

HSBC SECURITIES SERVICES

Market Entry Guide for Foreign Institutional Investors (FIIs)



Updated as on 7 November 2008

CONTENTS

1. Introduction.....	3
2. Foreign Institutional Investors (FIIs).....	3
3. Sub-accounts.....	6
4. Typical account structures.....	8
5. Codes required by FIIs.....	9
5. HSBC's value proposition.....	10
6. Account opening with HSBC.....	11
7. Checklists.....	13
8. Appendix A - Criteria considered by SEBI for grant of certificate of registration.....	15
9. Appendix B – Instructions to completing the FII application form (FORM A).....	17
10. Appendix C – Instructions to completing the sub-account application form (FORM AA)....	23
11. Appendix D - FAQs on the Multiple Investment Managers (MIM) structure.....	28
12. Appendix E - Draft format of the power of attorney (POA) from FII to HSBC.....	31
13. Appendix F - Draft format of the POA from sub-account to HSBC.....	33
14. Appendix G - Format of letter / swift / fax intimation of tax consultant.....	35
15. Appendix H - Format of account opening instruction.....	36
16. Appendix I - Observations from recent experience on FII/sub-account registration	37

Introduction

On 14 September 1992, Government of India, for the first time, permitted portfolio investments by Foreign Institutional Investors (FIIs) in the Indian capital market, and issued Guidelines outlining the entry and investment norms for FIIs. FIIs were (are) required to register with Securities and Exchange Board of India (SEBI) before making any investment in India. Since there were (are) foreign exchange controls also in force, FIIs were required to seek Reserve Bank of India (RBI)'s permission through SEBI. Thus FIIs were provided with a single window at SEBI for registration and foreign exchange permissions.

Subsequently, in 1995, the SEBI notified SEBI (FII) Regulations, 1995, which became the primary regulation regarding FII registration and investment norms. In December 2003, RBI gave general permission under the Foreign Exchange Management Act (FEMA) to SEBI registered FIIs / sub-accounts. Thus the requirement of seeking separate approval from RBI at the time of FII registration was discontinued.

At present, the following acts / regulations / guidelines govern FIIs investments in India:

1. SEBI Act, 1992
2. SEBI (FII) Regulations, 1995
3. Foreign Exchange Management Act, 1999
4. Government of India Guidelines dated 14 September 1992
5. Various circulars / instructions issued by SEBI / RBI from time to time

Foreign Institutional Investors (FIIs)

As defined in the SEBI (FII) Regulations, a FII means an institution established or incorporated outside India, which proposes to make investment in India in securities.

Eligibility

As per the SEBI (FII) Regulations, following entities / funds are eligible to get registered as FII:

1. Pension Funds
2. Mutual Funds
3. Investment Trusts
4. Insurance company / Reinsurance company
5. International or Multilateral Organisation or an agency thereof
6. Foreign Governmental Agency
7. Foreign Central Bank
8. Banks
9. Endowments
10. University Funds
11. Foundations
12. Charitable Trusts / Charitable Societies
13. Sovereign Wealth Fund
14. Broad Based Fund (only if it does not satisfy any other category)

In addition, following entities proposing to invest on behalf of broad based funds are also eligible to be registered as FIIs:

1. Asset Management Companies
2. Investment manager / advisor
3. Institutional Portfolio Managers
4. Trustee of a trust established outside India, and proposing to make investments in India on behalf of broad based funds and its proprietary funds, if any.

5. An asset management company, investment manager / advisor / institutional portfolio manager set up and / or owned by Non Resident Indians (NRIs), provided that the NRIs do not invest their proprietary funds.

Criteria for registration

SEBI while granting FII registration takes into account various factors, some of which are –

1. Applicant's track record, professional competence, financial soundness, experience, general reputation of fairness and integrity; In case of a newly established fund, the track record of the investment manager of the fund who has promoted it may be taken into consideration: Provided further that such investment manager shall furnish the details in respect of disciplinary action, if any taken against it.
2. Whether the applicant is registered with and regulated by an appropriate Foreign Regulatory Authority in the same capacity in which the application is filed with SEBI; University funds, endowments, foundations, charitable, trust and charitable societies may be considered for registration even though a foreign regulatory authority does not regulate them.
3. Whether the applicant is a fit & proper person in terms of SEBI (Criteria For Fit And Proper Person) Regulations, 2004

For the FII applicants falling under the categories - Endowments, University Funds, Foundations, and Charitable Trusts / Charitable Societies, SEBI may take into account the following:

1. Whether it is legally permissible for the applicant to invest in securities outside the country of its incorporation or establishment;
2. Whether the applicant has been registered with any statutory authority in the country of their incorporation or establishment;
3. Whether any legal proceeding has been initiated by any statutory authority against the applicant.
4. Whether the applicant has been serving public interest.

