regulations;
- (p) “International Financial Services Centre” or “IFSC” shall have the same meaning as assigned to it under clause (g) of sub-section (1) of section 3 of the Act;
- (q) “investment advice” means 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 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 these regulations;

- (r) “investment adviser” means a person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;
- (s) “investment banker” means a person who is engaged in the business of issue management either by making arrangements regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management;
- (t) “key managerial personnel” means the officers or personnel of the intermediary who are members of its core management team (excluding board of directors) and includes members of the management one level below the executive directors of the intermediary, functional heads and includes ‘key managerial personnel’ as defined under the Companies Act, 2013 or any other person whom the intermediary may declare as a key managerial personnel;
- (u) "net worth" means the aggregate value of the paid up equity capital and free reserves (excluding reserves created out of revaluation), reduced by the aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off;
- (v) “person associated with investment advice” shall mean any member, partner, officer, director or employee or any sales staff of such investment adviser including any person occupying a similar status or performing a similar function

irrespective of the nature of association with the investment adviser who is engaged in providing investment advisory services to the clients of the investment adviser:

*Explanation:* All client-facing persons such as sales staff, service relationship managers, client relationship managers, etc., by whatever name called shall be deemed to be persons associated with investment advice, but do not include persons who discharge clerical or office administrative functions where there is no client interface;

- (w) “portfolio manager” means a person, which pursuant to a contract with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or financial products or funds of the client, as the case may be;
  - (x) “principal officer” means any person who is responsible for the activities of an intermediary and includes-
    - (i) proprietor, in the case of a proprietary concern;
    - (ii) any partner, in the case of a partnership firm;
    - (iii) whole time/executive director/managing director, in the case of a body corporate;
    - (iv) trustee, in the case of a trust;
    - (v) any key employee; and
    - (vi) any person designated as a principal officer;
  - (y) “recognised clearing corporation” means a clearing corporation in IFSC recognised by the Authority;
  - (z) “recognised depository” means a depository in IFSC recognised by the Authority;
  - (aa) “recognised stock exchange” means a stock exchange in IFSC recognised by the Authority;
  - (bb) “regulations” means the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021, as may be amended from time to time;
  - (cc) “SEBI” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;
  - (dd) “self-clearing member” means a member of a recognised clearing corporation who is also a broker dealer and clears and settles trades on its own account or on account of its clients only.
- (2) Words and expressions used and not defined in these regulations but defined in the Act or Acts mentioned in the First Schedule to the Act, or the Companies Act, 2013, or any rules or regulations made thereunder shall have the same meanings respectively assigned to them

in those Acts, rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

## CHAPTER II

### REGISTRATION

#### **Obligation to seek recognition**

4. (1) The following categories of intermediaries shall obtain a certificate of registration from the Authority prior to commencement of operations in an IFSC:

(a) Broker dealers;

*Explanation:* The broker dealers shall be eligible for registration as segregated nominee account providers with the recognised stock exchanges pursuant to compliance with the requirements specified by the exchanges and Authority from time to time.

(b) Clearing members;

*Explanation:* The clearing members shall be eligible for registration as segregated nominee account providers with the recognised clearing corporations pursuant to compliance with the requirements specified by the clearing corporations and Authority from time to time.

(c) Depository participants;

(d) Investment bankers;

(e) Portfolio Managers;

(f) Investment Advisers:

Provided that the following persons shall not be required to seek registration as an investment adviser in IFSC:

- (i) any person who gives general comments in good faith in regard to trends in the financial or securities market or the economic situation where such comments do not specify any particular securities or investment product;
- (ii) any insurance agent or insurance brokers recognised by the Authority, who offers investment advice solely in insurance products;
- (iii) any pension adviser recognised by the Authority, who offers investment advice solely in pension products;
- (iv) any distributor of mutual funds providing any investment advice to its clients incidental to its primary activity;

- (v) any advocate, solicitor or law firm, who offers investment advice to its clients, incidental to their legal practice;
  - (vi) any member of Institute of Chartered Accountants of India, Institute of Company Secretaries of India, Institute of Cost and Works Accountants of India, Actuarial Society of India or any other professional body as may be specified by the Authority, who provides investment advice to their clients, incidental to his professional service;
  - (vii) any broker dealer, portfolio manager or investment banker recognised by the Authority under these regulations, who offers investment advice to its clients, incidental to their primary activity;
  - (viii) any fund manager, by whatever name called of a mutual fund, alternative investment fund or any other intermediary or entity, recognised by the Authority;
  - (ix) any principal officer and person associated with advice of an investment adviser which is recognised by the Authority under these regulations; and
  - (x) any other person as may be specified by the Authority;
- (g) Custodians; and
- (h) Any other category of intermediaries, as may be specified by the Authority from time to time.
- (2) The following categories of intermediaries may obtain a certification of registration from the Authority for providing services for any financial product, financial services and financial institutions in an IFSC:
- (a) Credit rating agencies;
  - (b) Debenture Trustees;
  - (c) Account Aggregators; and
  - (d) Any other category of intermediaries, as may be specified by the Authority from time to time.
- (3) A Banking Unit recognised by the Authority under the IFSCA (Banking) Regulations, 2020 shall be permitted to function as a banker to an issue in an IFSC, without any additional registration requirement, subject to compliance with the regulatory provisions that may be specified by the Authority from time to time.
- (4) Notwithstanding sub-regulations (1) to (3) above, the Authority may specify norms for authorization of capital market intermediaries for operating or providing services in an IFSC from time to time.

## **Application for registration**

5. (1) An entity desirous of obtaining a certificate of registration as a capital market intermediary in an IFSC shall submit an application form in the format provided in Part I of Schedule I to the Authority along with the application fees as specified by the Authority:

Provided that the applicant seeking registration to act as a broker dealer or clearing member or depository participant shall make the application along with such additional information through the recognised stock exchange or recognised clearing corporation or recognised depository respectively.

- (2) The recognised stock exchange, the recognised clearing corporation, the recognised depository, as the case may be, shall examine the eligibility of the applicant in terms of these regulations, relevant Acts, regulations and the rules, bye-laws of the concerned stock exchange, clearing corporation, depository and forward the application with the application fees to the Authority along with its recommendation as early as possible but not later than thirty days of receipt of the complete application with the specified application fees.
- (3) Subject to approval by the concerned recognised stock exchange, and without any requirement of a separate certificate of registration, -
- (i) a registered clearing member may be permitted to act as a broker dealer; and
  - (ii) a registered broker dealer may be permitted to operate in more than one stock exchange.
- (4) Subject to approval by the concerned recognised clearing corporation, and without any requirement of a separate certificate of registration, -
- (i) a registered broker dealer may be permitted to act as a clearing member in a clearing corporation; and
  - (ii) a registered clearing member may be permitted to operate in more than one clearing corporation.
- (5) Subject to approval by the concerned recognised depository, a registered depository participant may be permitted to act as a participant of another depository without obtaining separate certificate of registration.
- (6) The provisions of these regulations, as applicable to the grant of registration shall also apply to an application for renewal of registration of a capital market intermediary, wherever applicable.

## **Structure**

6. A capital market intermediary seeking registration with the Authority shall be required to be present in an IFSC by establishing a branch or forming a company or LLP or body corporate

or partnership firm or proprietorship firm or any other form as may be permitted by the Authority:

Provided that the branch structure is permitted only for an intermediary which is already registered in India or a Foreign Jurisdiction for conducting similar activities or already registered with the Authority in any capacity:

7. A capital market intermediary operating as branch structure in an IFSC shall comply with the following conditions:

- (a) The entity shall adequately ring fence the operations of the branch in IFSC;
- (b) The entity shall comply with the minimum net worth requirements specified in these regulations for its activities in IFSC which may be maintained at the parent level:

*Explanation:* The minimum net worth requirements for its activities in IFSC shall be separate in addition to the minimum net worth requirements applicable for other activities outside IFSC.

- (c) A custodian operating as branch in IFSC shall ensure financial segregation by allocating the amount specified by IFSCA towards its branch in IFSC and shall submit a declaration to the Authority in this regard;
- (d) A broker dealer / a clearing member by foreign entities shall comply with additional requirements including base minimum capital specified by IFSCA; and
- (e) Any other requirements as may be specified by the Authority from time to time.

