



**REPORT OF THE WORKING GROUP ON
SEBI (PORTFOLIO MANAGERS)
REGULATIONS, 1993**

(Recommendations in the report are that of the Working Group and not of SEBI)

**MEMBERS OF THE WORKING GROUP ON
SEBI (PORTFOLIO MANAGERS) REGULATIONS, 1993**

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Place: Mumbai

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A. BACKGROUND

SEBI (Portfolio Managers) Regulations, 1993 (hereinafter referred as PMS Regulations) were notified on January 07, 1993. The said Regulations, *inter alia*, provide for registration and operations of Portfolio Managers. The PMS Regulations were last amended w.e.f. February 10, 2012.

As on February 29, 2012, the combined Assets under Management (AUM) of Portfolio Managers was Rs. 4,72,520 Crores catering 82,391 clients. Since then the Indian portfolio management industry has registered strong growth, driven by robust capital markets and record equity flows in the industry.

With the rise of high net-worth individuals and maturing investment experience, we are witnessing a growing demand for more customised and diverse investment portfolios. Portfolio managers play a key role in catering to such investors by helping them manage their investments across a wide range of products according to their preferences. As at the end of April 2019, the combined AUM of the portfolio management industry stood at Rs.18,07,938 Crores while the number of clients stood at 1,51,618 clients.

The impressive growth in the numbers of the industry is a testament to the growing interest of investors in the Indian equity markets and a proof of the confidence and comfort displayed by investors in the industry. Over the years, SEBI has proactively undertaken numerous initiatives which have helped in the growth of the industry and helped build the investor confidence.

The outlook for the industry remains positive, but there are challenges that need to be addressed to ensure sustained growth. The magnitude of changes underway in the overall asset management industry could demand a prompt response from the industry. There are forces of disruption touching not just the distribution side of the business but also influencing the core portfolio selection & management decisions.

Artificial intelligence or smart algorithms are increasingly making their presence felt in the industry on one hand while on the other hand the investors are becoming more digital savvy and demanding single window solutions, seamless investing experience and consolidation of portfolio services. To succeed in this new changing environment, portfolio managers will need to revisit their business models and re-imagine their value proposition.

SEBI, considering the need for a comprehensive review of SEBI (Portfolio Managers) Regulations, 1993, set up a working Group of industry participants with the following members:

1. Mr. J Ranganayakulu - Former Executive Director (Legal), SEBI.
2. Mr. R Padmanabhan - Senior Vice President, UTI Asset Management Company Pvt Ltd.
3. Mr Sunil Rohokale - Managing Director & CEO, ASK Group
4. Mr. Saurabh Mukherjea - Director, Marcellus Investment Managers Private Limited.
5. Mr Neeraj Choksi - Managing Director & CEO, NJ Advisory Services Private Limited.
6. Mr. Siddhartha Bhaiya - Director, Aequitas Investment Consultancy Private Limited.
7. Mr. S Srikanth – Senior ED, Kotak Wealth Management, Distribution arm of Kotak Mahindra Bank.

B. TERMS OF REFERENCE OF THE WORKING GROUP

The terms of reference for the working group are as follows:

- a) To review SEBI (Portfolio Managers) Regulations, 1993 including need for improvement in transparency.
- b) To study the role of distributors in Portfolio Management and necessary disclosures.
- c) To evaluate the performance disclosures by Portfolio Managers and changes in reporting format.
- d) Any other matter considered relevant by the working group.

C. LIST OF ISSUES IDENTIFIED BY THE WORKING GROUP

The Working Group held 11 meetings with detailed discussions on various aspects of the PMS Regulations. Following exhaustive discussions, certain issues were identified by the Working Group as given below:

1. Need for enhancement of Qualifying Criteria for employees of Portfolio Manager
2. Need for enhancement of Capital Adequacy Requirement of Portfolio Manager
3. Need to enforce product Suitability in PMS
4. Adoption of Nomenclature “Investment Approach”
5. Changes to Performance Reporting by Portfolio Managers
6. Supervision of Distributors of PMS
7. Reporting and Disclosure Requirements of Portfolio Managers
8. Ease of on-boarding clients
9. Need to rationalize fees and expenses
10. Other Issues

The inputs of the Working Group with regard to the various regulatory and operational issues identified by the group, are elaborated in the following pages.

ISSUE 1: ENHANCEMENT OF QUALIFYING CRITERIA FOR EMPLOYEES OF PORTFOLIO MANAGER

1. As per Ministry of Human Resource Development, gross enrolment ratio in Higher Education has gone up from 19% in 2010-2011 to 25% in 2015-2016 indicating an increasing level of literacy in India. In addition, sharp increase has been witnessed in transfer of savings from Bank deposits to Other Asset classes. For instance, Assets under Management of Mutual Funds has increased from Rs. 5.2 Trillion in March 2012 to Rs 25.2 Trillion in April 2019.
2. The PMS industry has seen a robust growth of 18 per cent CAGR (Compound annual growth rate) in the last five years, with assets under management rising from Rs 6.04 lakh crore to Rs 13.70 lakh crore. In this, discretionary PMS has grown at even higher rate of 41 per cent CAGR in this period. This has resulted in 5.5 times growth in the industry, with AUM of discretionary PMS swelling from Rs 18,166 crore to Rs 99,825 crore.
3. In fund management process, educational qualification is as important as work experience and with a clear shift in savings towards public market, it is advisable for Fund management to qualify on both education and Work experience as the criterion for better management of funds. As a result, there is a need to review the qualifying criteria for the personnel associated with Portfolio Management Services.
4. The SEBI (Portfolio Managers) Regulations, 1993 provides for the following human resource requirement for grant of registration as a Portfolio Manager:
 - A qualified Principal Officer
 - Minimum two qualified employees

The roles and responsibilities assigned to the Principal Officer and the two qualified employees is not specified in the SEBI PMS Regulations.

5. Therefore, it is proposed to define Principal Officer of the Portfolio Manager in SEBI PMS Regulations as follows:

“Principal Officer” means an employee of the portfolio manager who is responsible for:-

(A) The decisions made by the portfolio manager for the management or administration of a portfolio of securities or the funds of the client, as the case may be.

(B) The overall supervision of the operations of the portfolio manager.