Some key criteria that SEBI will consider have been outlined in Regulation 6 of the SEBI (FII) Regulations, 1995 (Please refer to [Appendix A](#)).

In addition, for FII applicants that are banks, or subsidiary of banks, having presence in India, SEBI forwards a copy of the application to RBI for their views and grants approval only on receipt of RBI's favourable feedback. RBI conducts its own due diligence on such applicants including seeking confirmation from the overseas regulator of the banking entity on,

- i) whether any penalties have been imposed on the banking entity
- ii) whether the regulator is aware of the FII application being made, etc.

Documents required

FII applicants are required to submit the following documents to SEBI as a one-time activity:

1. FII application form ("FORM A" as given in the amended SEBI (FII) Regulations, 2008)
2. Certified copy of relevant clauses (clauses permitting the stated activities) of Memorandum of Association, Article of Association or Article of Incorporation
3. Audited financial statement and annual report for the last one year (period covered should not be less than twelve months)

➤ *If the applicant is not in a position to submit financials for one year (i.e. if the company has not completed 12 months from the date of incorporation) then the applicant can provide financials of the investment manager of the fund who has promoted it may be taken into consideration.*

➤ *HSBC has prepared a set of elaborate instructions to help you fill-up the forms. Please refer to [Appendix B](#) for a detailed guide on how to complete the FII application form*

Registration Fee Payable

Fee of USD 10,000 is payable towards each FII registration. The fee is to be submitted to SEBI in form of a demand draft in favour of “Securities and Exchange Board of India” payable at New York.

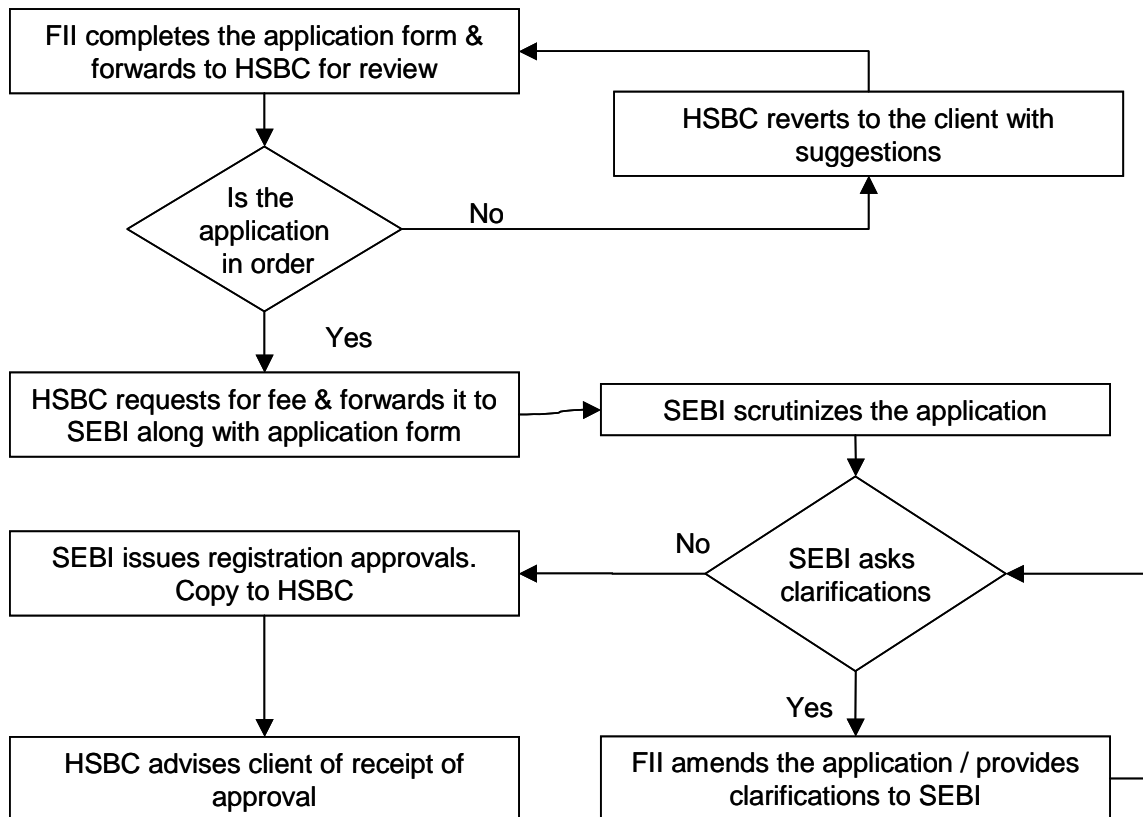
➤ *As part of service offering, HSBC helps applicants in submission of the application form and the fee. The fee can be wired to our account number 000 04835 6 CHIPS UID 342759 with HSBC Bank USA, New York and an authenticated message sent to HSBC Mumbai advising of the remittance. HSBC Mumbai will prepare the required demand draft in favour of SEBI.*

