

Clarifications regarding payment of brokerage to intermediaries after September 30, 2003

The circular No. CIR/ARN-01/02-03 dated January 15, 2003 issued by AMFI prescribes certain guidelines and modalities for the registration of the intermediaries and implementation of code of conduct which are based on the SEBI Circular no. MFD/CIR/20/23230/2002 dated November 28, 2002 read with SEBI Circular no. MFD/CIR/06/210/2002 dated June 26, 2002.

The standing committee on AMFI Registration has examined a number of issues referred to it regarding operationalising of the code of conduct and guidelines in a uniform manner. Based on the recommendations of the standing committee, further clarifications as under are issued to assist AMCs in the implementation of the code of conduct and guidelines in a uniform manner:

1. Certification and Registration:

At present there is some confusion about registration and obtaining ARN. Quite a few people believe that being certified and being registered are one and the same. Therefore it is advised that a common letter be issued by AMCs to their empanelled intermediaries on the lines of the draft enclosed reiterating the need for registration with AMFI.

2. Identification of 'own investment' of the intermediary:

SEBI in its circular dated November 28, 2002 has inter alia stated that

"all Mutual Funds and intermediaries are advised to follow it strictly and should not indulge in any practice contravening it directly or indirectly i.e. paying commissions in any form or by allotting intermediary codes to investors or their associates for paying them commission on their own investments, etc."

AMFI in its circular no. CIR/ARN/01/02-03 dated January 15, 2003 has also inter-alia stated that

"All intermediaries fulfilling the empanelment criteria as provided hereunder shall be entitled to receive brokerage for all business canvassed by them, except on their own investments."

Further to the said circular, the AMCs are advised to follow the process as under in respect of the same:

- A. In case of joint holding, the first holder and the intermediary being common would be identified as 'own investment'.
- B. To identify "own investments" an automated case insensitive string match would be done. Following this a manual scrutiny would be used to identify cases where addresses do not match.
- C. No trail brokerage on "own investments" would be accrued after November 28, 2002.
- D. Own investments would not be considered for the purpose of calculating slab-wise incentives & contest payments etc.
- E. Brokerage reports would go with a disclaimer:

"Vide SEBI circular dated November 28, 2002, and AMFI's subsequent guidelines, intermediaries are not entitled to brokerage on their own investments. While we have identified your own investments to the best of our ability and eliminated payment, you are requested to let us know of any errors in either identifying third party investments as your own or in not identifying some of your own investments. Please note that receiving brokerage on own investments will be a violation of the SEBI Regulation."

3. Payment of brokerage to intermediaries

SEBI vide its circular dated November 28, 2002 has also stated as under:

"Mutual funds shall monitor the compliance of these guidelines and code of conduct by their intermediaries in terms of business done across all mutual funds. In case of non-compliance, the empanelling mutual funds may suspend further business and pay-out of commissions etc., until full compliance by them."

The AMCs had sought clarification regarding suspension of pay-out and after deliberation, it has been decided as under, for payment of brokerage to intermediaries whose ARN status is unknown post September 30, 2003:

- A. In respect of funds mobilized on or prior to September 30, 2003 – Brokerage (including Trail) will continue to be paid.**
- B. In respect of funds mobilized after September 30, 2003 – Brokerage shall be computed but withheld for a maximum period upto December 31, 2003, within which the concerned intermediary should obtain ARN and report the details to the funds. Upon receipt of ARN status, the AMC shall examine whether the underlying qualification – viz. Exam pass status for individuals and proprietorship concerns and ARN registration itself for corporates & others – had been obtained prior to September 30, 2003.**
- C. (i) If the underlying qualification had been obtained from a date post September 30, 2003, then the intermediary shall be entitled to brokerage (including trail) only in respect of funds mobilized from such qualifying date, and only for the period following such qualifying date.
(ii) Further, as certification and registration is an ongoing process, intermediaries getting certified after September 30, 2003 will only be eligible for brokerage from the date of certification.**

For example, if an individual intermediary advised the AMC of his ARN on November 25, 2003 with an exam pass status of October 20, 2003, then he shall be entitled to brokerage in respect of funds mobilized on and after October 20, 2003. Funds mobilized between 1st and 20th October shall not be entitled to any brokerage. Similarly if a corporate gets ARN Registration on November 25, 2003, then the corporate will be entitled to brokerage (including trail) in respect of funds mobilized on or after November 25, 2003.

4. Obtaining confirmation of registration with AMFI:

Each AMC may develop its own system of obtaining verification from their intermediaries. Further, such AMCs may approach AMFI with their list of intermediaries for obtaining confirmation of AMFI Registration and in such cases AMFI would get a verification done for a fee that may be prescribed by AMFI.

Members are requested to kindly take careful note of these clarifications while implementing the AMFI guidelines issued earlier.

A.P. Kurian

(Chairman)

Draft of the Letter to Intermediaries

Dear ,

AMFI Registration (Obtaining ARN – Photo Identity Card)

This is to bring to your notice that as per SEBI Guidelines it is now compulsory for all persons engaged in sales and marketing of mutual funds to pass the AMFI Certification Test and also to register with AMFI before September 30, 2003. All employees engaged in sales and marketing of mutual funds of an intermediary organization must also register and obtain a photo identity card with the ARN of their employer.

You can register at any office of CAMS, which is AMFI's agent in this regard, or contact any of our offices for assistance.

Kindly note that an intermediary who is not registered with AMFI cannot be paid brokerage.

We trust you will do the needful and inform us of your ARN immediately on receipt of this letter, so as to avoid any stoppage of brokerage.

With regards,

(AMC)