18 September 2024

ASIFMA Response to SEBI Consultation on the Review of Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992

Submitted via SEBI Portal

SEBI proposal	**Level of agreement** (strongly agree/agree/partially agree/disagree/strongly disagree)	**Comments**	**Rationale**
8.3.1 Permitted activities for Merchant Bankers	Strongly Disagree	1) We suggest retaining the following activities in the list of permitted activities outlined in 8.3.1: • Private Placement of listed/unlisted securities, including equity securities and debt instruments like Non-Convertible Debentures, Commercial Papers, and PTCs. • Corporate Advisory including but not limited to M&A advisory, Restructuring, Capital advisory etc being provided to listed/unlisted entities	1) The SEBI proposal is not aligned with global practices. Offering integrated services is key to delivering superior client outcomes. 2) The activities are currently covered under permitted activities in the existing 1998 Master Circular on Merchant Bankers[1], however, the same are not mentioned in the Consultation Paper. 3) Private Placement of unlisted securities is a meaningful mode of fund raising for entities who do

[1] https://www.sebi.gov.in/legal/circulars/jun-1998/registered-merchant-bankers-circular-no-1_18579.html

		which are not pursuant to any of the activities under 8.3.1. of the proposal. • Referral / Introduction of client for an underlying corporate merger/security transaction. • Private Fund Raising for unlisted entities. • Any other activities that are currently permitted under the 1998 Merchant Banking Circular. 2) Pursuant to 8.3.2, we appreciate that the limitation to only undertake permitted activities as outlined in 8.3.1 will not apply to Banks and Public Financial Institutions ("PFIs"). We suggest that if the MB entity in India is a subsidiary of or part of the same group as a foreign banking entity or foreign bank holding company which is at least seventy-five per cent owned, directly or indirectly by	not wish to pursue the listed route unless there is a regulatory obligation to list the instrument. In addition, Private Placement is a bilateral mode of borrowing for a shorter period thereby obviating the need of listing. Restricting Private Placement of Securities to only listed instrument would have an adverse impact on these well-established practices and India's capital market development. 4) Corporate Advisory forms the basis for future fund raising. Further, a transaction which may originate as a regulated activity may eventually turn into a transaction not within the scope of the proposal, e.g. it is possible that a transaction, while initially expected to trigger the SEBI Takeover Regulations is later restructured/ downsized such that it eventually turns into a private

		foreign banking entity regulated as a bank in its home jurisdiction, the Indian MB entity should similarly not be subject to the limitations to permitted activities outlined in section 8.3.1.	placement that does not trigger an open offer. If the same team of merchant bankers cannot continue to act throughout the transaction lifecycle, this would result in unnecessary disruption for the client let alone the myriad complexities of repapering the documentation with such clients. 5) In the formative stage. companies need private fund raising to grow for which Merchant Bankers assist them, provide them with necessary advice to grow the business and make them market ready at an opportune time. Further, there are no instances of any systemic risks being posed to the MB sector through this model as there is no underwriting liability when dealing with unlisted securities. 6) Bank holding companies, especially those in offshore jurisdictions, typically have

			bank chains and non-bank chains with consolidated supervision, and as long as they are part of a regulated holding company, such merchant bankers should be given the same exemption awarded to banks, PFIs and their subsidiaries. This falls within the spirit of India PFIs, which should also apply to foreign banking entities in India.
8.3.2. Merchant Bankers, other than banks, PFIs and its subsidiary/(s), shall be required to segregate all other activities (other than permitted activities) to a separate legal entity within a period of two years from a date specified by the Board. 8.3.3. Activities that require separate regulatory registration / license inter-alia stock broking, portfolio management services, and primary dealership of Government securities and activities that do not pertain to securities market inter-alia Syndication of rupee term loans and Advisory services for Projects etc. may not be permitted under the MB Regulations. 8.3.4. However, in case an entity wishes to carry on any other regulated securities market activity, such as stock broker, portfolio manager, primary dealership of Government securities, it may do so after obtaining registration/ license from the respective regulatory authority.	Strongly Disagree	1) Often the same legal entity possesses multiple licenses from SEBI such as merchant banking, research analyst and stock broking. We understand from sections 8.3.2, 8.3.3 and 8.3.4 that such set up will continue to be allowed but the language of the final circular would merit some further clarity to avoid confusion. An enabling clause should be added to clarify that existing entities operating as a merchant banker and having additional licenses from SEBI for stock-broking	1) Below are some of the rationales as to why we strongly disagree with the proposed clause: a. Major inconvenience to global clients of our members; b. Competitive disadvantage between in-scope domestic banks and MBs set up as affiliates of foreign banks. c. Cost of compliance and corporate governance implications.