6. The present qualification for Principal Officer is provided in Regulation 6 (2) (c) of SEBI PMS Regulations as follows:

“The principal officer of the applicant has either–

- (i) a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university; or*
- (ii) an experience of at least ten years in related activities in the securities market including in a portfolio manager, stock broker or as a fund manager;*
- (iii) a CFA charter from the CFA Institute.] “*

7. Similarly, the minimum qualification for the two” qualified employees” is laid down in Regulation 6(2)(d) as follows:

“The applicant has in its employment minimum of two persons who, between them, have at least five years’ experience in related activities in portfolio management or stock broking or investment management or in the areas related to fund management;”

8. Concerns with regard to qualifications of the Principal Officer and employees of Portfolio Manager

- (1) Principal Officer of the applicant is the key person responsible for the core functions and activities of portfolio management. The Principal Officer may or may not be a designated portfolio manager but may be the ranks of Chief Investment Officer / Chief Executive Officer/ any other person who will be responsible for key investment decisions in portfolio management. Current regulation defines educational qualification only for Principal Officer, who may not contribute much in the core activities of fund management if he is not actively participating in the core activities.
- (2) The Regulation does not say whether the two qualified employees shall be mutually exclusive of the Principal Officer. It is necessary to ensure that the registered Portfolio Manager has sufficient resources including human resources to carry out Portfolio Management Services with good governance standards, satisfactory due diligence policies and in full compliance with all regulatory requirements. Further, the complete fund management team has to be fit and proper to manage investor’s money.

9. Proposal with regard to enhancing qualifications of Principal Officer

(1) It is recommended that the Principal Officer of a Portfolio Manager shall have minimum qualification as given below:

(i) a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university and relevant NISM certification

AND

(ii) an experience of at least five years in related activities in the securities market including as a portfolio manager, stock broker, Investment Advisor or a fund manager.

10. Proposal with regard to minimum employees required for Portfolio Management Service

(1) In addition to Principal Officer, the Portfolio Manager must have a Compliance Officer who shall be responsible for all legal and regulatory compliances. The Principal Officer shall not handle the role of compliance officer.

(2) In addition to Principal Officer and Compliance Officer, a Portfolio Manager should have at least two employees with the following qualification:

(i) a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university and relevant NISM certification

AND

(ii) an experience of at least two years in related activities in the securities market including as a portfolio manager, stock broker, Investment Advisor or a fund manager.

(3) In addition, any employee of the Portfolio Manager who has decision making authority related to fund management shall have the same minimum qualifications as the Principal Officer.

1. Proposal with regard to increase in Net worth of Portfolio Managers

- (1) At present, the minimum net worth requirement for an applicant of Portfolio Management Service is Rs 2 Crore. This criterion was last revised to Rs. 2 Crore from Rs. 50 Lacs in August 2008.
- (2) In view of inflation and rising income levels, enhancement of this criterion is a catch-up, due after a decade. Similarly, the increase in compliance costs, cost related to information technology and cyber security, increase in minimum number of employees etc also necessitate a higher investment from the Portfolio Manager in the business. Further, the higher net worth requirement shall be a deterrent to non-serious players during new applications and will put pressure on fringe players co-existing with serious money managers.
- (3) It is recommended that the minimum net worth requirement may be enhanced to Rs 5 Crore.

However, Portfolio Managers who were granted certificate of registration under the SEBI PMS regulations prior to the commencement of the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2019, shall raise their net worth to not less than Five crore rupees within 12 months from the date of notification of the revised Regulation.

- (4) Accordingly, Regulation 7 of the SEBI PMS Regulation shall read as follows:
“Capital Adequacy Requirement.— The capital adequacy requirement referred to in clause (g) of regulation 6 shall not be less than the networth of five crore rupees.”

1. Proposal with regard to increase in investment limits

- (1) Under the extant PMS Regulations, a Portfolio Manager cannot accept from their clients, funds or securities worth less than Rs. 25 Lacs. The minimum threshold of Rs 25 Lacs was introduced vide SEBI (Portfolio Managers) (Amendment) Regulations, 2012, w.e.f. 10 February 2012. Prior to February 2012, the minimum investment threshold for the client of a Portfolio Manager was Rs 5 Lacs.
- (2) In this context, it may be noted that, on 10 February 2012, NIFTY was 5,381.60 and NIFTY as on 30 June 2019 has more than doubled and is at 11,788.85. Similarly, the Consumer Price Index for the same period has increased from 86.81 to 142.00.
- (3) Portfolio Management Services unlike mutual funds, are more complicated and riskier products and are meant for investors with higher risk-taking capacity. Increasing the limit is thought prudent, so that retail investors with limited understanding of volatility and risk, don't enter this product. Therefore, as per-capita income increases and with economic progress the minimum investment threshold should also nominally catch up.
- (4) The Working Group has proposed a minimum investment amount of Rs. 50 lac so that small savers can be prevented from taking exposure in PMS that technically carry higher risks such as concentration risk, illiquidity, wide investment mandate etc.
- (5) The current Regulation providing for minimum investment limits in PMS, Regulation 15 of Chapter III (General Obligations and Responsibilities) of SEBI (Portfolio Managers) Regulations, 1993 states as follows:
"The portfolio manager shall not accept from the client, funds or securities worth less than [twenty five lacs] rupees"
- (6) Accordingly, the proposed change in Regulations is as follows:
"The portfolio manager shall not accept from the client, funds or securities worth less than Fifty Lacs Rupees.
[Provided that the minimum investment amount per client shall be applicable for new clients and fresh investments by existing clients:
Provided further that existing investments of clients, as on date of notification of Securities and Exchange Board of India (Portfolio Managers) (Amendment), may continue as such till maturity of the investment."

1. Proposal to permit the nomenclature “Investment Approach”

(1) Currently, in the PMS sector there is no formal concept of “Investment Approach”. Portfolio Managers who use various investment approaches to manage clients’ portfolios market their portfolio offerings through advertisements, disclosure documents and distributors in their individual ways. With number of clients increasing day by day it is practically not possible for the PMS to construct portfolio individually for each of its clients. PMS uses various investment approaches (wherein asset classes are pre-defined). Since there is no formal recognition of the multiplicity of these investment approaches, it means that the whole notion of one PMS provider having multiple offerings has become a grey area. This opens up several areas for consideration, notably:

- (a) If PMS Service providers are not permitted to report the performance based on various Investment Approaches, it will not give proper information to potential clients and the Regulator
- (b) Consolidated reporting assumes that a PMS provider invests using only one investment approach and one asset class
- (c) A PMS provider is expected to construct the Portfolio taking into consideration each client’s risk and return appetite and yet have only one investment approach. This does not appear to be practical. A PMS provider having different approaches to suit different risk profiles can therefore not correctly report its performance which is to the detriment of the potential investors.
- (d) In the current scenario it is very difficult for SEBI to monitor the instances where a PMS provider is not managing funds in line with the Investment Approach informed to the client.

(2) It is recommended by the Working Group that the nomenclature “Investment Approach” be permitted for use in the reporting and disclosure documents of Portfolio Management Service providers as the same does not compromise the bi-laterality of the Portfolio Management Contract. This may be applicable only to clients under Discretionary Portfolio Management services.

(3) Investment Approach means investment into a specific class of securities (specific portfolio) taking into consideration various investor specific and security specific factors such as but not limited to time horizon, market cap, sectoral allocations. The Investment Approach can be different within each asset class or can be a combination of asset classes.

