

**SECURITIES AND EXCHANGE BOARD OF INDIA (PORTFOLIO MANAGERS)
REGULATIONS, 1993**

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SECURITIES AND EXCHANGE BOARD OF INDIA (PORTFOLIO MANAGERS) REGULATIONS, 1993

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board with the previous approval of the Central Government, hereby makes the following regulations, namely :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement :-

(1) These regulations may be called the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

In these regulations, unless the context otherwise requires,-

1(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(aa) "body corporate" shall have the meaning assigned to it in or under clause (7) of Sec. 2 of the Companies Act, 1956 (1 of 1956);

(ab) "certificate" means a certificate of registration issued by the Board;

(ac) "change of status or constitution" in relation to a portfolio manager

'(i) means any change in its status or constitution of whatsoever nature; and

(ii) without prejudice to generality of sub-clause (i), includes

(A) amalgamation, demerger, consolidation or any other kind of corporate restructuring falling within the scope of Sec. 391 of the Companies Act, 1956 (1 of 1956) or the corresponding provision of any other law for the time being in force;

(B) change in its managing director or whole-time director; and

(C) any change in control over the body corporate;

(ad) "change in control", in relation to a portfolio manager being a body corporate, means:

(i) if its shares are listed on any recognised stock exchange, change in control within the meaning of Regulation 12 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;

(ii) in any other case, change in the controlling interest in the body corporate;

Explanation. For the purpose of sub-clause (ii), the expression "controlling interest" means an interest, whether direct or indirect, to the extent of at least fifty one percent of voting rights in the body corporate;

2(ae) "enquiry officer" means any officer of the Board, or any other person, having experience in dealing with the problems relating to the securities market, who is authorised by the Board under Chapter V;

3(af) "discretionary portfolio manager" means a portfolio manager who exercises or may, under a contract relating to portfolio management, exercise 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;

(b) "form" means a form specified in Schedule 1;

(c) "inspecting authority" means one or more persons appointed by the Board to exercise powers conferred under Chapter IV;

4(ca) "portfolio" means the total holding of securities belonging to any person;

(cb) "portfolio manager" means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whereas a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or the funds of the client, as the case may be;

(cb) "portfolio manager" means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whereas a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or the funds of the client, as the case may be;

(d) "principal officer" means-

(i) proprietor, in the case of a proprietary concern;

(ii) partner, in the case of a partnership firm;

(iii) director, in the case of a body corporate, who is mainly responsible for the activities of the portfolio manager and has been designated as principal officer by the portfolio manager;

5(e)[* * *]

(f) words and expressions used and not defined in these regulations but defined in the Act **6**[* * *] shall have the meanings respectively assigned to them in the Act **7** [* * *].

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, before clause (ae) the following clauses shall be inserted, namely:- " (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992); (aa) "body corporate" shall have the meaning assigned to it in or under clause (7) of Sec. 2 of the Companies Act, 1956 (1 of 1956); (ab) "certificate" means a certificate of registration issued by the Board; (ac) "change of status or constitution" in relation to a portfolio manager '(i) means any change in its status or constitution of whatsoever nature; and (ii) without prejudice to generality of sub-clause (i), includes (A) amalgamation, demerger, consolidation or any other kind of corporate restructuring falling within the scope of Sec. 391 of the Companies Act, 1956 (1 of 1956) or the corresponding provision of any other law for the time being in force; (B) change in its managing director or whole-time director; and (C) any change in control over the body corporate; (ad) "change in control", in relation to a portfolio manager being a body corporate, means: (i) if its shares are listed on any recognised stock

exchange, change in control within the meaning of Regulation 12 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997; (ii) in any other case, change in the controlling interest in the body corporate; Explanation. For the purpose of sub-clause (ii), the expression "controlling interest" means an interest, whether direct or indirect, to the extent of at least fifty one percent of voting rights in the body corporate;" the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, clause (a) shall be renumbered as clause (ae) , by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, after clause (ae), as so renumbered, the following clause shall be inserted, namely: "(af) "discretionary portfolio manager" means a portfolio manager who exercises or may, under a contract relating to portfolio management, exercise 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;" by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, after clause (c), the following clauses shall be inserted, namely: "(ca) "portfolio" means the total holding of securities belonging to any person; "(cb) "portfolio manager" means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whereas a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or the funds of the client, as the case may be;" by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, clause (e) shall be omitted as follows :- "(e) "rules" means Securities and Exchange Board of India (Portfolio Managers) Rules, 1993;" by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, in clause (f), words "and the rules" occurring after the words "defined in the Act" shall be omitted, by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 2, in clause (f), words "or the rules, as the case may be" occurring at the end shall be omitted, by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

CHAPTER 2

REGISTRATION OF PORTFOLIO MANAGERS

3. Application for grant of certificate :-

8 No person shall act as portfolio manager unless he holds a certificate granted by the Board under these regulations: Provided that a merchant banker acting as a portfolio manager immediately before commencement of the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006 may continue to do so for a period of six months from such commencement or, if he has made an application for registration under these regulations within the said period of six months, till the disposal of such application.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, before Regulation 3 as so renumbered the following regulation shall be inserted, namely: "3. Registration as portfolio manager. No person shall act as portfolio manager unless he holds a certificate granted by the Board under these regulations: Provided that a merchant banker acting as a portfolio manager immediately before commencement of the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006 may continue to do so for a period of six months from such commencement or, if he has made an application for registration under these regulations within the said period of six months, till the disposal of such application." by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006 on Notification No. F. No. SEBI / LAD / DOP / 0709/2006, dt.. 7th Sep., 2006-Gazette of India, Ext., Pt. II-S.3(ii), No. 999, dt. 7.9.2006, p. 42. = 2006 CCS/P. 1197/ H. 427.