		and research analysts shall continue as is in the same legal entity and that future SEBI regulated activities that SEBI may approve may be housed in the MB entity unless SEBI specifies otherwise in such approval. 2) We would also like to suggest that segregation of activities should not restrict employees of the MB entity to do other activities (e.g. corporate advisory/lending as permitted by central banks). 3) In addition, we would request clarification of the scope of activities contemplated by "Advisory Services for Projects".	d. Operational challenges on dual employments as bankers are set up industry/expertise wise without distinction on whether they are advising listed or unlisted clients. 2) We also kindly ask SEBI to refer to our arguments made in 8.3.1 3) Given that some merchant bankers are subsidiaries or affiliates of foreign entities, segregating business activities into a separate entity which is not regulated by SEBI, or any other financial sector regulator will require Government approval in terms of Foreign Exchange Management (Non-debt Instruments) Rules, 2019 which could cause significant delays and loss of business/shareholder value.
9.3.1.	Partially agree	1) We would like to seek	For clarity and ease of doing

MBs shall not undertake valuation except as specified by the Board from time to time.		clarification on the scope of valuation activities that may be permitted by SEBI in the future. 2) We would also like to suggest conducting valuation for unlisted companies and for M&A transactions remain permitted.	business.
9.3.2. While, MBs shall not be permitted to undertake any new assignments from a date specified by the Board, they shall be given a glide path of 6 months to complete the existing assignments.	No comments		
10.3.1. Merchant bankers may be categorised into two categories based on net worth and activities to be undertaken, viz Category 1 and Category 2. 10.3.2. The existing registered merchant bankers shall be given a period of two years from a specified date to increase their net worth progressively as follows: 10.3.3. Further, any merchant banker who intends to change its Category may do so as may be specified by SEBI. 10.3.4. Merchant Banker who fails to maintain or meet the minimum net worth requirement shall not undertake any activity until the proposed net worth requirement is met	No comments		

11.3.1. The registration granted to a merchant banker shall be cancelled as per the procedure specified by the Board, if it fails to: For Category 1: Earn a revenue of at least Rs. 25 crores in three immediately preceding financial years, on a combined basis, from permitted activities For Category 2: Earn a revenue of at least Rs. 5 crores in three immediately preceding financial years, on a combined basis, from permitted activities	Strongly Disagree	We suggest that linking MB registration to minimum revenue targets is inappropriate and we suggest removing this new requirement.	1) Commercial decisions and drivers should not be part of regulatory/licensing/eligibility requirements. We submit that as long as an entity complies with all regulatory requirements to hold a license, the entity should be allowed to hold such license, and it may not be prudent for the regulator to cancel the license if an entity does not actively generate revenue from the MB activities. Else this will leave the whole MB industry exposed to a risk of cancellation of license due to market risks which are outside the control of the MBs. 2) If there would be a minimum revenue target as proposed in the Consultation Paper, in case of a slowdown in the

			market, MBs may be tempted to take on mandates they would not otherwise, which would result in bringing down the quality of the market, which is contrary to SEBI's stated intention of raising the quality of the players and allow only serious players in the securities market. 3) Further, this could also be perceived as tilted in favour of larger merchant banks and thereby curbing healthy competition in the industry 4) Additionally, to our knowledge, commercial considerations to hold a license are not part of any other regulatory framework in India and should not be linked to holding an MB license either. 5) Further, there are multiple factors like market conditions, geo-political situation, economy, etc.