FII Registration Process

Though SEBI has set a benchmark of 7 working days from the date of submission of application along with all supporting documents to process FII applications, we observe, from our recent experience, that SEBI takes 20-25 days for the process.

However, in case the FII applicant is a bank, or subsidiary of a bank, having presence in India, SEBI forwards a copy of the application to RBI for their views, and the time taken for getting an FII registration may take longer. Our experience has been that such applications can take from one to four months to be processed.

We give below a pictorial representation of the steps a typical FII application goes through –



Validity and renewal

Any registration granted by SEBI shall be a permanent registration unless suspended or cancelled by SEBI (provided the application is made in the revised Form A). Every registered FII will continue to pay the fee of USD 10,000 for every block of three years after the grant of registration. The deadline to pay this fee is at least one month before the expiry of the period of three years. No documents are required to be submitted for renewal.

For entities already registered with SEBI, the revised Form A will have to be submitted along with the renewal fee three months prior to the expiry period. No supporting documents will be required to be submitted along with the Form A.

Additional responsibility imposed on the FIIs

An FII will be responsible and liable for all acts of commission and omission of all its sub-accounts and other deeds and things done by such sub-accounts in their capacity as sub-accounts under these regulations.

Sub-accounts

Sub-account means “any person resident outside India, on whose behalf investments are proposed to be made in India by a foreign institutional investor and who is registered as a sub-account under the SEBI FII regulations.”

As per the SEBI (FII) Regulations, following entities / funds are eligible to get registered as a sub-account:

1. Broad Based Fund
2. Broad Based portfolio
3. Proprietary of the FII
4. Foreign Corporate
5. Foreign Individual

In addition, the following entities proposing to invest in India are also eligible to be registered as a sub-account:

1. University Funds
2. Foundation
3. Charitable Trust
4. Charitable Society
5. Sovereign Wealth Fund

The definitions of some of the above categories are as follows:

1. **Broad Based Fund**

Broad based fund is a term used for a fund, established or incorporated outside India, which has at least twenty investors with no single individual investor holding more than 49 percent of the shares or units of the fund. If the broad based fund has institutional investor(s) it is not necessary for the fund to have twenty investors and the fund may still apply as a broad based fund. However, if the fund has an institutional investor who holds more than forty nine percent of the shares or units in the fund, then the institutional investor must itself be a broad based fund.

2. **Broad Based Portfolio**

A broad based portfolio is a portfolio, which is broad based, incorporated or established outside India.

3. Proprietary Fund

A proprietary fund is a fund where the FII owns the funds being invested by the sub-account. Typically SEBI allows an FII to have only one proprietary fund as a sub-account. A common exception is made for FIIs that are registered under the Multiple Investment Manager (MIM) structure. (Refer Appendix D for FAQ on MIM)

4. Foreign Corporate

A “foreign corporate” means a body corporate incorporated outside India which fulfils the following conditions: -

- Its securities are listed on a stock exchange outside India;
- It has asset base of not less than two billion US dollars;
- It had an average net profit of not less than fifty million US dollars during the three financial years preceding the date of the application.

