

AN ASSOCIATION FOR THE COMMUNITY OF
PORTFOLIO MANAGERS REGISTERED WITH
THE SECURITIES & EXCHANGE BOARD OF INDIA



28th Compliance Sutra Session- 12th November'2024

Topic:

SEBI (Portfolio Managers) Regulation, 2020

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Topics covered

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- 4. General Responsibilities & Prohibitions**
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- 7. Dispute Resolution and Grievance Redressal Mechanism**
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Registration of Portfolio Manager & Post- Registration Activity

Registration Requirements of Portfolio Managers

- ❑ **Applicant Status:** Must be a body corporate.
- ❑ **Infrastructure:** Must possess adequate office space, equipment, and manpower.
- ❑ **Fit and Proper Person Test:** The applicant must be deemed fit and proper.
- ❑ **Litigation and Convictions:** No adverse litigation or convictions involving moral turpitude or economic offences.
- ❑ **Net Worth:** Must meet specified requirements (exempt for Co-investment Portfolio Managers).
- ❑ **Minimum Manpower Requirements:**
 - Compliance Officer: Must be designated.
 - Principal Officer: Must be appointed.
 - Additional Personnel: At least one employee with a graduation degree and a minimum of 2 years of relevant experience.



Compliance for Same Group Entities

❑ **Definition of ‘Same Group’:**

Entities are considered in the same group if:

- The same person, alone or with relatives, exercises control over both entities.
- One is an ‘associate company’ of the other as defined under the Companies Act, 2013.
- One entity directly or indirectly exercises control over the other, as defined in Regulation 2(1)(e) of the PM Regulations.

❑ **Separate Legal Entities, Independent Board of Directors & Compliance:**

- SEBI may grant registration to an entity within the same group if incorporated as separate legal entities but the entities must maintain an arm’s length relationship in their operations to ensure independence.
- Each entity must have an independent Board and Common directors must not constitute a majority on both boards.
- Key personnel and infrastructure must be independently available and each entity must have its own regulatory control and supervisory mechanisms.

❑ **SEBI action Consequence:** If SEBI takes action (e.g., suspension or cancellation of registration) against one entity in the group, it may also take similar action against other entities in the same group under the Intermediaries Regulations.

Minimum Net worth Requirement

- ❑ **Minimum Net Worth Requirement** : A portfolio manager must maintain a net worth of at least ₹5 crore at all times.
- ❑ **Compliance Requirements** : Net worth requirements must be fulfilled separately and independently of capital adequacy requirements for each activity undertaken.
- ❑ **Exclusions** : The net worth requirement does not apply to Co-Investment Portfolio Managers.
- ❑ **Definition of Net Worth** : Net worth is defined as the sum of paid-up equity capital and free reserves (excluding revaluation reserves), less accumulated losses and deferred expenditures, including miscellaneous expenses not written off.



Fit and Proper Person Criteria

❑ The 'fit and proper person' criteria apply to:

1. The applicant or intermediary.
2. The principal officer, directors or managing partners, compliance officer, and key management personnel.
3. Promoters or individuals with controlling interest or influence over the applicant or intermediary.

For unlisted applicants or intermediaries, anyone holding 20% or more voting rights must also meet the 'fit and proper person' criteria.

❑ Ongoing Compliance

- Criteria must be met at application and throughout the registration period
- Continuous compliance required from key personnel



Key Criteria for Evaluation

☐ SEBI has defined below criteria to check “Fit and Proper” Person though Board has discretion to consider various other criteria too.