(4) The Working Group also considered whether granting recognition to this approach could create more issues for the sector. The Working Group concluded that this would not be the case, for the reasons listed below:

(a) If PMS providers name their “investment approaches” in a manner similar to the names used by Mutual Funds for their schemes, it could create confusion in the minds of the investors.

However, considering the significantly larger ticket size of PMS (Rs 25 Lacs as on date, which is expected to be increased to Rs 50 Lacs), the investors of PMS are likely to be large, mature investors. Hence they are expected to be able to understand the difference between a PMS and a mutual fund even if both have similar sounding names.

(b) Once PMS providers become more comfortable with the idea of multiple investment approaches in the same PMS house, they could potentially start resembling mutual funds (which offer several investment styles under one roof). That in turn creates the risk that PMS providers start looking like a “rich man’s mutual fund”, leading to the risk of regulatory arbitrage.

However, presently many Portfolio Managers offer multiple investment approaches to their clients along with scope for customization of portfolios created under these investment approaches. As long as bi-laterality continues to be a key element in Portfolio Management service, the portfolios managed by the PMS provider shall not be akin to a Mutual Fund scheme.

(c) To the extent that no sign-off process is envisaged by SEBI for the process of naming/launch of various investment approaches by extant PMS providers, there is a risk that these approaches could carry misleading names eg. India Top 20 sounds like a large cap PMS but could in fact contain several small-midcap stocks.

However, the Disclosure Document and Client Agreement for PMS providers require the portfolio manager to clearly highlight the investment approach and the risks associated with the investment approach that is being followed.

(5) Therefore, it is recommended by the Working Group that the nomenclature “Investment Approach” be permitted for use in the regulatory reporting, client reporting, disclosure documents and all marketing material of the Portfolio Management Service providers.

ISSUE 5: PERFORMANCE REPORTING BY PORTFOLIO MANAGERS

1. Concerns regarding Performance Reporting

(1) Performance reporting of a Portfolio Manager happens at three levels:

- Performance reporting at the client level [for existing clients]
- Performance reporting to SEBI
- Performance reporting for marketing materials [for prospective clients].

Accurate and standardised reporting of performance by PMS providers is needed to help existing & prospective investors take well informed investment decisions. Most of the rules regarding performance reporting by PMS providers were either part of the original 1993 PMS regulations or were introduced in Amendment effected on 11th October 2002. As the PMS industry has evolved considerably in the past 17 years, the performance reporting rules need to be revisited in order to make it more standardised.

2. Current Regulatory Provisions

(1) On the basis of extant Regulations and Circulars, present requirement of performance reporting of Portfolio Managers are as given below:

Regulation/ Circular	Reporting Requirement	Concerns
SEBI Circular, Cir. /IMD/DF/14/2010 dated October 08, 2010.	The portfolio manager has to report performance on a monthly basis to SEBI using a standard format laid out by SEBI.	Different PMS providers seem to interpret this standard format differently.
Regulation 21 of SEBI (PMS) Regulations, 1993.	The portfolio manager has to report performance periodically to the client with the gap between reports being no more than six months.	There does not exist a standard format for this report which goes to the client and therefore a wide variety of practices have been seen in this regard.

(2) There are very few rules governing what portfolio managers can or cannot say in their marketing material when they are soliciting new clients. Currently, there are wide divergences across PMS providers with regards to the way performance is reported to existing clients, prospective clients and to SEBI. Non-standard reporting formats make it very difficult for prospective clients to compare performances of the PMS providers and make informed decisions with regards to the choice of their PMS provider.

(3) An indicative, but not exhaustive, list of issues with regards to performance reporting is given below:

- Returns are reported at the gross level without taking into consideration fees and expenses (including GST).
- Model portfolio returns (rather than actual portfolio returns) are reported.
- Returns are reported on IRR, TWRR, simple average, etc i.e. there is no standardised method for calculating returns.
- Some Portfolio Managers include in their firm performance, the performance which was achieved either before receipt of PMS licence or the performance of their proprietary account/ portfolio.
- Some Portfolio Managers are selectively disclosing the portfolio, getting the same audited and showing them as the returns of the firm.
- For the purpose of comparison, benchmarks are not specified and are changed arbitrarily.
- Upfront fees and set-up costs are not expensed out, but are reduced from the client's capital contribution.
- Performance fees are often calculated after taking only realised gains into consideration (and thus deliberately omitting unrealised losses & gains).
- Performance is reported for various strategies/products and there is no way for the regulator/investor to identify whether such performance reported is accurate.
- Performance figures which are more than 1 year are not provided on an annualised basis.

(4) In a presentation made to SEBI's PMS Working Group by the CFA Institute (based on information provided in various Disclosure Documents and marketing material, as available in public domain), some common issues that could arise with regards to performance reporting were highlighted. Some of these issues are:

- Portfolio managers showing model returns (rather than actual returns)
- Portfolio managers cherry picking certain portfolios (which are doing well) and showing only their returns
- Portfolio managers inflating returns by annualizing partial periods
- Portfolio managers comparing the strategy's returns with incorrect benchmark returns
- Portfolio managers not taking into account the cash component in computing returns (i.e. ignoring the drag that cash exerts on returns)
- Portfolio managers ignoring withdrawn portfolios (and thus reporting a return which suffers from 'survivorship bias')
- Portfolio managers not disclosing qualitative parameters such as a change in the identity of the fund manager, change in the investment strategy.

(5) Furthermore, as per a survey of Indian Portfolio Managers conducted in 2018 by the CFA Institute, they find that:

- 31% of portfolio managers do NOT use asset weighted average returns of all client accounts when reporting performance
- 46% of portfolio managers do NOT use time weighted returns of all client accounts when reporting performance
- Only 39% of portfolio managers display the standard deviation of the portfolio when reporting performance.

3. Proposals for improvement of Reporting

(1) Standardization of performance calculation

- a) It is desired that a standard method of calculation of returns be mandated for reports submitted to SEBI and clients. The Working Group has recommended that returns may be calculated using time-weighted rate of return (TWRR). TWRR is designed to measure the performance of the account over the time period invested, and to exclude extraneous elements not usually under a Portfolio Manager's control – specifically, deposits to and withdrawals from an account, as well as transfers in or out.
- b) While calculating returns using TWRR, all cash and all investments in liquid funds i.e. the cash drag has to be mandatorily included.
- c) Further, all performance has to be reported net of all fees, all expenses and taxes.

(2) Performance reporting template & frequency of reporting

- a) It is recommended that frequency of reporting to clients may be improved to 3 months compared to the present requirement of half yearly reporting in the manner given in [Annexure A1](#).
- b) The format of monthly reporting to SEBI is recommended to be revised as given at [Annexure A2](#). The revised format shall enable the portfolio manager to segregate all the different “portfolios”/ approaches whilst reporting to SEBI.
- c) The period of computation may be standardized as 1m / 3m / 6m/ 1yr/ 3yr /5yr/ since inception.

