NSE

Circular

National Stock Exchange Of India Limited

Department: INVESTOR SERVICES CELL	
Download Ref No: NSE/ISC/63039	Date: July 23, 2024
Circular Ref. No: 38/2024	

To All Market Participants

Subject: Framework for providing flexibility to Foreign Portfolio Investors in dealing with their securities post expiry of their registration

SEBI vide circular No. SEBI/HO/AFD/AFD-PoD-2/P/CIR/2024/77 dated June 05, 2024, has issued a framework for providing flexibility to Foreign Portfolio Investors in dealing with their securities post expiry of their registration. The said circular is attached as Annexure-I for reference.

All are requested to take note of the contents of the aforesaid circular.

For and on behalf of
National Stock Exchange of India Limited

Shanti Idnani
Associate Vice President

Toll Free No	Email id
1800 266 0050 (select option 5)	ignse@nse.co.in

CIRCULAR

SEBI/HO/AFD/AFD-PoD-2/P/CIR/2024/77 **June 05, 2024**

To,

1. **Foreign Portfolio Investors ("FPIs")**
2. **Designated Depository Participants ("DDPs") and Custodians**
3. **The Depositories**
4. **The Stock Exchanges and Clearing Corporations**

Dear Sir / Madam,

Subject: Framework for providing flexibility to Foreign Portfolio Investors in dealing with their securities post expiry of their registration

1. SEBI vide "Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors" No. SEBI/HO/AFD/AFD-PoD-2/P/CIR/P/2024/70 dated May 30, 2024 (hereinafter referred to as the 'FPI Master Circular') has, *inter alia*, specified the guidelines for registration of FPIs and the investment conditions/ restriction on FPIs under Part A and Part C of the FPI Master Circular respectively. The FPI Master Circular has been amended vide SEBI Circular No. SEBI/HO/AFD/AFD-POD-2/P/CIR/2024/76 dated June 05, 2024. Further, SEBI vide Master Circular for Custodians No. SEBI/HO/AFD/AFD–PoD-2/P/CIR/2024/40 dated May 10, 2024 (hereinafter referred to as the 'Custodian Master Circular') has, *inter alia*, specified the reporting requirements for Custodians under Chapter IV of the Custodian Master Circular.

2. SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2024 were notified on June 03, 2024, amending the SEBI (Foreign Portfolio Investors) Regulations, 2019, *inter alia*, for providing flexibility to Foreign Portfolio Investors (FPIs) in dealing with their securities post expiry of their registration.

3. In view of the amendments to the SEBI (FPI) Regulations, 2019 referred to at Para 2 above, the FPI Master Circular stands modified as follows:

3.1. Para 4 of Part A of the FPI Master Circular stands modified as under:

"***4. Continuance of Registration***

i. *FPIs who wish to continue with their registration for the subsequent block of three years, should pay the fees to their DDPs and inform change in information, if any, as submitted earlier.*

ii. *In case of no change in information, FPIs shall give declaration that there is no change in the information, as previously furnished.*

iii. *FPI shall provide the additional information, if applicable, along with supporting documents including fees for continuance of its registration at least 15 days prior to current validity of its registration in order to facilitate a smooth continuance process. FPI is required to submit a reason for delay, if any, in delayed submission of such information/fees.*

iv. *If DDP is in receipt of registration fees prior to validity date but the due-diligence including KYC review is not complete by the validity date due to non-submission of information by the FPI, no further purchases may be permitted until intimation of continuance is given by DDP.*

v. *An FPI who fails to pay the requisite fees before expiry of validity of its registration shall be permitted to pay the same along with a late fee and re-activate its registration within a period of 30 days from the date of such expiry. The re-activation of registration shall be subject to the FPI complying with applicable KYC and Anti Money Laundering/Countering the Financing of Terrorism (AML/CFT) requirements. The FPI shall be permitted to dispose the securities held in its account during the period from expiry of registration till re-activation of registration. However, no fresh purchases of securities shall be permitted from expiry of registration till re-activation of registration.*

vi. *Where the FPI has not paid fees for continuance of its registration within the prescribed timelines, its FPI registration shall cease to be valid after the date, up to which, the last registration fees were duly paid by the FPI.*

vii. *DDPs shall send suitable reminders to their respective FPI clients for renewal of registration well in advance of such expiry.*

viii. *An FPI whose registration has expired and has failed to re-activate its registration within the prescribed time period, shall be permitted to* *dispose the securities held in its account within 180 days from the expiry of the prescribed 30 days' time period for reactivation of registration. The remittance of sale proceeds to the FPI shall be subject to applicable KYC, AML/CFT requirements.*

ix. *It is clarified that till the expiry of the aforementioned 180-day period the monetary/non-monetary corporate benefits/voting rights with respect to such securities, if any, shall continue to accrue to the FPI."*