4. Application to conform to the requirement :-

Subject to the provisions of sub-regulation (2) of regulation 3, any application which is not complete in all respects and does not conform to the instructions specified in the form, shall

be rejected:

Provided that, before rejecting any such application, the applicant shall be given an opportunity to remove within the time specified such objections as may be indicated by the Board.

5. Furnishing of further information, clarification and personal representation :-

(1) The Board may require the applicant to furnish further information or clarification regarding matters relevant to his activity of a portfolio manager for the purposes of disposal of the application.

(2) The applicant or its principal officer shall, if so required, appear before the Board for personal representation.

6. Consideration of application :-

The Board shall take into account for considering the grant of a certificate, all matters which are relevant to the activities relating to portfolio manager and in particular whether the applicant complies with the following requirements, namely :-

(a) the applicant has the necessary infrastructure like adequate office space, equipment, and manpower to effectively discharge his activities;

(b) the applicant has in his employment minimum of two persons who have the experience to conduct the business of portfolio manager:

(c) a person directly or indirectly connected with the applicant has not been granted registration by the Board in case of the applicant being a body corporate; Explanation : For the purpose of this clause the expression "directly or indirectly connected" means any person being an associate subsidiary, inter-connected or group company of the applicant in case of the applicant being a body corporate;

(d) the applicant fulfils the capital adequacy requirements specified in regulation 7;

(e) the applicant, his partner, director or principal officer is not involved in any litigation connected with the securities market and which has an adverse bearing on the business of the applicant:

(f) the applicant, his director, partner or principal officer has not at any time been convicted for any offence involving moral turpitude or has been found guilty of any economic offence:

(g) the applicant has the professional qualification from an institution recognised by the Government in finance, law, accountancy or business management;

¹ (gg) the applicant is a fit and proper person;]

(h) grant of certificate to the applicant is in the interest of investors.

1. Inserted by the SEBI (Portfolio Managers)Amendment Regulations, 1998, w.e.f. 5-1-1998.

7. Capital adequacy requirement :-

(1) The capital adequacy requirement referred to in sub-regulation (d) of regulation 6 shall not be less than networth of Rupees fifty lacs of the person making the application.

Explanation : For the purposes of this regulation, "networth" means in the case of an applicant which is a partnership firm or a body corporate, the value of the capita] contributed to the business of such firm or the paid up capital of such body corporate plus free reserves, as the case may be, at the time of making application under sub-regulation (1) of regulation 3.

8. Procedure for registration :-

The Board on being satisfied that the applicant fulfils, the requirements specified in

regulation 6 shall send an intimation to the applicant and on receipt of the payment of "REGISTRATION" fees as specified in [CLAUSE (1-A)] Schedule II, grant a certificate in Form B.

9. Renewal of certificate :-

(1) A portfolio manager may, three months before the expiry of the validity of the certificate, make an application for renewal in Form A ¹⁴ along with fees specified in clause 1 of Schedule II" .

(2) The application for renewal under sub-regulation (1) shall be dealt with in the same manner as if it were an application for grant of a certificate made under regulation 3.

¹⁵ (3) The Board, on being satisfied that the applicant fulfills the requirements specified in Regulation 6, shall send an intimation to the applicant and on receipt of payment of renewal fees as specified in paragraph 2 of Schedule II, grant a renewal of the certificate;

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 9, in sub-regulation (1), after the words "in Form A" and before the full-stop, the words "along with fees specified in clause 1 of Schedule II" shall be inserted, by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, in Regulation 9, sub-regulation (3) shall be substituted with the following, namely: "(3) The Board on being satisfied that the applicant fulfils the requirements specified in regulation 6 for renewal of certificate shall grant a certificate in Form B and send an intimation to the applicant." by the Securities and Exchange Board of India (Portfolio Managers) (Second Amendment) Regulations, 2006.

10. Procedure where registration is not granted :-

(1) Where an application for grant of a certificate under regulation 3 or of renewal under regulation 9 does not satisfy the requirements set out in regulation 6, the Board may reject the application, after giving an opportunity of being heard.

(2) The refusal to grant registration shall be communicated by the Board within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected.

(3) Any applicant may, being aggrieved by the decision of the Board under sub-regulation (1), apply within a period of thirty days from the date of receipt of such intimation, to the Board for reconsideration of its decision.