1. Integrity and Reputation:

- Integrity, honesty, ethical behaviour, fairness, and character

2. Disqualifications:

1. Criminal complaints pending	6. Recovery proceedings pending
2. Charges by enforcement agencies	7. Convictions for moral turpitude
3. Restraint orders in force	8. Winding up proceedings
4. Insolvency status	9. Unsound mind declaration
5. Categorized as a wilful defaulter	10. Declared a fugitive economic offender
Any other Board-specified disqualifications	

Compliance Officer-Appointment & Responsibilities

- ❑ **Appointment Requirement:** Every portfolio manager must appoint a senior person as the compliance officer, but the role cannot be assigned to the principal officer or specified employees.
 - Compliance officer may be assigned to the principal officer in case of Co-investment PMs
- ❑ **Responsibilities:**
 - Monitoring Compliance: Ensure adherence to SEBI and government regulations.
 - Investor Grievances: Address and resolve investor complaints.
 - Internal compliance oversight.
 - Address SEBI's observations and ensure deficiencies do not recur.
 - Immediate reporting of non-compliance directly to SEBI
- ❑ **Certification Recommendation:**
 - While not mandatory, it is recommended for compliance officers to complete the NISM Series III-A certification.



Principal Officer- Qualification & Certification requirements

❑ Who could be a Principal officer:

“Principal officer” means an employee of the portfolio manager who has been designated as such by the portfolio manager and is responsible for: -

- the decisions made by the portfolio manager for the management or administration of the portfolio of securities or the funds of the client, as the case may be; and
- all other operations of the portfolio manager.

❑ Principal Officer Requirements

- **Qualifications:** The principal officer must possess a professional qualification in finance, law, accountancy, or business management. Acceptable qualifications include the NISM Post Graduate Program or a CFA charter.
- **Experience:** A minimum of 5 years of experience in securities market activities is required, with at least 2 years specifically in portfolio management or investment advisory roles.
- **Certification:** The principal officer must hold NISM Series XXI-B at all times.

❑ Principal Officer Changes

- **Reporting:** Any changes to the principal officer must be reported to SEBI within 7 working days.



❑ **Who is Co-Investment Portfolio Manager?**

A Co-Investment Portfolio Manager is a manager of a Category I or II Alternative Investment Fund who:

1. Provides services exclusively to investors of that fund.
2. Invests only in unlisted securities of companies that the fund invests in.

Additionally, they can offer services to investors from other funds they manage, provided those funds are sponsored by the same sponsors.

- ❑ **Co-investment Portfolio Management Services:** This involves offering and managing investments where the fund manager invests alongside other investors or funds in particular projects or opportunities.
- ❑ **For SEBI Registered Portfolio Managers:** A Category I or II Alternative Investment Fund (AIF) manager who is also a SEBI-registered portfolio manager can offer co-investment services. However, they must inform SEBI before doing so.
- ❑ **For Non-SEBI Registered AIF Managers:** A manager of Category I or II AIFs who is not yet registered with SEBI as a portfolio manager must first obtain SEBI registration to offer co-investment services. After registration, if they want to offer other portfolio management services beyond co-investment, they must comply with all relevant regulations.

Adherence to SEBI Code of Conduct

Code of Conduct for the Portfolio Manager

- ❑ Every portfolio manager shall abide by the Code of Conduct, i.e.:
 - **Integrity & Fairness:** Act honestly and fairly with clients and peers.
 - **Timely Investment:** Invest client funds quickly and pay dues promptly.
 - **High Standards of Service:** Provide quality service, avoid conflicts of interest, and disclose any potential conflicts.
 - **Client Interests First:** Do not trade against clients' interests or make exaggerated claims.
 - **Confidentiality:** Keep client information private.
 - **Market Integrity:** Avoid market manipulation, insider trading, or unethical practices.
 - **Informed Decisions:** Provide clients with clear, accurate information and risks.
 - **Compliance:** Follow laws, regulations, and SEBI guidelines.



Compliance and Professional Standards

❑ **Responsible Advice and Conduct**

1. **Accurate Information:** Provide clients with truthful information regarding risks and avoid misleading claims.
2. **Prohibited Activities:** Do not engage in market manipulation, insider trading, or share confidential information improperly.
3. **Media Advice Disclosure:** Investment advice in public media must disclose positions and potential conflicts.

