

# Foreign Portfolio Investors

February 2024



## Regulatory – SEBI/RBI etc

### Streamlining of regulatory reporting by Designated Depository Participants (DDPs) and custodians

SEBI reviewed various reports submitted by DDPs and custodians in order to have uniform compliance standards, for ease of compliance reporting and for regulatory purposes.

SEBI has decided that DDPs and custodians to submit the following reports on the SEBI intermediary portal:

Reporting requirements	Periodicity
FPI general information to assess the eligibility under regulation 4 of FPI regulations, 2019	Quarterly
Declarations with respect to non-resident India/overseas citizen of India/resident Indian being constituent of the FPIs	
FPIs who are non-compliant with legal entity identifier requirements	
FPIs who have not submitted granular Beneficial Ownership (BO) details	
Details of FPIs granted exemption (for granular BO details)	
Change in material information where there is a delay of 6 months**	Monthly
Report of short sales by FPIs	

\*\* DDPs shall continue to submit delay in intimation of certain material changes (excluding change in name, change in senior managing official and

change in BO not leading to change in investor grouping), within two working days from the receipt of intimation by FPIs. The monthly and quarterly reports shall be uploaded within 15 calendar days from the end of each month and quarter, respectively.

The circular to come into effect from month ending February-2024 onwards.

Source: SEBI circular SEBI/HO/AFD/AFD-SEC-2/P/CIR/2024/8 dated 25 January 2025

### Framework for short selling

SEBI has updated the framework for short selling as provided in master circular for stock exchanges and clearing corporations dated 16 October 2023 to include the following:

- Institutional investors to disclose upfront at the time of placement of order whether the transaction is a short sale.
- The brokers are mandated to collect the details on scrip-wise short sell positions, collate the data and upload it to the stock exchanges before the commencement of trading on the following trading day.

The stock exchanges to then consolidate such information and disseminate the same on their websites for the information of the public on a weekly basis.

Source: SEBI circular SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/1 dated 5 January 2024

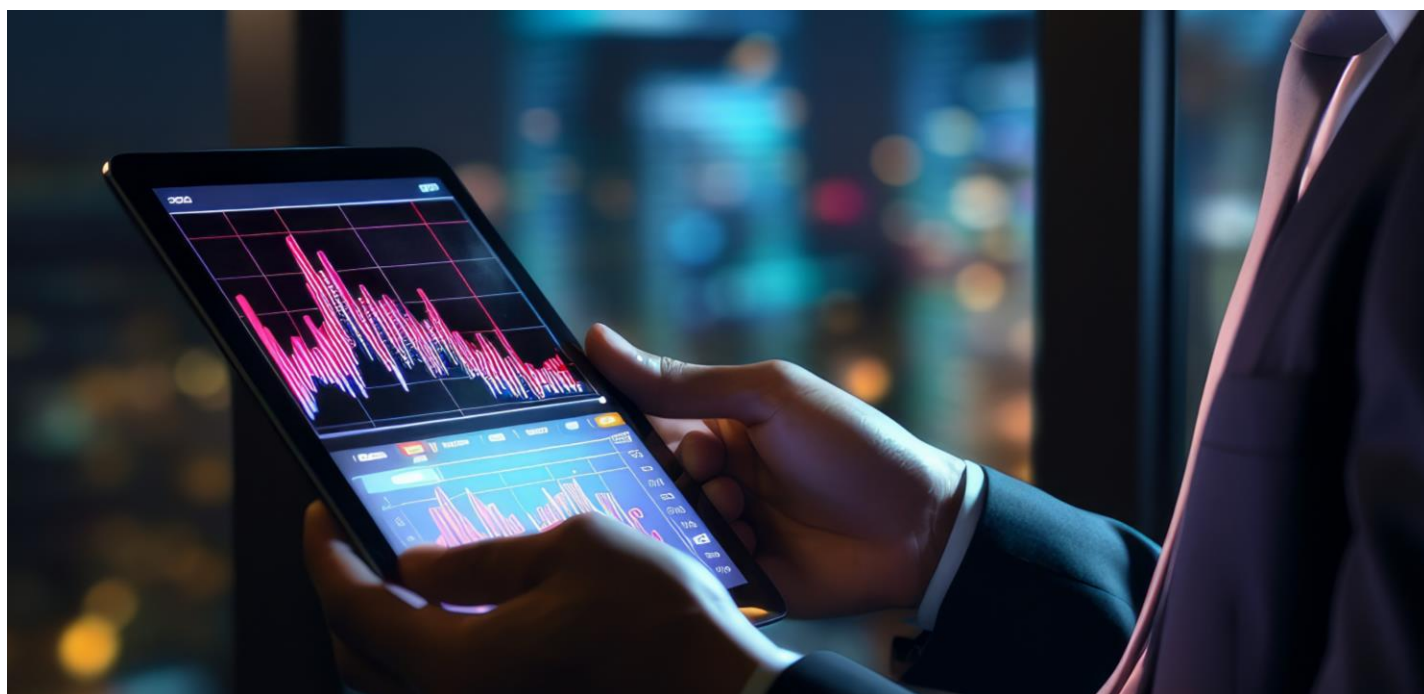
## Direct listing of equity shares of Indian companies on International Financial Services Centre