(4) The Board shall reconsider an application made under sub-regulation (3) and communicate its decision as soon as possible in writing to the applicant.

11. Effect of refusal to grant certificate :-

Any portfolio manager whose application for a certificate has been refused by the Board shall on and from the date of the receipt of the communication under sub-regulation (2) of regulation 10 cease to carry on any activity as portfolio manager.

12. Payment of fees and the consequences of failure to pay fees :-

(1) Every applicant eligible for grant of a certificate shall pay fees in such manner and within the period specified in Schedule II.

(2) Where a portfolio manager fails to pay the fees as provided in Schedule II, the Board may suspend the certificate, whereupon the portfolio manager shall forthwith cease to carry on the activity as a portfolio manager for the period during which the suspension subsists.

CHAPTER 3

GENERAL OBLIGATIONS AND RESPONSIBILITIES

13. Code of conduct :-

Every portfolio manager shall abide by the Code of Conduct as specified in Schedule III.

14. Contract with clients :-

(1)

(a) Every portfolio manager shall, before taking up an assignment of management of portfolio on behalf of a client, enter into an agreement with such client clearly defining the inter se relationship, and setting out their mutual rights, liabilities and obligations relating to management of the portfolio of the client.

(b) The contract shall, inter alia, contain;

(i) the investment objectives and the services to be provided;

(ii) areas of investment and restrictions, if any, imposed by the client with regard to investment in a particular company or industry:

(iii) attendant risks involved in the management of the portfolio;

(iv) period of the contract and provision of early termination, if any;

(v) amount to be invested;

(vi) procedure of settling client's account including form of repayment on maturity or early termination of contract:

(vii) fees payable to the portfolio manager;

(viii) custody of securities.

(2) The funds of all clients shall be placed by the portfolio manager in a separate account to be maintained by him in a scheduled commercial bank.

Explanation.-For the purposes of this sub-regulation, "scheduled bank" means any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

(3) The portfolio manager shall charge an agreed fee from the client for rendering portfolio management services without guaranteeing or assuring, either directly or indirectly, any return and such fee shall be independent of the return to the client and shall not be on a return sharing basis.

15. General responsibilities of a portfolio manager :-

(1) The discretionary portfolio manager shall individually and independently manage the funds of each client in accordance with the needs of the client in a manner which does not partake character of a Mutual Fund, whereas the non-discretionary portfolio manager shall manage the funds in accordance with the directions of the client.

(2) The portfolio manager shall act in a fiduciary capacity with regard to the client's funds.

(3) The portfolio manager shall transact in securities within the limitation placed by the client himself with regard to dealing in securities under the provisions of the Reserve Bank of India Act, 1934 .

(4) The portfolio manager shall not derive any direct or indirect benefit out of the client's funds or securities.

(5) The portfolio manager shall not pledge or give on loan securities held on behalf of clients to a third person without obtaining a written permission from his client.

(6) The portfolio manager shall ensure proper and timely handling of complaints from his clients and take appropriate action immediately.

16. Investment of clients moneys :-

(1)

(a) The portfolio manager shall not accept money or securities from his client for a period of less than one year :

Provided that in the case of placement of funds for portfolio management by the same client on more than one occasion or on a continual basis, each placement shall be for a minimum period of one year.

(b) Any renewal of portfolio fund on maturity of the initial period shall be deemed as a fresh placement and shall be for a minimum period of one year.

(2) Notwithstanding anything contained in the agreement between a portfolio manager and his client, referred to in regulation 14 hereof, the portfolio funds can be withdrawn or taken back by portfolio client at his risk before the maturity date of the contract under the following circumstances, namely:

(a) Voluntary or compulsory, termination of portfolio management services by the portfolio manager;

(b) suspension or termination of registration of portfolio manager by the Board;

(c) bankruptcy or liquidation in case the portfolio manager is a body corporate;

(d) permanent disability, lunacy or insolvency in case the portfolio manager is an individual.

(3) The portfolio manager shall invest funds of his clients in money market instruments or as specified in the contract :

Provided that the portfolio manager shall not deploy the client's funds in bill discounting, badla financing or for the purpose of lending or placement with corporate or non-corporate bodies.

Explanation.-For the purposes of this sub-regulation : "money market instruments" includes commercial paper, trade bill, treasury bills, certificate of deposit and usance bills.

(4) The portfolio manager shall not while dealing with clients' funds indulge in speculative transactions, that is, he shall not enter into any transaction for purchase or sale of any security in which transaction is periodically or ultimately settled otherwise than by actual delivery or transfer of security. The portfolio manager may enter into transactions on behalf of clients for the specific purpose of meeting marginal requirements only if the contract so provides and the client is made aware of the attendant risks of such transactions.

(5) The portfolio manager shall, ordinarily purchase or sell securities separately for each client. However, in the event of aggregation of purchases or sales for economy of scale inter se allocation shall be done on a pro rata basis and at weighted average price of the day's transactions. The portfolio manager shall not keep any open position in respect of allocation of sales or purchases effected in a day.