(3) Reporting of changes to investment approach or changes in investment personnel

- a) In case of a change in the investment approach adopted by the portfolio manager, adequate disclosures have to be given to clients – current & prospective.
- b) In case of a change in the identity of the Principal Officer, the same shall be reported to SEBI and to clients within one week of the change.

- c) In all the marketing materials which reflect the “portfolio’s” track record, the change in investment approach (including the date of change) and/ or the change in fund manager (including the date of change) should be clearly highlighted.

(4) Integrity of the marketing materials used to solicit new clients

- a) The performance reported by the PMS provider in the marketing material and website should match the performance reported to SEBI. There must be a complete parity in the performance reporting.
- b) Combined performance of all the portfolios managed by the PMS entity should match with the aggregate performance at the PMS firm level. Such performance shall be audited annually and shall be reported to SEBI and shall be self-certified by any of the Director of the PMS or by person authorised by the Board of Directors of the PMS provider.
- c) Performance reporting used in marketing material shall mandatorily have the disclaimer that the performance related information is not verified by SEBI.

1. Concerns identified regarding Distributors of PMS

- (1) Currently any person/entity can refer a client to invest with a Portfolio Manager in lieu of commission. Mere referral without sufficient knowledge may end in improper guidance to the client. In the present scenario, Portfolio Managers enter into written, verbal or oral contracts with distributors to market their product/ service and pay commission to the distributors on terms mutually agreed between both the parties.
- (2) The extant SEBI PMS Regulations are silent on distribution or solicitation of portfolio management schemes offered by Portfolio Managers to customers. There are no guidelines/ regulations to deal with misinformation / mis-selling by intermediaries soliciting PMS offered by various Portfolio Managers. As distribution of PMS is not regulated by any authority, there is no prescribed Code of Conduct or Disclosure norms for the distributors.

2. **Proposals with regard to Distributors of PMS**

- (1) The Working Group has recommended that a common minimum qualification criteria may be mandated, for distributors to solicit portfolio management approaches/ services offered by Portfolio Managers.
- (2) As an initial measure, Portfolio Managers may only utilize services of such distributors who have cleared NISM Mutual Fund exams or such distributors who have already been provided an ARN (AMFI Registration No), till a separate certification for the PMS distributors/agents is conducted.
- (3) A code of conduct may be formalised for the qualified distributors. The proposed Code of Conduct is placed at [Annexure A3](#). The onus of ensuring that the distributors follow the said Code of Conduct shall lie with the Portfolio Managers.
- (4) To prevent conflict of interest and also to enable the client to take an informed decision and thus prevent scope of mis-selling, the distributors shall mandatorily disclose their fees/ commission to the prospective clients.
- (5) Distributor commission may only be paid on trail- basis and only from the fees charged by the Portfolio Manager.
- (6) A self-declaration that they have not indulged in mis-selling or similar activity and have adhered to the code of conduct given by the Portfolio Manager, may be obtained from the distributors/agents on an annual basis, by the Portfolio Manager, within a month from the completion of the financial year.

ISSUE 7: REPORTING AND DISCLOSURE REQUIREMENTS OF PORTFOLIO MANAGERS

1. **Proposals with regard to submission of Disclosure Document to SEBI and clients**

- (1) Presently, it is required to provide the Disclosure Document to a prospective client at least two days prior to the execution of PMS agreement. Keeping audit trail of each client having received the Disclosure Document at least two days prior to agreement execution is an onerous task and results in gaps in the process of keeping track of the same.

Therefore, it is proposed that the requirement of providing Disclosure Document to the prospective client at least two days prior to signing the PMS agreement be discontinued. Instead, it may be mandated that Disclosure Document be provided at any time before or at the time of entering in to the agreement vide hard /soft copy and be made available at all times on Portfolio Manager's website

- (2) As per Regulation 14 (2)(d) of the SEBI Portfolio Managers regulations, a Portfolio manager is required to file with SEBI, a copy of the Disclosure Document before it is circulated or issued to any person and every six months thereafter or whenever any material change is effected therein, whichever is earlier. Major sections in Disclosure Document are static in nature and would not undergo material changes very frequently. Sections on Organisation history, Background, KMPs, Strategy details, Risk Chapter, Taxation Chapter do not undergo frequent changes and remain static over period of Clients investments.

Therefore it is proposed that the Disclosure Document may be filed with SEBI before it is circulated or issued to any prospective client and at the time of any material change in information previously submitted. In case of material change in information, Disclosure Document is to be filed with SEBI within 5 working days of such change becoming effective.

- (3) The present Regulations do not mandate disclosure of conflict of interests, if any, with Group companies. It is proposed that disclosure of Conflict of Interest which are related to services offered by Group Companies of the Portfolio Manager may be compulsorily captured in the Disclosure Document.
- (4) It is proposed that the risk associated with each investment approach followed by the Portfolio Manager may be disclosed in detail in the Disclosure Document.

- (5) Submission of Disclosure Document to SEBI to be accompanied by a covering letter in a tabular format giving references to sections wherein changes have been made to the previous one filed.

2. **Proposals with regard to changes in Half Yearly reporting**

- (1) SEBI Circular, IMD/ DOF-1/ PMS/ Cir-1/ 2010 dated March 15, 2010 mandates for the Half Yearly report to provide names of Brokers suspended / defaulted with any stock exchange. Details about Broker suspension and defaults are not readily available with Portfolio Manager. This requires declaration /seeking confirmation from the respective Brokers in time bound manner. The Working Group has proposed that the Half Yearly report shall provide list of approved share brokers whose services were utilised for PMS activities but the requirement to provide details of brokers who have been suspended /defaulted be removed.
- (2) SEBI Circular, IMD/ DOF-1/ PMS/ Cir-1/ 2010 dated March 15, 2010 mandates for the Half Yearly report to provide information of dispute/ litigations. This is the same information provided in the Disclosure Document, which is filed with SEBI as well as available on Portfolio Manager's website for review by Clients at all times. Therefore, it is proposed that the requirement to provide information of dispute/ litigations in the Half Yearly report may be discontinued.
- (3) SEBI Circular, IMD/ DOF-1/ PMS/ Cir-1/ 2010 dated March 15, 2010 mandates for the Half Yearly report to provide the Names of all Corporate Clients of the Portfolio Manager. Name of each corporate client has to be punched in manually line by line, leading to inefficiencies in filing, more so for Portfolio Managers who have large number of Corporate Clients. Further, the purpose for which this data is sought by SEBI is not known to the Portfolio Managers. Providing names of corporate clients does not bring in any additional checks as they are also subject to KYC/ AML / UBO checks and FIU reporting. Therefore it is proposed that the requirement for providing names of corporate clients be discontinued.
- (4) The present Half-yearly reporting format does not mandate disclosure of commission paid to distributors of PMS. It is proposed that details of commission paid to distributors may be furnished in the reports submitted to SEBI.

