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SEBI seeks more info on FII ownership

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MUMBAI: The Securities and Exchange Board of India (Sebi) has directed foreign institutional investors (FIIs) and sub-accounts to disclose more information about their investment structure in India. The stock market regulator has asked these entities, which are registered on or before April 7, to declare whether they are a multi-class share vehicle (MCV) or not, and that they are not structured as protected cell companies (PCCs) or segregated portfolio companies (SPCs).

ET had reported on February 1 that Sebi had put on hold registration of close to 50 investors organised as 'multi-class share entities' in tax havens, including Mauritius. The regulator was concerned that these may be vehicles for round-tripping of funds by domestic residents.

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A multi-class structure, similar to the one of a mutual fund, offers clients a variety of schemes with different investment strategies under an umbrella asset management company. The regulator is concerned that it will not have control over different pools or cells under the umbrella entity that is registered as an FII or a sub-account to invest in India. Also, it can keep adding new pools outside the regulatory purview and encourage channelling local money through tax havens.

It is learnt that some domestic companies and affluent individuals route their money parked abroad through such structures and ramp up share prices of their firms. In many cases, the investment strategies of some of the cell structures are dictated by the very entities which invest the money.

The regulator's move is likely to have been prompted also by recent instances of misreporting of transactions by FIIs like Barclays and Societe Generale. In both the cases, FIIs had issued participatory notes to Hythe Securities, which were then onward-issued to Pluri Emerging, a protected cell company.

"The move could impact 'single entity multiple funds' structures wherein fund houses have launched multiple funds under the same corporate entity," says Divaspati Singh, senior associate, Nishith Desai Associates. "Earlier, a broad-based test was applied on the entity level, now it'll have to be satisfied at each specific fund level. Many entities may find it difficult to satisfy the broad-based test at each specific fund level since it may comprise only a handful of individual investors," Mr Mr Singh said.

He said that it would also place a blanket embargo on entities structured as non-discretionary portfolio structures with only a single investor in each share class with a distinct portfolio. The new move by Sebi is likely to stop all forms of non-discretionary portfolio management structures, with multiple share classes having a distinct portfolio offered to individual investors. Besides, each specific fund/share class having a distinct portfolio would have to satisfy the broad-based test.

The regulator has also put additional fetters on new fund launches from the same entity which would require a prior approval from it, which, according to lawyers, may unreasonably delay the process. To satisfy the broad-based test, the entity should have at least 20 investors, with each investor not holding more than 49%.