The Ministry of Finance notified rules for investment by permissible holder in equity shares of public companies incorporated in India and listed on international exchanges. The key aspects of the framework are:

- **Issue and listing on International Exchanges:** Subject to conditions laid down, a public Indian company may issue equity shares or offer equity shares of existing shareholders. Such shares are to be listed on any of the specified International Exchange.
- **Permissible holder** means a holder of equity shares of the company which are listed on International Exchange, including its beneficial owner. Such holder should not be a person resident in India.  
  
The permissible holder may purchase or sell equity shares of an Indian company listed on an international exchange subject to limit specified for foreign portfolio investment under these rules.
- **Eligibility:** A public Indian company, or a listed or unlisted Indian company may issue equity shares on International Exchange; or the existing shareholders may offer equity shares in such exchange, subject to compliance with the conditions laid down.
- **Obligations of companies:** The company must comply with extant laws relating to issuance of equity shares, including the Securities Contract (Regulations) Act, 1956, Companies Act, 2013 etc.

- **Voting rights:** The permissible holder to be able to exercise the voting rights in relation to the shares listed on the International Exchange directly or through their custodian pursuant to voting instruction.
- **Pricing:**
  - Where equity shares are issued by a listed company or offered by the existing shareholders of equity shares listed on Recognised Stock Exchange in India, the same shall be issued at a price, not less than the price applicable to a corresponding mode of issuance of such equity shares to domestic investors under the applicable laws.
  - In case of initial listing of equity shares by a public unlisted Indian company on the International Exchange, the price of issue or transfer of equity shares to be determined by a book-building process as permitted by the said International Exchange and not to be less than the fair market value under applicable rules or regulations.
- **List of International Exchanges** - International Financial Services Centre in India-India International Exchange, NSE International Exchange.

Source: Ministry of Finance, notification F. No. 4/1/ECB/2019 dated 24 January 2024





## Income-tax – case laws, notification

### Supreme Court(SC) stays High Court's ruling on grant of tax treaty benefits based on tax residency certificate

The taxpayer, a company incorporated in Singapore and held a valid TRC. During the AY 2016-17, the company had claimed benefit under article 13 of India – Singapore tax treaty in respect of capital gains arising on sale of shares of an Indian company.

The High Court(HC) had earlier held that since Inland Revenue Authority of Singapore had issued a TRC evidencing that it was a tax resident of Singapore, thereby the company was eligible to claim tax treaty benefits and that the Revenue could not go behind such TRC.

The Revenue filed special leave petition before the SC against the HC judgement. The SC issued notice to stay the HC ruling and also directed the Revenue not to collect amount assessed to be collected from the Singapore company.

Source: Special Leave Petition (Civil) diary no(s.) 49801/2023 dated 12 January 2024

### Income-tax Appellate Tribunal (ITAT) considers notice issued u/s 148 as void ab initio on the basis no prima facie satisfaction recorded from the reasons for re-opening

The taxpayer, a company incorporated in Mauritius for making investments, is a tax resident of Mauritius as per article 4 of the India-Mauritius tax treaty and holds a valid TRC.