3.2. Para 13 of Part A of the FPI Master Circular stands modified as under:

"13. Reclassification

If an FPI registered under a particular category/sub-category fails to comply with applicable eligibility requirements, it shall notify this change to its DDP to be reclassified under appropriate category/sub-category in accordance with Para 14(i) below. FPI may be required to provide to the DDP with additional KYC documents, as applicable. The concerned DDP / Custodian shall not allow such FPI to make fresh purchases till additional KYC requirements (if any) are complied with. However, such FPI shall be allowed to continue to sell the securities already purchased by it until expiry of its existing registration block or 180 days from the date of notification of change by the FPI, whichever is later.

3.3. Para 15 of Part A of the FPI Master Circular stands modified as under:

*"**15. Change in Status of a Compliant Jurisdiction***

If a jurisdiction, which was a compliant jurisdiction at the time of grant of registration to FPI, becomes non-compliant i.e. a) ceases to be a member of IOSCO/ Bilateral Memorandum of Understanding with SEBI/ BIS or b) becomes listed in FATF public statement as a "high risk" and "non-cooperative" jurisdiction, then the Custodian shall not allow such FPIs to make fresh purchases until the jurisdiction/FPI is compliant with the Regulations.

However, the FPI shall be allowed to sell the securities or continue to hold the securities already purchased by it until expiry of its existing registration block or 180 days from the date of change in status of the jurisdiction, whichever is later. The DDP shall inform to SEBI details of such FPIs upon such change.

Further, in case the FPI itself or its underlying investors contributing twenty-five percent or more in the corpus of the FPI or identified on the basis of control, come under the Sanctions List notified by the United Nations Security Council, the custodian shall not allow any further buy/sell in the account of such FPI and shall as soon as possible but not later than two working days notify such instances to SEBI."

3.4. The following is added after para 16 of Part A of the FPI Master Circular:

"***17. Dealing with securities that may be held by FPIs after expiry of their registration and/or elapse of the time-period for disposal of securities***

i. *SEBI (Foreign Portfolio Investors) Regulations, 2019 and circulars issued thereunder provide for blocking of fresh purchases / sale of securities by FPIs within the prescribed time-period, in the following instances:*

a. *breach of prescribed limits for contribution/control by NRIs/OCIs/RIs in the corpus of the FPI (Para 1. ii. e. of Part A)*

b. *breach of prescribed limits for contribution by NRIs/OCIs/RIs in the corpus of the FPI (Para 1. ii. f. of Part A)*

c. *non-submission of additional KYC documents, if applicable (Para 13 of Part A)*

d. *change in compliance status of the jurisdiction of the FPI (Para 15 of Part A)*

e. *non-payment of fees (Para 4. viii. of Part A)*

f. *non-disclosure of granular details (Para 1. xxi. of Part C)*

ii. *In this regard, it is clarified that in cases where the FPI is required to dispose of its holdings within a specified time-period but unable to do so due to any regulatory agency/ statutory agency/ Court imposed restrictions or directions from any enforcement agency, the time-period for disposal shall be as per the direction of such enforcement agency/ regulator/ Court. In case no time-period for disposal is provided by such enforcement agency/ regulator/ Court, the time-period for disposal shall* *be within 180 days of removal of such regulatory/ statutory restrictions. During this period, unless specified otherwise, there shall not be any restrictions on accrual of corporate benefits and exercise of voting rights with respect to such securities held by the FPI.*

iii. *In case the FPI continues to hold securities pursuant to expiry of the aforementioned time-period, the FPI shall be allowed to dispose the same within an additional time-period of 180 days, in the following manner subject to the following conditions:*

a. *Disposal of securities shall be subject to a financial disincentive of 5% of the sale proceeds, which shall be deducted by the custodian of the FPI from the sale proceeds. The custodian shall remit the amounts deducted as financial disincentive to the Investor Protection and Education Fund created by SEBI (hereinafter referred to as "IPEF"), not later than 30 days from the date of deduction of the same.*

b. *The opportunity to sell the securities shall be subject to the FPI fulfilling the prescribed KYC, AML/CFT requirements.*

c. *During this period, sale of suspended, unlisted/delisted securities shall also be permitted through off-market transactions, in accordance with the pricing guidelines for such sale as per FEMA Rules, as specified in Para 3 of Part C below.*

d. *During this period the monetary/non-monetary corporate benefits/voting rights with respect to the securities held by the FPI, if any, shall continue to accrue to the FPI.*

iv. *Securities remaining unsold in the account of the FPI, after expiry of the additional 180-day period, shall be deemed to have been compulsorily written-off by the FPI. Accordingly, post the above-mentioned additional 180-day period, the FPI shall lose any beneficial interest in the said securities including voting rights or any benefits arising from any corporate action.*

