KPMG

Foreign Portfolio Investors

May 2024

KPMG. Make the Difference.

Regulatory – SEBI/RBI etc

Revision of Foreign Portfolio Investors (FPI) investment limits in debt and sale of Credit Default Swaps(CDS)

Reserve Bank of India (RBI) revised limits in Government Securities (G-secs), State Government Securities (SGSs) and corporate bonds under medium term framework as under:

Particulars	Current limits	Revised limit for	
		Apr-Sep 2024	Oct-Mar 2025
G-sec general	32	32	32
G-sec long term	16	17	17
SGS general	11	13	14
SGS long term	1	1	1
Corporate bond	80	86	92
Total debt	141	149	156

**amounts in USD billion*

The limits for FPI investment in G-secs, SGSs and corporate bonds remain at 6 per cent, 2 per cent and 15 per cent respectively, of the outstanding stocks of securities for 2024-25.

Further, the aggregate limit of the notional amount of CDS[1] sold by FPI to be 5 per cent of the outstanding stock of corporate bonds. Accordingly, an additional limit of USD31 billion set out for FY 24-25 (from earlier limit of USD27 billion).

Source: RBI/2024-25/27 A.P. (DIR Series) circular No. 03 dated 26 April 2024

Cross margin benefits for offsetting positions having different expiry dates

Securities and Exchange Board of India (SEBI) permits cross margin benefits **if both the correlated indices or an index and its constituents have same expiry day**.

SEBI has extended cross margin benefit on offsetting positions having different expiry dates (w.e.f. 23 July 2024) subject to the following:

- A spread margin of 40 per cent to be levied in case of offsetting positions in correlated indices having different expiry dates. Spread margin of 30 per cent to continue to get levied in case of same expiry date (i.e., existing requirement)
- A spread margin of 35 per cent to be levied in case of offsetting positions in index and its constituents having expiry date different from index. While the expiry date of index futures can be different from that of its constituents, the expiry date of futures contracts of all constituents to be same in order to obtain the aforesaid cross margin benefit

Spread margin of 25 per cent to continue to be levied in case of same expiry date of index and constituents (i.e., existing requirement)

- The benefit would be revoked at the beginning of the expiry day of the position which expires first (i.e., first of the expiring indices or constituents) in case the expiry dates of both legs of the position are different.

Source: SEBI circular SEBI/HO/MRD/TPD-1/P/CIR/2024/24 dated 23 April 2024

[1] CDS means a credit derivative contract in which one counterparty (protection seller) commits to pay to the other counterparty (protection buyer) in the case of a credit event with respect to a reference entity and in return, the protection buyer makes periodic payments (premium) to the protection seller until the maturity of the contract or the credit event, whichever is earlier.

Foreign entities, not having a physical presence in IFSC, to trade directly on the stock exchanges

To increase the number of participants and make the secondary market more vibrant and liquid, IFSC Authority (IFSCA) has permitted foreign entities, not having a physical presence in IFSC, to trade directly on the stock exchanges, on a proprietary basis, without a broker-dealer. Such entity to be referred to as a Remote Trading Participant (RTP).

An entity to be onboarded as RTP subject to satisfaction of conditions which, inter alia, are:

- The entity is a resident of a country whose securities market regulator is a signatory to the International Organisation of Securities Commission's Multilateral Memorandum of Understanding or a signatory to the bilateral Memorandum of Understanding with IFSCA
- The entity is currently a member of any of the stock exchanges specified
- The entity is a body corporate
- The entity is not a resident of a country identified in the public statement of the Financial Action Task Force (FATF) as –

➢ a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

➢ a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the FATF to address deficiencies

- The entity shall be permitted to trade only on a proprietary basis and shall not be permitted to onboard clients
- The entity shall be permitted to transact only in cash-settled derivative products on the stock exchanges.

Source: IFSCA circular IFSCA/CMD-MIIT/RTP/2023-24/001 dated 3 April 2024

Flexibility for increased participation by Non-Resident Indians(NRIs), Overseas Citizens of India(OCIs) and Resident Indian(RIs) individuals in FPIs

SEBI approved framework for providing flexibility for increased contribution by NRIs, OCIs and RI Individuals in the corpus of FPIs based out of IFSCs in India and regulated by IFSCA.