#### **Net worth requirements**

8. An entity seeking registration as a capital market intermediary shall comply with the net worth requirements as specified in Schedule II of these regulations, and the same shall be maintained at all times.

#### **Fit and proper requirement**

9. (1) A capital market intermediary shall ensure that the entity, all its directors, key managerial personnel and controlling shareholders are fit and proper persons, at all times.

(2) For the purpose of sub-regulation (1), a person shall be deemed to be a fit and proper person if, -

- (a) such person has a record of fairness and integrity, including but not limited to-
  - (i) financial integrity;
  - (ii) good reputation and character; and



- (iii) honesty.
- (b) such person has not incurred any of the following disqualifications –
  - (i) the person has been convicted by a court for any offence involving moral turpitude or any economic offence or any offence against securities laws;
  - (ii) a recovery proceeding has been initiated against the person by a financial regulatory authority and is pending;
  - (iii) an order for winding up has been passed against the person for malfeasance;
  - (iv) the person has been declared insolvent and not discharged;
  - (v) an order, restraining, prohibiting or debarring the person from accessing or dealing in financial products or financial services, has been passed by any regulatory authority, and a period of three years from the date of the expiry of the period specified in the order has not elapsed;
  - (vi) any other order against the person, which has a bearing on the securities market, has been passed by the Authority or any other regulatory authority, and a period of three years from the date of the order has not elapsed;
  - (vii) the person has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;
  - (viii) the person is financially not sound or has been categorized as a wilful defaulter;
  - (ix) the person has been declared a fugitive economic offender; or
  - (x) any other disqualification as may be specified by the Authority.

### **Registration requirements**

10. (1) The Authority shall take into account all matters which it deems relevant for grant of registration to a capital market intermediary and in particular the following, namely, whether:
- a) the applicant or its principal officer has adequate past experience in the activities as a capital market intermediary for which it is desirous of obtaining a certificate of recognition or related activities;
  - b) the applicant has the necessary infrastructure like adequate office space, equipment, communication facilities and manpower to effectively discharge its activities;
  - c) the applicant satisfies the eligibility criteria, net worth and fund allocation requirements, if applicable, as specified in these regulations;

- d) the applicant, and its directors, key managerial personnel and controlling shareholders are fit and proper persons;
  - e) the applicant or any of its associates have in the past been refused certificate by the Authority and if so, the ground for such refusal; and
  - f) the applicant or its principal officer is subject to any proceeding for breach of law by the Authority.
- (2) In addition to sub-regulation (1), in respect of an application for registration as a portfolio manager or an investment adviser, the principal officer of the applicant shall have:
- (a) A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a CFA Charter from the CFA Institute;
  - (b) An experience of at least five years in related activities in the securities market or financial products including in a portfolio manager, broker dealer, investment advisor, research analyst or fund management; and
  - (c) A certification from any organization or institution or association or stock exchange which is recognized/ accredited by IFSCA or a regulator in an IFSC, India or Foreign Jurisdiction.
- (3) In addition to sub-regulations (1) and (2), in respect of an application for registration as a portfolio manager, the applicant shall have in its employment at least one person with the following qualifications:
- (a) a graduate from a university or an institution recognized by the Central Government or any State Government or a foreign university or qualification as mentioned in clause (a) of sub-regulation (2); and
  - (b) experience of at least two years in related activities in the securities market or financial products:
- Provided that any employee of the portfolio manager who has decision making authority related to fund management shall have the same minimum qualifications, experience and certification as specified for the principal officer.
- (4) In addition to sub-regulations (1) and (2), in respect of an application for registration as investment adviser, all persons associated with investment advice of the applicant shall have:

- (a) a graduate from a university or an institution recognized by the Central Government or any State Government or a foreign university or qualification as mentioned in clause (a) of sub-regulation (2);
- (b) experience of at least two years in related activities in the securities market or financial products; and
- (c) certification as provided in clause (c) of sub-regulation (2) above.

### **Simplified application**

11. (1) Notwithstanding anything provided in this Chapter, an entity which is registered in India or a Foreign Jurisdiction, and the registration is valid, may apply for registration under the same category with a simplified application form specified in Part II of Schedule I, along with the application fees specified by the Authority, until March 31, 2022:

Provide that such entity shall comply with the fit and proper and net worth requirements specified in these regulations.

- (2) The entity would be required to comply with all the provisions of this Chapter for continuing to operate as a capital market intermediary, within a period of 1 year from the date of registration.

### **Grant of registration**

12. (1) The Authority may, after considering the application and on being satisfied that the applicant has complied with the conditions laid down in these regulations and is eligible to act as a capital market intermediary, and upon receipt of registration fees (as specified by the Authority), grant registration to the applicant subject to the conditions as the Authority may deem fit.
- (2) If the Authority is of the opinion that the registration cannot be granted, it may give thirty days' time to the applicant, setting out the grounds based on which it cannot grant the registration, to enable the applicant to make written submissions, if any.
- (3) After considering the submissions under sub-regulation (2) made by the applicant to the Authority, if the Authority is not satisfied, it may reject the application and shall communicate the same to the applicant in writing with reasons, not later than thirty days.
- (4) The capital market intermediary shall comply with any other condition as may be imposed by the Authority as it deems fit in the interest of the investors or orderly development of the securities market or for regulating the working of the capital market intermediary, in an IFSC.
- (5) The registration granted to a capital market intermediary may be withdrawn by the Authority only after giving a reasonable opportunity of being heard.

### **Period of validity**

13. The certificate of registration of a capital market intermediary shall be valid for such period as may be specified by the Authority, unless it is suspended or cancelled by the Authority or surrendered by the intermediary.

### **Surrender of registration**

14. A registered capital market intermediary may file an application with the Authority for surrender of its registration:

Provided that a broker dealer or clearing member or depository participant shall make such application through the recognised stock exchange or recognised clearing corporation or recognised depository respectively.

## **CHAPTER III**

### **GENERAL OBLIGATIONS AND RESPONSIBILITIES**

#### **Code of Conduct**

15. Every capital market intermediary shall abide by the Code of Conduct as specified in Schedule III.

#### **Maintenance of books of account, records and other documents**

16. (1) Every capital market intermediary shall maintain and preserve the following books of accounts, records and documents, in electronic retrieval form for a minimum of twenty years, namely: -
- (a) a copy of the balance sheet at the end of each accounting period;
  - (b) a copy of profit and loss account for each accounting period;
  - (c) a copy of the auditor's report on the accounts for each accounting period;
  - (d) a statement of net worth for each quarter;
  - (e) relevant records and documents relating to its activities in capital markets; and
  - (f) such other books of accounts, records and documents as may be specified by the Authority from time to time.
- (2) In relation to a capital market intermediary not being a body corporate, it shall maintain the following books of accounts, records and documents, in electronic retrieval form for a minimum of twenty years, namely, -
- (a) all sums of money received and expended;

- (b) its assets and liabilities;
- (c) a statement of net worth for each quarter;
- (d) relevant records and documents relating to its activities in capital markets; and
- (e) such other books of accounts, record and documents as may be specified by the Authority from time to time.

### **Information to the Authority**

17. (1) A capital market intermediary shall furnish to the Authority any change in the information or particulars previously furnished, which has a bearing on the certificate of registration granted to it.
- (2) A registered capital market intermediary shall furnish such reports, returns, statements and particulars as may be specified by the Authority from time to time.

### **Redressal of grievances**

18. (1) A registered capital market intermediary shall take adequate steps for redressal of grievances of the investors within one month of the date of the receipt of the complaint.
- (2) The intermediary shall maintain records regarding investor grievances received by it and redressal of such grievances.

### **Business Continuity Plan**

19. (1) A registered capital market intermediary shall maintain a business continuity plan identifying procedures relating to an emergency or significant business disruption.
- (2) A registered capital market intermediary shall update its business continuity plan in the event of any material change to operations, structure, business, or location.
- (3) A registered capital market intermediary shall conduct an annual review of its business continuity plan.

### **Cyber Security and Cyber Resilience**

20. A registered capital market shall have robust cyber security and cyber resilience framework in accordance with the requirements as may be specified by the Authority from time to time.

### **Risk Management and Internal Controls**

21. A registered capital market intermediary shall have a sound risk management system for comprehensively managing risks.

