

Corpsec Hotline

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SEBI RAISES FII FEES, REDUCES TIME VALIDITY OF REGISTRATION

The Securities and Exchange Board of India (SEBI) pursuant to its notification dated June 26, 2006, has amended the SEBI (Foreign Institutional Investors) Regulations, 1995 ("FII Regulations").

Validity of registration

Regulation 3 under the FII Regulations prohibits any person to buy, sell or otherwise deal in securities as a FII unless he holds a certificate granted by the SEBI. As per the amended Regulation 8 as stated in the notification, the certificate and each renewal thereof shall now be valid for a period of **three** years (down from five years prior to the aforesaid notification).

Implication and effect

All FIIs will now be required to renew their registration earlier than before. This move appears to be an attempt by SEBI to review the registrations granted at a 3 year interval, as opposed to the current 5 year interval, thereby enhancing SEBI oversight of the same.

Change in fees

The registration fee required to be paid by every applicant (FII), post the aforesaid notification, for grant of certificate is US \$ 10,000 (up from US\$ 5,000) and registration fee required for purposes of registration of sub account now stands at US \$ 2000 (up from US\$ 2,000). Therefore, in effect there has been a 100 % increase in the respective registration fees required to be paid by the FIIs to the SEBI

Implications and effect

In absolute terms, when judged against the returns booked by FIIs through investment, this increase is small one. The increase is being viewed as an attempt by SEBI to increase its revenue, as well as ensure that only bona fide applicants of appropriate standing apply for registration.

Expansion of investment options

Another significant change that has been brought about in the Regulations, is with respect to areas into which the FIIs can make investments, provided under Regulation 15 of the FII Regulations.

As per the notification, the FIIs can now invest in "security receipts" as well. As a further relaxation, the condition requiring an FII to invest at least 70% in equity and equity related instrument shall **not** apply to investments made by foreign institutional investors in "security receipts" issued by securitisation companies or asset reconstruction companies under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the rules made under the same. Further, the purchase or sale of "security receipts" by the FII is not required to be through a registered sub broker, therefore occasioning a specific amendment to Regulation 3(c) of the FII Regulations

However, the amendments also prohibit an FII from investing in security receipts on behalf of its sub-accounts.

Implication and effect

This amendment appears to be a result of the focus on attracting capital into India for financial reconstruction. The amendment allows FII to expand the range of their investments, and lowers the transaction cost in acquiring such securities

- **Kartik Ganapathy & Anupam Prasad**

You can direct your queries or comments to the authors

Source: SEBI's Notification dated June 26, 2006

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