

SEBI INVESTMENT ADVISERS REGULATIONS NOTIFIED

Securities Exchange Board of India (SEBI) has notified SEBI (Investment Advisers) Regulations, 2013¹ on January 21, 2013 setting out a framework for the registration and regulation of Investment Advisers (**‘Regulations’**). The draft investment advisers regulations approved in SEBI board meeting dated August 16, 2012 has been discussed in detail in our legal eye volume VIII published on December 24, 2012². The Regulations are mostly in-line with the draft regulations and provides more clarity on exemption category and existing persons acting as investment advisers.

HIGHLIGHTS OF THE REGULATIONS

The Regulations requires every investment adviser providing investment advice for consideration to be registered with SEBI (**‘Investment Adviser’**). **‘Investment advice’** has been defined as dealing in securities or investment products through any other means of communication for the benefit of the client and shall include financial planning. However, investment advice which is widely available to the public shall not be considered as investment advice for the purpose of these Regulations.

Any person acting as an Investment Adviser immediately before the commencement of these Regulations may continue to do so for a period of six months from such commencement or, make an application for registration within the a period of six months. Prior approval of SEBI is required, in case of, any change in control of the Investment Adviser.

Any existing portfolio manager offering only investment advisory services may apply for registration under these Regulations after expiry of its current certificate of registration as a portfolio manager.

The registration is valid for a period of 5 years from the date of issue and subject to payment of one-time application fees and recurring registration fees.

The Regulations prescribes qualifications, net worth and obligations/responsibilities (including a detailed code of conduct) of the Investment Adviser. In case registered Investment Adviser do not have prescribed qualifications then such individuals/partners/ representatives must obtain prescribed certification within two years from the date of commencement of these Regulations.

EXEMPTIONS

The following persons are exempted from registration under the Regulations:

- Persons providing general comments in good faith, on trends in the securities market or economic situation provided such comments do not specify any particular securities or investment products
- insurance agent registered with IRDA,
- pension advisors registered with PFRDA,
- distributor of mutual funds,
- law firms, advocates,
- brokers, merchant bankers, fund manager registered with SEBI,
- members of Institute of Chartered Accountants of India, Institute of Company Secretaries of India, Institute of Cost and Works Accountants of India, Actuarial Society of India;

¹ http://www.sebi.gov.in/cms/sebi_data/attachdocs/1358779330956.pdf

² [SEBI Investment Advisor Regulations - A Step Forward](#)

- Any fund manager, by whatever name called of a mutual fund, alternative investment fund or any other intermediary or entity registered with SEBI;
- any person who provides investment advice exclusively to clients based out of India. However, it is clarified that persons providing investment advice to Non-Resident Indian or Person of Indian Origin will fall within the purview of these Regulations.

ARA LAW'S VIEWS

- SEBI's move to include the Investment Adviser within its regulatory ambit is a welcome move for the asset management business in India as it will deter the Investment Advisers from giving pretense advice and instill investor confidence in the markets.
- Every investment adviser needs to evaluate whether it needs to register under these Regulations or fall within the exemption set out there under.
- What also needs to be seen is implementations of these Regulations as there are exhaustive disclosure requirements by Investment Advisers to their clients as well as to SEBI.

In case of any clarifications on these Regulations or assistance with regard to registration under these Regulations, please feel free to contact us on www.aralaw.com.