The flexibility is subject to following conditions:

- 100 per cent contribution limits to be available subject to the FPI submitting copies of PAN cards of all their NRI/OCI/RI individual constituents, along with their economic interest in the FPI to the designed depository participant

  If a constituent does not have a PAN, the FPI to submit a suitable declaration along with copies of prescribed identity documents such as Indian passport, OCI card, Aadhaar etc

  Similar disclosure is required in case of indirect holding in the FPI through non-individual constituents that are majority contributed to/owned/controlled by NRI/OCI/RI individuals on a look through basis

- ***Alternatively***, funds can satisfy the following conditions in terms of IFSCA's regulatory framework

  Pooling: Contribution of all investors of the fund are pooled into one investment vehicle that is registered as an FPI, with no side-vehicles

  Pari-passu and Pro-rata: The corpus of the fund is a blind pool (i.e., common portfolio) with no segregated portfolios. All investors in the fund to have pari-passu and pro-rata rights in the fund

  Diversification of investors: The fund has a minimum of 20 investors with each investor contributing not more than 25 per cent to the corpus of the fund

  Diversification of investments: A maximum of 20 per cent of the corpus of the fund may be invested in the equity shares of an Indian listed entity

  Independent Investment Manager: The investors in the fund do not have a say in the investment decisions of the fund. The Investment Manager (IM) is completely independent with respect to taking investment decisions for the fund

  The IM of the fund is an Asset Management Company of a SEBI registered Mutual Fund which is sponsored by a RBI regulated Bank or its IFSC based subsidiary/branch

- The FPI is bound by disclosure obligations with respect to all entities holding any ownership, economic interest, or exercising control in FPI on look through basis (in terms of SEBI circular dated 24 August 2023) if:

- such FPI holds more than 33 per cent of their Indian equity AUM in a single Indian corporate group;
- or such FPI along with its investor group holds more than USD3.01 billion of equity AUM in the Indian markets.

SEBI Board Meeting dated 30 April 2024

Income-tax – case laws, notification

Principal purpose test provisions being introduced in India-Mauritius tax treaty

A protocol amending India-Mauritius tax treaty was signed as per which India and Mauritius intend to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance including through treaty shopping arrangements.

Further, tax treaty benefits not to be granted in respect of any items of income if it is reasonable to conclude that treaty benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless established that granting benefit would be in accordance with object and purpose of tax treaty.

Source: Ministry of External Affairs, protocol signed 7 March 2024 [2]

Communication of notices cannot be presumed by only placing it on e-portal

The income-tax officer had issued notice; however, the said notice was not sent to the taxpayer's e-mail or otherwise and was only reflected on the income-tax f-filing portal. Similarly, the reminders were published on e-portal but also not served upon the taxpayer.

The High Court held that communication of the notices should be as per provisions of the Income-tax Act, 1961. The provisions do not mention of communication to be 'presumed' by placing notice on the e-portal. An individual or company is not expected to keep e-portal open all the times so as to have knowledge of what the income-tax department is doing.

Source: CWP-21028-2023(O&M) Punjab & Haryana High Court dated 4 March 2024

Market watch – press articles-select extracts

Government likely to issue green bonds worth INR20,000 - INR25,000 in FY25

The move aims to tap into increased FPI interest and meet the demand for environmentally sustainable investments.

The government, which has already decided to borrow INR12,000 crore via green bonds in the first half of FY25, may borrow a total of INR20,000 crore–25,000 crore through such bonds during the full year. The green bond plan, part of the government's overall borrowing programme, is likely to be announced in the full-year budget to be presented in July.

programme, is likely to be announced in the full-year budget to be presented in July.

Source: Livemint, Rhik Kundu dated 15 April 2024

RBI to allow investment, trading of Sovereign Green Bonds at IFSC, Gujarat

The Reserve Bank on Friday announced that it will allow investment and trading of Sovereign Green Bonds (SGrBs) at the International Financial Services Centre (IFSC), Gandhinagar.

Source: Financial Express, PTI dated 5 April 2024

FPI statistics – FPI portal, NSDL

Parameters	Current month	Earlier month	Changes
Net Equity inflows during Apr 2024 (in USD million)	(1,045)	4,229	
Net Debt inflows during Apr 2024 (in USD million)	(926)	1,937	
Total FPIs registered as on 30 Apr 2024	11,269	11,220	49
AUC of FPIs at end of Mar 2024 (in USD million)	837,830	825,906	11,924

[2] This protocol led to several queries from stakeholders. Income-tax department stated that the protocol is yet to be ratified and notified under the Indian law and also that the queries, will be addressed when the protocol comes into force.

KPMG in India contact:

Sunil Badala
Deputy Head of Tax
National Head Tax- BFSI
E: sunilbadala@kpmg.com

kpmg.com/in

Follow us on:
kpmg.com/in/socialmedia

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.