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June 07, 2016

To
The Executive Director
Broker Division - MIRSD
Securities and Exchange Board of India
SEBI Bhawan, G-Block
BandraKurla Complex, Bandra (East),
Mumbai -400 051

भा. प्र. वि. बो. SEBI	
सं/No 45569	
दिनांक	07 JUN 2016
Date	



SEBI/IW/P/20160608/0000045569

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Sub: Request for Informal Guidance by way of Interpretive Letter under Securities and Exchange Board of India (Informal Guidance) Scheme 2003 (the Scheme) in connection with removal of doubts over inclusion of service tax on brokerage

Having reference to the above, we would like to submit the following facts for your consideration and seek guidance with respect to interpretation of SEBI Notification no. LAD-NRO/GN/2012-13/17/21502 dated September 26, 2012 in terms of amendment of regulations Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2012

MATERIAL FACTS

1. In relation to the clauses of regulation stated in the above referred SEBI Notification, we would like to highlight clause (3) (iii) D (6A) (a) pertaining to new sub-regulation specifying cost or expense that may be charged to Mutual Funds. The relevant clause of the SEBI Notification is reproduced below:

3. iii. D. after sub-regulation (6), the following new sub-regulation shall be inserted, namely-

"(6A) In addition to the limits specified in sub-regulation (6), the following costs or expenses may be charged to the scheme, namely-

(a) brokerage and transaction costs which are incurred for the purpose of execution of trade and is included in the cost of investment, not exceeding 0.12 per cent in case of cash market transactions and 0.05 per cent in case of derivatives transactions:

We are a registered share & stock broker servicing all prominent Mutual Funds besides other institutional and non-institutional clients. According to the choice of Mutual



Administrative Office: Paragon Centre, C-06, Ground Floor, Pandurang Budhkar Marg, Opp. Century Mills, Worli, Mumbai - 400 013. Tel: +91 22 6629 9299 Fax: +91 22 6629 9199
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EMKAY GLOBAL FINANCIAL SERVICES LIMITED

Funds (hereinafter referred to as "MF clients") a broker charges brokerage on transactions of MF clients inclusive of statutory levies. Unless specified or opted by MF clients, a broker charges statutory levies in addition to the brokerage.

3. Unlike other statutory levies, basis of charge and rate of service tax (payable on broker's brokerage and Exchange transaction cost) has been enlarged and amended from time to time. Request a quick reference on the rates of service tax as applicable from time-to-time:

Year/Month	Service Tax Rate (inclusive of Cess)
2011-2012	10.20%
1 st May-2012 to 31 st May-2015	12.36%
1 st June-2015 to 14 th Nov-2015	14.00%
15 th Nov-2015 to 31 st May-2016	14.50%
From 1 st June-2016	15.00%

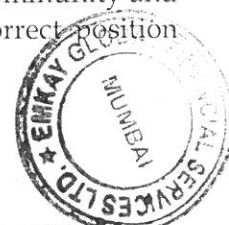
4. In the aforesaid SEBI Notification, brokerage and transaction cost are capped to 0.12 percent in case of cash market transactions and 0.05 percent in case of derivative transactions.
5. Service tax (including cess) is payable on brokerage as well as on Exchange transaction cost. In view of the fact that the above SEBI Notification is silent on Service Tax levy, the MF clients, interpreting the upper cap of 0.12 per cent or 0.05 per cent (as the case may be) as inclusive of service tax, have started requesting brokerage firms to revise their brokerages rates to include service tax, so as not to exceed such brokerages rate to 0.12 percent in case of cash market transactions and 0.05 percent in case of derivative transactions.
6. Over a period of time, the rate of service tax (as in 3 above) has been upward revised, which has been eating away commissions of brokerage firms. As service tax on both, brokerage and Exchange transaction cost, is payable by brokerage firms without recovering from MF clients, the bottom-line of brokerage houses is adversely impacted.
7. What broker earns is purely his brokerage. Other levies are statutory and are required to be collected and paid by a broker. Non collection simply hits bottom line of broker's commission, as he has to pay from his pocket. SEBI Notification ought to have clearly mentioned the cap excluding statutory levies, so that inadvertent interpretation would not have lead the MF clients to demand an inclusive rate of commission, where broker ends up paying (a) service tax on his brokerage, and (b) service tax on exchange transaction cost.

REQUEST

The subject matter of this letter is to seek informal guidance on helping broking community and all concerned by removing ambiguity over statutory levies by clarifying the correct position.



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whether above SEBI Notification meant service tax at applicable rate is included in the upper cap of brokerage and transaction cost or is excluding of service tax. Suggestive notification could be (suggested modifications highlighted):

(a) brokerage(excluding service tax)and transaction costs (excluding service tax) which are incurred for the purpose of execution of trade and is included in the cost of investment, not exceeding 0.12 per cent in case of cash market transactions and 0.05 per cent in case of derivatives transactions;

APPLICABLE LEGAL PROVISIONS

We have not come across any applicable legal provisions clarifying the intent of SEBI Regulations.

We request you to kindly consider our application and look forward to hearing from you and receiving interpretive letter in relation to the above.

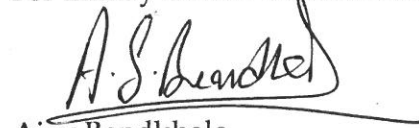
Enclosed herewith is the demand draft no. 995995 dated June 6, 2016 for Rs. 25,000/- (Rupees Twenty Five Thousand only) in favour of 'Securities and Exchange Board of India" drawn on HDFC Bank, towards the fees as specified under clause 6 (ii) of the Scheme.

We trust, you will find the submission to your satisfaction.

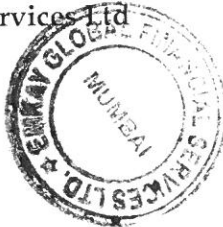
Thank you,

Yours faithfully,

For Emkay Global Financial Services Ltd



Ajay Bendkhale
Compliance Officer



Encl: As Above

