



CIRCULAR

SEBI/HO/IMD/DF1/CIR/P/2019/066

May 22, 2019

To,

**All Recognised Stock Exchanges
All Custodians of Securities
All Portfolio Managers**

Dear Sir / Madam,

Sub: Participation of Portfolio Managers in Commodity Derivatives Market in India

1. In order to promote institutional participation in the Exchange Traded Commodity Derivatives, SEBI has permitted Category III Alternative Investment Funds to participate in Exchange Traded Commodity Derivatives vide Circular dated June 21, 2017. In furtherance to this objective, and in supersession to Circular SEBI/HO/CDMRD/DMP/P/CIR/2016/100 dated September 27, 2016 Portfolio Managers are now permitted to participate in Exchange Traded Commodity Derivatives on behalf of their clients.
2. It would be mandatory for Portfolio Managers to appoint SEBI registered Custodian before dealing in Exchange traded Commodity Derivatives. Further, a copy of the [Gazette Notification No. SEBI/LAD-NRO/GN/2019/17](#) dated May 10, 2019 on Amendments to SEBI (Portfolio Managers) Regulations, 1993 is enclosed.
3. The participation of Portfolio Managers in the exchange traded commodity derivatives would be subject to the following:
 - 3.1. Portfolio Managers may participate in Exchange Traded Commodity Derivatives on behalf of their clients and such participation shall be in compliance with all the rules, regulations including SEBI (Portfolio Managers) Regulations, 1993 and circulars/guidelines and position limit norms as may be applicable to 'clients', issued by SEBI and Exchanges from time to time.
 - 3.2. Portfolio Managers may participate in Exchange Traded Commodity Derivatives after entering into an agreement with the clients. Portfolio Managers may execute addendums to the agreement with their existing



clients, permitting the Portfolio Managers to participate in the Exchange Traded Commodity Derivatives on their behalf.

- 3.3. Portfolio Managers shall provide adequate disclosures in the Disclosure Document as well as the agreement with the client pertaining to their participation in the Exchange Traded Commodity Derivatives, including but not limited to the risk factors, margin requirements, position limits, prior experience of the Portfolio Manager in Exchange Traded Commodity Derivatives, valuation of goods etc.
 - 3.4. In case dealing in Commodity derivatives lead to delivery of physical goods, there is a possibility that, the Portfolio Manager remains in possession of the physical commodity. In such cases, the goods need to be disposed off at the earliest, within the timelines as agreed upon between the client and the Portfolio Manager. The responsibility of liquidating the physical goods shall be with the Portfolio Manager.
 - 3.5. Since Foreign Portfolio Investors are not allowed to participate in the Exchange Traded Commodity Derivatives market, Portfolio Managers shall not onboard Foreign Portfolio Investors until such time as they are permitted to participate in Exchange Traded Commodity Derivatives market.
 - 3.6. Portfolio Managers shall also provide periodic reports to the clients as per Regulation 21 of SEBI (Portfolio Managers) Regulations, 1993 regarding their exposure in Exchange Traded Commodity Derivatives.
 - 3.7. Portfolio Managers shall report the exposure in Exchange Traded Commodity Derivatives under the heading of 'Commodity Derivatives' in the monthly reports submitted to SEBI.
4. The provisions of this circular shall come into effect from the date of the circular.
 5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

6. The Exchanges are advised to:
- i. make necessary amendments to the relevant bye-laws, rules and regulations.
 - ii. bring the provisions of this circular to the notice of the members of the Exchange and also to disseminate the same on their website.
 - iii. communicate to SEBI, the status of the implementation of the provisions of this circular.
7. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars", "Info for Commodity Derivatives" and "Info for Portfolio Managers".

Yours faithfully,

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THE GAZETTE OF INDIA
EXTRAORDINARY
PART III – SECTION 4
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SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION
Mumbai, the 10th of May, 2019

SECURITIES AND EXCHANGE BOARD OF INDIA (PORTFOLIO MANAGERS)
(AMENDMENT) REGULATIONS, 2019

No. SEBI/LAD-NRO/GN/2019/17 - In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, namely –

1. These Regulations may be called the Securities and Exchange Board of India (Portfolio Managers) (Amendment) Regulations, 2019.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, -
 - I. in regulation 2, -
 - i. for clause (af), the following clauses shall be substituted, namely,-

“(af) “custodian” means a person who has been granted a certificate of registration to carry on the business of custodian under the Securities and Exchange Board of India (Custodian) Regulations, 1996;