(6) Any transaction of purchase or sale including that between the portfolio manager's own accounts and client's accounts or between two clients' accounts shall be at the prevailing market price.

(7) The portfolio manager shall segregate each clients' funds and portfolio of securities and keep them separately from his own funds and securities and be responsible for safe keeping of clients' funds and securities.

(8) The portfolio manager may hold the securities belonging to the portfolio account in his own name on behalf of his clients only if the contract so provides and in such an event the records of the portfolio manager and his report to the client should clearly indicate that the securities are held by him on behalf of the portfolio account.

16A. . :-

17 Foreign institutional investors and sub-accounts registered with the Board may avail of the services of a portfolio manager.”

In the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993, regulation 16A shall be substituted, in place of : – "16A. That the portfolio manager may manage funds raised or collected or brought from outside India in accordance with the Securities and Exchange Board of India." the Securities and Exchange Board of India (Portfolio Managers) (Third Amendment) Regulations, 2006.

17. Maintenance of books of account, records, etc :-

(1) Every portfolio manager shall keep and maintain the following books of account, records and documents, namely :-

(a) a copy of balance sheet at the end of each accounting period;

(b) a copy of the profit and loss account for each accounting period;

(c) a copy of the auditor's report on the accounts for each accounting period;

(d) a statement of financial position; and

(e) records in support of every investment transaction or recommendation which will indicate the data, facts and opinion leading to that investment decision.

(2) Every portfolio manager shall intimate to the Board the place where the books of account, records and documents are maintained.

(3) Without prejudice to sub-regulation (1), every portfolio manager shall, after the end of each accounting period, furnish to the Board copies of the balance sheet, profit and loss account and such other documents as are mentioned in any of the regulations under this chapter for any other preceding five accounting years when required by the Board.

18. Submission of half-yearly results :-

Every portfolio manager shall furnish to the Board half-yearly unaudited financial results when required by the Board with a view to monitor the capital adequacy of the portfolio manager.

19. Maintenance of books of account, records and other documents :-

The portfolio manager shall preserve the books of account and other records and documents mentioned in any of the regulations mentioned under this Chapter for a minimum period of five years.

20. Accounts and audit :-

(1)

(a) The portfolio manager shall maintain separate clientwise accounts.

(b) The funds received from the clients, investments or disinvestments and all the credits to the account of the clients like interest, dividend, bonus, or any other beneficial interest received on the investment and debits or expenses, if any, shall be properly accounted for and details thereof shall be properly reflected in the clients' account.

(c) The tax deducted at source as required under the provisions of the Income-tax Act, 1961, shall be recorded in the portfolio account.

(2) The books of account will be audited yearly by qualified auditor to ensure that the portfolio manager has followed proper accounting methods and procedures and that the portfolio manager has performed his duties in accordance with the law. A certificate to this effect shall, if so specified, be submitted to the Board within six months of close of portfolio manager's accounting period.

21. Reports to be furnished to the client :-

(1) The portfolio manager shall furnish periodically a report to the client, agreed in the contract, but not exceeding a period of six months and such report shall contain the following details, namely :-

(a) the composition and the value of the portfolio, description of security, number of securities, value of each security held in the portfolio, cash balance and aggregate value of the portfolio as on the date of report;

(b) transactions undertaken during the period of report including date of transaction and details of purchases and sales;

(c) beneficial interest received during that period in respect of interest, dividend, bonus shares, rights shares and debentures;

(d) expenses incurred in managing the portfolio of the client:

(e) details of risk foreseen by the portfolio manager and the risk relating to the securities recommended by the portfolio manager for investment or disinvestment.

(2) The portfolio manager shall also furnish to the client documents and information relating only to the management of a portfolio.

(3) On termination of the contract, the portfolio manager shall give a detailed statement of accounts to the client and settle the account with the client as agreed to in the contract.

(4) In the event of any dispute between the portfolio manager and his client, the client shall have the right to obtain details of his portfolio from the portfolio manager.

22. Report on steps taken on auditors report :-

Every portfolio manager shall, within two months from the date of the auditor's report, take steps to rectify the deficiencies made out in the auditor's report.

23. Disclosures to the Board :-

A portfolio manager shall disclose to the Board as and when required the following information, namely:-

(i) particulars regarding the management of a portfolio;

(ii) any change in the information or particulars previously furnished, which have a bearing on the certificate granted to him;

(iii) the names of the clients whose portfolio he has managed;

(iv) particulars relating to the capital adequacy requirement as specified in regulation 7.

23A. Appointment of Compliance Officer :-

1

(1) Every portfolio manager shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions etc. issued by the Board or the Central Government and for redressal of investors' grievances.

(2) The compliance officer shall immediately and independently report to the Board any non-compliance observed by him."

1. Inserted by "The Securities and Exchange Board of India (Investment Advice by Intermediaries)(Amendment)Regulations, 2001

CHAPTER 4

INSPECTION AND DISCIPLINARY PROCEEDINGS

24. Right of inspection by the Board :-

(1) The Board may appoint one or more persons as inspecting authority to undertake the

inspection of the books of account, records and documents of the portfolio manager for any of the purposes specified in sub-regulation (2).