❑ **Adherence to Regulations**

1. **Legal Compliance:** Follow all relevant laws and SEBI guidelines, ensuring ethical practices in portfolio management.
2. **Influence Integrity:** Avoid using status as an intermediary to unduly influence client decisions, ensuring independent advice

PMS Agreement, Disclosure Document & Reporting requirements

Contract with Clients - Overview



❑ Written Agreement Requirement

- Portfolio managers must enter into a written agreement before managing funds/portfolio for a client.
- The agreement must outline:
 - Mutual rights, liabilities, and obligations.
 - Specific details as per **Schedule IV** of SEBI regulations.

❑ Co-investment Terms

- **Co-investment Portfolio Managers** must ensure:
 - Co-investment terms not more favorable than those of the **Alternative Investment Fund (AIF)**.
 - Identical exit terms for co-investors and AIFs.
 - Early withdrawal allowed for co-investors only if AIF has exited.

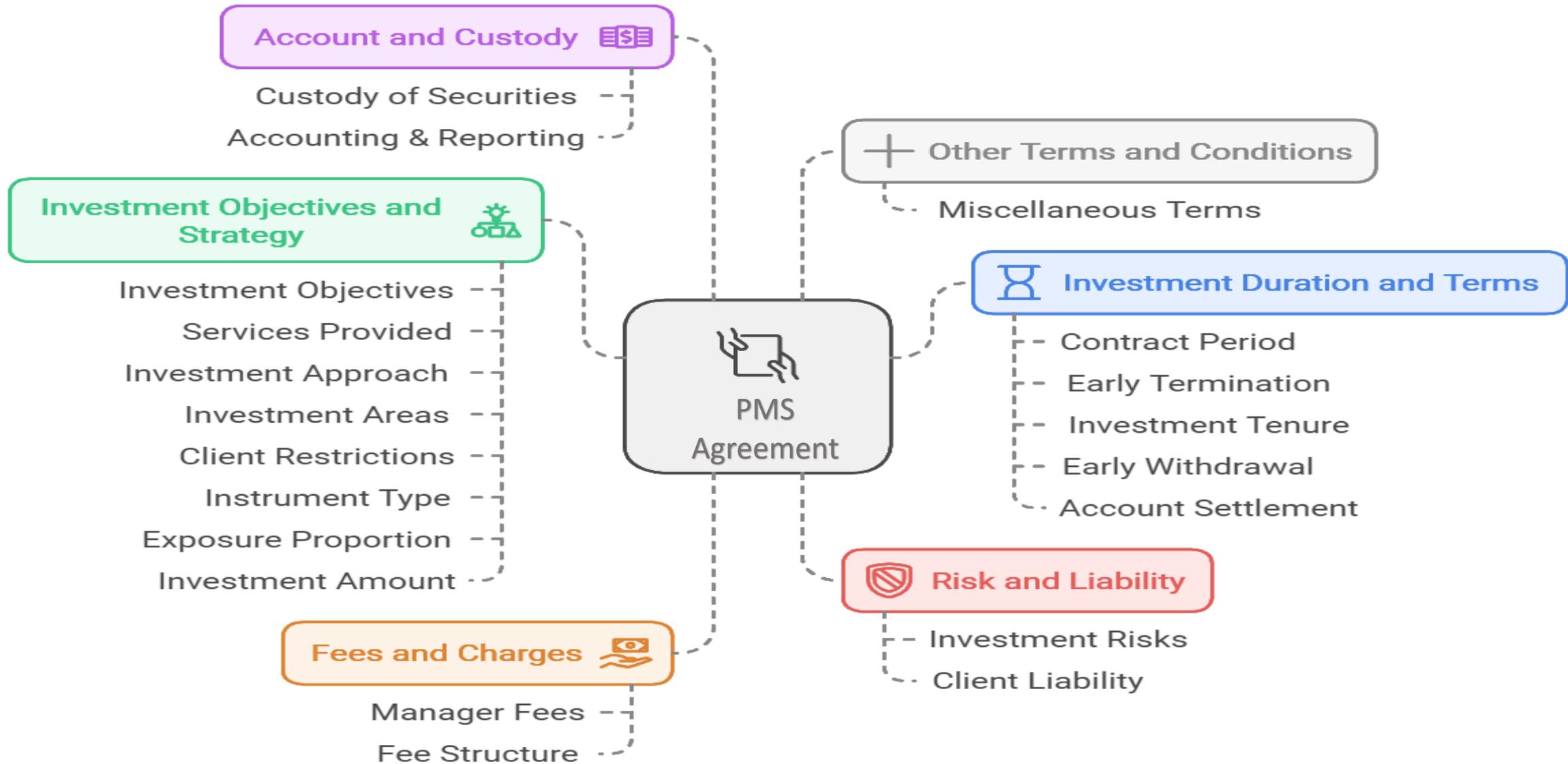
❑ **Exemption for Large Value Accredited Investors: Schedule IV Agreement** does not apply to agreements with large value accredited investors.