22. A registered capital market intermediary shall have adequate internal procedures and controls, given the types of business in which it engages (including any activities which have been outsourced) with the aim of protecting the interests of clients and their assets and ensuring proper management of risk.

#### **Change in control**

23. A registered capital market intermediary shall intimate the Authority within 15 days, in case of any change in control of the intermediary.

#### **Payment of Fees**

24. A registered capital market intermediary shall pay fees as specified by the Authority from time to time.

#### **Annual Audit**

25. (1) A registered capital market intermediary shall conduct an annual audit in respect of compliance with these regulations.

(2) A registered capital market intermediary shall conduct additional audits and submit such reports as may be specified by the Authority from time to time.

#### **Appointment of Designated Officer**

26. A registered capital market intermediary shall, for the purpose of enforcing compliance with regulatory requirements, appoint a senior management person as Designated Officer.

## **CHAPTER IV**

### **SPECIFIC OBLIGATIONS AND RESPONSIBILITIES**

#### **Broker dealers and Clearing members**

27. (1) A registered broker dealer shall ensure compliance with the applicable laws, including bye-laws of the recognised stock exchange.

(2) A registered clearing member shall ensure compliance with the applicable laws, including bye-laws of the recognised clearing corporation.

#### **Depository Participants**

28. (1) A depository participant shall ensure compliance with the applicable laws, including bye-laws of the recognised depository.

(2) Separate accounts shall be opened by every participant in the name of each of the beneficial owners and the securities of each beneficial owner shall be segregated, and shall

not be mixed up with the securities of other beneficial owners or with the participant's own securities.

- (3) A depository participant shall have adequate mechanisms for the purpose of reviewing, monitoring and evaluating its internal accounting controls and systems.
- (4) Where the records are maintained in electronic form, a depository participant shall ensure that the integrity of the data processing system is maintained at all times.
- (5) Every participant shall reconcile his records with every depository in which it is a participant on a daily basis.

### **Investment bankers**

29. (1) The responsibilities of a lead investment banker relating to issue management shall be clearly defined and a statement specifying such responsibilities shall be furnished to the Authority at least one month before the opening of the issue for subscription.
- (2) Where there are more than one lead investment bankers to the issue, the statement as specified in sub-regulation (1) shall clearly demarcate the responsibilities of each of such lead investment bankers.
30. (1) An investment banker shall enter into an agreement with the issuer of securities specifying the roles and responsibilities of the investment banker in the issue.
- (2) An investment banker shall not undertake any activity, except for marketing of the issue or offer, if the investment banker is a promoter or an associate of the issuer of securities or of any person making an offer to sell or purchase securities in terms of any regulations made by the Authority.

*Explanation:* For the purposes of this regulation, an investment banker shall be deemed to be an "associate of the issuer or person" if:

- (a) either of them controls, directly or indirectly through its subsidiary or holding company, not less than fifteen per cent. of the voting rights in the other; or
  - (b) either of them, directly or indirectly, by itself or in combination with other persons, exercises control over the other; or
  - (c) there is a common director, excluding nominee director, amongst the issuer, its subsidiary or holding company and the investment banker.
- (3) No investment banker or any of its directors, partner or manager shall either on their respective accounts or through their associates or relatives enter into any transaction in securities of issuer on the basis of unpublished price sensitive information obtained by them in the course of any professional assignment.

31. An investment banker shall submit to the Authority complete particulars of any transaction for acquisition of securities of any body corporate whose issue is being managed by that investment banker within fifteen days from the date of entering into such transaction.
32. (1) An investment banker acting as an underwriter, shall enter into an agreement with the issuer of securities, on whose behalf it is acting as an underwriter, which shall have the understanding in relation to amount of underwriting obligations and commission, allocation of duties and responsibilities, timelines and other relevant details.
  - (2) An underwriter shall not derive any direct or indirect benefit from underwriting the issue except commission or brokerage payable under the agreement for underwriting.
  - (3) At any point of time, the total underwriting obligations under all the agreements shall not exceed twenty times the net worth of the investment banker.

### **Portfolio managers**

33. A portfolio manager may have the following categories as clients:
  - (a) a person resident outside India;
  - (b) a non-resident Indian;
  - (c) a non-individual resident in India who is eligible under FEMA to invest funds offshore, to the extent of outward investment permitted; and
  - (d) an individual resident in India having a net worth of at least US Dollar one million during the preceding financial year who is eligible under FEMA to invest funds offshore, to the extent allowed in the Liberalized Remittance Scheme of Reserve Bank of India.
34. A portfolio manager operating in an IFSC shall be permitted to invest in securities in an IFSC, India or Foreign Jurisdiction.
35. (1) A portfolio manager shall provide a disclosure document to the client, prior to entering into an agreement with the client.
  - (2) The portfolio manager shall ensure that a copy of disclosure document is available on the website of the portfolio manager.
  - (3) The disclosure document referred to in sub-regulation (1) shall *inter alia* include details pertaining to the portfolio manager including litigations by the regulatory authorities, services offered, risk factors, client representation, financial performance, performance of portfolio manager, auditor observations, nature of expenses and taxation.
36. (1) A portfolio manager shall enter into a written agreement with the client that clearly defines the *inter se* relationship and sets out their mutual rights, liabilities and obligations relating to



management of portfolio including details pertaining to investment objectives; risk factors, terms of fees, period of the contract, etc.

(2) Notwithstanding anything contained in the agreement between the portfolio manager and the client, the funds or securities can be withdrawn by the client before the maturity of the contract under the following circumstances, namely-

- (a) voluntary or compulsory termination of portfolio management services by the portfolio manager or the client;
  - (b) suspension or cancellation of the certificate of registration of the portfolio manager by the Authority;
  - (c) bankruptcy or liquidation of the portfolio manager.
37. (1) A portfolio manager shall periodically furnish a report to the client in terms of the agreement between the portfolio manager and the client which shall *inter alia* contain details relating to composition and value of the portfolio, transactions undertaken during the period of the report, beneficial interest received during the period of the report, expenses incurred in managing the portfolio and details of risk relating to the securities recommended by the portfolio manager for investment or disinvestment.
- (2) The report referred to in sub-regulation (1) may be made available on the website of the portfolio manager with restricted access to each client.
38. The portfolio manager shall charge an agreed fee from the clients for rendering portfolio management services without guaranteeing or assuring, either directly or indirectly, any return and the fee so charged may be a fixed fee or a return based fee or a combination of both.
39. (1) A discretionary portfolio manager shall individually and independently manage the funds of the client in accordance with the needs of the client, in a manner which does not partake the character of a mutual fund, whereas a non-discretionary portfolio manager shall manage the funds of the client in accordance with the directions of the client.
- (2) The discretionary portfolio manager shall invest funds of his clients in the securities listed or traded on stock exchanges, money market instruments, units of mutual funds and other securities in India, an IFSC or Foreign Jurisdiction as specified by the Authority from time to time.
40. (1) A portfolio manager shall not accept from the client, funds or securities worth less than USD 70,000.
- (2) A portfolio manager shall keep the funds of all clients in a separate account to be maintained by it in a Banking Unit.
- (3) A portfolio manager shall segregate each client's holding in securities in separate accounts.
- (4) The funds received from the clients, investments or disinvestments, all the credits to the account of the client like interest, dividend, bonus or any other beneficial interest received

on the investment and debit for expenses, if any, shall be properly reflected in the client's accounts.