(2) The purposes referred to in sub-regulation (1) may be as follows, namely :-

(a) to ensure that the books of account are being maintained in the manner required;

(b) that the provisions of the Act, rules and regulations are being complied with;

(c) to investigate into the complaints received from investors, other portfolio managers or any other person on any matter having a bearing on the activities of the portfolio manager; and

(d) to investigate suo motu in the interest of securities business or investors' interest into the affairs of the portfolio manager.

25. Notice before inspection :-

(1) Before undertaking an inspection under regulation 24, the Board shall give a reasonable notice to the portfolio manager, for that purpose,

(2) Notwithstanding anything contained in sub-regulation (1) where the Board is satisfied that in the interest of the investors no such notice should be given, it may by an order in writing direct that the inspection of the affairs of the portfolio manager be taken up without such notice.

(3) During the course of inspection the portfolio manager against whom an inspection is being carried out shall be bound to discharge his obligations as provided under regulation 26.

26. Obligations of portfolio manager on inspection :-

(1) It shall be the duty of every director, proprietor, partner, officer and employee of the portfolio manager who is being inspected to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to his activities as a portfolio manager within such time as the inspecting authority may require.

(2) The portfolio manager shall allow the inspecting authority to have a reasonable access to the premises occupied by such portfolio manager or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the portfolio manager or any such other person and also provide copies of documents or other material which in the opinion of the inspecting authority are relevant for the purposes of inspection.

(3) The inspecting authority shall in the course of inspection, be entitled to examine or record statements of any principal officer, director, partner, proprietor and employee of the portfolio manager.

(4) It shall be the duty of every director, proprietor, partner, officer or employee of the portfolio manager to give to the inspecting authority all assistance in connection with the inspection which the portfolio manager may reasonably be expected to give.

27. Submission of report to the Board :-

The inspecting authority shall, as soon as may be possible, submit an inspection report to the Board.

28. Communication of findings, etc., to the portfolio manager :-

(1) The Board shall after consideration of the inspection report communicate the findings to the portfolio manager to give him an opportunity of being heard before any action is taken by the Board on the findings of the inspecting authority.

(2) On receipt of the explanation, if any, from the portfolio manager the Board may call upon the portfolio manager to take such measures as the Board may deem fit in the interest of the securities market and for due compliance with the provisions of the Act, rules and regulations.

29. Appointment of auditor :-

The Board may appoint a qualified auditor to investigate into the books of account or the affairs of the portfolio manager :

Provided that the auditor so appointed shall have the same powers of the inspecting authority as are mentioned in regulation 24 and the obligation of the portfolio manager and his employees in regulation 26 shall be applicable to the investigation under this regulation.

Explanation.-For the purposes of sub-regulation (2) of regulation 20 and under this regulation, the expression "qualified auditor" shall have the same meaning as given to it in Section 226 of the Companies Act, 1956 .

CHAPTER 5

PROCEDURE FOR ACTION IN CASE OF DEFAULT

30. Liability for action in case of default :-

(1) A portfolio manager who-

(a) fails to comply with any conditions subject to which certificate has been granted;

(b) contravenes any of the provisions of the Act, rules or regulations; shall be liable to any of the penalties, specified in sub-regulation (2).

(2) The penalties referred to in sub-regulation (1) may be either-

(a) suspension of registration; or

(b) cancellation of registration.

31. Suspension of registration :-

(1) A penalty of suspension of registration of a portfolio manager may be imposed where-

(i) the portfolio manager violates the provisions of the Act, rules or regulations;

(ii) the portfolio manager-

(a) fails to furnish any information relating to his activity as portfolio manager as required by the Board;

(b) furnishes wrong or false information,

(c) does not submit periodical returns as required by the Board;

(d) does not co-operate in any enquiry conducted by the Board;

(iii) the portfolio manager fails to resolve the complaints of the investors or fails to give a satisfactory reply to the Board in this behalf;

(iv) the portfolio manager indulges in manipulating or price rigging or cornering activities;

(v) the portfolio manager is guilty of misconduct or improper or unbusinesslike or unprofessional conduct which is not in accordance with the Code of Conduct specified in Schedule III;

(vi) the portfolio manager fails to maintain the capital adequacy requirement in accordance with the provisions of regulation 7;

(vii) the portfolio manager fails to pay the fees;

(viii) the portfolio manager violates the conditions of registration:

(ix) the portfolio manager does not carry out his obligations as specified in the regulation.

32. Cancellation of registration :-

A penalty of cancellation of registration of a portfolio manager may be imposed where-

(i) the portfolio manager indulges in deliberate manipulation or price rigging or cornering activities affecting the securities market and the investors' interest;

(ii) the financial position of the portfolio manager deteriorates to such an extent that the Board is of the opinion that his continuance as portfolio manager is not in the interest of investors;

(iii) the portfolio manager is guilty of fraud, or is convicted of a criminal offence;

(iv) the portfolio manager is guilty of repeated defaults of the nature mentioned in regulation 31, provided that the Board furnishes the reasons for cancellation in writing.