			that determine the deal pipeline and revenue which is beyond the control of the Merchant Banker.
12.3.1. It is proposed that definition of net worth shall have the same meaning as prescribed in section 2(57) of Companies Act, 2013. The same has been reproduced below for reference *'net worth' means the "aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of evaluation of assets, write-back of depreciation and amalgamation"* 12.3.2. In case of LLPs, the net worth may be defined as sum of Partner Contribution (Fixed) plus Reserves and Surplus/ Free Reserves.	No comments		
13.3.1. It is proposed that the merchant banker shall maintain liquid net worth of at least 25% of the minimum net worth requirement, at all times, as follows: Category 1 – Rs. 12.5 crores (25% of Rs. 50 crores) Category 2 – Rs. 2.5 crores (25% of Rs. 10 crores) 13.3.2. It is proposed to give glide path of two years to comply with the minimum liquid net worth requirement, as follows: 13.3.3. If the merchant bankers are not able to meet the proposed liquid net worth requirement within the prescribed time period, they shall not be	Partially Agree	1) We humbly suggest that MBs having net worth of INR 500 crores and above and Banks to be exempted from the requirement of maintaining a separate Liquid Net worth. 2) We would like to seek clarification as to whether liquid net worth is to be maintained at an entity level.	1) Banks have to comply with a Capital Adequacy, liquidity risk management guidelines (including Liquidity Coverage Ratio) as prescribed by RBI. 2) For clarity.

eligible to undertake the permitted activities, till the time they comply with the requirements			
14.3.1. It is proposed to exclude the following body corporates from being eligible for grant of registration as merchant banker: 14.3.1.1. body corporates incorporated outside India, except foreign banks licensed by RBI to undertake financial business in India; and 14.3.1.2. One Person Company	No comments		
15.3.1. It is proposed that merchant bankers, other than Banks and Public Financial Institution ('PFI') and their group companies, shall ensure that there is single registration within the same group.	Partially Agree	We suggest that a transition period should be allowed in case of any mergers or acquisitions between MB entities, resulting in the same group having more than one MB registration. Further, this transition period should be at least 18 months.	To allow for adequate transition time.
15.3.2 Further, a time period of one year to the existing MBs, other than Banks and PFIs, holding more than one registration within a group to ensure single registration within the same group to be given.	No comments		

<table>
<tr>
<td>16.3.1.
In order to align the underwriting obligations with SEBI's regulatory requirements, merchant Bankers shall engage in underwriting activities as specified by Board from time to time.</td>
<td>Partially Agree</td>
<td>We respectfully request SEBI consult with the MB industry ahead of such specification.</td>
<td>1) We are in alignment with the rationale suggested for the proposal in paragraph 16.2 of the consultation paper.

2) Exemption should be made for Banks as they may be engaged in other syndicated underwriting activities, which are not under the scope of current discussion paper.</td>
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<tr>
<td>16.6.1.
The underwriting threshold to be prescribed at 7 times of net worth or 20 times of liquid net worth, whichever is lower.

Provided, where the MB maintains more than 35% of its net worth as liquid net worth, it may be eligible for 20 times of liquid net worth.

Table 3: Illustration for underwriting obligations
<table>
<tr><th>Particulars</th><th>Net worth</th><th>Liquid net worth (LNW)</th><th>7 times of net worth</th><th>20 times of liquid net worth</th><th>Threshold permitted as per proposal 16.6.1</th></tr>
<tr><td></td><td colspan="5">(Rs. In crores)</td></tr>
<tr><td>At 25% LNW</td><td>50</td><td>12.5</td><td>350</td><td>250</td><td>250</td></tr>
<tr><td>At 35% LNW</td><td>50</td><td>17.5</td><td>350</td><td>350</td><td>350</td></tr>
<tr><td>At 50% LNW</td><td>50</td><td>25</td><td>350</td><td>500</td><td>500</td></tr>
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</td>
<td>Strongly Disagree</td>
<td>1) In case a MB entity has of net worth more than INR 500Cr, the entity should be exempted from the liquid asset threshold criteria linked to underwriting commitment as outlined in 16.6.1.

2) We suggest amending 16.6.1 to: "The underwriting threshold to be prescribed at 7 times of net worth or 20 times of liquid net worth, whichever is HIGHER".

3) Other activities permitted under 8.3 of</td>
<td>1) Any substantial amount blocked as part of liquid asset may result in inefficient deployment of capital. Further, linking of liquid net worth may restrict a well-capitalized firm to offer underwriting services to its client as part of issue management impacting business opportunities.

