

ASSOCIATION OF GLOBAL CUSTODIANS

Communication of the Association of Global Custodian's Asia Focus Committee¹

14 September 2020

Honourable Smt Nirmala Sitharaman;
Finance Minister,
Room no. 134, North Block
Ministry of Finance,
Delhi,
India.

(Sent by e-mail to: appointment.fm@gov.in)

Dear Mrs. Sitharaman,

Know your customer (KYC) regulations: Non-alignment SEBI and RBI

We refer to the Foreign Portfolio Investors (FPI) Regulations 2019 (Regulations) and Operating Guidelines (OG) for operationalizing the Regulations issued by SEBI in September and November 2019 respectively. These regulations were framed as a result of the Shri. H.R. Khan Working Group's post extensive industry and regulatory deliberations to simplify the accessibility of Indian Securities Markets and ongoing compliance with its regulations. Among other simplifications, SEBI has revised the criteria for categorization of FPI's into two instead of three categories.

Another key relaxation that has been very well received by the FPIs, is the rationalization/simplification of risk-based KYC requirements as applicable to these two categories. However, the revised KYC norms have not been operationalised for want of necessary notification from RBI as this matter is subject to dual regulatory oversight from SEBI and RBI.

Those of the Association of Global Custodians² (AGC) member banks providing custodial services in India, as a collective, have communicated with the RBI to request:

¹ Mr. CHEW CH Bernie, Chairman, The Association of Global Custodians, Asia Focus Committee, c/o Northern Trust, One George Street, #12-06, Singapore 049145

² The Association of Global Custodians is an informal group of 12 financial institutions that provide securities safekeeping services and asset-servicing functions to primarily institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members' common interests on regulatory and market structure matters through comment letters, white papers and interaction with legislative and regulatory authorities and financial industry organizations around the globe. The members of the Association of Global Custodians are: BNP Paribas; BNY Mellon; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company.

1. that the RBI issue updated instructions in view of the re-categorizations of FPI's, by adopting/notifying aligned regulations for the opening of Bank accounts by FPIs; and
2. to also consider including in any revised RBI, KYC regulations, that for SEBI regulated foreign investors, the KYC requirements for the opening of bank accounts will be the same as those issued/updated by SEBI from time to time for the opening of securities accounts, without the need for RBI to issue their own notification.

Member banks in Mumbai first communicated with the RBI on this matter on the 15th November 2019.

There is a need to align the current KYC regulations between those updated by SEBI and those issued by the RBI, to facilitate the streamlining of the account opening processes. This will remove any confusion that prospective FPI's have who wish to open accounts and invest in the Indian market, which they view as having much future potential.

The AGC has very much appreciated the willingness and pragmatism of India's regulators to consider our advocacy submissions on market developments since the market opened to foreign investment in September 1992.

India is a very important market for AGC member banks and the significant number of their Foreign Institutional clients already invested and planning to invest there. We hope very much you can bring about an alignment in KYC regulations.

Thank you.

Please feel free to contact either the undersigned or our Chairman, Mr. Bernie Chew, should the Ministry of Finance have any questions regarding our submission.

Yours sincerely,



Robert Edwards, (as attorney in fact)
For and on behalf of Bernie Chew,
Chairman, Asia Focus Committee,
The Association of Global Custodians

CC: Shri Anand Mohan Bajaj (asfm-dea@gov.in)
(rob@asiafacilitators.com)
(cbc2@ntrs.com)