

PR No.31/2024

Clarification

This is with reference to the interpretations of the regulatory provisions related to Specified Digital Platforms (SDPs) appearing in various news articles.

Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024, Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Fourth Amendment) Regulations, 2024 and Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2024 have been published in the official gazette on August 29, 2024.

These regulations inter alia provide that persons regulated by the Board, MIs (stock exchanges, clearing corporations, depositories), and agents of such persons/MIs shall not have any direct or indirect association with another person who-

- (i) provides advice or any recommendation, directly or indirectly, in respect of or related to a security or securities, unless the person is registered with or otherwise permitted by the Board to provide such advice or recommendation; or
- (ii) makes any claim, of returns or performance expressly or impliedly, in respect of or related to a security or securities, unless the person has been permitted by the Board to make such a claim.

The aforesaid provisions shall, however, not be applicable in respect of an association through a “specified digital platform”.

A “specified digital platform” has been defined to mean digital platform as specified by the Board, which has a mechanism in place to take preventive as well as curative action, to the satisfaction of the Board, to ensure that such a platform is not used for indulging in any of the abovementioned two prohibited activities.

It is noted that the queries have been raised in various news articles about the obligation of digital platforms to get recognition as a Specified Digital Platform. In this regard, the following is clarified-

It is not obligatory for any digital platform to be notified as SDP and there is no regulation of these digital platforms by SEBI. Curative actions currently being carried out by some digital platforms are in accordance with law. Preventive steps contemplated for any digital platform to get notified as SDP is not mandatory and it is for the platform to opt or not opt for getting notified as SDP.

The purpose of this provision in the aforesaid regulations is to give confidence to regulated entities that if the regulated entity is associated with an SDP, it is automatically assured of not being held as violating the provisions of Regulation 16A of Securities and Exchange Board of India (Intermediaries) Regulations, 2008 ('Intermediaries Regulations'), Regulation 44B of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 ('SECC Regulations') and Regulation 82B of Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 ('DP Regulations').

Hence, in case of any violation of Regulation 16A of Intermediaries Regulations, Regulation 44B of SECC Regulations and Regulation 82B of DP Regulations, it shall be a valid defence for the regulated entity that it has associated with a digital platform which is an SDP.

Further, it is clarified that it is not expected that a regulated entity shall associate only with/through an SDP. It can also associate with/through a digital platform which is not an SDP. However, in that case it has the responsibility to ensure that the provisions of Regulation 16A of Intermediaries Regulations, Regulation 44B of SECC Regulations and Regulation 82B of DP Regulations are complied with.

Mumbai
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