5. Foreign Individual

A “foreign individual” means a foreigner who fulfils the following conditions:

- Has a net worth of not less than fifty million US dollars;
- Holds the passport of a foreign country for a period of at least five years preceding the date of application;
- Holds a certificate of good standing from a bank;
- Is the client of the foreign institutional investor or any other entity which belongs to the same group as the FII, for a period of at least three years preceding the date of the application.

Sub-account Application Process

The FII is required to fill-up a sub-account application duly signed by the FII and the sub-account applicant. The following have to be submitted to SEBI for obtaining registration as a sub-account of an existing FII.

1. Sub-account application form (“FORM AA” as given in the amended SEBI (FII) Regulations, 2008)
2. Application fee of USD 2,000 for each sub-account.

➤ *HSBC has prepared a set of elaborate instructions to help you fill-up the forms. Please refer to [Appendix C](#) for a detailed guide on how to complete the sub-account application form*

➤ *The fee can be wired to our account number 000 04835 6 CHIPS UID 342759 with HSBC Bank USA, New York and a SWIFT send to us advising of the remittance. HSBC Mumbai will prepare the required demand draft in favor of SEBI.*

Process flow

Though SEBI has set a benchmark of 3 working days from the date of submission of application along with all supporting documents to process sub-account applications, we observe, from our experience, that SEBI takes 10-15 days for the same. The process followed for the application for a sub-account is similar to the process followed for the registration of an FII, as per the flow chart above.

Validity and renewal

Registration of a sub-account is co-terminus with its FII's registration i.e. valid till the registration of the FII is valid i.e. permanent subject to payment of fees every three years, unless suspended or cancelled by SEBI. The FII will pay the fees payable on behalf of the sub-account at least one month before the expiry of the period of three years.

Benefits of registering as sub-accounts

The benefits to an investor registering as a sub-account are:

1. Eligibility criteria for sub-account registration are less stringent as compared to FII registration. Hence, the funds / entities which are not eligible for FII registration can be registered as sub-account, provided they are eligible for sub-account registration. For example, a fund that has been recently set up can invest in India as a sub-account of an FII although it cannot be registered as an FII.
2. Sub-account application requires less paperwork and SEBI has set a benchmark of 3 working days from date of submission of a complete application or on receipt of any clarification that SEBI may require from the client, for registration approval for sub-accounts as compared to the 7 working days for FII registration.
3. Sub-account can hold shares in its own name.
4. For taxation purposes a sub-account is a separate entity and taxes calculated by the tax consultants are in no way influenced by investments made by the FII on behalf of other sub-accounts. The tax benefit due as a result of a Double Taxation Agreement also depends on the domicile of the sub-account and not the FII. However, for MIM structured accounts, we understand that the annual tax return is required to be filed on behalf of the FII and not its sub-accounts.
5. The FII's local custodian and the custodian for its approved sub-account need not necessarily be the same. An FII can have, for example, four approved sub-accounts, each with a different sub-custodian in India.
6. Sub-accounts pay a reduced registration fee of USD 2,000 (as against USD 10,000 per FII)

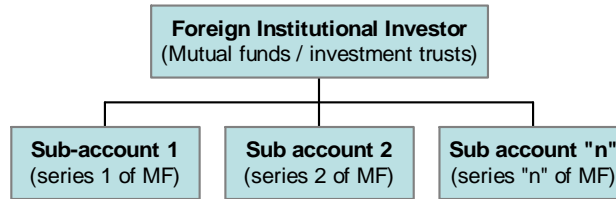
➤ *For your better understanding of the registration process, and in order to keep you updated of current practices, we have compiled such observations in Appendix I.*

Typical Account Structures

We explain below some examples of account structures that are possible for FII / sub-account registration. We believe this will help you in deciding upon an appropriate structure for yourselves.

