

November 2024 | ISSUE 11 INDIA REGULATORY ROUND UP

Monthly Newsletter from Compliance Matters

Resilience indicates that in addition to weathering the storm, the financial system is able to adapt to the newer realities and thrive in it so that it remains a pillar of trust and stability.

-Shri Swaminathan J, Deputy Governor

Amendment to the Master Direction - Know Your Customer (KYC) Direction, 2016

The Master Direction on Know Your Customer (KYC), 2016 has been amended to align with recent changes in the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, and updates to the Unlawful Activities (Prevention) Act (UAPA),1967.

Notable amendments include applying the Customer Due Diligence (CDD) process for existing KYC-compliant customers at the UCIC level for opening a new account/availing of a product or service without a fresh CDD exercise. Besides using the KYC identifier at the time of establishing an account based relationship, periodic updation/verification of identity customer to obtain KYC records of customer online instead of obtaining same KYC records, and more specific instructions for sharing KYC information with the Central KYC Records Registry (CKYCR).

Operational framework for reclassification of Foreign Portfolio Investment to Foreign Direct Investment (FDI)

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Operational framework for reclassification of Foreign Portfolio Investment to Foreign Direct Investment (FDI)

RBI and SEBI have introduced a framework for reclassifying Foreign Portfolio Investors (FPI) investments as FDI if the FPI, with its investor group, exceeds a 10% ownership threshold in an Indian company. Reclassification is prohibited in FDI-restricted sectors.

FPIs must divest or reclassify excess holdings within five trading days or face automatic FDI classification.

FPIs exceeding limits must secure government and investee company approvals for compliance. Once reclassified, investments follow FDI rules, even if holdings drop below 10%. Custodians must report intent to SEBI, freeze further purchases, and transfer holdings to FDI accounts after meeting RBI reporting requirements.

Fully Accessible Route' for Investment by Non-residents in Government Securities - Inclusion of Sovereign Green Bonds

This circular announces the inclusion of 10-year Sovereign Green Bonds, issued by the Government in the second half of FY 2024-25, as 'specified securities' under the Fully Accessible Route (FAR) for investment by non-residents.

These bonds, part of the issuance calendar released by the RBI for October 2024 - March 2025, are fully accessible to both domestic and non-resident investors.

Reporting of Foreign Exchange Transactions to Trade Repository

The RBI has revised its reporting requirements for foreign exchange (FX) transactions to enhance the (CCIL). completeness of transaction data in the Trade Repository (TR) of the Clearing Corporation of India Ltd. Authorized Dealers must now report not only OTC foreign exchange derivatives and foreign currency

interest rate derivative contracts but also foreign exchange spot, tom, and cash deals.

Authorized Dealers are responsible for accurate reporting, reconciling outstanding balances, and adhering to audit requirements.

Reporting Requirements:

- Inter-bank FX Contracts: Effective from February 10, 2025, with INR-based contract to be reported in hourly batches within 30 minutes of the end of the hour, and non-INR executed by 5 pm, to be reported by 5.30 pm.
- Client FX Contracts: Phased reporting for transactions over USD 1 million required by May 12, 2025, and those over USD 50,000 by November 10, 2025, to be done by noon of the following business day.

<u>Disclosure of expenses, half yearly returns, yield and risk-o-meter of schemes of Mutual Funds</u>

SEBI has directed mutual funds (MFs) to disclose expenses, yearly returns, yield, and risk-o-meter of mutual fund schemes for direct and regular plans separately. This move aims to increase transparency, allowing investors to easily compare the cost performance of the two types of plans, Further, to make the risk levels of MF schemes clearer, SEBI has introduced a colour-coded system for the existing risk-o-meter. The circular shall be effective from December 5, 2024.

<u>Valuation of repurchase (repo)</u> transactions by Mutual Funds.

SEBI has revised valuation norms for

repo transactions by mutual funds. Repo transactions, including tri-party repo i.e. TREPS, with a tenor of up to 30 days will now be valued on a mark-to-market basis to ensure uniformity and prevent regulatory arbitrage. Short-term deposits with banks will continue to be valued on a cost-plus-accrual basis. Additionally, valuation of all repo transactions, except overnight repos, must be obtained from valuation agencies.