2) While liquid net worth is an important threshold, devolvement of underwriting obligations is a very rare event and as long as a merchant bank is adequately capitalised, it</td>
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At 25% LNW	10	2.5	70	50	**50**
At 35% LNW	10	3.5	70	70	**70**
At 50% LNW	10	5	70	100	**100**

		the consultation paper are not dependent on liquid net worth.	should be able to honour devolvements. While 20x net worth may be an excessively large amount, at 7x net worth, a merchant bank should be able to raise funds needed to honor commitments. Insisting on a merchant bank maintaining liquid net worth imposes an unnecessary cost for very rare events. 7x net worth is also in line with capital adequacy requirements on NBFCs 3) A MB with higher net worth should be allowed to carry out the underwriting activities based on the existing limit i.e. 20 times of net worth, without the requirement of maintaining liquid assets.
17.3.1. It is proposed that in addition to the provision as per Regulation 21A, MBs may not be permitted to manage its own issue to avoid conflict of interest and ensure independent due diligence. 17.3.2. The present threshold of 15% under Explanation (i) of Regulation 21A of shareholding/ voting rights may be reduced to 10% for the purpose	No comments		

of treatment as an 'Associate to an Issuer'.			
18.3.1. It is proposed that merchant banker shall not lead manage any issue or be associated with any permitted activity under SEBI Regulations, if its directors or key personnel or compliance officer or their relative(s), individually or in aggregate holds, *more than 0.1% of the issuer's paid up share capital or nominal value of Rs. 10,00,000, whichever is lower.* However, holdings, if any, through mutual funds shall be excluded from the above. *The definition of relative shall be in line with definition of 'relative' under Income Tax Act, 1961 and include HUF.*	Strongly Disagree	1) We strongly suggest for SEBI to require disclosures of holdings of key personnel/relatives instead of restricting merchant bankers from undertaking permitted activities, if the holding in a company cross the threshold. 2) We suggest that limitation to act as lead manager of an issue in case of holdings of the paid-up capital of the issuer, should be limited to the deal team only and the immediate relatives of the deal team or merchant banking employees who are aware of the deal / transaction. (as defined under the SEBI Prohibition of Insider Trading Regulations, 2015.[2]). 3) We suggest the definition of 'relative' to be the same as the definition of	1) The extant Research Analyst regulations permits publications of Research reports/ public appearances under coverage subject to adequate disclosures of financial interest. Accordingly, instead of restricting MB to lead manage any issue or be associated with the issue, we propose to permit the aforesaid activities subject to adequate disclosures about the financial interest in the subject company individually or on aggregate basis by the concerned persons and their immediate relatives. 2) Given the sensitivity, merchant banking deals are typically not discussed in board meetings, therefore the directors may not be privy to UPSI and may not have detailed information

[2] https://www.sebi.gov.in/legal/regulations/jun-2024/securities-and-exchange-board-of-india-prohibition-of-insider-trading-regulations-2015-as-amended-on-june-26-2024-_84494.html

		"immediate relative" in the SEBI Insider Trading Regulations and who is financially dependent, instead of the definition in the Income Tax Act, 1961. 4) We submit that the cap of individual or aggregate holdings of 0.1% of the issuer's share capital or nominal value of Rs10,00,000 is too low. Given the increase proportion in the retail participation in the stock market, we suggest 5% of the issuer's paid up share capital. 5) Further, aggregate holding should be reckoned as holding of a director, KMP, compliance officer with each of their respective immediate relatives – drafting to be amended to clarify this. 6) The proposed restrictions be made applicable exclusively to merchant bankers advising on IPOs, and not extend to other	about MB's transactions and as such insider trading risks are very limited. There are also existing control under the SEBI PIT Regulations. 3) We suggest alignment of the definition of 'relative' with the definition of 'immediate relative' in the Insider Trading Regulations, i.e. "'immediate relative" means a spouse of a person, and includes parent, sibling, and child of such person or of the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions relating to trading in securities;" 4) Existing PIT Framework is robust. 5) Not feasible to track real time and issues with verification. 6) May impact transaction timelines.

