

## **Securities and Exchange Board of India (Portfolio Managers) Rules, 1993**

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## **Securities and Exchange Board of India (Portfolio Managers) Rules, 1993**

In exercise of the powers conferred by Section 29 of the Securities and Exchanges Bord of India Act, 1992 (15 of 1992), the Central Government hereby makes the following rules, namely:-

### **1. Short title and commencement :-**

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

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

### **2. Definitions :-**

In these rules, unless the context otherwise requires:-

**1**(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of S.2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act.

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

(b) "body corporate" shall have the meaning assigned to it in or underclause (7) of Section 2 of the Companies Act, 1956 (1 of 1956);

(c) "certificate" means a certificate of registration issued by the

Board;

**3**"(d) "principal officer" means a director of the portfolio manager who is responsible for the activities of portfolio management and has been designated as principal officer by the portfolio manager."

(e) "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 (whether as a discretionary portfolio manager or otherwise) the -management or administration of a portfolio of securities or the funds of the client, are the case may be;

**4** "(ea) "securities lending" means the securities lending as per the Securities Lending Scheme, 1997 specified by the Board."

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

(g) "regulations" means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993.

1. In regulation 2, clause (a) shall be renumbered as (aa) than clause (a) shall be inserted by Securities and Exchange Board of India (Portfolio Managers) Amendment Regulations, 2002., published in the Gazette of India, Extraordinary, Part-11, Section 3, Sub-Section (II) dated 11.10.2002.

3. In regulation 2, clause (d) shall be substituted by Securities and Exchange Board of India (Portfolio Managers) Amendment Regulations, 2002., published in the Gazette of India, Extraordinary, Part-11, Section 3, Sub-Section (II) dated 11.10.2002.

4. In regulation 2, clause (ea) shall be inserted by Securities and Exchange Board of India (Portfolio Managers) Amendment Regulations, 2002., published in the Gazette of India, Extraordinary, Part-11, Section 3, Sub-Section (II) dated 11.10.2002.

### **3. No person to act as portfolio manager without certificate**

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No person shall carry on any activity as a portfolio manager unless he holds a certificate granted by the Board under these regulation : Provided that such person, who was engaged as portfolio manager prior to the coming into force of the Act, may continue to carry on

activity as portfolio manager, if he has made an application for such registration, till the disposal of such application : Provided further that nothing contained in this rule shall apply in case of a merchant banker holding a certificate granted by the Board under the Securities and Exchange Board of India (Merchant Banker) Regulations, 1992 as Category I or Category II merchant banker, as the case may be: Provided also that a merchant banker acting as a portfolio manager under the second proviso to this rule shall also be bound by the rules and regulations applicable to a portfolio manager.

#### **4. Conditions for grant or renewal of certificate to Portfolio Manager :-**

The Board may grant or renew a certificate to a portfolio manager subject to the following conditions, namely:-

(a) the portfolio manager in case of any change in the status and constitution, shall obtain the prior permission of the Board to carry on its activities ;

(b) he shall pay the amount of fees for registration or renewal, as the case may be, in the manner provided in the regulations;

(c) he shall take adequate steps for redressal of grievances of the clients within one month of the date of the receipt of the complaint and keep the Board informed about the number, nature and other particulars of the complaints received;

(d) he shall abide by the rules and regulations made under the Act in respect of the activities carried on by the portfolio manager.

#### **5. Period of validity of the certificate :-**

The certificate of registration or its renewal, as the case may be, shall be valid for a period of three years from the date of its issue to the portfolio manager.

#### **6. Consideration of application :-**

**1**

(1) For considering the grant of certificate of registration to the applicant, the Board shall take into account all matters which it deems relevant to the activities relating to portfolio management.

(2) Without prejudice to the generality of the foregoing provisions, the Board shall consider whether -

(a) the applicant is a body corporate;

(b) the applicant has the necessary infrastructure like adequate office space, equipments and the manpower to effectively discharge the activities of a portfolio manager;

(c) the principal officer of the applicant has the professional qualifications in finance, law, accountancy or business management from an institution recognised by the Government;

(d) the applicant has in its employment minimum of two persons who, between them, have atleast five years experience as portfolio manager or stock broker or investment manager or in the areas related to fund management;

(e) any previous application for grant of certificate made by any person directly or indirectly connected with the applicant has been rejected by the Board;

(f) any disciplinary action has been taken by the Board against a person directly or indirectly connected with the applicant under the Act or the Rules or the Regulations made thereunder;

Explanation For the purposes of sub-clauses (e) and (f), the expression " person directly or indirectly connected" means any person being an associate, subsidiary, inter connected company or a company under the same management within the meaning of section 370(1 B) of the Companies Act,1956 or in the same group;

(g) the applicant fulfills the capital adequacy requirements specified in regulation 7;

(h) the applicant, its director, principal officer or the employee as specified in clause (d) is involved in any litigation connected with the securities market which has an adverse bearing on the business of the applicant;

(i) the applicant, its director, principal officer or the employee as specified in clause (d) has at any time been convicted for any offence involving moral turpitude or has been found guilty of any economic offence;

(j) the applicant is a fit and proper person;

(k) grant of certificate to the applicant is in the interests of investors."

1. Regulation 6, shall be substituted by Securities and Exchange

Board of India (Portfolio Managers) Amendment Regulations, 2002., published in the Gazette of India, Extraordinary, Part-11, Section 3, Sub-Section (II) dated 11.10.2002.

**7. Regulation 7 :-**

**1** The capital adequacy requirement referred to in clause (g) of regulation 6 shall not be less than the networth of fifty lacs rupees;

Explanation : For the purposes of this regulation, "networth" means the aggregate value of paid up equity capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off."

1. Regulation 7, shall be substituted by Securities and Exchange Board of India (Portfolio Managers) Amendment Regulations, 2002., published in the Gazette of India, Extraordinary, Part-11, Section 3, Sub-Section (II) dated 11.10.2002.