❑ Investments in Related Parties

- Prior client consent required before investing in securities of related parties or associates.
- **Exemptions** may apply as specified by SEBI.



Core element of the Agreement Between Portfolio Manager & Clients



Disclosure Document Requirements

❑ Disclosure Obligations:

- **Pre-Agreement Provision:** Portfolio managers must provide clients with the Disclosure Document and a certificate in Form C **before entering into an agreement.**

❑ Contents of the Disclosure Document: Ensure that the Disclosure Documents include the minimum information required by SEBI, such as :

1. **Fee Structure:** Details on payment of fees for services rendered.
2. **Portfolio Risks:** Specific risks associated with each investment approach.
3. **Related Party Transactions:** Full disclosure as per accounting standards.
4. **Conflicts of Interest:** Details related to group companies or associates.
5. **Investment in Related Parties:** Information on investments made in securities of related parties.



Disclosure Document Requirements

6. **Diversification Policy:** Details on the portfolio manager's diversification strategy.

7. **Performance Metrics:**

- Time Weighted Rate of Return for discretionary managers over the last three years.
- Performance disclosure for Co-investment Portfolio Managers as agreed with clients.

8. **Audited Financials:** Financial statements for the past three years.

9. **Certification:** The Disclosure Document must be certified by an independent chartered accountant.

Accessibility: The Disclosure Document must be available on the portfolio manager's **website at all times.**



DISCLOSURE

Regulatory and Reporting Requirements

❑ **Filing and Reporting:**

- **Registration Filing:** Submit the Disclosure Document to the Board after registration and for any material changes within 7 working days.
- **Principal Officer Change:** Report changes in the Principal Officer's identity to the Board and clients within 7 working days.

❑ **Uniform Performance Reporting:** Consistent performance reporting in disclosures, marketing materials, and on the website.

❑ **Fee Structure:**

- Fees must be agreed upon and cannot guarantee returns; no upfront fees are allowed.
- Disclosure of fee ranges in the Disclosure Document.

General Responsibility & Prohibition

General Responsibilities of a Portfolio Manager

❑ Management Styles:

- **Discretionary Portfolio Manager:** Independently manages client funds based on individual needs, not operating as a Mutual Fund.
- **Non-Discretionary Portfolio Manager:** Manages funds according to client directives.

❑ Minimum Investment Requirement: Portfolio managers must not accept investments below ₹50 lakh from clients.

Exceptions: Minimum investment does not apply to accredited investors or Co-investment Portfolio Managers, with appropriate disclosures



General Responsibilities of a Portfolio Manager

- ❑ **Fiduciary Responsibility:** Portfolio managers must act in a fiduciary capacity concerning client funds.
- ❑ **Client Account Segregation:**
 - Each client's securities must be held in separate accounts.
 - Funds must be maintained in a separate account at a Scheduled Commercial Bank.
- ❑ **Compliance with Client Limitations:** Transactions in securities must adhere to client-imposed limitations and relevant regulations.



Prohibited Actions and Client Care

❑ **Prohibitions:**

- No direct or indirect benefit from client funds or securities.
- No borrowing of funds or securities on behalf of clients.
- Lending of client securities to third parties is not permitted unless specified by regulations.