If the FII applicant is a fund itself

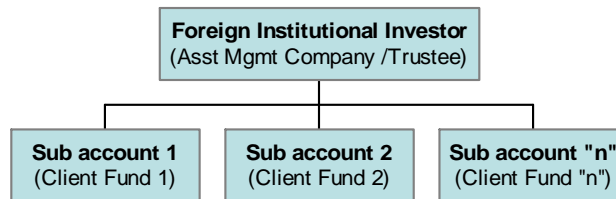
In such cases the fund can register as the FII, and if it has different series / schemes of funds within itself, those series / schemes can register as sub-accounts:



E.g. a mutual fund having “n” number of different series funds can register as FII. Its series can be registered as sub-accounts. SEBI treats Investment companies and SICAV as mutual funds for the purpose of FII registration.

If the FII applicant is a fund manager proposing to invest on behalf of funds managed by it

In such cases the fund manager can register as the FII, and the different funds on whose behalf it wishes to invest, can register as sub-accounts:

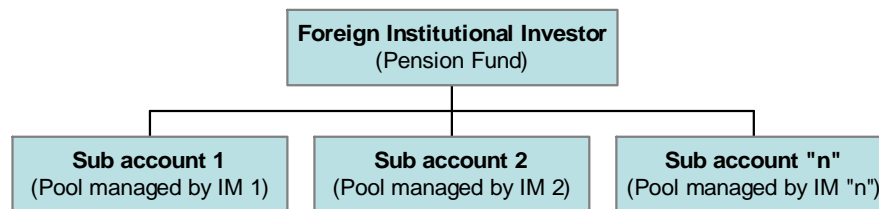


E.g. An investment manager / advisor, asset management company managing “n” number of different funds can register as FII. Its client funds can be registered as sub-accounts. Similarly, a trustee can register as FII. Client funds under its trusteeship can be registered as sub-accounts

Multiple Investment Management (MIM)

An alternative to the above-mentioned and more conventional structures is the Multiple Investment Management (MIM) structure. Under the MIM structure, a fund that is managed by more than one investment manager (IM) obtains registration as an FII and registers the separate pools of funds managed by separate IMs as sub-accounts of this FII as shown below. Please refer to [Appendix D](#) that has an FAQ on the MIM structure.

E.g. a pension fund is being managed by “n” different Investment Managers (IMs). In such case the pension fund can register itself as FII. Its separate pools of money managed by each IM can be registered as sub-accounts.



Codes required by FIIs:

S. No.	Code	Purpose	Applied by	Approx Time
1.	FII registration number	Unique number given by SEBI for all FIIs	FII / Local Custodian	7 days
2.	Sub account code	Unique number given by SEBI for all sub accounts	FII/Local Custodian	3 days

3.	Unique Client Code	Given by the exchange, required by broker for trading	Local Custodian	2-3 days
4.	NSDL ID	The depository ID with NSDL	Local Custodian	1 day
5.	CDSL ID	The depository ID with CDSL (required only if CDSL account is opened)	Local Custodian	1 day
6.	BSE Code	Code with the BSE Clearing House	Local Custodian	1 day
7.	Custodial Participant Code	Code with the NSE Clearing House	Local Custodian	2 days
8.	Permanent Account Number	Unique number given by tax authorities, required for filing of tax returns, payment of taxes etc.	Tax consultant	2 weeks
9	KYC verification for mutual fund investment	Fresh investment or additional purchase for amounts equal to and greater than INR 50,000 in Indian Mutual Funds	Local Custodian	1 day

The IDs (Sr. Nos. 3-8) can be applied for simultaneously on receipt of SEBI approval.

HSBC's Value Proposition

We at HSBC realize that the account opening stage is perhaps the most critical stage in a FII / sub-account investment life cycle in India. We have a dedicated account opening team that works in conjunction with your Client Service Manager (CSM) to ensure that the account opening process sees its logical end seamlessly.

We follow a consultative approach with regards to the FII / sub-account application process, by conducting reviews of draft documents before they are executed and submitted to SEBI. The concerned CSM and the account opening team are also in constant touch with SEBI through personal visits from the time the application is submitted till the approval is received. We can also organize conference calls with clients to clarify complex structures and provide our guidance on the best way possible to structure the accounts in India.

In our constant endeavor to offer our clients value added services, we have attempted to make it easier for you and your clients to complete the SEBI application form which is the first and foremost step for a portfolio investor to register in India. We have prepared a set of elaborate instructions to help you fill-up the forms. Please refer to Appendix B for a detailed guide on how to complete the FII application form; and Appendix C on how to complete the sub-account application form.