33. Manner of making order of suspension and cancellation :-

No order of penalty or suspension or cancellation as the case may be, shall be imposed except after holding an enquiry in accordance with the procedure specified in regulation.

34. Manner of holding enquiry before suspension or cancellation :-

(1) For the purpose of holding an enquiry under regulation 33, the Board may appoint an enquiry officer.

(2) The enquiry officer shall issue to the portfolio manager a notice at the registered office or the principal place of business of the portfolio manager.

(3) The portfolio manager may, within thirty days from the date of receipt of such notice, furnish to the enquiry officer a reply together with copies of documentary or other evidence relied on by him or sought by the Board from the portfolio manager.

(4) The enquiry officer shall give a reasonable opportunity of hearing to the portfolio manager to enable him to make submissions in support of his reply made under subregulation (3).

(5) Before the enquiry officer, the portfolio manager may either appear in person or through any person duly authorised by the portfolio manager :

Provided that no lawyer or advocate shall be permitted to represent the portfolio manager at the enquiry:

Provided further that where a lawyer or an advocate has been appointed by the Board as a presenting officer under sub-regulation (6), it shall be lawful for the portfolio manager to present his case through a lawyer or advocate.

(6) If it is considered necessary, the enquiry officer may ask the Board to appoint a presenting officer to present its case.

(7) The enquiry officer shall, after taking into account all relevant facts and submissions made by the portfolio manager, submit a report to the Board and recommend the penalty to be imposed as also the grounds on the basis of which the proposed penalty is justified.

35. Show-cause notice and order :-

(1) On receipt of the report from the enquiry officer, the Board shall consider the same and issue a show-cause notice as to why the penalty as proposed by the enquiry officer should not be imposed.

(2) The portfolio manager shall, within twenty-one days of the date of the receipt of the show-cause notice, send a reply to the Board.

(3) The Board after considering the reply to the show-cause notice, if received, shall as soon

as possible, but not later than thirty days from the receipt of the reply, if any, pass such order as it deems fit.

(4) Every order passed under sub-regulation (3) shall be self-contained and give reasons for the conclusions stated therein including justification of the penalty imposed by that order.

(5) The Board shall send a copy of the order under sub-regulation (3) to the portfolio manager.

36. Effect of suspension and cancellation of registration of portfolio manager :-

(1) On and from the date of the suspension of the portfolio manager he shall cease to carry on any activity as a portfolio manager during the period of suspension.

(2) On and from the date of cancellation, the portfolio manager shall with immediate effect cease to carry on any activity as a portfolio manager.

37. Publication of order of suspension :-

The order of suspension or cancellation of certificate passed under sub-regulation (3) of regulation 35 shall be published in at least two daily newspapers by the Board.

38. Appeal to the Central Government :-

1 Any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, (i.e. after 16th December 1999), under these regulations may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter"

1. Substituted for regulation 38 "Any person aggrieved by an order of the Board may prefer an appeal to the Central Government." by the Securities and Exchange Board of India (Appeal to the Securities Appellate Tribunal) (Amendment) Regulations, 2000

SCHEDULE 1

1

<p>FORM A Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 Application for Grant of certificate/renewal of certificate Name of applicant..... Name of person to contact : Designation :..... Telephone No. :.....</p> <p>Instructions: 1. Applicants must submit a completed application Form together with appropriate supporting documents to the Board. 2. It is important that this application Form should be filled in accordance with the regulations. 3. Application for registration will be considered provided it is complete in all respects. 4. Answers must be typed/printed. 5. Information which needs to be supplied in more details may be given on separate sheets which should be attached to the application Form. 6. All signatures must be original. PART 1: GENERAL INFORMATION 1 Particulars of the applicant 1.1 Name of Applicant: 1.2 Address-Principal Place of business/Registered Office: Pin Code :..... Telephone No.....Telex No. : Fax No: 1.3 Address for Correspondence: Pin Code:..... Telephone No.: Telex No.:..... Fax No.: Address of Branch Offices (in India and abroad) : 1.4 Application to Board for any other intermediary activity : 2. Organisation structure (Organisation Chart separately showing functional responsibility of portfolio management activities to be enclosed). 2.1 Objectives : In brief. (Memorandum and Articles of Association to be enclosed). 2.2 Date and Place of Incorporation/Establishment : Day Month Year Place 2.3 Status of the Applicant: (e.g., limited company-Private/Public, unlimited company, partnership, proprietary, others. If listed, names of the stock exchanges and latest share price to be given). 2.4 Organisation Chart : General Organisation and Specific Activity, (i.e.. Applied for registration) also state the functional responsibility. 2.5 Particulars of all Directors/Partners/Proprietor and key management personnel : [Name : Qualifications; Experience (General and specific Intermediaries activity); Ownership details (Date of Appointment); Other directorship; (Name and Date of Appointment); Previous position held.]. 2.6 Number of employees (Address and for specific Intermediaries activity) 2.7 Name and activities of associate companies/concerns</p> <hr/> <p>Name of Address/ Type of Owner- Nature/ Nature of Nature of company/ phone activity ship Quantum of interest of interest of firm numbers handled details financial promoter/ applicant dealing director company</p> <hr/> <p>2.8 List of major shareholders (holding 5 per cent or more voting shares) Name; Share holding pattern, i.e., number of shares to its percentage of total capital). 3.0 Details of infrastructural facilities 3.1 Office space 3.2 Office Equipment 3.3 Furniture and Fixtures 3.4 Communication Facilities 3.5 Data processing capacity (a) Inhouse: (b) Others: 3.6 Computer facility: (a) Hardware configuration (b) Software Environment 4.0 Business plan (for three years) (a) History, Major events and present activities. (b) Proposed business plan and means of achieving the same. (c) Projected Profitability, (Next three years) (Physical targets, modus operandi to achieve targets. Resultant Income) 5. Financial information 5.1 Capital Structure (Rs. in lakhs)</p>