- (5) A portfolio manager shall act in a fiduciary capacity in respect of the client's funds and shall not derive any direct or indirect benefit out of the client's funds or securities.
  - (6) A portfolio manager shall not borrow funds or securities on behalf of the client.
41. (1) The money or securities accepted by the portfolio manager shall not be invested or managed by the portfolio manager except in terms of the agreement between the portfolio manager and the client.
- (2) The portfolio manager shall not leverage the portfolio of its clients for investment in derivatives.
  - (3) The portfolio manager shall not invest client's fund based on the advice of any other entity.
  - (4) The portfolio manager shall not while dealing with clients' funds indulge in speculative transactions i.e, it shall not enter into any transaction for purchase or sale of any security which is periodically or ultimately settled otherwise than by actual delivery or transfer of security except the transactions in derivatives.
  - (5) A portfolio manager shall, ordinarily purchase or sell securities separately for each client. However, in the event of aggregation of purchases or sales for economy of scale, *inter se* allocation shall be done on a *pro rata* basis and at weighted average price of the day's transactions. The portfolio manager shall not keep any open position in respect of allocation of sales or purchases effected in a day.
  - (6) A portfolio manager shall segregate each clients' funds and portfolio of securities and keep them separately from his own funds and securities and be responsible for safekeeping of clients' funds and securities.
  - (7) The portfolio manager shall not hold the securities belonging to the portfolio account, in its own name on behalf of its clients either by virtue of contract with clients or otherwise.
  - (8) A portfolio manager (except those providing only advisory services) shall appoint a custodian in respect of securities managed or administered by it.
42. The portfolio manager shall ensure that any person or entity involved in the distribution of its services is carrying out the distribution activities in compliance with these regulations and circulars issued thereunder from time to time.
43. The portfolio manager shall report its performance uniformly in the disclosures to the Authority, marketing materials and reports to the clients and on its website.
44. The portfolio accounts of a portfolio manager shall be audited annually and a copy of the certificate shall be given to the client.

45. A portfolio manager shall disclose a change in the identity of the Principal Officer to the Authority and the clients within 7 working days of effecting the change.

### **Investment advisers**

46. An investment adviser may have the following categories as clients:

- (a) a person resident outside India;
- (b) a non-resident Indian;
- (c) a non-individual resident in India who is eligible under FEMA to invest funds offshore, to the extent of outward investment permitted; and
- (d) an individual resident in India having a net worth of at least US Dollar one million during the preceding financial year who is eligible under FEMA to invest funds offshore, to the extent allowed in the Liberalized Remittance Scheme of Reserve Bank of India.

47. An investment adviser shall disclose to a prospective client, all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, affiliations with other intermediaries and such other information as is necessary to take an informed decision on whether or not to avail its services.

48. An investment adviser shall make the following disclosures to its clients: -

- (a) its holding or position, if any, in the financial products or securities which are subject matter of advice;
- (b) any potential or actual conflict of interest arising from any connection to or association with any issuer of products/securities;
- (c) all material facts relating to the key features of the products or securities, particularly performance track record; and
- (d) warnings, disclaimers in documents and advertising materials relating to an investment product which it is recommending to the client.

49. (1) An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interest as and when they arise.

(2) An investment adviser shall not receive any consideration by way of remuneration or compensation or in any other form from any person other than the client being advised, in respect of the underlying products or securities for which advice is provided.

(3) An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.

- (4) An investment adviser shall not enter into transactions on its own account which is contrary to the advice given to its clients for a period of 15 days from the day of such advice:

Provided that during the period of 15 days, if the investment adviser is of the opinion that the situation has changed, then it may enter into such a transaction on its own account after giving such revised assessment to the client at least 24 hours in advance of entering into such transaction.

- (5) An investment adviser shall not act on its own account, knowingly sell securities or investment products to or purchase securities or investment products from a client.

50. An investment adviser shall ensure that, for the purposes of risk profiling, -

- (e) it obtains such information from the client as is necessary for the purpose of giving investment advice;
- (f) it has a process for assessing the risk a client is willing and able to take,
- (g) risk profile of the client is communicated to the client after completion of risk assessment; and
- (h) the information provided by clients and their risk assessment is updated periodically.

51. An investment adviser shall ensure that all investments on which investment advice is provided is suitable to the risk profile of the client and is consistent with the client's investment objectives and financial position.

52. (1) An investment adviser shall have client level segregation for investment advisory and distribution services.

- (2) An investment adviser shall maintain an arm's length relationship between its activities as investment adviser and distributor by providing advisory services through a separately identifiable department or division.

53. (1) An investment adviser may provide implementation services to its advisory clients in securities market:

Provided that investment advisers shall ensure that no consideration including any commission or referral fees, whether embedded or indirect or otherwise, by whatever name called is received, directly or indirectly, by the investment adviser or its group or family for the said service.

- (2) An investment adviser shall provide implementation services to its advisory clients only through direct schemes/products, without charging any implementation fees.
- (3) The client shall not be under any obligation to avail implementation services offered by the investment adviser.

## **Custodians**

54. A custodian shall separate and segregate its custodian activities from all other activities.
55. A custodian shall have adequate mechanisms for the purposes of reviewing, monitoring and evaluating the custodian's controls, systems, procedures and safeguards.
56. A custodian shall enter into an agreement with each client and the agreement shall provide details regarding the various circumstances relating to custody of the securities or financial products.
57. A custodian shall have adequate internal controls to prevent any manipulation of records and documents and to protect the records from theft and natural hazard.

## **Credit rating agencies**

58. (1) A credit rating agency shall enter into a written agreement with each client whose securities it proposes to rate, and every such agreement shall include the right and liabilities of each party and fee to be charged by the credit rating agency.
  - (2) The client shall agree to disclose, -
    - (a) the rating assigned to the client's securities listed in an IFSC by any credit rating agency during the last three years; and
    - (b) any rating given in respect of the client's securities listed in an IFSC by any other credit rating agency, which has not been accepted by the client.
59. The client shall provide all co-operation required for arriving at a true and accurate rating of the securities or financial products by the credit rating agency.
60. The credit rating agency shall disclose to the client the rating assigned to the securities irrespective of whether the rating is or is not accepted by the client.
61. (1) A credit rating agency shall, during the lifetime of securities rated by it, continuously monitor the rating of such securities and carry out periodic reviews of the rating, unless the rating is withdrawn.
  - (2) A credit rating agency shall disseminate information regarding change in ratings promptly through press releases and simultaneously to the recognised stock exchanges if the securities are listed.
  - (3) A credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company, or as may be specified by the Authority from time to time.

62. (1) A credit rating agency shall make public the definitions of the concerned rating, along with the symbol and also state that the ratings do not constitute recommendations to buy, hold or sell any securities.
- (2) A credit rating agency shall make available to the general public information relating to the rationale of the ratings, which shall cover an analysis of the various factors justifying a favourable assessment, as well as factors constituting a risk.
63. (1) A credit rating agency shall specify the rating process and file a copy of the same to the Authority for record.
- (2) A credit rating agency shall have professional rating committees, comprising members who are adequately qualified and knowledgeable to assign a rating, and all rating decisions shall be taken by the rating committee.
64. A credit rating agency, shall, while rating a security or a financial product, exercise due diligence in order to ensure that the rating given by the credit rating agency is fair and appropriate.
65. A credit rating agency shall not rate securities issued by it or by any entity likely to have conflict of interest in any manner other than as remuneration for credit rating.
66. A credit rating agency shall have appropriate procedures and systems for preventing trading on the basis of unpublished price sensitive information obtained by them in the course of any professional assignment.

### **Debenture trustees**

67. A debenture trustee shall enter into an agreement with the issuer of securities before the opening of the subscription list for issue of debentures, which shall have the understanding in relation to allocation of duties and responsibilities and other relevant details.
68. A person shall not be appointed as a debenture trustee, in cases where the debenture trustee is an associate of the issuer or is likely to have conflict of interest in any manner other than as remuneration to the debenture trustee.
69. A debenture trustee shall ensure that:
- (a) It accepts the trust deed which shall contain details on standard information pertaining to the debt issue and details specific to the particular debt issue and shall not contain covenants prejudicial to the interest of the debenture holders;
  - (b) The prospectus does not contain any matter which is inconsistent with the terms of the issue of debentures or with the trust deed;
  - (c) It calls for periodical reports from the issuer pertaining to performance and the utilization of funds raised by the issue of debentures;

- (d) It communicates to the debenture holder defaults, if any, in respect of the payment of interest or redemption of debentures and actions taken thereunder;
- (e) It appoints a nominee director on the board of the issuer in the event of two consecutive defaults in payment of interest or default in creation of security or default in redemption of debentures;
- (f) The issuer does not breach the terms of the issue of debentures or covenants of the trust deed and take reasonable steps to remedy such breach and it informs the debenture holders immediately of any such breach;
- (g) The issuer satisfies the conditions, if any, regarding creation of security for the debentures, debenture redemption reserve and recovery expense fund;
- (h) The assets of the issuer and the guarantors are sufficient to discharge the interest and principal amount at all times and such assets are free from any other encumbrances;
- (i) It shall perform all acts necessary for the enforcement of the security and for protection of the interest of the debenture holders;
- (j) It shall call for reports on the utilization of funds raised by the issue of debentures;
- (k) It takes steps to convene a meeting of debenture holders as and when required;
- (l) The debentures have been converted or redeemed in accordance with the terms of the issue of debentures;
- (m) It takes possession of the trust property in accordance with the terms of the trust deed;
- (n) The debenture certificates are issued to the debenture holders or debentures have been credited in the demat accounts of the debenture holders;
- (o) Debenture holders have been paid the interest due on the debentures and the monies due to them on the date of redemption of the debenture;
- (p) It informs the Authority immediately of any breach of trust deed or provision of any law;
- (q) It exercises due diligence to ensure compliance by the issuer and that the security is free from any encumbrances and monitors the asset cover;
- (r) It obtains reports from the lead bank regarding the progress of the project; and
- (s) It may inspect books of account, record, registers of the issuer and trust property to the extent necessary for discharging its obligations.