This will also ensure that the entire form is filled correctly, as we have observed that in the past clients often forward us applications with incomplete details or leave certain sections blank as they are uncertain as to what response is required in those sections.

Account Opening with HSBC

In addition to the SEBI approvals, the following documents are required for HSBC to open the securities and cash accounts (presuming that contractual documentation has already been executed with HSBC):

1. Power of attorney (POA), which delegates powers from FII or sub-account (as the case may be) to HSBC, India. It also gives details of the global custodian (if applicable). Please refer to [Appendix E](#) for draft format of the POA from FII to HSBC and [Appendix F](#) for POA from sub account to HSBC.
2. A FII/sub-account (as the case may be) needs to appoint a local tax consultant. We will require authenticated instructions from our contractual client advising the name of the local tax consultant appointed by the FII/sub account (as the case may be) and authorization to HSBC India to release relevant information to the appointed tax consultant. Please refer to [Appendix G](#) for the draft format of an instruction.
3. Authenticated instructions to open cash, custody and depository (National Securities Depository Limited and / or Central Depository Services (India) Limited) accounts on behalf of the FII/sub account (as the case may be) and to apply for the UCC. Please refer to [Appendix H](#) for the draft format of an account opening instruction.
4. FIIs/sub-accounts are required to obtain and submit Permanent Account Number (PAN) card. Accounts on the depository (National Securities Depository Limited and / or Central Depository Services (India) Limited) will be opened only after receipt of the PAN card and verification of the same with the Income Tax web site.

➤ *Indian law requires POAs to be notarised and consularised –*

- a. *If the document has been executed in a Commonwealth country; it needs to be notarised only.*
- b. *Consularisation can be substituted by an apostille certificate if the document is executed in jurisdictions which are members of the Hague Convention Abolishing the Requirements of Legalization for Foreign Public Documents*

On the basis of the above documents, the following accounts are opened for each FII / sub account (as the case may be [@]):

1. Cash account, denominated in Indian Rupee (typically in the format 002 – xxxxxx – 001 or 019 – xxxxxx – 001)
2. Securities account (typically in the format 002 – xxxxxx – 601 or 019 – xxxxxx – 601)
3. Depository account [#] (an 8 digit unique number)
4. Cash account for derivatives transactions (only if requested by the client) (typically in the format 002 – xxxxxx – 002 or 019 – xxxxxx – 002)

@ Accounts (cash, securities etc) are only opened for the investing entity, i.e. the sub account if the FII has been authorised to invest on behalf of its sub accounts or the FII if the FII has been authorised to invest on its own behalf.

HSBC opens the depository account on the National Securities Depository Limited (NSDL) if client instructions do not specifically mention on which depository the account shall be opened.

Also, HSBC applies for the following codes on behalf of the FII / sub account:

1. UCC (Unique Client code)

This is the unique client code, which is allotted by the National Stock Exchange at the investing entity level. It is required by all SEBI registered sub-accounts and all FIIs investing on their own behalf to trade in the market. This code is used by brokers while transmitting electronic contract notes to custodians. HSBC will apply for the UCC after receipt of the SEBI approval and the PAN card. The NSE has a benchmark of 3 days to provide the UCC. However, from our recent experience we observe, that obtaining UCC from NSE takes 4-5 working days. Recently NSE asked for a lot of additional information to be provided while applying for UCC and CP codes. These include:

- Address of FII/sub-account
- Name of the contact person of FII/sub-account
- Telephone no
- Fax no
- E-mail ID of the contact person
- Common e-mail ID

2. NSE Custodian Participant Code

This is the client code required by brokers at the time the trade is being input on the NSE system for clearing house trades. The code is allocated by the National Stock Exchange and is usually issued within one week.

3. BSE Custodian Participant Code

This is the client code required by brokers at the time the trade is being input on the BSE system for clearing house trade. As advised by the BSE, the code is the same as the securities account number of the client maintained on our operating system, GHSS.