18. Dealing with securities held by FPIs whose registration has expired

i. Disposal of securities by the FPIs as provided under the proviso to Regulation 7(5) of the SEBI (Foreign Portfolio Investors) Regulations, 2019, shall be allowed in the following manner:

a. Sale of securities by such FPIs within 180 days from the date of this Circular shall be allowed without any financial disincentive.

b. Securities that remain unsold after expiry of the 180-day period, shall be allowed to be disposed within an 'additional 180-day period' thereafter.

c. Sale of securities during the 'additional 180-day period' shall be subject to a financial disincentive of 5% of sale proceeds, which shall be deducted by the custodian of the FPI from the sale proceeds. The custodian shall remit the amounts deducted as financial disincentive to the IPEF, not later than 30 days from the date of deduction of the same.

d. The opportunity to sell the securities shall be subject to the FPI fulfilling the prescribed KYC, AML/CFT requirements, applicable as on date.

e. During this period the monetary/non-monetary corporate benefits / voting rights with respect to the securities held by the FPI, if any, shall continue to accrue to the FPI.

ii. Securities remaining unsold in the account of the FPI, after expiry of the 360-day period, shall be deemed to have been compulsorily written-off by the FPI. Accordingly, the FPI shall lose any beneficial interest in the said securities including voting rights or any benefits arising from corporate action."

3.5. The following is added after para 18 of Part C of the FPI Master Circular:

*"**19. Dealing with securities written-off by the FPIs/Deemed to have been written-off by the FPIs***

i. The written-off securities shall be transferred by the respective custodians to a separate escrow account, operated by exchange *empanelled broker not later than 30 days from the date of such securities being written-off/deemed to have been written-off by FPIs. Monetary corporate benefits if received by the custodians post write-off / deemed write-off shall be credited to IPEF not later than 30 days from the date of receipt of the same.*

ii. *Securities listed exclusively on one Stock Exchange (NSE or BSE) shall be transferred to the escrow account operated by empanelled broker of the respective stock exchange for this purpose. Balance securities shall be transferred to the escrow account operated by empanelled broker of NSE for this purpose.*

iii. *After transfer of securities to the escrow account, the empanelled broker shall attempt to sell the securities at the available market price.*

iv. *The disposal of listed equity securities shall be carried out through the regular online trading platform of the Stock Exchanges, excluding block deal window.*

v. *The proceeds from the sale, net of brokerage and statutory charges, shall be transferred to the IPEF.*

vi. *The disposal of written-off securities shall be done in terms of the operational mechanism adopted by the Stock Exchanges and shall be monitored by the Stock Exchanges. Stock Exchanges shall also monitor the performance of the broker periodically, in terms of the efforts put in by the broker for disposal of securities and shall have the option to empanel a different broker, if deemed necessary.*

vii. *Stock Exchanges shall submit a report to the Board, as per the reporting format at Annexure EA, on securities held in the escrow account, transactions in the escrow account and amounts transferred to the IPEF, on a quarterly basis, within 15 days of expiry of the quarter."*

4. The Custodian Master Circular stands modified as follows:

4.1. The following is added in the table under Para 4 titled "Submission of Monthly Reports" of Chapter IV of the Custodian Master Circular:

G	*Report on securities dealt in terms of Para 17(iii), 17(iv), 18(i) and 18(ii) of Part A of the FPI Master Circular for the month*

4.2. Further, reporting format at **Annexure-1,** in respect of the monthly report mentioned at Para 4.1 above, is included in Annexure M of the Custodian Master Circular.

5. The provisions of this circular except para 3.5 shall come into force with immediate effect. Para 3.5 shall come into effect after 60 days from the date of this circular.

6. Recognized Stock Exchanges (National Stock Exchange and BSE Limited) are advised to formulate and operationalise a mechanism for dealing with written-off securities by their empanelled broker within 60 days from the date of this circular.

7. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulations 7(5), 7(6), 7(8) and 44 of SEBI (Foreign Portfolio Investors) Regulations, 2019 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.

8. This Circular is available at www.sebi.gov.in under the link "Legal ---Circulars".

Yours faithfully,

Manish Kumar Jha
Deputy General Manager
Tel No.: 022 –26449219
E-mail: manishkj@sebi.gov.in

Encl: 1. Annexure-1
2. Annexure EA