70. No debenture trustee shall relinquish its assignment as a debenture trustee unless another debenture trustee is appointed by the issuer in its place.

### **Account Aggregators**

71. The operations of an account aggregator shall be technologically driven.
72. An account aggregator shall have adequate systems and controls to ensure that the integrity of the data and Information Technology systems is maintained at all times.
73. An account aggregator shall provide account aggregation services after appropriate agreements or authorisations, as applicable.
74. An account aggregator shall separate and segregate its account aggregation activities from all other activities.

## **CHAPTER V**

### **CROSS-BORDER BUSINESS**

75. A registered capital market intermediary may undertake cross-border business in capital markets in India or a Foreign Jurisdiction, subject to the following conditions:
  - (a) The intermediary shall ensure that its cross-border business activities in capital markets is in compliance with the applicable regulatory requirements of the other jurisdiction;
  - (b) The intermediary shall ring fence its IFSC related capital market activities with its cross-border operations;
  - (c) The intermediary shall ensure that it has appropriate risk management and internal controls to ensure that the interests of its clients and investors in IFSC are adequately protected;
  - (d) The intermediary shall perform KYC norms, client due diligence, Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) in accordance with the following, -
    - i. Applicable norms in IFSC in respect of clients onboarded in IFSC; and
    - ii. Applicable norms in IFSC or other jurisdiction in respect of clients onboarded in other jurisdiction.
  - (e) The intermediary shall maintain records (including details of client, KYC, details of transactions etc.) of its cross-border activities in electronic retrieval form for a period of 20 years and the same shall be made available to the Authority as and when required;
  - (f) The intermediary shall have policies and procedures pertaining to handling of complaints in respect of its cross-border operations; and
  - (g) The intermediary shall furnish to the Authority such reports as may be specified by the Authority from time to time.



76. (1) A registered capital market intermediary undertaking cross-border business operations shall submit an annual certification from an external auditor to the Authority that the conditions specified in this Chapter and the regulatory requirements specified by the Authority from time to time, have been complied with, within 30 days of end of financial year.
- (2) In the event that the cross-border activities of a registered capital market intermediary raise any supervisory concern, the Authority may require the intermediary to put in place additional measures to address the supervisory concern or to discontinue the cross-border business activities.
77. A registered capital market intermediary shall abide by the norms that may be specified by the Authority from time to time.

## CHAPTER VI

### INSPECTION

#### Inspection

78. (1) The Authority may *suo motu* or upon receipt of information or complaint at any time appoint one or more persons as inspecting authority to undertake the inspection of the books, accounts, records, and documents of a capital market intermediary, for any purpose, including the purposes as specified under sub-regulation (2).
- (2) The purposes referred to in sub-regulation (1) may include, -
- (a) to ensure that the books of account, records and documents are being maintained in the manner as required under these regulations;
  - (b) to ensure that the provisions of the Act, the regulations and circulars made thereunder, are complied with;
  - (c) to ascertain whether adequate internal control systems, procedures and safeguards have been established or are being followed by the capital market intermediary to fulfil its obligations under these regulations;
  - (d) to ascertain whether any circumstances exist which would render the intermediary unfit or ineligible;
  - (e) to inquire into the complaints received from the investors, clients, other market participants, or any other person on any matter having a bearing on the activities of the intermediary; and
  - (f) to inquire *suo motu* into such matters as may be deemed fit in the interest of investors or the capital market in IFSC.
- (3) Before undertaking an inspection under sub-regulation (1), the inspecting authority shall give a notice to the capital market intermediary:

Provided that where the inspecting authority is satisfied that in the interest of the investors no such notice should be given, it may, for reasons to be recorded in writing, dispense with such notice.

- (4) Notwithstanding sub-regulations (1) to (3) above, the recognised stock exchange, recognised clearing corporation and recognised depository may conduct inspection of registered broker dealer, registered clearing member and registered depository participant respectively, in accordance with their respective bye-laws.

### **Obligations of capital market intermediary on inspection**

79. (1) Where an inspection of a capital market intermediary is undertaken by the Authority, such capital market intermediary and every proprietor, partner, trustee, director, chairperson, officer, employee and any agent of the intermediary shall provide all assistance and cooperate with the inspection authority and shall furnish books of accounts, records and documents to the inspection authority with such statements and information relating to its activities within such time as decided by the inspection authority.
- (2) The capital market intermediary shall give all assistance as may be required in connection with the inspection and allow the inspecting authority to have reasonable access to its premises and extend reasonable facility for examining any books of accounts, records and documents in the possession of the capital market intermediary, and also provide copies of records or documents or other material which in the opinion of the inspecting authority are relevant for the purposes of the inspection.

### **Appointment of auditor or valuer**

80. (1) The Authority may appoint an auditor to inspect into the books of account, records, documents infrastructures, systems and procedures or affairs of a capital market intermediary:
- Provided that the auditor so appointed shall have the same powers of the inspecting authority and the obligations of the capital market intermediary and its employees shall be applicable.
- (2) The Authority may appoint a valuer or direct the capital market intermediary to appoint a valuer, if considered necessary.
- (3) The Authority shall be entitled to recover expenses relating to auditor and valuer from the capital market intermediary.

### **Submission of report**

81. The inspecting authority shall submit an inspection report including interim reports to the Authority, and the Authority may take such action as it may deem fit and appropriate.

## **CHAPTER VII**

### **MISCELLANEOUS**

#### **Suspension, cancellation of registration or any other actions**

82. (1) The Authority may take such action as deemed if, including suspension or cancellation of registration, against a capital market intermediary if it:

- (a) fails to comply with any conditions subject to which a certificate of registration has been granted to him; or
- (b) contravenes any of the provisions of the Act or rules or regulations or circulars or guidelines or directions or instructions issued thereunder.

(2) Without prejudice to sub-regulation (1), a recognised stock exchange may take such action as deemed if, including suspension, against a registered broker dealer, in accordance with the applicable laws.

(3) Without prejudice to sub-regulation (1), a recognised clearing corporation may take such action as deemed if, including suspension, against a registered clearing member, in accordance with the applicable laws.

(4) Without prejudice to sub-regulation (1), a recognised depository may take such action as deemed if, including suspension, against a registered depository participant, in accordance with the applicable laws.

#### **Power to call for information**

83. The Authority may call for any information, documents or records from a capital market intermediary.

#### **Power to remove difficulties**

84. In order to remove any difficulties in the interpretation or application of the provisions of these regulations, the Authority shall have the power to issue directions through guidance notes or circulars.

#### **Power to relax strict enforcement of the regulations**

85. (1) The Authority may, in the interest of development and regulation of financial services in IFSC, relax the strict enforcement of any requirements of these regulations.

(2) For seeking relaxation under sub-regulation (1), an application, giving details and the grounds on which such relaxation has been sought, shall be filed with the Authority along with a non-refundable fee of USD 1500.

- (3) The Authority shall process such application within thirty days of the date of receipt of the application complete in all respects and shall record reasons for acceptance or refusal of the relaxations sought by the applicant.

### **Power to specify procedures and issue clarifications**

86. For the purposes of implementation of these regulations and matters incidental thereto, the Authority may specify norms, procedures, processes etc. by way of circulars or guidelines or directions to capital market intermediaries.