3. **Proposals with regard to changes in Monthly reporting**

- (1) As mandated by SEBI Circular, SEBI/IMD/PMS/CIR -3/ 2009 dated June 11, 2009 the Monthly Compliance Report has to be submitted to SEBI by the 5th day of the following month. It is proposed that, considering operational issues in meeting the deadline in

case of extended public holidays, the timeline may be revised to 7 working days post completion of previous calendar month.

(2) As mandated by SEBI Circular, Cir./IMD/DF/14/2010 dated October 08, 2010, the consolidated (firm-level) performance of the Portfolio Manager is to be provided in the Monthly Compliance Report. The Working Group has recommended that the Circular may be amended to prescribe the standards for performance reporting as follows:

- (a) Performance computation should be net of all fees and expenses / charges
- (b) Consolidated performance to be computed and reported
- (c) Performance to be computed and reported for each Investment approach
- (d) Performance to be computed on weighted average of Client AUM for all Clients under a Portfolio
- (e) Period of computation should be 1m / 3m / 6m/ 1yr/3yr /5yr/ Since inception

(3) The present monthly reporting format does not mandate disclosure of commission paid to distributors of PMS. It is proposed that details of commission paid to distributors may be furnished in the reports submitted to SEBI.

4. Proposals with regard to Client Reports

(1) Regulation 21 of the SEBI (Portfolio Managers) regulations, 1993 provides for the list of reports to be furnished by the Portfolio Manager to his clients. The Regulations lay down a time limit of providing report on periodical basis to the Client but not later than 6 months or as and when requested by the Client. The Working Group has proposed that the periodic reports provided to clients may have a timeline of not more than 3 months, instead of the existing timelines of 6 months.

(2) The current Regulations do not give the manner in which the returns are to be computed for Clients' investments and thereby results in anomaly and inconsistency in which the same is computed by different Portfolio Managers. Therefore, it is proposed that computation of clients' returns may be compulsorily done using Time Weighted Rate of Return (TWRR) methodology.

(3) The present client reporting standards do not mandate disclosure of commission paid to distributors of PMS. It is proposed that details of commission paid to distributor(s) for each client may be furnished in the report submitted to that particular client.

1. Concerns of transparency regarding fees and charges

- (1) SEBI circular, Cir/IMD/DF/13/2010 dated October 05, 2010 has put in place the minimum standards to be followed by Portfolio Managers with regard to charging fees under various heads from their clients. The specific clause states as follows:

“Profit sharing / performance related fees are usually charged by portfolio managers upon exceeding a hurdle rate or benchmark as specified in the agreement. However, there is no uniformity in practice on how the profit / performance of the portfolio computed. It is suggested that, henceforth, profit / performance shall be computed on the basis of high water mark principle over the life of the investment, for charging of performance / profit sharing fee.

High Water Mark Principle: High Water Mark shall be the highest value that the portfolio/account has reached. Value of the portfolio for computation of high watermark shall be taken to be the value on the date when performance fees are charged. For the purpose of charging performance fee, the frequency shall not be less than quarterly. The portfolio manager shall charge performance based fee only on increase in portfolio value in excess of the previously achieved high water mark.”

- (2) While the SEBI circular talks about High watermark principle, “Catch Up” is not mentioned and there exists many different versions of the "catch up" clause which may not be properly understood by the investors alike. Also there may exist lack of transparency in terms of the fee range, distributor commission, exit loads and operational costs. There is a need to standardize the manner in which fee details is presented to prospective and existing clients as well as the manner in which such fees is calculated.
- (3) Similarly, Exit Load in PMS varies from Manager to Manager. The Working Group members have indicated that across Portfolio Managers, Exit load ranges from 1% to 8% and for up to 5 years. Exorbitant exit loads are not in the interest of investors or the industry. There is a need to standardize exit load structures.

2. **Proposals with regard to fees and charges**

- (1) Generally, it has been observed that 100% of the upfront fees / set up fees charged to the Client are paid as commission to the Distributor. With a view to curtail mis-selling

and to prevent distributors pushing up- fronted products, the Working Group has recommended that distributor commission shall be only on trail basis. Trail-based income shall also ensure that the Portfolio Manager does not strain business calls which will hamper his longevity.

Different versions of performance fee with Catch ups exists in the industry. From “No catch up” to “partial catch up” to “full catch up” all forms of variations operate today. Below is the illustration for the same:

Calculation of Performance Fees with Catch-up				Performance Fee Without Catch-up
	Amount in Rs. Lakh	*Method 1	**Method 2	***Method 3
Sr. No.	Particulars	Performance Sharing Fee Model		
1	Opening AUM	25.00	25.00	25.00
2	Returns Made during the Year	11%	11%	11%
3	Closing AUM / Redemption Amount	27.75	27.75	27.75
4	Compounded Hurdle Level (10%)	27.50	27.50	27.50
5	Performance Fees (15%) [IF(3>4,(15%*(3-1)),0)]	0.4125	0.4125	15 % * (27.75-27.50) = 0.0375
6	Amount post Performance Fees [3 - 5]	27.3375	27.3375	27.7125
7	Final Performance Fees [IF(5>0,(IF(6<4,(3-4),5)),0)]	0.25	0.4125	0.0375
8	Final Amount to investors [3 - 7]	27.50	27.3375	27.7125

**Method 1: Client receive the full amount till hurdle rate and then performance fee is deducted*

***Method 2: Full performance fee is deducted once NAV crosses the hurdle rate*

****Method 3: Performance fee without catch up and is deducted only on the amount above hurdle rate*

- (2) The Working Group has recommended that Performance fee should be charged on “without catch-up” basis, i.e. only on the amount over and above a hurdle rate to bring standardization in performance fee charges.
- (3) Client agreement in Portfolio Management Service being bilateral agreements, similar clients may receive vastly differing commercial terms, especially fees and charges. In the interest of enhancing transparency of terms, the Working Group has recommended that range of fees charged under various heads may be disclosed to prospective clients.

(4) Operating expenses excluding brokerage, which are over and above the annual management fees may be capped at 0.50% per annum, which presently is left undefined. The Operating charges shall be subject to following limits:

- Custody charges: 10 bps or actual whichever is lower
- Audit Fees / Notary Charges/ Franking / Miscellaneous: 25 bps or actual whichever is lower

Broking charges shall be charged to client account as expense at actuals.

(5) Exit load to be capped. Period of computation for charging of exit fees shall be from date of each inflow / top ups.