	Year prior to
Preceding Current year the preceding year year of current year	
(a) Paid-up capital (b) Free reserves (excluding revaluation reserves) (c) Total (a) +(b) Notes: (1) In case of partnership or proprietary concerns, please indicate capital minus drawings (2) In case of partnership or proprietary concerns, please indicate the financial position, means and networth of the partners. 5.2 Deployment of Resources (Rs. in lakhs)	Year
prior to Preceding Current year the preceding year year of current year	(a)
Fixed Assets (b) Plant and Machinery and office equipment (c) Investments (Details should be given separately) (d) Others 5.3 Major Sources of Income : (Rs. in lakhs)	Year
prior to Preceding Current year the preceding year year of current year	5.4
Net Profit (Rs. in lakhs)	Year
prior to Preceding Current year the preceding year year of current year	5.5
Name and Address of the Principal Bankers 5.6 Name and Address of the Auditors 6. OTHER INFORMATION	
6.1 Details of all settled and pending disputes :	Nature
of dispute Name of the party Pending/settled	6.2
Indictment of involvement in any economic offences in the last three years. 6.3 Indicate dealing/trading with any Intermediary who has defaulted with or suspended by any stock exchange authorities or any other authorities. 6.4 Any other information considered relevant to the nature of services rendered by the company. 6.5 Names of two references from bankers (For applicants other than financial institutions and banking companies). PART 2: SPECIFIC INFORMATION 7.0 Business information 7.1 Indicate type of activity carried on/proposed to be carried on. 7.2 Indicate the facilities for making decision on portfolio investment. 7.3 Describe portfolio management schemes floated during last years/proposed to float during next one year. (Enclose a copy of typical contract entered with the client for Portfolio Management Services). 7.4 Enclose a copy of list of approved share brokers, involved in Portfolio Management Scheme activities and state whether any of them were suspended/had defaulted with any Stock Exchange authority. 7.5 Describe Accounting system followed/to be followed for Portfolio Management Services (Clientwise and Schemewise). 7.6 Indicate various research and database facilities provided. 8.0 Experience 8.1 Experience in portfolio management activities. Indicate period also. 8.2 Experience in other financial services rendered : (Period, Area and Date of Commencement of Activity). 8.3 Business handled during the last year : (a) Portfolio Management.	For
Resident/ Individual Corporate Non-resident client client	
(Discretionary Nature) 1. Types of services offered. 2. No. of portfolio clients. 3. Total amount of funds managed. 4. Average size of portfolio. 5. Average return to the client. 6. Average period of Portfolio Management Schemes.	(Non-
discretionary nature) 1. Types of services offered. 2. No. of portfolio clients. 3. Total amount of funds managed. 4. Average size of portfolio. 5. Average return to the client. 6. Average period of Portfolio Management Schemes.	(b)
Only Portfolio Advisory Services. (Indicate for both Resident/Non-resident clients) (c) List of Clients (Corporate clients only)	Name
Amount of portfolio Services Rendered fund managed	
DECLARATION This Declaration must be signed by Two Directors, Two Partners or the Sole Proprietor, as the case may be I/We hereby, apply for Registration. I/We warrant that I/we have truthfully and fully answered the questions above and provided all the information which might reasonably be considered relevant for the purposes of my/our registration. For and on behalf of	(Name
of Applicant)	
Director/Partner or Sole Director/Partner or Sole Proprietor Proprietor	Name
in Block Letters Name in Block Letters Place _____ Place _____ Date _____	
Date _____	

SCHEDULE 2

2

1. . :-

1

"(1) Every portfolio manager shall pay a sum of Rs. 25,000 as application fees along with the application for grant of certificate of registration.

(1-A) Every portfolio manager shall pay a sum of Rs. 5 lakhs as registration fees at the time of the grant of certificate by the Board."

