

CIRCULAR

SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/117

July 07, 2023

To All,

**Mutual Funds (MFs)/
Asset Management Companies (AMCs)/
Trustee Companies/ Board of Trustees of Mutual Funds/
Association of Mutual Funds in India (AMFI)/**

Madam/ Sir,

Sub: Roles and responsibilities of Trustees and board of directors of Asset Management Companies (AMCs) of Mutual Funds

1. As per the extant regulatory framework, the Trustees hold the property of the Mutual Fund in trust for the benefit of the unit holders and their primary role is to ensure that AMCs appointed by them act in the best interests of the unitholders. Accordingly, any conflict between interests of unitholder and that of AMCs' stakeholders needs to be addressed by the Trustees. While the SEBI (Mutual Funds) Regulations 1996 ('MF Regulations') provide for restrictions to address certain scenarios of conflict of interest, there are other areas of conflict which require specific attention from the Trustees.
2. At the same time, as an AMC is responsible for managing the funds of the schemes, the board of directors of the AMC is also accountable to ensure that the interests of the unitholders are protected.
3. SEBI had constituted a Working Group with a view to streamline the responsibilities at the level of the Trustees and AMCs, to deliberate and make recommendations for ensuring that Trustees can devote their attention to the fiduciary obligations and supervisory role cast upon them. Based on the recommendations of the Working Group and deliberations in the Mutual Fund Advisory Committee (MFAC), it has been decided to specify the "core" responsibilities for the Trustees of a Mutual Fund. Accordingly, amendments were carried out in MF Regulations. The amendments were notified on June 27, 2023 ([link](#)).
4. Consequent to the amendment, it has been decided as under:

4.1. Core responsibilities of the Trustees

- 4.1.1. As per Regulation 18(25)(C) of MF Regulations, the Trustees shall exercise due diligence on such matters as may be specified by the SEBI from time to time. In terms of the said Regulation 18 (25)(C), the Trustees shall exercise independent due diligence on certain “core responsibilities”, which are specified as under:
- a) The Trustees shall ensure the fairness of the fees and expenses charged by the AMCs.
 - b) The Trustees shall review the performance of AMC in its schemes *vis-a-vis* performance of peers or the appropriate benchmarks.
 - c) The Trustees shall ensure that the AMCs have put in place adequate systems to prevent mis-selling to increase assets under their management and valuation of the AMCs.
 - d) The Trustees shall ensure that operations of AMCs are not unduly influenced by the AMCs Sponsor, its associates and other stakeholders of AMCs.
 - e) The Trustees shall ensure that undue or unfair advantage is not given by AMCs to any of their associates/group entities.
 - f) The Trustees shall be responsible to address conflicts of interest, if any, between the shareholders/stakeholders/associates of the AMCs and unitholders.
 - g) The Trustees shall ensure that the AMC has put in place adequate systems to prevent misconduct including market abuse/misuse of information by the employees, AMC and connected entities of the AMCs.
- 4.1.2. The Trustees shall take steps to ensure that there are system level checks in place at AMCs’ end to prevent fraudulent transactions including front running by employees, form splitting/ mis-selling by distributors etc. The Trustees shall review such checks periodically.
- 4.1.3. The Trustees and their resource persons shall independently evaluate the extent of compliance by AMCs *vis-à-vis* the identified key areas and not merely rely on AMCs’ submissions /external assurances.
- 4.1.4. AMCs shall put in place suitable mechanisms/systems to generate system based information/data/reports for evaluation and effective due diligence by

the Trustees. AMCs shall provide alerts based automated reports to the Trustees as may be required by the Trustees.

- 4.1.5. The Trustees shall ensure that suitable mechanisms/systems are put in place by the AMCs to generate system based information/data/reports for evaluation and effective due diligence by the Trustees. The Trustees shall also ensure that the AMCs periodically review such systems.
- 4.1.6. AMCs shall submit exception reports/analytical information to the Trustees, that add value to the process of exercising their oversight role. The Trustees shall evaluate the nature and adequacy of the alerts and the manner of dealing with such alerts by AMCs.
- 4.1.7. The Trustees shall require the AMCs to furnish, in a true and fair manner, reports and alerts based on pre-decided parameters including but not limited to the areas specified as core responsibilities at para 4.1.1 above, for taking appropriate action.
- 4.1.8. The Trustees shall periodically review the steps taken by AMCs for folios which do not contain all the Know Your Client (KYC) attributes / updated KYC attributes and ensure that the AMCs take remedial steps necessary for updating the KYC attributes especially pertaining to bank details, PAN, mobile phone number.