❑ **Client Complaints and Compliance:**

- Ensure timely handling of client complaints and appropriate actions taken.
- Verify that all distribution activities comply with regulations and issue circulars



Management & Administration Of Client's Portfolio

Investment Guidelines



❑ Investment Rules:

- Invest funds per the agreed terms between the manager and client.
- Portfolio renewal after the initial period is treated as a new investment.

❑ Withdrawal of Funds:

- Clients can withdraw funds before maturity if:
 - Portfolio manager or client ends the service.
 - Manager's registration is cancelled or suspended.
 - Manager goes bankrupt or is liquidated.

❑ Types of Investments:

- Discretionary managers must invest in approved assets like:
 - Listed stocks, bonds, treasury bills, and mutual funds.
- Ensure investments remain within regulatory limits.

❑ Investment Limits:

- Follow rules on investment amounts for different assets.
- No investment in unrated securities linked to the manager or their associates.
- Implement a compliance monitoring system for investments



Client Fund Management and Security

❑ **Unlisted Securities:**

- Non-discretionary/advisory services: Invest up to 25% of assets in unlisted securities.
- For large investors: Invest up to 100% of assets in unlisted securities (with clear disclosure).

❑ **Mutual Funds:**

- Must invest via "direct plan" to avoid extra distribution fees.
- No distribution-related fees can be charged to clients.

❑ **Transaction Rules:**

- Trades should be made separately for each client or fairly divided for efficiency.
- Speculative trading is prohibited (no betting on short-term price movements).
- Off-market transfers allowed only in specific cases (e.g., settling client trades, providing collateral).

Investment Restrictions

❑ Safekeeping of Funds:

- Keep clients' funds and securities separate from the manager's own.
- Responsible for the safekeeping of clients' assets.

❑ Securities Lending:

- Can participate in securities lending if authorized by the client.
- Securities are temporarily loaned to other parties for a fee.

❑ No Leveraging:

- Prohibited from using leverage (borrowing money) for investing in risky products like derivatives.

❑ Prohibited Activities:

- Cannot invest in:
 - Bill discounting, badla financing, or lending money to companies.
 - Another portfolio manager's portfolio or follow external investment advice



Foreign Portfolio Investors and Custodian Appointment

❑ **Foreign Portfolio Investors (FPIs):**

- FPIs are allowed to utilize the services of a portfolio manager for investment management.

❑ **Custodian Appointment:** Every portfolio manager must appoint a custodian for the securities managed.

◦ **Exemptions:**

- This requirement does not apply to portfolio managers providing only advisory services.
- Co-investment portfolio managers are also exempt.



Maintenance of Records, Reporting & Audit requirements

Maintenance of Records and Reporting

□ **Record Keeping:**

- Portfolio managers must maintain the following records:
 - Balance sheets at each accounting period's end.
 - Profit and loss accounts for each period.
 - Auditor's reports on accounts.
 - Financial position statements.
 - Records supporting every investment transaction, maintained by the Principal Officer.

□ **Reporting Obligations:**

- Portfolio managers must inform the Board of the location of their records.
- They must submit copies of financial documents for the past five years to the Board upon request.

Accounts Management and Audit

❑ **Client-wise Accounts:**

- Portfolio managers must maintain separate accounts for each client.
- All transactions, including client funds, investments, income (interest, dividends), and expenses, must be accurately recorded.

❑ **Tax and Audit Requirements:**

- Tax deducted at source must be recorded in the portfolio account.
- Annual audits by qualified auditors ensure compliance with accounting methods and legal obligations, with certificates submitted to the Board within six months of the accounting period's end.



Independent Audits and Client Rights

❑ Independent Audits:

- Portfolio accounts are to be audited annually by an independent chartered accountant.
- Clients receive copies of the audit certificates.

❑ Client Audit Rights:

- Clients can appoint their own chartered accountant to audit the portfolio manager's books.
- The portfolio manager must cooperate during this audit.