		fundraising activities like FPOs, rights issues, qualified institutional placements, or issue management services such as open offers, buybacks, and delisting. This suggestion is made based on the detailed reasons enlisted in the rationale section. 7) Further, in so far as scope of securities in the proposed restriction is concerned, in addition to exclusion of holdings of mutual funds and exchange traded funds, investments through pooled investments vehicles should also be excluded as the effective shareholding in the investee company will not be discernable in such structures.	Applying the respective restrictions for transactions other than IPOs is neither practical nor reasonable due to: a. Confidentiality and insider trading related risks: Soliciting such information in respect of listed companies from such a broad range of people outside the relevant deal team may breach confidentiality, increase the chance of leaks and enhance exposure to violation of insider trading norms. b. Client disruption: In case the prescribed thresholds of shareholding are crossed inadvertently, it would create significant disruptions for clients, potentially delaying or

			complicating transactions. c. Lack of real-time oversight: For listed companies, there is no feasible method to track shareholding changes during the transaction's lifecycle, further complicating compliance. d. Extended transaction timelines: Certain transactions can take an extended period to conclude or may be deferred or canceled. Managing compliance throughout the transaction timeline would be excessively burdensome. e. Difficulty in information gathering and quick turnaround: Collecting timely and accurate

			information from numerous individuals, especially from immediate relatives who are not financially dependent, is extremely challenging. Such individuals may fail to provide the required information or may respond inaccurately or untimely. f. Verification issues: There is no reliable mechanism to independently verify the accuracy of the information provided or to ensure it is regularly updated, in the absence of due disclosure by the relevant individuals.
19.3.1. For the proposed Category 1 MBs, at least five years of relevant experience for minimum two employees may be required. For	Disagree	1) Co-lead manager versus Lead Manager roles are different, and we suggest	1) A lead manager or BRLM is the merchant banker appointed by the issuer

Category 2 MBs, the existing requirement of two years may be continued. 19.3.2. The proposed Category 1 MBs shall be mandated to have minimum five employees handling core merchant banking activities. For Category 2 MBs, the existing requirement of minimum two employees may be continued.		that managing public issues as a co-lead manager should not necessarily require the proposed Category 1 Merchant Banking. 2) We would like to seek clarification whether main board activities only refer to lead manger role in public issuance where as co-lead manager role should not be considered as main board activities. 3) Co-lead manager require only Cat 2 MB license where a minimum of 2 KMP with 2 years of experience should suffice for the role of co-managers.	company to carry out the entire IPO process. Whereas co-lead may be sometimes involved in an active role in structuring the transaction, although generally not book running. Both roles are unique and require different level of resources and commitment. 2) It may not be feasible to employ a minimum of 5 employees for co-lead manager role where managing public issues as co-lead is not a main board activity, and it is only a part of overall full fledge corporate advisory and other services.
19.3.3. The proposed eligibility criteria of key personnel shall be applicable from a date specified by the Board.	No comments		
19.6.2. It is suggested that Compliance Officer should have minimum qualification of Company Secretary or graduate degree in law from a university/ institution recognised by government.	Strongly Disagree	1) We would like to seek clarity on the definition of "exclusive and independent", and whether the compliance officer needs to only be	1) No other regulation in India has a mandate that requires an "exclusive and independent" Compliance Officer. Additionally, most merchant banks would

		engaging in Merchant Banking activities or whether they can carry out other SEBI licensed activities like Stock Broking, Research Analyst, etc., house in the same entity or any other function/activity that do not conflict. (i.e., can someone in the legal team be the Compliance Officer?) 2) Any person with more than 5 years of securities market experience, should be allowed to perform the role of Compliance Officer in Merchant Banking. Additionally, NISM examination clearance is one of the important eligibility criteria for individuals to work in capital market industry and therefore bar/ threshold of such exam can be set higher including validity.	have the necessary expertise to review aspects related to legal or shareholding structures. 2) This takes away the credibility of experienced professionals without Law or CS degree, who have been managing compliance for long time. Restricting the eligibility to specific degrees is not healthy to overall growth aspirations of professionals who wishes to pursue career in Merchant Banking. Also, we suggest allowing permanent grandfathering for such individuals who have experienced of more than 5 years as on effective date of regulation similar to practice adopted by SEBI when NISM was introduced for two KMPs for MB activities. SEBI could also consider introducing for such individuals an additional obligation on such compliance officer to attend mandatory CPE which can be more advanced.

