



CIRCULAR

SEBI/HO/MRD/MRD-PoD-1/P/CIR/2023/59

April 21, 2023

To

The Managing Directors / Chief Executive Officers

All registered Vault Managers

All registered Depositories

Dear Sir/Madam,

Sub: Procedure for seeking prior approval for change in control of Vault Managers

1. Regulation 8(b) of SEBI (Vault Managers) Regulations, 2021 was amended vide SEBI (Change in Control in Intermediaries) (Amendment) Regulations, 2023 dated January 17, 2023 which requires Vault Managers to obtain prior approval of the Board in case of change in control in such manner as specified by the Board. The link for the said amendment is available at [SEBI \(Change in Control in Intermediaries\) \(Amendment\) Regulations, 2023](#)
2. The procedure for obtaining prior approval in case of change in control of Vault Managers is specified as under:
 - 2.1. An application shall be made by the Vault Managers to SEBI for prior approval through the SEBI Intermediary Portal ('SI Portal')(<https://siportal.sebi.gov.in>).
 - 2.2. The application shall be accompanied by the following information/declaration about itself, the acquirer(s)/the person(s) who shall have the control and their directors / partners:
 - a. Present and proposed shareholding pattern of the applicant
 - b. Whether any application was made in the past to SEBI by the acquirer/persons who shall have control seeking registration in any capacity but was not granted? If yes, details thereof.
 - c. Whether any action has been initiated/ taken for violation of the provisions of Securities Contracts (Regulation) Act, 1956 / Securities and Exchange Board of India Act, 1992 / Depositories Act, 1996 or rules and regulations made thereunder? If yes, the status thereof along with

- the corrective action taken to avoid such violations in the future. The acquirer/ the person who shall have the control needs to confirm that it shall honour all past liabilities / obligations of the applicant, if any.
- d. Whether any investor complaint is pending? If yes, steps taken for resolution and confirmation that the acquirer/ the person who shall have the control shall resolve the same.
 - e. Details of litigation(s), if any.
 - f. Declaration of the applicant and the acquirer/ the person who shall have the control (in a format enclosed at Annexure), duly signed by their authorized signatories that the 'fit and proper person' criteria as specified in Schedule II of SEBI (Intermediaries) Regulations, 2008 are complied.
- 2.3. Upon receipt of the information/declaration at Para 2.2 above, SEBI would process the application for granting prior approval for change in control.
 - 2.4. The prior approval granted by SEBI shall be valid for a period of six months from the date of such approval.
 - 2.5. Applications for fresh registration pursuant to change in control shall be made to SEBI within six months from the date of prior approval.
 - 2.6. Upon receipt of prior approval from SEBI for change in control and prior to effecting such change in control, the Vault Manager shall communicate to its existing EGR investors about the proposed change in control and an option to relocate the physical gold stored in its vault(s) to any other Vault Manager within a period of not less than 30 calendar days from the date of such communication.
 - 2.7. The matters which involve scheme(s) of arrangement and need sanction of the National Company Law Tribunal ("NCLT") in terms of the provisions of the Companies Act, 2013, the Vault Manager shall ensure the following:
 - 2.7.1. The application seeking approval for the proposed change in control shall be filed with SEBI prior to filing the application with NCLT;
 - 2.7.2. Upon receipt of the information/declaration at Para 2.2 above, SEBI would process the application for granting in principle approval for change in control;
 - 2.7.3. The validity of such in-principle approval shall be three months from the date of such approval, within which the relevant application shall be made to NCLT;
 - 2.7.4. Within 15 days from the date of order of NCLT, Vault Manager shall submit the following documents to SEBI for final approval:
 - a. Copy of the NCLT Order approving the scheme;
 - b. Copy of the approved scheme;
 - c. Statement explaining modifications, if any, in the approved scheme vis-à-vis the draft scheme and the reasons for the same; and
 - d. Details of compliance with the conditions/observations mentioned in the in-principle approval provided by SEBI.

- 2.7.5. All other provisions mentioned at paragraph 2.4 to 2.6 of this Circular regarding the procedure for seeking prior approval for change in control of Vault Managers, shall also apply.
3. The provisions of this Circular shall be applicable with immediate effect to all applications seeking approval for change in control of Vault Managers.
 4. This circular is issued with the approval of competent authority.
 5. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 28 of SEBI (Vault Managers) Regulations, 2021 to protect the interests of investors in securities market and to promote the development of, and to regulate the securities market.
 6. The circular is available on SEBI website at www.sebi.gov.in under the categories "Info for – Commodity Derivatives" and "Legal framework -Circulars".

Yours faithfully,

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General Manager
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Declaration-Cum-Undertaking

We M/s. (Name of the intermediary/the acquirer/person who shall have the control) hereby declare and undertake the following with respect to the application for prior approval for change in control of (name of the intermediary along with the SEBI registration no.):

1. The applicant/intermediary (Name) and its principal officer, the directors or managing partners, the compliance officer and the key management persons and the promoters or persons holding controlling interest or persons exercising control over the applicant, directly or indirectly (in case of an unlisted applicant or intermediary, any person holding twenty percent or more voting rights, irrespective of whether they hold controlling interest or exercise control, shall be required to fulfil the 'fit and proper person' criteria) are fit and proper person in terms of Schedule II of SEBI (Intermediaries) Regulations, 2008.
2. We bear integrity, honesty, ethical behaviour, reputation, fairness and character.
3. We do not incur following disqualifications mentioned in Clause 3(b) of Schedule II of SEBI (Intermediaries) Regulations, 2008 i.e.
 - (i) No criminal complaint or information under section 154 of the Code of Criminal Procedure, 1973 (2 of 1974) has been filed against us by the Board and which is pending.
 - (ii) No charge sheet has been filed against us by any enforcement agency in matters concerning economic offences and is pending.
 - (iii) No order of restraint, prohibition or debarment has been passed against us by the Board or any other regulatory authority or enforcement agency in any matter concerning securities laws or financial markets and such order is in force.
 - (iv) No recovery proceedings have been initiated by the Board against us and are pending.

- (v) No order of conviction has been passed against us by a court for any offence involving moral turpitude.
 - (vi) No winding up proceedings have been initiated or an order for winding up has been passed against us.
 - (vii) We have not been declared insolvent.
 - (viii) We have not been found to be of unsound mind by a court of competent jurisdiction and no such finding is in force.
 - (ix) We have not been categorized as a wilful defaulter.
 - (x) We have not been declared a fugitive economic offender.
4. We have not been declared as not 'fit and proper person' by an order of the Board.
 5. No notice to show cause has been issued for proceedings under SEBI (Intermediaries) Regulations, 2008 or under section 11(4) or section 11B of the SEBI Act during last one year against us.
 6. It is hereby declared that we and each of our promoters, directors, principal officer, compliance officer and key managerial persons are not associated with vanishing companies.
 7. We hereby undertake that there will not be any change in the Board of Directors of incumbent, till the time prior approval is granted.
 8. We hereby undertake that pursuant to grant of prior approval by SEBI, the incumbent shall inform all the existing investors/ clients about the proposed change prior to effecting the same, in order to enable them to take informed decision regarding their continuance or otherwise with the new management.

The said information is true to our knowledge.

(stamped and signed by the Authorised Signatories of Intermediary and Acquirer)