### **Repeal and Savings**

87. (1) On and from the commencement of these regulations, Chapter III of the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 shall not apply in an IFSC.
- (2) On and from the commencement of these regulations, Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992, Securities and Exchange Board of India (Underwriters) Regulations, 1993, Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994, Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993, Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993, Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020, Securities and Exchange Board of India (Investment Adviser) Regulations, 2013 and Securities and Exchange Board of India (Stock-Brokers) Regulations, 1992, Securities and Exchange Board of India (Custodian) Regulations, 1996, Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999 and Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 shall not apply in an IFSC.
- (3) The SEBI circular SEBI/HO/IMD/DF1/CIR/P/2020/169 dated September 9, 2020 relating to operating guidelines for portfolio managers in IFSC, SEBI circulars SEBI/HO/IMD/DF1/CIR/P/2020/04 dated January 9, 2020, SEBI/HO/IMD/DF1/CIR/P/2020/31 dated February 28, 2020 and SEBI/HO/IMD/DF1/CIR/P/2020/185 dated September 28, 2020 relating to operating guidelines for investment advisers in IFSC shall stand superseded.
- (4) Notwithstanding (1), (2) and (3) above, anything done or any action taken or purported to have been taken under the regulations, guidelines and circulars mentioned in sub-regulations (1), (2) and (3) before the commencement of these regulations shall be deemed to have been done or taken or commenced under the corresponding provisions of these regulations.
- (5) The circulars and guidelines issued by SEBI and applicable to a capital market intermediary in an IFSC shall continue to be in force unless and until they are superseded by any regulations or circulars or guidelines by the Authority.

## Schedule I

### PART I

#### Application form

S. No.	Parameters	Information by applicant
1.	Name of the applicant	
2.	Activity for which application is being made	
3.	Address of the registered office  Address for correspondence  Telephone numbers  Name, telephone number (mobile and direct line) and e-mail address of the contact person (Designated officer / principal officer only)	
4.	Legal status of the applicant  Law under which it is incorporated/established/registered  If listed, names on stock exchanges on which it is listed	
5.	Date and place of incorporation or establishment  Date of commencement of business  <i>Please enclose:</i> <ul style="list-style-type: none"><li>○ <i>certificate of incorporation,</i></li><li>○ <i>memorandum of association</i></li><li>○ <i>articles of association</i></li><li>○ <i>partnership deed / trust deed</i></li><li>○ <i>provide statutory provisions or any other constitutional documents under which incorporated or established</i></li></ul>	

	<p>○ <i>PAN / Tax Identification Number (if applicable)</i></p>	
6.	<p>Whether present in IFSC in the form of branch or established/ incorporated in IFSC?</p> <p>If established in the form of branch, provide a declaration that the operations of the branch in IFSC would be ring fenced with the operations of outside IFSC.</p>	
7.	<p>Whether registered with IFSCA or any other regulatory authority in the financial sector?</p> <p>If yes, provide details of registration (registration number, registration date, validity date)</p> <p><i>Please enclose a copy of the certificate of registration</i></p>	
8.	<p>Brief summary of activities already carried out by the applicant in IFSC, or outside IFSC</p>	
9.	<p>Details such as name, designation, business address, telephone number, e-mail address of the principal officers and board of directors / partners / proprietor/ Trustee</p> <p>Please provide a copy of the PAN / Tax Identification Number (if applicable)</p>	
10.	<p>List of major shareholders (5% or more voting rights) / partners</p>	
11.	<p>Financial Information (Balance Sheet and P&amp;L Statement)</p>	
12.	<p>Net worth as per the latest audited financial statements of the applicant</p>	

	<i>Please enclose net worth certificate not older than six months as on the date of application.</i>	
13.	Details of infrastructure in IFSC	
14.	Business Plan (for at least three years)	
15.	In respect of the applicant or its directors, key managerial personnel or controlling shareholders, whether#:	
(a)	The person has been convicted of any economic offence? If yes, provide details	
(b)	Any recovery proceeding has been initiated against the person by a financial regulatory authority and is pending? If yes, provide details.	
(c)	Any order for winding up has been passed against the person for malfeasance? If yes, provide details.	
(d)	The person has been declared insolvent and not discharged? If yes, provide details.	
(e)	Any order, restraining, prohibiting or debarring the person from accessing or dealing in financial products or financial services, has been passed by any regulatory authority? If yes, provide details.	
(f)	Any other order has been passed by any regulatory authority against the person which has a bearing on the securities market? If yes, provide details.	
(g)	The person has been found to be of unsound mind by a court of competent jurisdiction? If yes, provide details.	
(h)	The person has been categorized as wilful defaulter? If yes, provide details.	
(i)	The person has been declared as a fugitive economic offender? If yes, provide details.	

**#A declaration regarding compliance with fit and proper requirements specified in these regulations shall be provided by the applicants.**

## **Additional information for the various categories of intermediaries**

### **A. Broker dealer / Clearing Member**

1. Name of Member with Code No.
2. Trade name of member
3. Name of the stock exchange/ clearing corporation of which the applicant is the member
4. Date of admission to exchange / clearing corporation

The application form for broker dealer / clearing member shall be accompanied by a recommendation of the stock exchange / clearing corporation

### **B. Depository Participant**

1. Name of Depository in which the applicant will be acting as participant
2. Provide the following details regarding safekeeping and security systems and procedures:
  - i. risk control and operations manuals;
  - ii. give details of independent internal control mechanisms for monitoring evaluation and review of accounting, and reporting systems and procedures
3. Please provide the following details regarding automatic data processing systems and record keeping:
  - i. details of hardware, software and communications systems, their capability, function and location;
  - ii. details of data storage and back up procedures and sites, their capability, function and location;
  - iii. details of disaster recovery systems and procedures
4. Details of insurance cover to be taken up.
5. An undertaking from the depository in which the applicant is to act as participant that:
  - i. the applicant is eligible to act as depository participant and meets with the eligibility criteria specified in these regulations and in the depository's bye-laws; and
  - ii. the applicant has adequate automatic data processing systems, adequate and competent staff, risk management systems, procedures and manuals, disaster recovery procedures, secure data storage and off site back up facilities, adequate communications links and insurance to enable the applicant to fulfil its obligations as participants to the satisfaction of the depository.

The application form for depository participant shall be accompanied by a recommendation of the depository.

### **C. Investment bankers**



1. Experience of key managerial personnel, particularly in investment banking activities
2. Details of infrastructure shall include details regarding computing facilities, equity research and other relevant information relating to investment banking activities.
3. Experience in handling the activities relating to investment banking during the last 3 years, if applicable.
4. Details of Banking Unit
5. Name and address of the auditors.

**D. Portfolio Managers**

1. Provide details regarding qualification, work experience and certification of all directors / partners / proprietor and principal officers.
2. Provide a copy of the relevant certifications.
3. Details about business plan shall include information regarding:
  - a. Risk profiling procedure to be followed
  - b. Accounting system to be followed
  - c. Various research and database facilities
  - d. Activities proposed to be outsourced
4. Details of custodian
5. Details of Banking Unit
6. Details of auditor
7. A copy of the Disclosure Document
8. Additional Declarations:
  - a. Declaration regarding compliance with qualification and certification requirements specified in these regulations;
  - b. Declaration regarding type and frequency of reports sent/ proposed to be sent to clients.
  - c. Declaration regarding time taken for transfer of securities into client accounts.
  - d. Declaration regarding submission of periodic reports to IFSCA.
  - e. Declaration regarding maintenance of records for investment rationale.

f. Declaration regarding availability of Disclosure document on its website.

#### **E. Investment Advisers**

1. Number of principal officers and persons who propose to render investment advice under these regulations on behalf of the applicant.
2. Provide details regarding qualification, work experience and certification of all directors / partners / proprietor, principal officers and persons associated with investment advice.
3. Provide a copy of the relevant certifications.
4. Details about business plan shall include information about:
  - a. Type of clients
  - b. Type of products/ securities on which investment advice is proposed to be rendered
  - c. Process for risk profiling of the client and for assessing suitability of advice
5. Additional Declarations:
  - a. Declaration by the applicant that its principal officer and persons associated with investment advice shall comply with qualification and certification requirements specified in these regulations.
  - b. A declaration that no consideration including any commission or referral fees, whether embedded or indirect or otherwise, by whatever name called shall be received, directly or indirectly, by the investment adviser or its group or family for the said service.
  - c. Declaration that the applicant shall not obtain any consideration by way of remuneration or compensation or any other form whatsoever, from any person other than the client being advised, in respect of the underlying products or securities for which advice is provided to the client.