			3) SEBI may appropriately look to borrow requirement of compliance officer as already prescribed in SEBI (Prohibition of Insider Trading) Regulations rather than adopting different standards. The RBI had a similar proposal. Ultimately, RBI appreciated that the legal and compliance are two different functions that require different expertise, and subsequently issued a FAQ/clarification: "In some banks, there may be separate departments looking after compliance to different statutory and other requirements while the compliance function may be responsible for monitoring compliance with the regulations, internal policies and procedures and reporting to Management. The concerned departments would hold the prime responsibility for their

			respective areas, which should be clearly outlined, while compliance function would need to ensure overall oversight."[3] 4) Such requirement would deprive experienced professionals who have been part of securities market with relevant securities compliance experience to perform the role as compliance officer. Further, it can also function as hurdle in case of any career progression. 5) For alignment and clarity.

[3] https://www.rbi.org.in/Scripts/FAQDisplay.aspx?Id=139

19.6.3. The Compliance Officer must have a minimum work experience of at least two years post qualification in activities relating to corporate or secretarial compliance. 19.6.4. Further, the role of Compliance Officer shall be separate and independent from the role of KMPs and Principal Officer. 19.6.5. The merchant banker shall fill any vacancy in the office of the Compliance Officer at the earliest and in any case not later than three months from the date of such vacancy. Further, merchant banker shall not fill such vacancy by appointing a person in interim capacity, unless such appointment is made in accordance with the laws applicable in case of a fresh appointment to such office and the obligations under such laws are made applicable to such person.	Partially Agree	1) The timeline for filling a vacancy should be at least 6 months given that the typical notice periods for such roles is 3 months and it would take at least 3 months to find a candidate and another 3 months for such new compliance officer to start at a new organization after they are able to serve notice in their current positions. 2) The merchant banker should be allowed to appoint an interim compliance officer during this period.	Allow merchant banks more time to ensure compliance with proposed regulations.

19.6.6. Existing Compliance Officers may continue provided, they have professional qualification with a minimum five years of post-qualification work experience relating to corporate or secretarial compliance and have obtained the following NISM Certifications, from a date specified by the Board: a. NISM-Series-IX: Merchant Banking Certification Examination b. NISM-Series-IIIA: Securities Intermediaries Compliance (Non-Fund) Certification Examination	Partially agree	The provisions as made applicable to existing Compliance Officer, should also be made applicable to new appointments of Compliance Officer i.e. work experience and NISM should be considered rather than qualification being the sole criteria for appointment of Compliance Officer.	For consistency and ease of doing business.

19.9.1. Proposal on obtaining relevant NISM Certification by key employees and Compliance Officer	No Comments		
19.12. The Principal officer may be defined as - "an employee of the merchant banker who has been designated as such by the merchant banker and is responsible for: i. the decisions made by the merchant banker for the management or administration of merchant banking activity ii. ii. all other operations of the merchant banker" Principal Officer to be mandated to have at least five years of experience in financial market. The same shall be applicable for the appointment/ designation of principal officer(s) from a date specified by the Board.	No Comments		
20.3.1. It has been proposed that a penal interest at 15%p.a. for each month of delay or part thereof to be charged, in case of delay in payment of renewal fees by merchant bankers. 20.3.2. Further, MBs shall not undertake any business or clients from the day such fees become due and remains unpaid. Further, SEBI may initiate action as deemed fit for non-payment or delay in payment of renewal fees.	No Comments		
21.3.1. The categorisation mentioned above needs to be deleted and the proposed categorisation i.e. Category 1 and Category 2 may suitably be incorporated.	No Comments		

22.3.1. It is suggested that in line with Companies Act, 2013, Merchant Bankers shall be mandated to maintain books of accounts for at least eight years.	Strongly Disagree	We suggest that books and records should be maintained for 5-7 years instead of 8 years.	For global firms that operate in India, it would be helpful if SEBI's record retention requirements are aligned with other key jurisdictions where they operate to avoid the need to adjust their global record retention practices just for one or two markets. For example, the record retention period in the EU, Singapore and Taiwan is typically 5 years while it is typically 5-6 years in the US and 7 years in Australia and Hong Kong. Hence, our preference is to see SEBI's proposed 8 years lowered to 5 years and at most 7 years. This is in line with our consultation response to SEBI's recent Consultation paper on Maintenance of Record of Mandatory Communication by Regulated Entities[4].
22.3.2. Merchant Bankers shall be advised to maintain all the data and information in India only.	Strongly Disagree	1) In relation to 22.3.2, most of our members being global organizations, they	1) Clarity needed on scope of information and data to be stored in India. Also, a copy

