Consultation Paper on Permissable Business Activities by AMCs

Name of the person/entity proposing comments	Indian Association of Investment Professionals (CFA Society India)
Category (Listed Entity / MII / Market Intermediary / Professional / Investor / Academician / General Public etc.)	Association of Investment Professionals
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Sr. No.	Proposal	Confirmity to Proposal	Comments	Rationale
1a	Whether the proposal regarding relaxation of broad based criteria for AMCs as mentioned above is appropriate?	Either	The group is primarily not in favour of material relaxations, optionally, SEBI can consider a dedicated investment team to manage non-broad based pooled funds and FPI funds. However, if this the broad based criteria is relaxed for other pooled funds, we suggest to consider tight and clear policies for contra trades, replication, trade allocation in dealing, managing AUM scale, and consistent level of information disclosure across all portfolios / schemes.	the huge increase in mutual funds AUM at a firm and per Portfolio Manager within large fund houses might be adding scale limits and must consider the bandwidth available in managing MF Schemes (per PM at a AUM and number of schemes level); the risks of potential conflict of interests, including unfair trade allocations, and complexity of operational compliance and consequent oversight may outweigh the benefits.
1b	If pooled non-broad based funds are allowed to be managed by AMCs, whether there are any additional conflicts of interest that need to be considered apart from those mentioned at para 3.1.5 above?	Yes	1. Performance Fee and management fee bias in favour of non-broad based portfolios may impact efficient portfolio management for MF schemes 2. Equitable and fair trade allocation in case of discretionary portfolio management, in case of IPOs, pre IPOs and less liquid or less free float securities, in the absence of a clear trade allocation policy that is equitable and fair to all portfolios under the purview of the relevant dealing desk.	1. Performance fees and higher management fees in non board based pooled funds may incentivise a manager to allocate superior high conviction investing ideas in the non-broad based portfolios before they are recommended to the MF Schemes 2. Trade Allocation Policy: While a fair and equitable trade allocation policy requires allocating across portfolios in proportion to assets, there may be situations where the the AMC may get IPOs and pre IPO allotment across Mutual Funds, SIFs and non broad based pooled portfolios in varying proportions vs AUM %. There is a risk that Mutual Funds may get relatively less allocations sometimes.
1c	Whether the proposals regarding safeguards to be imposed at paras 3.1.6 and 3.1.7 are appropriate? Whether there are any additional safeguards required to be imposed to address each of the conflicts mentioned at para 3.1.5 above?	Yes	3.1.6.1 (d) Definition of replication should be defined. Whether having 70+% of the scripts (by issuer name) in the portfolio constitutes replication or whether one should calculate the absolute portfolio weights of the non-broad based fund that should be 70+%. How should one consider cash equivalents which are part of the Scheme portfolios and strategy under the SID.	
1d	As regards the conflicts relating to fee differential and diversion of resources, which of the two approaches mentioned at para 3.1.6.1 (b) (i) above would be more effective?		Approach 2: maximum 10% higher or lower than the TER charged to similar mutual fund scheme is suggested. This policy enables fair pricing of the same “strategy” across investors, 10% TER gap would be sufficient to accommodate any differences in “other costs excluding management fees” that will exists across jurisdictions	Higher spreads can incentivise conflicts of interest. Do not suggest approach 1 as absolute pricing is best determined via market forces for each strategy and category of funds (Subject to MS regulations cap on TER), and SEBI has done away with the earlier concept of differential pricing for “Institutional” and ‘Retail” plans,
1e	Whether there are any perceived risks associated with sharing of Compliance Officer, top management functions like CEO, CFO etc. when the AMC undertakes management and advisory services for both broad based and pooled non-broad based funds?			
1f	Any additional suggestion may be provided with appropriate rationale.	Yes	Definition of non-broad based pooled assets should be inserted. 1. Does non-broad based mean a minimum of 2 unique investors? 2. Can it include AMC's seed capital, or investment by its affiliates, subsidiaries and branches 3. Alternatively, SEBI may consider accepting the definition of pooled assets under the regulation applicable to that non-broad based pooled vehicle in its regulated jurisdiction. Shifting of Fund Manager(s) from broad based to non-broad based Funds: May consider tighter disclosure and notice regulations for material changes in MF Scheme, for moving portfolio managers from broad based to non-broad based pooled funds (3 months advance notice to MF investors and exit load waivers?)	In the situation that the non broad based funds are allowed a preferential pricing, it may incentivise AMCs to shift high performing portfolio managers to non-broad based funds. Hence the material changes in MF scheme clause should protect retail investors appropriately in such scenarios. Exit load waivers, advance 3 month notice or other rules)
2a	Whether the proposals at para 3.2.6 above are appropriate?		Even though both approaches are valid, the group finds option 2 to be more appropriate as it makes entity level disclosure much easier,	Approach 2 allows AMCs to prepare a common RFP for institutional, banking clients in India and globally, and communicate about its investment teams. Approach 1 would ensure full segregation of portfolio management activities, simplify compliance and oversight, and reduce potential risks. SEBI may want to refer to the CFA Institute Global Investment Performance Standards related disclosures to ensure fair disclosure and representation of all strategies across licenses
2b	Whether any additional safeguards are required to be put in place to enhance the effectiveness of above proposals?			
