Business Standard
Friday, Apr 16, 2010

Sebi tightens norms for FIIs

BS Reporter / Mumbai April 16, 2010, 0:26 IST

Bans protected cell companies, seeks broad-based holdings.

The Securities and Exchange Board of India (Sebi) today asked foreign institutional investors (FIIs) to stop using complex structures of protected cell companies and segregated portfolio companies. In addition, it mandated that the investor base be broad based in case of multi-class share vehicles.

The twin moves are part of the market regulator's plan to curb potential round-tripping through FIIs and also increase transparency.

From now on, all FIIs, whether already registered or not, will have to undertake that they do not follow a protected cell company or segregated portfolio company structure.

Protected cell companies are entities with several cells within the same vehicle. A cell has its own assets, liabilities, a cellular capital, dividends and accounts. Each cell functions as an independent unit within the overall set-up and the debtors and creditors of each cell have no claims against the assets or liabilities of another cell.

Besides, Sebi said FIIs declaring that they were not multi-class share vehicles (MCV) would need to ensure that they had only one category of investors, also referred to as single class of shares.

For those that use the MCV model, there are two routes. The first option is to have a common portfolio, where there need to be at least 20 investors at the FII level. The second route that could be used is to have a segregated portfolio for each class of investors, provided each class has at least 20 investors. Any change in the structure or an addition of classes will require a prior regulatory approval.

Sebi further said any addi ion of share classes would have to adopt the broad-based criteria by having at least 20 investors.

The move was aimed at checking possible misuse of norms for round-tripping, said Diwaspati Singh, senior associate at Nishith Desai Associates, a law firm. FIIs that were registered before April 7 have time till the end of September to comply with the norms.

In a report, Nishith Desai Associates said the moves would result in restricting the ability of fund managers to offer shares on a non-discretionary basis in addition to improving surveillance by Sebi. Further, it would ensure that all class of investors follow broad-based criteria.

In the latter part of last year, Sebi had started scrutinising applications seeking registration of fund vehicles as MCVs. It had also put some applications on hold, but later cleared them after asking them to ensure that there were no distinct class of shares.