#### **F. Custodians**

1. Please indicate services that are provided to clients or are proposed to be provided to clients as custodian.
2. Provide details regarding qualification and experience of key managerial personnel.
3. Details about past experience in custodian activities, particularly during the last 3 years.
4. Details about infrastructure shall include details regarding automatic data processing systems and record keeping, back up procedures and disaster recovery systems and procedures.

5. Provide details regarding safekeeping and security systems and procedures.

#### **G. Credit Rating Agencies**

1. Provide details regarding qualification and experience of key managerial personnel.
2. Details about infrastructure shall include details regarding computing facilities, facilities for research and database available with the applicant.
3. Details about past experience in credit rating activities and other activities, particularly during the last 3 years.

#### **H. Debenture Trustees**

1. Provide details regarding qualification and experience of key managerial personnel.
2. Details about past experience in debenture trustee related activities, particularly during the last 3 years.

#### **I. Account Aggregators**

1. Provide details infrastructure shall include details about the IT systems.
2. Details about past experience in account aggregation activities, particularly during the last 3 years.

**Declaration [Applicable for all categories of applicants]**

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true to our knowledge.

We further agree that, we shall notify the International Financial Services Centres Authority (IFSCA) immediately of any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the International Financial Services Centres Authority Act, 2019, and the regulations, circulars, guidelines and instructions thereunder as issued by IFSCA from time to time.

We further agree that as a condition of recognition, we shall abide by such instructions or directives as may be issued by IFSCA from time to time.

For and on behalf of (Please insert name of the applicant)

Authorised signatory

(Name)(Signature)

Date:

Place:

## Part II

### Simplified Application Form

S. No.	Parameters	Information by applicant
1.	Name of the applicant	
2.	Activity for which application is being made	
3.	Address of the registered office  Address for correspondence  Telephone numbers  Name, telephone number (mobile and direct line) and e-mail address of the contact person (Designated officer / principal officer only)	
4.	Legal status of the applicant  Law under which it is incorporated/established/registered  If listed, names on stock exchanges on which it is listed	
5.	Date and place of incorporation or establishment  Date of commencement of business  <i>Please enclose:</i> <ul style="list-style-type: none"><li>○ <i>certificate of incorporation,</i></li><li>○ <i>memorandum of association</i></li><li>○ <i>articles of association</i></li><li>○ <i>partnership deed / trust deed</i></li><li>○ <i>provide statutory provisions or any other constitutional documents under which incorporated or established</i></li></ul>	

6.	<p>Whether present in IFSC in the form of branch or established/ incorporated in IFSC?</p> <p>If established in the form of branch, provide a declaration that the operations of the branch in IFSC would be ring fenced with the operations of outside IFSC</p>	
9.	<p>Details such as name, designation, business address, telephone number, e-mail address of the principal officers and board of directors / partners / proprietor/ Trustee</p>	
10.	<p>Net worth as per the latest audited financial statements of the applicant</p> <p><i>Please enclose net worth certificate (not older than six months as on the date of application) by a chartered accountant or its equivalent under the laws in force of the jurisdiction in which the applicant is registered or incorporated.</i></p>	
11.	<p>Provide details of registration (registration number, registration date, validity date) with any other regulatory authority in the same category.</p> <p><i>Please enclose a copy of the certificate of registration</i></p>	

**#A declaration regarding compliance with fit and proper requirements specified in these regulations shall be provided by all the applicants.**

**Additionally, with respect to Portfolio Managers and Investment Advisers, declaration shall be provided regarding compliance with qualification and certification requirements specified in these regulations;**

**Declaration [Applicable for all categories of applicants]**

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true to our knowledge.

We further agree that, we shall notify the International Financial Services Centres Authority (IFSCA) immediately of any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the International Financial Services Centres Authority Act, 2019, and the regulations, circulars, guidelines and instructions thereunder as issued by IFSCA from time to time.

We further agree that as a condition of recognition, we shall abide by such instructions or directives as may be issued by IFSCA from time to time.

For and on behalf of (Please insert name of the applicant)

Authorised signatory

(Name)(Signature)

Date:

Place:

## Schedule II

### Net worth requirements

S. No.	Category	Net worth	
		Entities incorporated in India (including IFSC)	Foreign Entities
1	Broker dealer	As specified by recognised stock exchange	As specified by recognised stock exchange, subject to minimum of USD 135,000
2	Clearing Member	As specified by recognised clearing corporation	As specified by recognised clearing corporation, subject to minimum of USD 1,350,000
	Self clearing member	As specified by recognised clearing corporation	As specified by recognised clearing corporation, subject to minimum of USD 675,000
3	Depository Participant	As specified by depository	As specified by depository
4	Investment Banker	USD 750,000	USD 1.5 million
5	Portfolio Manager	USD 750,000	USD 1.5 million
6	Investment Adviser	USD 700,000	USD 1.5 million
7	Custodian	USD 7 million	USD 7 million (If entity is already registered and regulated as custodian in a FATF compliant jurisdiction)
			USD 35 million (If entity is already registered and regulated as any other capital market intermediary in a FATF compliant jurisdiction)
			USD 70 million (Entities not falling under the above categories)
8	Credit Rating Agency	USD 3 million	USD 6 million
9	Debenture Trustee	USD 1.5 million	USD 3 million
10	Account aggregator	USD 750,000	USD 1.5 million



## **SCHEDULE III**

### **CODE OF CONDUCT**

#### **Part A – Code of Conduct applicable to all capital market intermediaries**

A capital market intermediary:

1. Shall make all efforts to protect the interest of investors and render the best possible advice to the clients having regard to the needs of the clients, environment and its own professional skills.
2. Shall in the conduct of its business, observe high standards of integrity and fairness and fulfil its obligations in a prompt, ethical and professional manner.
3. Shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.
4. Shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.
5. Shall not create false market either singly or in collusion with other intermediaries or the issuer in a manner that is detrimental to the interests of investors, or which leads to interference with the fair and smooth functioning of the market.
6. Shall endeavour to ensure that inquiries and grievances of the investors are dealt with in a timely and appropriate manner.
7. Shall not make any exaggerated statement either oral or in written form to the client about its capability, qualification and achievement in regard to services rendered to the client.
8. Shall maintain confidentiality with respect to the information about its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.
9. Shall avoid conflict of interest and make adequate disclosure of its possible conflict of interest and duties and shall put in place a mechanism to resolve any conflict-of-interest situation.
10. Shall not indulge in any unfair competition, which is likely to harm the interests of other capital market intermediaries and investors.
11. Shall not discriminate amongst its clients, save and except on ethical and commercial considerations.
12. Shall ensure that any change in registration status/any penal action taken by Authority or any material change in financials which may adversely affect the interests of clients/investors is promptly informed to the clients.

13. Shall inform the Authority promptly about any action initiated against it in respect of material breach or non-compliance of any law, regulations and direction issued by the Authority or any other regulatory body.
14. Shall ensure that it and any of its employees shall not render, directly or indirectly any investment advice about any security in the publicly accessible media, unless a disclosure of its interest in the said security has been made while rendering such advice.
15. Shall ensure that it or any of its directors, or employees having power of management shall not either on its own account or through their relatives or friends indulge in insider trading.
16. Shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.
17. Shall have internal control procedures and financial and operational capabilities adequate enough to protect the clients and investors from financial loss arising from theft, fraud, omissions and professional misconduct.
18. Shall develop its own internal code of conduct for governing its internal operations and conduct of its employees.
19. Shall ensure that the compliance officer / Designated Officer has adequate freedom and power for effective discharge of his duties.
20. Shall ensure that any person it employs or appoints is a fit and proper person and otherwise qualified to act in the capacity so employed or appointed.
21. Shall not be a party to or instrumental for:
  - (a) creation of false market;
  - (b) price rigging or manipulation;
  - (c) passing of unpublished price sensitive information to any other intermediary or any person, in respect of any securities which are listed and proposed to be listed in any stock exchange.
22. The senior management of a capital market intermediary shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the intermediary.
23. Shall not make untrue statement or suppress any material fact in any documents, reports or information furnished to the Authority.