1. Substituted for "1. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the rules and regulations made thereunder for the portfolio managers, the Board hereby grants a certificate of registration to..... as a portfolio manager subject to the conditions in the rules and in accordance with the regulations. 2. Registration Code for the portfolio manager is PM/ 3. Unless renewed, the certificate of registration is valid from.....to..... By Order Place : For and on behalf of Date : Securities and Exchange Board of India Authorised signatory ", vide " THE SECURITIES AND EXCHANGE BOARD OF INDIA (PORTFOLIO MANAGERS) REGULATIONS, 1993" Dt.30th September, 1999 Published in S.E.B.I., NotiNo. S.O. 798(E), dated September 30, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 30th September, 1999. pp. 2-3, No. S96 [F.No. SEBI/LE/18735/99] [L]

2. . :-

Every portfolio manager to keep registration in force shall pay renewal fee of Rs 2.5 lakhs every three years from the fourth year from the date of initial registration.

3. . :-

(a) The fee referred to in Paragraph 1 shall be paid by the portfolio manager within fifteen days from the date of receipt of intimation from the Board under Regulation 8.

(b) The fee referred to in Paragraph 2. shall be paid by the portfolio manager within fifteen days from the date of receipt of intimation from the Board disposing of the application for renewal made under sub-regulation (1) of Regulation 9.

4. . :-

The fees specified in Paragraphs 1 and 2 shall be payable by the portfolio manager by a demand draft in favour of 'Securities and Exchange Board of India' payable at Mumbai or at the respective regional office.

SCHEDULE 3

3

1. . :-

Every Portfolio Manager shall subject to paragraphs 3 and 4 of this Schedule, pay a sum of Rs. 2.50 lakhs every year for the first two years and thereafter a sum of Rs. 1 lakh for the third year.

2. . :-

Every portfolio manager shall keep his registration in force, pay a renewal fee of Rs. 75,000 per annum from the fourth year from the date of initial registration.

3. . :-

Fee specified in paragraphs (1) and (2) above shall be paid in the following manner-

(a) First instalment is to be paid within 15 days from the date of intimation from the Board under regulation 8.

(b) Subsequent instalments including the renewal fee to be paid on or before expiry of 12 months of each year of registration beginning from date of grant of such registration.

4. . :-

1 [The fees specified in Paragraphs 1 and 2 above shall be payable by draft in favour of "The Securities and Exchange Board of India" at Bombay, or at the respective regional office.]

1. Substituted by the SEBI (Payment of Fees) Arndt. Regulations, 1995, w.e.f. 28-11-1995.

5. . :-

SCHEDULE 4

4

1. . :-

A portfolio manager shall, in the conduct of his business, observe high standards of integrity and fairness in all his dealings with his clients and other portfolio managers.

2. . :-

The money received by a portfolio manager from a client for an investment purpose should be deployed by the portfolio manager as soon as possible for that purpose and money due and payable to a client should be paid forthwith.

3. . :-

A portfolio manager shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment. The portfolio manager shall either avoid any conflict of interest in his investment or disinvestment decision or, where any conflict of interest arises, ensure fair treatment to all his customers. He shall disclose to the clients possible sources of conflict of duties and interests while providing unbiased services. A portfolio manager shall not place his interest above those of his clients.

4. . :-

A portfolio manager shall not make any statement or become privy to any act, practice or unfair competition which is likely to be harmful to the interests of other portfolio managers or is likely to place such other portfolio managers in a disadvantageous position in relation to the portfolio manager himself while competing for or executing any assignment.

5. . :-

A portfolio manager shall not make any exaggerated statement, whether oral or written, to the client either about the qualification or the capability to render certain services or his achievements in regard to services rendered to other clients.

6. . :-

At the time of entering into a contract, the portfolio manager shall obtain in writing from the client, his interest in various corporate bodies which enables him to obtain unpublished price sensitive information of the body corporate.

7. . :-

A portfolio manager shall not disclose to any clients or press any confidential information about his client, which has come to his knowledge.

8. . :-

The portfolio manager shall where necessary and in the interest of the client take adequate steps for registration of the transfer of the clients' securities and for claiming and receiving dividends, interest payments and other rights accruing to the client. He shall also take necessary action for conversion of securities and subscription/renunciation of/or rights in accordance with the clients instruction.

9. . :-

A portfolio manager shall endeavour to-

(a) ensure that the investors are provided with true and adequate information without making any misleading or exaggerated claims and are made aware of attendant risks before any investment decision is taken by them;

(b) render the best possible advice to the client having regard to the client's needs and the environment, and his own professional skills;

(c) ensure that all professional dealings are effected in a prompt, efficient and cost effective manner.

10. . :-

(1) A portfolio manager shall not be a party to-

(a) creation of false market in securities;

(b) price rigging or manipulation of securities;

(c) passing of price sensitive information to brokers, members of the stock exchanges and any other intermediaries in the capital market or take any other action which is prejudicial to the interest of the investors.

(2) No portfolio manager or any of its directors, partners or manager shall either on their respective accounts or through their associates or family members or relatives enter into any transaction in securities of companies on the basis of unpublished price sensitive information obtained by them during the course of any professional assignment.