- Max 3% Exit fees to be charged to the clients if he redeems his portfolio (in part or full) in the first year of his investment with Portfolio Manager
- Max 2% Exit fees Exit fees to be charged to the clients if he redeems his portfolio (in part or full) in the second year of his investment with Portfolio Manager
- Max 1% Exit fees to be charged to the clients if he redeems his portfolio (in part or full) in the third year of his investment with Portfolio Manager
- No exit fees to be charged to the clients after period of three years from date of his investment with Portfolio Manager.

(6) Services availed through Group companies to be capped.

- a) The current regulations do not lay down limit for business to be dealt with through Group companies/ Associates of the Portfolio Manager. For instance, a Portfolio Manager may execute bulk of their transactions through an associate broker or any one broker, giving rise to concentration of business or helping the associates to have more business thereby enabling profits to be shared within the associates.
- b) To ensure arm's length relationship between the Portfolio Manager and his associates, a limit of 20% per associate (or such percentage as prescribed by Regulations) per calendar quarter may be imposed. Additionally, any charges/fees paid to the associate shall not be more than those paid to the non- associate intermediaries providing the same service.

3. Illustration for Annexure on Fees and Charges- based on proposals above.

(1) This computation is for illustrative purpose only. Portfolio Managers may suitably modify this to reflect their fees and charges.

(2) The assumptions for the illustration are as follows:

- Size of sample portfolio: Rs. 100 lacs
- Period: 1 year

- Hurdle Rate: 10% of amount invested
- Brokerage/ DP charges/ transaction charges: Weighted Average of such charges (as a percentage of assets under management) levied in the past year/ in case of new portfolio managers indicative charges as a percentage of assets under management (e.g. 1%)
- Upfront fee – Nil
- Set up fee - Nil
- Fixed Management fee (e.g. 1.5%)
- Performance fee (e.g. 20% of profits over hurdle rate without catch-up)
- The frequency of calculating all fees is annual.

Nature of Fees	Amount in Rs.
Capital Contribution	1,00,00,000
Less: Upfront fees	-
Assets under management (AUM)	1,00,00,000
Add/ Less: Profits/ Loss on investment during the year on AUM at 20%	20,00,000
Gross Value of the portfolio	1,20,00,000
Less: Other Expenses (0.50%) (a)	60,000
Gross Value of the portfolio less Other Expenses	1,19,40,000
Less: Fixed Management Fees (1.50%) (b)	1,65,000
Portfolio Value after charging Fixed Management Fees	1,17,75,000
Hurdle Level	1,10,00,000
Less: Performance fees @ 20% of Profits over Hurdle Level (c)	1,55,000
Portfolio Value after charging Performance Management Fees	1,16,20,000
Less: Exit Load (2%) (d)	2,32,400
Portfolio Value after charging Exit Load	1,13,87,600
Total charges during the year (a+b+c+d)	6,12,400
Net value of the portfolio at the end of the year	1,13,87,600
% change over capital contributed	13.88%

4. Proposal on presentation of fees and expenses in Client Agreement

- (1) Presently, as per Clause (g) of SEBI Circular Cir. / IMD/DF/13/2010 dated October 5, 2010 Client Agreement shall contain separate disclosure of fees and expenses on sample portfolio of INR 10 lakhs. It is recommended that the illustration of fees and expenses may be mandated to be for sample portfolio of Rs 25 Lacs (or the minimum investment amount for opening PMS account, as the case be).
- (2) Further, it is recommended by the Working Group that the requirement as per SEBI Circular Cir. / IMD/DF/13/2010 dated October 5, 2010 for the client to provide

acknowledgment in his own handwriting about understanding of the fee structure may be done away with.

- (3) Numeric Illustration on fees which forms part of annexure to the PMS Client Agreement provides clear understanding of the manner in which the fees are computed by the Portfolio Manager. This annexure is required to be signed by the client. Doing away with the requirement of hand written acknowledgement shall make it easier to digitize client on-boarding process.

1. Proposals to ease the client on-boarding process

- (1) Presently, the client agreements cannot be digitized as the same requires physical signature of the client. The Working Group has proposed that digital signatures may be recognized as valid so as to enable client on-boarding through digital documentation.
- (2) The Working Group has proposed that Custody should be able to accept digital signatures for account opening. This can eliminate the need
 - To sign across the photograph
 - For physical signature across IPV
 - For client to mandatorily handwrite the statement” I have hereby understood the features of the product and give consent to the same”
- (3) In the interest of furthering digital on-boarding of clients, the Working Group has recommended that SEBI might look into the legalities of digital franking and notarization of documents through consultation with State Government(s).

1. Proposal with regard to marketing of PMS

- (1) SEBI Circular, RPM circular No.1(93-94) dated October 20, 1993 on Guidelines for Advertisements by Registered Portfolio Managers does not provide guidance about the mode and manner in which the performance has to be shown in various modes of advertisement, where “advertisement” means “notices, brochures, pamphlets, circulars, showcards, catalogues, hoardings, placards, posters, insertions in newspapers, pictures, films, radio / television programmes or through any electronic media”
- (2) Due to this anomaly, Portfolio Managers across the industry use different methods of showcasing their performance to the prospective Client(s). This is done by presenting performance of the “model portfolio” or of the best performing Client Portfolio which may not be the most suitable way of looking at the performance of the Portfolio Manager.
- (3) It is proposed that the method of calculation of Performance as discussed in the section “ Performance Reporting by Portfolio Managers” at Pages 10-13 of the report may be mandated to be the manner of indicating past performance of the Portfolio Manager.

2. Proposal with regard to investible instruments for PMS

- (1) Regulation 16 (a) of SEBI PMS Regulations states as follows:
“The money or securities accepted by the portfolio manager shall not be invested or managed by the portfolio manager except in terms of the agreement between the portfolio manager and the client”
- (2) Regulation 16(3) and 16 (4) of SEBI PMS Regulations states as follows:
“The portfolio manager shall invest funds of his clients in money market instruments or derivatives or as specified in the contract.”
“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 which is periodically or ultimately settled otherwise than by actual delivery or transfer of security except the transactions in derivatives.”
- (3) It is observed that the extant Regulations does not prohibit the Portfolio Managers from investing in any particular type of investment on behalf of the client. As a result,

in the Portfolio Management industry, investments are seen in listed and unlisted securities, equity instruments, debt, structured products etc.

- (4) It is proposed that Portfolio Managers may be permitted to invest only in listed securities, whether equity, debt or commodity derivatives, and units of Mutual Funds on behalf of their clients. Portfolio Managers may invest clients' funds in units of Mutual Funds only through "Direct" plans.
- (5) The portfolio manager while investing in units of mutual funds through direct plan shall not charge any distribution fees, distribution commission, referral fees etc. to the client.