4.2. Third Party Assurances

In order to enable Trustees to focus on the core responsibilities, for responsibilities other than the core responsibilities mentioned at para 4.1, the Trustees may rely on professional firms such as Audit Firms, Legal Firms, Merchant Bankers, etc (collectively referred to as “third party fiduciaries”) for carrying out due diligence on behalf of the Trustees.

- 4.2.1. The responsibilities other than core responsibilities, for which the Trustees may avail services of third party fiduciaries, include the following:
 - a) Overseeing that AMCs manage the operations of Mutual Fund schemes independently from other activities.
 - b) Discharging their role as a custodian of assets on behalf of unitholders in accordance with MF Regulations and the trust deed.
 - c) Reviewing the networth of the AMC on a periodic basis to ensure compliance with prescribed threshold.

- d) Ensuring that the transactions of the Mutual Funds are in accordance with the provisions of the trust deed.

4.3. Unit Holder Protection Committee

- 4.3.1. As per Regulation 25(24) of MF Regulations, the AMC is required to constitute a Unit Holder Protection Committee (“UHPC”) in the form and manner and with a mandate, as may be specified by SEBI.
- 4.3.2. In this regard, it is decided that the UHPC shall be responsible for:
- a) protection of interest of unit holders of Mutual Fund schemes *vis-a-vis* all products and services provided by the AMC.
 - b) ensuring adoption of sound and healthy market practices in terms of investments, sales, marketing, advertisement, management of conflict of interests, redressal of unit holder’s grievances, investor awareness.
 - c) compliance with laws and regulations and other related processes with specific reference to operation of the Mutual Fund business.
- 4.3.3. The UHPC shall, *inter-alia*, have the following mandates:
- a) To review the various compliance issues relating to protection of the interests of the unit holders.
 - b) To keep the unit holders well informed of and educated about mutual fund products, investor charter and compliant handling procedures.
- 4.3.4. The UHPC shall report its findings to the board of directors of AMC along with recommendations for action.
- 4.3.5. The UHPC shall make recommendations relating to protection of interest of investors as well as monitor its implementation.
- 4.3.6. The detailed guidelines regarding UHPC are specified at **Annexure-1** to this circular. AMC shall ensure that UHPC is constituted and operates in compliance with the said guidelines.
- 4.3.7. In addition to the above functions and responsibilities, the board of directors of AMCs, from time to time may also assign such other responsibilities to the UHPC, as deemed fit.

4.4. Appointment of the Trustee Company

- 4.4.1. As per Regulation 16 (7) of MF Regulations, in case a company is appointed as the Trustee of a Mutual Fund, the Chairperson of the board of directors of that Trustee company shall be an independent director. Further, a Trustee company, which has already been appointed as the Trustee of a Mutual Fund shall comply with this requirement within a period as may be specified by SEBI from time to time.
- 4.4.2. Accordingly, it is decided that the Trustee company, which has already been appointed as the Trustee of a Mutual Fund, shall ensure compliance with the requirement of appointment of independent director as Chairperson of the board of directors of Trustee company, within a period of six months from the date of this circular coming into force.

4.5. Meetings between the Trustee Company and the AMC

- 4.5.1. As per Regulation 25A of MF Regulations, the board of directors of the Trustee company and the board of directors of the AMC, including any of their committees, shall meet at such frequency as may be specified by SEBI from time to time.
- 4.5.2. Accordingly, the board of directors of the AMCs and the board of directors of the Trustee Company shall meet at least once a year to discuss the issues concerning the Mutual Fund, if any, and future course of action, wherever required.
5. This circular shall come into force with effect from January 01, 2024.
6. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
7. This circular is available at www.sebi.gov.in under the link “Legal ->Circulars”.