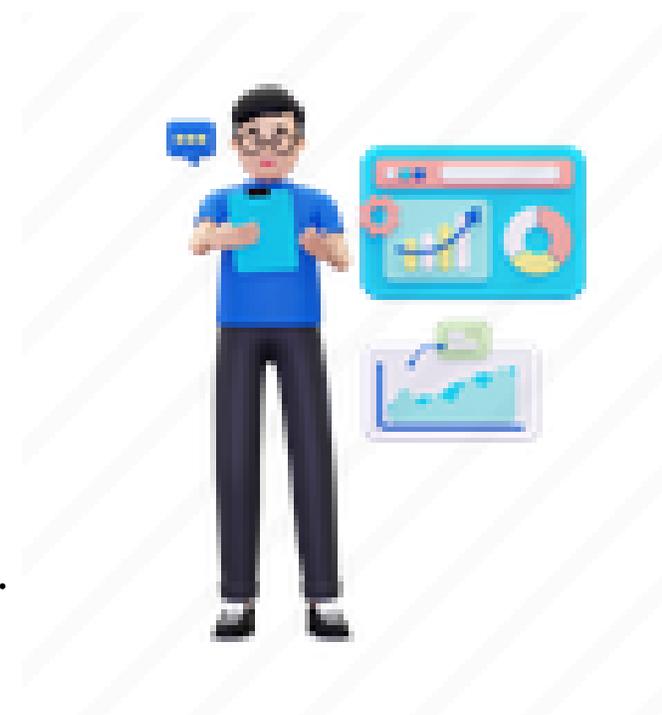
Reporting to Clients

□ Periodic Reporting:

- Portfolio managers must provide clients with reports every three months or as requested, detailing:
 - Portfolio composition and valuation.
 - Transactions, including dates and details.
 - Income received (interest, dividends, bonuses).
 - Expenses incurred.
 - Risk assessments related to investments.

□ Termination and Account Settlement:

- Upon contract termination, portfolio managers must provide a detailed statement of accounts and settle them as per the agreement.
- Clients can request portfolio details at any time.



Dispute Resolution and Grievance Redressal Mechanism

Dispute Resolution and Grievance Redressal Mechanism

❑ **Dispute Resolution**

- **Claims Submission:** All claims, differences, or disputes between investors and portfolio managers related to activities in the securities market must be submitted to a dispute resolution mechanism.
- **Mechanisms Used:** This includes mediation, conciliation, and/or arbitration, following procedures specified by the Board.

❑ **Grievance Redressal Mechanism**

- **Prompt Resolution:** Portfolio managers are required to redress investor grievances **within twenty-one calendar days** from the date of receipt.
- **Board Specifications:** The Board may recognize a corporate body to handle and monitor the grievance redressal process, ensuring timely and effective resolution.

Payment of Fees under SEBI (PMS) Regulations, 2020

Fees under SEBI (PMS) Regulations, 2020

Fee Type	Amount	Payment Timing	Payment Mode
Non-Refundable Application Fee	₹1,00,000	Along with the application for grant of registration	NEFT/RTGS/IMPS or online payment using SEBI Payment Gateway
Registration Fee	₹10,00,000	At the time of grant of certificate by the Board	NEFT/RTGS/IMPS or online payment using SEBI Payment Gateway
Ongoing Registration Fee	₹5,00,000	Every three years, within three months before expiry of the block period for which fee has been paid	NEFT/RTGS/IMPS or online payment using SEBI Payment Gateway
Payment of Fees	-	Within 15 days from receipt of intimation from SEBI	Direct credit into SEBI bank account or online payment using SEBI Payment Gateway

Fees Structure.

Non-Refundable Application Fee 

Amount: ₹1,00,000

Payment Timing: Along with application


Fee
Structure

 **Registration Fee**

Amount: ₹10,00,000

Payment Timing: At certificate grant

 **Ongoing Registration Fee**

Amount: ₹5,00,000

Payment Timing: Every three years


Payment option

 **NEFT/RTGS/IMPS**
Traditional bank transfer methods.

 **Online payment**
Convenient and quick payment through SEBI Payment Gateway.

THANK YOU

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