During the FY 2016-17, the taxpayer sold equity shares and compulsory convertible debenture of a private Indian company. The company filed form 15CA (form required to be furnished where payments are made to non-residents) and remitted the sale proceeds.

It was noted that there was no tax implication in the hands of the taxpayer with respect to capital gains earned as the transaction was covered under article 13(4) of the tax treaty.

The Assessing Officer(AO) initiated re-assessment proceedings on the grounds that the taxpayer had made large transactions and it appeared that the taxpayer is carrying on some activity which has resulted in generation of income. However, the taxpayer had not filed Income

Tax Return(ITR).

The ITAT held that from the above reasons nothing could be deciphered as to how the AO has come to conclusion of escapement of income and did not find any prima facie satisfaction from the reasons recorded.

It was concluded that there was no escapement of income during the year and hence, notice issued to initiate assessment proceedings was void ab initio and thus the assessment is treated as nullity.

Source: ITA no. 2164/Del/2023 Delhi bench 'D', New Delhi, dated 17 January 2024

### Central Board of Direct Taxes(CBDT) notifies ITR Forms for AY 2024-25

CBDT has notified ITR Form for the AY 2024-25 (relevant for FY ending 31 March 2024).

Source: CBDT notification no. 16/2024/F.no. 370142/49/2023-TPL and no. 19/2024/ F. no. 370142/47/2023-TPL dated 26 & 31 January 2024

### Timeline extended for processing ITR

CBDT has relaxed the timeline prescribed under section 143(1)<sup>1</sup> of the Income-tax Act, 1961 for processing ITR and directed that where ITR are validly filed electronically up to AY 2021-22 with refund claims and could not be processed and become time-barred should be processed by 30 April 2024.

Source: CBDT order F.no. 225/132/2023/ITA-II dated 31 January 2024



<sup>1</sup> The intimation is to be sent to the taxpayer within 9 months/1 year from the end of the FY in which the ITR is filed (depending on the year in which ITR was filed).



## Market Watch – press articles-select extracts

### Luxembourg, France gain heft among FPIs investing into India

'Luxembourg has dislodged Mauritius to become the region with the third-largest assets under custody. Its AUC grew 30 per cent last year to ₹4.85 lakh crore, with its equity assets now second only to the US.'

Source: Business Line, Ashley Coutinho, 13 January 2024

### FPIs raise liquidity concerns on shift to same-day settlement

'Foreign portfolio investors (FPIs) have raised concerns that the move to T+0, or same-day settlement may fragment the market liquidity or trading volumes, while seeking more time to suggest viable alternatives, given

the year-end holiday season, said two sources in the know.'

Source: Business Line, Ashley Coutinho, 7 January 2024

### FPIs breaching exposure levels to reveal ODI holder details

'Foreign portfolio investors (FPIs) have to reveal the ultimate identities of every holder of overseas derivative instruments (ODIs) once such funds breach the exposure levels specified by the regulator.

The Indian capital market regulator has spelt this out in a communique this week to the custodians of FPIs, a person aware of the matter told ET.'

Source: The Economic Times, Sugata Ghosh, 19 January 2024



## FPI Statistics - FPI portal, NSDL

Parameters	Current month	Earlier month	Changes
Net Equity inflows during Jan 2024 (in USD million)	(3,102)	7,968	
Net Debt inflows during Jan 2024 (in USD million)	2,304	1,706	
Total FPIs registered as on 2 Feb 2024	11,155	111,43	12
AUC of FPIs at end of Dec 2023 (in USD million)	796,311	732,538	63,772



# KPMG in India contact:

**Sunil Badala**

**Deputy Head of Tax**

National Head Tax- BFSI

E: [sunilbadala@kpmg.com](mailto:sunilbadala@kpmg.com)

[kpmg.com/in](https://kpmg.com/in)

[kpmg.com/in/socialmedia](https://kpmg.com/in/socialmedia)



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KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011  
Phone: +91 22 3989 6000, Fax: +91 22 3983 6000.

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