(ag) “discretionary portfolio manager” means a portfolio manager who exercises or may exercise, under a contract relating to portfolio management, any degree of discretion as to the investments or management of the portfolio of securities or the funds of the client, as the case may be;”

ii. after clause (b) and before clause (c), the following clause shall be inserted, namely, -

“(ba) “goods” means the goods notified by the Central Government under clause (bc) of section 2 of the Securities Contracts (Regulation) Act, 1956 and forming the underlying of any commodity derivative;”

iii. in clause (ca), after the word “securities” and before the word “belonging”, the words “and goods” shall be inserted;

iv. in clause (cb), -

a. after the word “securities” and before the word “or”, the words “or goods” shall be inserted;

b. the following proviso shall be inserted, namely,-

“Provided that the Portfolio Manager may also deal in goods received in delivery against physical settlement of commodity derivatives.”

v. for clause (ea), the following clauses shall be substituted, namely,-

“(ea) “securities” mean securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(eb) “securities lending” means the securities lending as per the Securities Lending Scheme, 1997 specified by the Board;”

- II. in regulation 14, in sub-regulation (1), in clause (b), in sub-clause (xii), after the word “securities” and before the symbol “;”, the words “and goods” shall be inserted;
- III. in regulation 16B, after sub-regulation (2), following sub-regulation shall be inserted, namely,-
“(3) Every Portfolio Manager who deals in commodity derivatives shall appoint a custodian.”
- IV. in regulation 21, in sub-regulation (1), in clause (a), -
- a. after the word “of security” and before the word and symbol “, number”, the words “and goods” shall be inserted;
 - b. after the word “in the portfolio” and before the word and symbol “, cash”, the words and symbol “, units of goods, value of goods” shall be inserted;

sd/-

AJAY TYAGI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnote:

1. The Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 were issued under S.O. No. SEBI/LE/93/III dated January 7, 1993 published in the Gazette of India, Part II, Section 3(ii) dated January 7, 1993.

2. The Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 were subsequently amended on,–

- (1) November 28, 1993 by, SEBI (Portfolio Managers) (Amendment) Regulations, 1993 published in the Official Gazette vide S.O.No. 939(E).
- (2) November 28, 1995 by SEBI (Payment of Fees) (Amendment) Regulations, 1995 vide S.O No.939 (E).
- (3) January 05, 1998 by SEBI (Portfolio Managers) (Amendment) Regulations, 1998 published in the Official Gazette vide S.O.No. 20 (E).
- (4) September 30, 1999 by SEBI (Portfolio Managers) (Amendment) Regulations, 1999 published in the Official Gazette vide S.O. No. 793 (E)
- (5) February 22, 2000 by SEBI (Portfolio Managers)(Amendment) Regulations, 2000 published in the Official Gazette vide S.O. No. 146 (E).
- (6) March 28, 2000 by SEBI (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000 published in the Official Gazette vide S.O no. 278(E).
- (7) May 29, 2001 by SEBI (Investment Advice by Intermediaries)(Amendment) Regulations, 2001 vide S.O no. 476(E).
- (8) September 27, 2002 by SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 vide S.O. No. 1045 (E).
- (9) October 11, 2002 by SEBI (Portfolio Managers) (Amendment) Regulations, 2002 vide S.O no. 1087 (E)
- (10) March 10, 2004 by the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 vide S.O. No. 398(E). on June 11, 2002 by the Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2002 vide S.O. No.625 (E).
- (11) May 27, 2004 by SEBI (Portfolio Managers) (Amendment) Regulations, 2004 vide S.O no. 654 (E).
- (12) July 5, 2006 by SEBI (Portfolio Managers) (Amendment) Regulations, 2006 vide S.O no. 997 (E).
- (13) September 7, 2006 by SEBI (Portfolio Managers) (Second Amendment) Regulations, 2006 vide S.O no. 1450 (E).
- (14) November 30, 2006 by SEBI (Portfolio Managers) (Third Amendment) Regulations, 2006 vide S.O No. 2053 (E).
- (15) May 26, 2008 by the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 vide Notification No. LAD/NRO/GN/2008/11/126538.
- (16) August 11, 2008 by SEBI (Portfolio Managers) (Amendment) Regulations, 2008 vide Notification No. LAD-NRO/GN/2008/19/134764.
- (17) February 10, 2012 by SEBI (Portfolio Managers) (Amendment) Regulations, 2012 vide Notification No. LAD-NRO/GN/2011-12/37/3689.
- (18) January 02, 2017 by SEBI (Portfolio Managers) (Amendment) Regulations, 2016 vide Notification No. SEBI/LAD/NRO/GN/2016-17/019.
- (19) March 06, 2017 by Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/037.