[4] https://www.sebi.gov.in/reports-and-statistics/reports/aug-2024/consultation-paper-on-maintenance-of-record-of-mandatory-communication-by-regulated-entities_86309.html

		leverage on global applications, systems and infrastructure and therefore data of different countries is centrally stored in the servers hosted outside the home country. Hence, as long as the MB is able to fetch the data in a timely manner, in case of regulatory queries, this should be permitted. Therefore, we suggest aligning the data requirement with Companies Act, 2013 which mandates to have back up of data pertaining to books of accounts in India and allows data to be stored and processed outside of India. 2) If it is deemed necessary to have data stored within India, we suggest SEBI clarifies and limits the scope of information and data to be maintained locally and still allow for data to be moved across borders for storage and processing.	of data should be voluntarily permitted to be stored outside India for operational resilience purposes and to have a back-up from regulatory perspective, to tackle any unforeseen disruption event. 2) We note from para 22.2.2, the rationale behind this proposal is "to prevent any potential data leak/ theft". However, we respectfully submit that storing data solely within India wouldn't offer improvement on data leakage prevention because for global organizations, the same set of controls would be applied globally. For global organizations, cybersecurity controls follow global standards and can be consistently applied across all global applications, systems and infrastructure. 3) The security of data is dependent on security controls, such as access

		3) Further, data about certain functions is required to be available outside, in particular with respect to conflict clearance and client selection in cross-border transactions or transactions involving MNC clients. 4) Data may also need to be reviewed by regional or global management teams, transaction review committees and other control functions outside India in. Therefore, copies of such data should be permitted to be stored outside India accordance with the law.	control management, encryption of data, and others. These controls apply regardless of the location of the data. Moreover, having copies of the data outside of India also helps ensure availability of the data in the event of any disruptions. 4) This allows for effective core cybersecurity operational processes to be based in strategic geographies, providing "follow-the-sun" coverage to the whole organization. 5) We therefore suggest that data should be allowed to flow cross-border in accordance with the law for example to conduct conflict checks, which are run on a global basis. 6) We are committed to working with SEBI to come to risk-proportionate alternative solutions that address SEBI's concerns.

23.3.1. It is suggested to modify the heading to "Any transaction in securities" by making appropriate amendment in SEBI MB Regulations.	No comments		
23.3.2. Compliance officer of merchant banker, its associates and relatives shall also be included for prohibition of acquisition of securities in body corporate on the basis of price sensitive information obtained by them during the course of any professional assignment either from clients or otherwise.	Partially Agree	In line with our comments in response to 18.3.1, we suggest the definition of 'relative' to be the same as the definition of 'immediate relative' in the SEBI Insider Trading Regulations[5].	For consistency and easy of doing business.
24.3.1. Merchant Bankers shall be advised to submit particulars of any transaction for acquisition of securities of any body corporate whose issue is being managed by that merchant banker and particulars of any transactions for acquisition of securities made pursuance of underwriting or market making obligations as a part of the half-yearly report to SEBI.	No comments		
25.3.1 A separate clause shall be introduced - No person shall act as a merchant banker, directly or indirectly, unless it has obtained a certificate of registration from the Board under these regulations.	No comments		
26.3.1 MBs shall not be permitted to outsource core activities such as Due diligence of Issuer, preparation of Offer Document.	Partially agree	1) Outsourcing to group / associate entities within the same group should be permitted. 2) Also, in the SEBI 2011	1) To enable leveraging expertise within the same group of companies. 2) Banks are required to submit an unqualified DD

[5] https://www.sebi.gov.in/legal/regulations/jun-2024/securities-and-exchange-board-of-india-prohibition-of-insider-trading-regulations-2015-as-amended-on-june-26-2024-_84494.html

		Guidelines on outsourcing[6], outsourcing "may be defined as the use of one or more than one third-party – either within or outside the group - by a registered intermediary to perform the activities associated with services which the intermediary offers." Considering this definition, we submit that using the services of an external law firms or other professional services – which is common for example the preparation of an Offer Document – should not be considered as outsourcing. Moreover, merchant banks should still be permitted to place reliance on the work of third-party professionals or experts related to the due diligence of Issuer.	certificate to SEBI and are duly involved in the due diligence process and preparation of offer documents.

[6] https://www.sebi.gov.in/legal/circulars/dec-2011/guidelines-on-outsourcing-of-activities-by-intermediaries_21752.html