Yours faithfully,

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Annexure - 1

1. Membership / constitution:

- a) The Chairperson of the Committee shall be an independent director.
- b) The UHPC of AMC shall have minimum three directors as members.
- c) At least two-third members of the UHPC shall be independent directors of AMC. If two-third of the total strength results into fraction, then higher number after rounding up shall be considered.
- d) The members of the UHPC will be appointed by the board of directors of AMC.
- e) The UHPC shall invite expert / representative of unit holders as an invitee for matters as it may deem fit necessary.

2. Meetings:

- a) The Chairperson of the UHPC shall call the meeting as and when required. However, at least four meetings shall be held in a financial year.
- b) The quorum for meeting shall either be two members or one third of the members of the UHPC, whichever is greater, with at least two independent directors.
- c) If one-third of the total strength results into fraction, then higher number after rounding up shall be considered for the quorum.

3. Reporting:

- a) The AMC shall present agenda of the UHPC to its members. This shall also include reports on findings / observations w.r.t matters relating to protection of unit holders' interest, arising from audits / reviews etc. undertaken by the AMC, Internal Auditors etc.
- b) The UHPC of AMC shall brief board of directors of the AMC on the proceedings of the meeting. Further, minutes of the meeting of the UHPC shall also be placed before the board of directors of Trustee Company.

4. Powers and responsibilities

4.1 Unit holder complaints and redressal

- a) Review of unit holder complaints and grievances with ageing of outstanding complaints on a periodical basis
- b) Review of complaints / grievances handling mechanism including reported instances of mis-selling and frauds, if any. Analyse the root cause of investor complaints, identify market conduct, issues and advise the management appropriately about rectifying systemic issues, if any.
- c) Review measures and steps taken to reduce unit holder complaints

4.2 Investor education and awareness

- a) Recommendation of policy on utilisation of investor education and awareness funds
- b) Review of various investor education and awareness steps taken by the AMC including effective utilisation of investor education and awareness funds on periodic basis

4.3 Regulatory and other functions

- a) Ensure that the AMC adopts a standard operating procedure for its processes including timeframe for processing and confirmation of financial and non-financial transactions, treats unit holders fairly and equally and there is no preferential treatment given to different classes of investors.
- b) Ensure compliances with applicable laws with respect to resolving, reporting and disclosures of complaints and grievances
- c) Review of unclaimed amounts of dividend and redemptions and measures taken by AMC to reduce the quantum of such unclaimed amounts.
- d) Review of measures taken by AMC for exit options, voting and obtaining consents as prescribed under the MF Regulations.
- e) Review of transfer, transmission, and nomination process.
- f) Review of adherence to service standards adopted with respect to various services adopted by the AMC being rendered by the RTA.
- g) Review of measures taken for ensuring timely receipt of dividend and redemption proceeds, annual reports, and other regulatory communications/disclosures.
- h) Ensure timeliness and adequacy of disclosures of material information to the investors.
- i) Review other activities carried out by the AMC (under Regulation 24 (b) of MF Regulations and its impact on the unit holders of Mutual Fund.
- j) Ensure that all conflicts are adequately managed and/or disclosed as per the conflict-of-interest policy.
- k) Review of all investors/scheme compensation to ensure they are fair and appropriate.
- l) Review instances of market abuse by employees of AMC.

4.4 Review of Unitholder Protection (UP) metrics

- a) Ensure that the AMC has approved internal policy for measurement of various parameters (such as cases of investor compensation, investor complaints, fraud

incidents impacting any investor/ scheme, consistent underperformance of any scheme, number of incidents where the agreed Turn Around Time (TAT) has exceeded with respect to investor related transactions such as redemptions/ redressal of investor complaints/ non-financial transactions, etc., system issues/ incidents/ BCP events impacting investors, data privacy / cyber security incidents impacting investors) through appropriate UP metrics. The UP metrics should be approved by the Committee, along with the targeted level / benchmark for each parameter, where possible.

- b) Put in place a mechanism for reporting of the UP metrics to the Committee.
- c) Review the reports generated with respect to the UP metrics at least once in a half year.