3. Proposal with regard to outsourcing of core activities by Portfolio Managers

- (1) Paragraph 5 under the 'Guidelines on Outsourcing Activities by Intermediaries' issued by SEBI vide Circular No. CIR/ MIRSD/ 24/2011 dated December 15, 2011 states as follows:

"The intermediaries desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions. A few examples of core business activities may be – execution of orders and monitoring of trading activities of clients in case of stock brokers; dematerialisation of securities in case of depository participants; investment related activities in case of Mutual Funds and Portfolio Managers..."

- (2) The Working Group discussed on the matter of regulatory compliance by Portfolio Managers that take investment advice from other Portfolio Managers/ Investment Advisors etc. The Working Group is of the view that since advisory is a core function, it may be recommended that portfolio managers shall not invest client's fund based on the advice of another portfolio manager, investment advisor or any other registered intermediary.

ISSUE 11: PROPOSALS FOR CHANGES TO SEBI (PORTFOLIO MANAGERS) REGULATIONS, 1993

1. Definition of “change in control” of Portfolio Manager

(1) Regulation 2(ad) states as follows:

“change in control”, in relation to a portfolio manager being a body corporate, means:–

(i) if its shares are listed on any recognized 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) The Working Group has proposed to adopt the definition of “change in control” as given under Regulation 2(ac) of the SEBI (Stock-brokers and Sub-brokers) Regulations, 1992 (Brokers Regulations) read with Regulation 2(e) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations) in order to maintain consistency.

(3) Definition of “control” under Regulation 2(e) of SEBI (SAST) Regulations, 2011 includes the right to appoint majority directors or to control the management or policy decision exercisable by a person. Therefore, the said definition should be incorporated in the PMS Regulations in order to include ‘change in control’ of a portfolio manager through mechanisms other than changing shareholding and/or voting rights.

(4) Regulation 2(e) of SEBI (SAST) Regulations, 2011 states as follows:

“control” includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner:

Provided that a director or officer of a target company shall not be considered to be in control over such target company, merely by virtue of holding such position”

(5) Regulation 2(ac) of Broker Regulations states as follows:

“change in control” –(i) in case of a body corporate –(A) if its shares are listed on any recognised stock exchange, shall be construed with reference to the definition of control in terms of regulations framed under clause (h) of sub-section (2) of section 11 of the Act;(B) in any other case, shall be construed as change in the controlling interest in the body corporate; Explanation: For the purpose of para (B) of this sub-clause, 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;

(ii) in a case other than that of a body corporate, shall be construed as any change in its legal formation or ownership.

(6) It is proposed to amend the definition of “change in control” as follows:

“change in control”, in relation to a portfolio manager being a body corporate, means –

(i) if its shares are listed on any recognized stock exchange, shall be construed with reference to the definition of control in terms of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 as amended from time to time.

(ii) in any other case, shall be construed as change in the controlling interest in the body corporate;

Explanation: For the purpose of sub-clause (ii), the expression “controlling interest” means

(A) an interest, whether direct or indirect, to the extent of atleast fifty-one percent of voting rights in the body corporate;

(B) right to appoint majority of the directors or to control the management directly or indirectly..”

D. RECOMMENDATIONS OF THE WORKING GROUP

The recommendations of the Working Group with regard to the SEBI (Portfolio Managers) Regulations, 1993 and the applicable Circulars is tabulated as below:

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
1	Amendment to definition of Principal Officer	Reg 2(d) - “principal officer” means an employee of the portfolio manager who has been designated as such by the portfolio manager;	Reg 2(l) - “Principal Officer” means an employee of the portfolio manager who is responsible for:- (A) The decisions made by the portfolio manager for the management or administration of a portfolio of securities or the funds of the client, as the case may be. (B) The overall supervision of the operations of the portfolio manager.
2	Enhancement Of Qualifying Criteria For Principal Officer	The principal officer of the applicant has either– (i) a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university; or (ii) an experience of at least ten years in related activities in the securities market including in a portfolio manager, stock broker or as a fund manager; (iii) a CFA charter from the CFA Institute.	Principal Officer of a Portfolio Manager shall have minimum qualification as given below: 1. a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university <u>and</u> relevant NISM certification AND 2. an experience of at least Five years in related activities in the securities market including as a portfolio manager, stock broker, Investment Advisor or a fund manager.
3	Enhancement Of Qualifying Criteria	The applicant has in its employment minimum of	(i) a professional qualification in finance, law, accountancy or

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
	For employees of Portfolio Manager	two persons who, between them, have at least five years' experience in related activities in portfolio management or stock broking or investment management or in the areas related to fund management;	<p>business management from a university or an institution recognized by the Central Government or any State Government or a foreign university <u>and</u> relevant NISM certification</p> <p>AND</p> <p>(ii) an experience of at least two years in related activities in the securities market including as a portfolio manager, stock broker, Investment Advisor or a fund manager.</p> <p>In addition, any employee of the Portfolio Manager who has decision making authority related to fund management shall have the same minimum qualifications as the Principal Officer.</p>
4	Enhancement of minimum required employees	<p>1) Two employees, one of which may be the Principal Officer.</p> <p>2) One compliance officer</p> <p>Adding up to minimum 2 employees</p>	<p>1) Principal Officer</p> <p>2) Compliance Officer</p> <p>3) Two employees</p> <p>All adding up to minimum 4 employees.</p>
5	Enhancement of Capital Adequacy requirement	Minimum net worth of applicant of Portfolio Management Service shall be Rs 2 Crore.	<p>Minimum net worth of applicant of Portfolio Management Service to be Rs 5 Crore.</p> <p>Existing registered Portfolio Managers shall raise their net worth to not less than Five crore rupees within 12 months from the date of notification of the new Regulations.</p>
6	Enhancement of minimum investment for clients	Minimum client investment shall be Rs 25 Lacs per client	Minimum client investment shall be Rs 50 Lacs per client

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
7	Adoption of industry favoured nomenclature	Not permitted by current Regulations and Circulars	Adoption of nomenclature “Investment Approach” for regulatory reporting, client reporting and for use in marketing material of the PMS provider.
8	Enhancement of standards of performance reporting	(1) No standard rules (2) Client reporting on half-yearly basis	(1) Returns to be calculated using time-weighted rate of return (TWRR). (2) While calculating returns using TWRR, all cash and all investments in liquid funds to be mandatorily included. (3) Performance to be reported net of all fees, all expenses and taxes (4) Client reporting to be made on quarterly basis in the manner provided in Annexure A1 . (5) Format of reporting to SEBI as provided at Annexure A2 . (6) In case of a change in the investment approach adopted by the portfolio manager, adequate disclosures has to be given to clients – current & prospective. (7) In case of a change in the identity of the Principal Officer, the same shall be reported to SEBI and to clients within one week of the change and such reporting (of the change in the fund manager) shall continue for a period of 12 months from the change. (8) In all the marketing materials which reflect the “portfolio’s” track record, the change in investment approach (including the date of change) and/ or the change in fund manager (including the date of