<u>Simplified registration for Foreign Portfolio Investors</u> (FPIs)

SEBI mandates FPI applicants to submit a Common Application Form (CAF) and supporting documents for registration, but categories with pre-existing FPI registration can use an abridged version of the CAF. The abridged CAF allows these applicants to fill only unique fields, with other information auto-populated from the depository's CAF module, streamlining the application process. Applicants must consent to the use of pre-existing data and confirm that unchanged details remain accurate; DDPs will update and maintain complete CAF records. Implementation standards will be developed by Custodians and Designated Depository Participants Standards Setting Forum (CDSSF) in consultation with SEBI, and relevant systems must be updated within three months to comply.

<u>Investments in Overseas Mutual Funds/ Unit Trusts</u> by Indian Mutual Funds

Indian Mutual Fund schemes can invest in overseas Mutual Funds (MF) or Unit Trusts (UT), as long as their exposure to Indian securities does not exceed 25%. Key requirements for such investments include:

- Pooling: Contributions are pooled into a single vehicle with no segregated portfolios.
- Pari-passu & Pro-rata: Investors share returns proportionately, without individual-specific portfolios.
- Independent Management: The overseas MF/UT is managed autonomously, without direct or indirect influence from the Indian MF.
- Public Disclosure: The overseas MF/UT must disclose its portfolio at least quarterly.
- No Advisory Agreement: No advisory agreement should exist between the Indian MF and the overseas MF/UT to prevent conflicts of interest.
- Monitoring & Rebalancing: The Indian MF must ensure the exposure to Indian securities stays within the 25% limit. If exceeded, a 6-month observation period is allowed for rebalancing

Penalty corner

Imposed a ₹59.20 lakh penalty on South Indian Bank for non-compliance with directions on 'Interest Rate on Deposits' and 'Customer Service in Banks.' The violations included:

- Charging penal fees for non-maintenance of minimum balance without notifying certain customers.
- Marking liens on some NRE savings deposit accounts.

Imposed a ₹61.40 lakh penalty on RBL Bank for non-compliance with 'Know Your Customer' norms, including:

- Failing to obtain prescribed Officially Valid Documents (OVDs) for some credit card accounts.
- Assigning multiple Customer Identification Codes instead of a Unique Customer Identification Code (UCIC) for certain customers.

Imposed a ₹25,000 penalty on GPT Sons Pvt. Ltd. for violating Section 45IC of the RBI Act, 1934. The company failed to transfer 20% of its net profit to the Statutory Reserve for FYs 2011-12, 2012-13, 2017-18, and 2020-21, as of March 31, 2023.

Imposed a ₹4.50 lakh penalty on Maxvalue Credits and Investments for breaching NBFC guidelines, including:

- Changing shareholding beyond 26% of paid-up equity without RBI's approval.
- Redeeming subordinated debts without RBI's consent.
- Accepting public deposits via subordinated debts/nonconvertible debentures despite being a non-deposit taking NBFC.
- Omitting required disclosures in Annual Financial Statements.

Amendment to Para 15 of Master Circular for Credit Rating Agencies (CRAs) dated May 16, 2024 ("Master Circular")

SEBI has updated the Master Circular for Credit Rating Agencies by refining policies on default recognition and removing 'technical default' from policy considerations.

It mandates CRAs to verify payment failures due to factors beyond issuer controls, such as dormant investor account or regulatory freezes, and requires these payments to be directed into escrow accounts. Additionally the circular emphasizes uniform application of CRA policies and enhances transparency by requiring CRAs to share detailed payment failure data with stakeholders.

Withdrawal of Master Circular on issuance of No Objection Certificate (NOC) for release of 1% of Issue Amount

The requirement for issuer companies to deposit 1% of the issue size available for public subscription with the designated stock exchange under Regulation 38(1) of SEBI (ICDR) Regulations, 2018, has been removed to facilitate ease of doing business. Stock Exchanges are required to frame a joint Standard Operating Procedure (SoP) for the release of 1% security deposits previously deposited by issuers before the ICDR Regulation amendments.

Compliance Matters is an independent advisory firm on regulatory compliance to Banks and other regulated financial institutions. We are a group of senior ex-banking regulators/compliance officers/bankers combining several decades of experience and expertise around banking and financial service regulations and related compliance frameworks. We engage with Banks/Financial Institutions and with Digital/FinTech innovators, to help them embrace and navigate emerging and increasingly complex regulations as well as design and implement adherence to frameworks and systems.