2c	Whether there are any perceived risks associated with sharing of research personnel and resources (subscriptions, research reports etc.) between Mutual Funds operations and PMS unit?	Yes	Research services can be common, suggest that research analyst teams should be located in a separate premises serving multiple investment units. Such research analysts should not double up as a co-advisor (advisory services) or co-fund manager or fund manager to any MF or non broad based funds.	A common research unit can improve efficiency, but physical and functional separation is essential to avoid conflicts of interest. Analysts must not influence or participate in fund management discussions to ensure independence of each licensed activity, fair access to research ideas for all PMs across MF and non broad based funds.
2d	Whether the compliance officer should be allowed to be common in MF and PMS function?	Yes	Common compliance officer would ensure effective disclosures of all activities across licenses	
2e	Any additional suggestion may be provided with appropriate rationale			
3a	Whether the proposals at para 3.3.4 to 3.3.9 above are appropriate?	Yes		
3b	Whether there are any additional safeguards that need to be imposed to ensure that such ancillary activities do not create conflict of interest with the core fund management responsibilities of the AMC?			
3c	Whether any additional compliance/ disclosure measures should be considered for the subsidiary when acting as POP/ distributing funds managed and advised by AMC other than mutual fund schemes, to ensure transparency and accountability in the operations of such subsidiaries?	Yes	3.3.7 - Subsidiary should seek relevant manager, distribution and fund specific registrations and approvals in foreign jurisdictions for retail funds, as applicable. Subsidiaries should not distribute Indian Mutual Funds directly in any manner unless permitted by local regulations in those markets, or except to the extent of explaining the investment strategy and track record for potential new funds being replicated if allowed under applicable regs. It may help to clarify the operational process, product disclosure requirements, applicability of accredited investor criteria and other requirements for any reverse solicitation and private offering of IFSC or other offshore domiciled funds (international strategies) that are managed by the AMC subsidiaries and branch in IFSC or other jurisdiction, offered to Indian residents. Retail offering is recommended to be expressly prohibited, as such funds are not directly regulated by SEBI retail fund / MF rules.	AMCs must abide by applicable regulations for retail offering of funds in other jurisdictions, for the funds, subsidiary AMC entity and its employees. Increased interest among foreign asset managers (affiliates of Indian AMCs) who are keen to offer global / international strategies to Indian residents, either through subsidiaries of their Indian AMC JV in IFSC or other similar offshore domiciles. It would be helpful to clarify the operational aspects, or limits on offering such funds onshore in India to accredited investors. Retail offering is anyways not permitted. Globally, such marketing of offshore funds into onshore resident investor market is restricted, or subject to very stringent caps and rules, that vary across domiciles.
3d	Any additional suggestion may be provided with appropriate rationale	Yes	AMCs must officially disclose the % time allocated by the common fund managers across Mutual funds, non board based pooled funds and such other funds managed by the same portfolio manager.Performance data is required to be disclosed for all funds managed by the common fund manager. This should be covered for offshore fund advisors (non binding advice) as well.	Such information helps retail investors evaluate if sufficient time is allocated by designated employees for each fund managed by them and the product subscribed by the MF investor. Secondly, it helps identify if portfolio managers are simply being added to other funds for leveraging upon their credentials and track record.
4a	Whether the proposal at para 3.4.5 and 3.4.6 above are appropriate?	Yes		
4b	Whether there are any specific types of entities or investment strategies (within the FDI/ FVCI framework) that should be explicitly excluded or subject to enhanced scrutiny under this proposal?			
4c	Whether there are any additional safeguards or disclosure requirements to be imposed on the AMC when advising on investments in unlisted securities?	Yes	Predominant trend among Indian AMCs to offer “non-binding” investment advice or portfolio recommendations (as against portfolio management) to foreign investors (FPI funds) or their foreign Investment managers. This advice often mirrors the portfolio strategies and trading timelines of their respective Indian mutual fund schemes, with dealing and execution handled by overseas managers. Given the huge portfolio overlap and timing effect of such trades, SEBI should explicitly clarify and include such offshore fund mandates (whether advisory or fund management) to be within the scope of this consultation paper and other applicable regulations.	Non Binding advice is largely driven by tax considerations, and the foreign investment manager has discretion. However, the portfolio ideas, and stock ideas are being disseminated as a full portfolio advice covering price target, buy and sell details akin to a Mutual fund Scheme, and the foreign manager including the subsidiary AMC is largely known to replicate the advice (beyond 90%) while executing trades. Hence requesting explicitly mention that such broad based or non broad based funds should covered in the applicable rules.
4d	Any additional suggestions may be provided with appropriate rationale.			