## **Part B**

In addition to compliance with the code of conduct as specified in Part A of this Schedule, the following capital market intermediaries shall abide by the following code of conduct:

### **A. A broker dealer or a clearing member:**

1. Shall abide by all the provisions of the Act and the rules, regulations issued by the Government of India, the Authority and the recognised stock exchange / recognised clearing corporation from time to time as may be applicable to him.
2. Shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.
3. Shall faithfully execute the orders for buying and selling of securities at the best available price and not refuse to deal with a small investor merely on the ground of the volume of business involved.
4. Shall promptly inform its client about the execution or non-execution of an order, and make prompt payment in respect of securities sold and arrange for prompt delivery of securities purchased by its clients.
5. Shall issue without delay to its client a contract note for all transactions in the form specified by the stock exchange.
6. Shall not encourage sales or purchases of securities with the sole object of generating brokerage or commission.
7. Shall not furnish false or misleading quotations or give any other false or misleading advice or information to the clients with a view of inducing them to do business in particular securities and enabling itself to earn brokerage or commission thereby.
8. Shall not deal or transact business knowingly, directly or indirectly or execute an order for a client who has failed to carry out its commitments in relation to securities with another broker dealer.
9. Shall not advertise its business publicly unless permitted by the stock exchange.
10. Shall not resort to unfair means of inducing clients from other broker dealer.

### **B. A depository participant:**

1. Shall not increase charges/fees for the services rendered without proper advance notice to the beneficial owners.
2. Shall be prompt and diligent in opening of a beneficial owner account, dispatch of the dematerialisation request form, rematerialisation request form and execution of debit

instruction slip and in all the other activities undertaken by it on behalf of the beneficial owners.

3. Shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. It shall also ensure that for electronic records and data, up-to-date back up is always available with it.
4. Shall ensure that it has satisfactory internal control procedures in place as well as adequate financial and operational capabilities which can be reasonably expected to take care of any losses arising due to theft, fraud and other dishonest acts, professional misconduct or omissions.

**C. An investment banker:**

1. Shall ensure that adequate disclosures are made to the investors in a timely manner in accordance with the applicable regulations and guidelines so as to enable them to make a balanced and informed decision.
2. Shall endeavour to ensure that the investors are provided with true and adequate information without making any misleading or exaggerated claims or any misrepresentation and are made aware of the attendant risks before taking any investment decision.
3. Shall ensure that copies of the prospectus, offer document, letter of offer or any other related document is made available to the investors at the time of issue or the offer.
4. Shall not discriminate amongst its clients, save and except on ethical and commercial considerations.
5. Shall maintain arms-length relationship between its investment banking activity and any other activity.
6. Shall demarcate the responsibilities of the various intermediaries appointed by it clearly so as to avoid any conflict or confusion in their job description.

**D. A banker to an issue:**

1. Shall not allow blank application forms bearing brokers stamp to be kept at the bank premises or peddled anywhere near the entrance of the premises.
2. Shall not accept applications after office hours or after the date of closure of the issue or on bank holidays.
3. Shall not part with the issue proceeds until listing permission is granted by the stock exchange to the body corporate.
4. Shall not delay in issuing the final certificate pertaining to the collection figures to the lead manager and the body corporate.

**E. A portfolio manager:**

1. Shall ensure that the money received from the client for an investment purpose is deployed as soon as possible for that purpose and money due and payable to a client is paid forthwith.
2. Shall not execute any trade against the interest of the clients in its proprietary account.
3. Shall obtain in writing, interest of the client in various corporate bodies which enables such client to obtain unpublished price sensitive information of such corporate bodies.
4. Shall where necessary and in the interest of the client, take adequate steps for the transfer of the clients' securities and for claiming and receiving dividends, interest payments and other rights accruing to the client.
5. Shall take necessary action for conversion of securities and subscription for renunciation of rights in accordance with the clients' instruction.
6. Shall not use its status as any other registered intermediary to unduly influence the investment decision of the clients while rendering portfolio management services.
7. Shall not make any statement or indulge in any act, practice or unfair competition, which is likely to be harmful to the interests of other portfolio managers or is likely to place such other portfolio managers in a disadvantageous position in relation to the portfolio manager himself, while competing for or executing any assignment.
8. Shall endeavor to –
  - a. ensure that the investors are provided with true and adequate information without making any misguiding or exaggerated claims and are made aware of attendant risks before any investment decision is taken by them;
  - b. render the best possible advice to the client having regard to the client's needs and the environment, and his own professional skills; and
  - c. ensure that all professional dealings are effected in a prompt, efficient and cost effective manner.

**F. An investment adviser:**

1. Shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.
2. Shall make adequate disclosures of relevant material information while dealing with its clients.

3. Shall ensure that fees charged to the clients is fair and reasonable.

**G. A custodian:**

1. Shall be prompt in distributing dividends, interest or any such accruals of income received or collected by him on behalf of his clients on the securities held in custody.
2. Shall be continuously accountable for the movement of securities or goods financial products in and out of the custody account, deposit, and withdrawal of cash from the client's account and shall provide complete audit trail, whenever called for by the client or the Authority.
3. Shall establish and maintain adequate infrastructural facility to be able to discharge custodial services to the satisfaction of clients, and the operating procedures and systems of the custodian shall be well documented and backed by operations manuals.
4. Shall take precautions necessary to ensure that continuity in record keeping is not lost or destroyed and that sufficient back up of records is available.
5. Shall create and maintain the records of securities held in custody in such manner that the tracing of securities or obtaining duplicate title documents is facilitated, in the event of loss of original records for any reason.
6. Shall extend to other custodial entities, depositories and clearing organizations all such co-operation that is necessary for the conduct of business in the areas of inter custodial settlements, transfer of securities and transfer of funds.
7. Shall ensure that an arms length relationship is maintained, both in terms of staff and systems, from his other businesses.
8. Shall exercise due diligence in safe-keeping and administration of the assets of his clients in his custody for which he is acting as custodian.

**H. A credit rating agency:**

1. Shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment in order to achieve and maintain objectivity and independence in the rating process.
2. Shall maintain an arm's length relationship between its credit rating activity and other activities.
3. Shall have a reasonable and adequate basis for performing rating evaluations, with the support of appropriate and in depth rating researches. It shall also maintain records to support its decisions.

4. Shall have in place a rating process that reflects consistent and international rating standards
5. Shall disclose its rating methodology to clients, users and the public.
6. Shall not indulge in any unfair competition nor shall it wean away the clients of any other rating agency on assurance of higher rating.
7. Shall keep track of all important changes relating to the client companies and shall develop efficient and responsive systems to yield timely and accurate ratings. Further a credit rating agency shall also monitor closely all relevant factors that might affect the creditworthiness of the issuers.
8. Shall, wherever necessary, disclose to the clients, possible sources of conflict of duties and interests, which could impair its ability to make fair, objective and unbiased ratings. Further it shall ensure that no conflict of interest exists between any member of its rating committee participating in the rating analysis, and that of its client.
9. Shall ensure that there is no misuse of any privileged information including prior knowledge of rating decisions or changes.
10. Shall develop its own internal code of conduct for governing its internal operations and laying down its standards of appropriate conduct for its employees and officers in the carrying out of their duties within the credit rating agency and as a part of the industry.

**I. A debenture trustee:**

1. Shall ensure that adequate disclosures are made to the debenture holders, in a comprehensible and timely manner so as to enable them to make a balanced and informed decision.
2. Shall take all reasonable steps to establish the true and full identity of each of its clients, and of each client's financial situation and maintain record of the same.
3. Shall share information available with it regarding client companies, with credit rating agencies.
4. Shall make reasonable efforts to avoid misrepresentation and ensure that the information provided to the debenture holders is not misleading.

**J. An account aggregator:**

1. Shall ensure to maintain data privacy in accordance with the applicable laws.
2. Shall not part with any information that it may come to acquire from/ on behalf of a customer.

3. Shall ensure maintain arms-length relationship between its account aggregation activity and any other activities.