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
			<p>change) should be clearly highlighted.</p> <p>(9) The performance reported by the PMS provider in the marketing material and website should match the performance reported to SEBI.</p> <p>(10) Combined performance of all the portfolios managed by the PMS entity should match with the aggregate performance at the PMS firm level. Such performance shall be audited annually and shall be reported to SEBI and shall be self-certified by any of the Director of the PMS or by person authorised by the Board of Directors of the PMS provider.</p>
9	Supervision of distributors of PMS	No regulatory provisions	<ol style="list-style-type: none"> 1) Common minimum qualification criteria to be mandated, for distributors to solicit portfolio management services offered by Portfolio Managers. 2) As an initial measure, Portfolio Managers may only utilize services of such distributors who have cleared NISM Mutual Fund exams or such distributors who have already been provided an ARN (AMFI Registration No), till a separate certification for the PMS distributors/ agents is conducted. 3) Code of conduct (Annexure A3) to be strictly monitored by the Portfolio Manager 4) Distributor commission may only be paid on trail- basis and only from the fees

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
			<p>charged by the Portfolio Manager.</p> <p>5) To prevent conflict of interest and also enable the client to take an informed decision and thus prevent scope of mis-selling, the distributors may mandatorily disclose their fees/ commission to the prospective clients</p> <p>6) A self-declaration that they have not indulged in mis-selling or similar activity and have adhered to the code of conduct given by the Portfolio Manager, may be obtained from the distributors/agents on an annual basis, by the Portfolio Manager, within a month from the completion of the financial year.</p>
10	Rationalization of frequency of client reports and Disclosure Documents	Disclosure Document to be provided to prospective client at least two days prior to the execution of PMS agreement	<p>The requirement of providing Disclosure Document to the prospective client at least two days prior to signing the PMS agreement to be discontinued.</p> <p>Instead, Disclosure Document to be provided at any time before or at the time of entering in to the agreement vide hard /soft copy and to be made available all times on Portfolio Managers website.</p>
11	Rationalization of frequency of SEBI reports and Disclosure Document	Copy of Disclosure Document to be furnished to SEBI every six months or whenever any material change is effected therein, whichever is earlier.	Disclosure Document to be filed with SEBI before it is circulated or issued to any prospective client and at time of any material change in information previously submitted.

Sl. No	Recommendation	Current provision	Regulatory	Changes proposed
				In case of material change in information, Disclosure Document to be filed with SEBI within 5 working days of such change becoming effective.
12	Enhancement of information provided through Disclosure Document	No regulatory mandate		(1) Disclosure of Conflicts of Interest which are related to services offered by Group Companies of the Portfolio Manager to be compulsorily captured in the Disclosure Document. (2) Details of commission paid to distributor(s) may be furnished in the Disclosure Document.
13	Changes to content of Half Yearly reporting	Half Yearly report to provide names of Brokers suspended / defaulted with any stock exchange		Half Yearly report to provide list of approved share brokers whose services were utilised for PMS activities but the requirement to provide details of brokers who have been suspended /defaulted to be removed.
14		Half Yearly report to provide information of dispute/ litigations		The requirement to provide information of dispute/ litigations in the Half Yearly report to be discontinued.
15		Half Yearly report to provide the Names of all Corporate Clients of the Portfolio Manager		The requirement for providing names of corporate clients be discontinued
16		No regulatory mandate		Details of commission paid to distributors may be furnished in the half –yearly report
17	Changes with regard to Monthly reporting	Monthly Compliance Report has to be submitted to SEBI by the 5 th day of the following month.		Timeline of submission of Monthly Compliance Report to be revised to 5 working days post completion of previous calendar month

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
18		Consolidated (firm-level) performance of the Portfolio Manager is to be provided in the Monthly Compliance Report.	Detailed format of performance reporting to be mandated. Format provided at Annexure A2 .
19		No regulatory mandate	Details of commission paid to distributors may be furnished in the monthly report
20	Periodicity of client reporting	Periodic reports to be furnished to clients at least once in 6 months	Periodic reports to be furnished to clients at least once in 3 months.
21	Standardization of fee and charges	No regulatory provision	<ol style="list-style-type: none"> (1) distributor commission to be on trail basis (2) No upfront fee to be charged from clients (3) Performance linked fee to be calculated as in Annexure A4. (4) Performance fee to be charged on “without catch-up” basis (5) Operating expenses excluding brokerage, which are over and above the annual management fees may be capped at 0.50% per annum. The Operating charges shall be subject to following limits: <ul style="list-style-type: none"> • Custody charges: 10 bps or actual whichever is lower • Audit Fees / Notary Charges / Franking / Miscellaneous: 25 bps or actual whichever is lower (6) Range of fees charged under various heads to be disclosed to prospective clients (7) Exit load to be capped (8) Services availed through Group companies to be capped.

Sl. No	Recommendation	Current Regulatory provision	Changes proposed
22	Presentation of fees and expenses in Client Agreement	Client Agreement to contain separate disclosure of fees and expenses on sample portfolio of INR 10 lakhs	Client Agreement to contain separate disclosure of fees and expenses on sample portfolio of INR 25 lakhs (or the minimum investment amount for opening PMS account, as the case be).
23	Ease of documentation process	Client to provide acknowledgment in his own handwriting about understanding of the fee structure	Requirement for the client to provide acknowledgment in his own handwriting about understanding of the fee structure to be done away with.
24	Limit investment instruments for PMS	No restriction on the type of investment instruments where clients' portfolio may be invested	<p>Portfolio Managers may be permitted to invest only in listed securities, whether equity, debt or commodity derivatives and units of Mutual Funds, on behalf of their clients.</p> <p>Portfolio Managers may invest in units of Mutual Funds through direct plan only.</p> <p>The portfolio manager while investing in units of mutual funds through direct plan shall not charge any distribution fees, distribution commission, referral fees etc. to the client.</p>
25	Restriction on Outsourcing of Core Activities	Paragraph 5 of Circular No. CIR/MIRSD/24/2011 on Guidelines on Outsourcing of activities by intermediaries	<p>The portfolio manager shall not invest client's fund based on the advice of another portfolio manager, investment advisor or any other registered intermediary.</p> <p>To incorporate corresponding changes to SEBI PMS Regulations and the relevant Circulars.</p>

The Working Group has prepared a draft of the revised PMS Regulations for consideration by SEBI. The draft Regulations are prepared after taking into consideration the various recommendations of the Working Group as well as the necessary changes required pursuant to changes in law since the PMS Regulations were notified in 1993.

Draft of SEBI (Portfolio Managers) Regulations, 2019 is placed at [Annexure B](#).