4. Derivatives Clearing Code

This code is used for trades executed on the Future and Options (F & O) segment. The client's appointed Clearing Member notifies the relevant stock exchange of the Custodian Participant code, which the Stock Exchanges will register for the investor's trading purposes on the F&O segment. Wherever HSBC is the clearing member for the client in the F & O segment, HSBC will apply to the relevant exchange for the Derivatives Clearing Code.

5. KYC verification for mutual fund investment

As per SEBI guidelines investors in asset management companies (AMCs), investing INR 50,000 and above are required to comply with KYC norms under the Prevention of Money Laundering Act 2002 (PMLA). In order to complete the KYC verification Investors in AMCs investors have to provide the following documents:

- Proof of Identity
- Proof of Address
- PAN Card

Checklists

A. For a new FII application

Yes/ No

S. No.	Checklist Item	Y/N
1.	Completed FII application form (FORM A)	
2.	Enclosed certified copy of the relevant clauses of the Memorandum and Articles of Association or any other agreement authorizing the applicant to invest on behalf of its client.	
3.	Enclosed audited financial statements and annual reports for the last year	
4.	Remitted registration fee of USD 10,000 for each FII registration	

On receipt of SEBI approval

6.	Executed and legalized POA. (Notarized, Apostilled, Consularised as the case may be)	
7.	PAN card	
8.	Instructions to HSBC to open cash, custody and depository accounts	
9.	Sent intimation to HSBC for appointment of a local tax consultant	
10.	UCC received	

B. For a sub-account application

S. No.	Checklist Item	Y/N
1.	Completed sub-account application form (FORM AA)	
2.	Remitted registration fees of USD 2,000 for each sub-account	

On receipt of SEBI approval

3.	Executed and legalized POA. . (Notarized, Apostilled, Consularised as the case may be)	
4.	PAN card	
5.	Instructions to HSBC to open cash, custody and depository accounts	
6.	Sent intimation to HSBC for appointment of a local tax consultant	
7.	UCC received	

C. POA checklist

The POA is a document used primarily for making submissions to third parties like companies / registrars, exchanges etc. Thus, while we are agreeable to accepting the POA in any form, there is a possibility that a third party may not accept the POA given the discrepancy. In such a case the client will face various risks for not having a valid POA, some of which are:

- a) Registration of physical shares in client's name may be delayed
- b) HSBC cannot participate in Proxy voting on behalf of the clients
- c) Deadlines and opportunities such as the above for applying to IPO issues / Book Building, open offers / buy-back offers etc may be missed
- d) Issuance of UCC for the client may be delayed / rejected by the exchange

There is no specific format for a POA, which is universally acceptable in the Indian market. Based on our past experience and inputs from our legal we have created a POA format for clients. On the basis of these inputs as well as feedback from third parties like companies and registrars (who finally are the ones who decide if a POA is acceptable or not), we have prepared a checklist and advise possible risks a client may be exposed to, as a result of executing a POA in a different format. However you will appreciate that neither the list of risks nor the checklist for the POA is an exhaustive one. Thus while HSBC may accept a particular POA, there is a possibility that when the POA is used with third parties, they may have some additional requirements and we may need to revert to the client for additional documentation which may need to be notarised and consularised in a short period of time. In the extreme situation, this may even lead to the client missing a deadline. Having said that, you can be rest assured that HSBC will do its best to convince the third parties to accept the POA or give the client time to execute a new one/ provide alternate documents acceptable to the company.

Given below is a copy of our POA checklist for your reference. Clients may wish to review the POA's against this checklist before submitting the same to us.

S. No.	Checklist Item	Y/N
1.	Is the POA in the standard format with all the clauses (to be read out and compared verbatim)	
2.	Sub-account name, where ever appearing should be the same as appearing in the SEBI approval.	
3.	FII name, wherever appearing should be the same as appearing in the SEBI/ RBI approval	
4.	Is the CGT, Withholding Tax and any other tax indemnity clause contained in the POA?	
5.	POA to be signed by an authorised signatory of the FII/Sub-account based on the entity executing the POA with HSBC.	
6.	All POAs should be Notarised and POAs executed outside the Commonwealth countries should also be Consularised. Consularisation can be substituted by an apostille certificate if the document is executed in jurisdictions, which are members of the Hague convention abolishing the requirements of legalization for foreign public documents.	
7.	The address of the FII executing the POA should be provided on the POA and this should be as that appearing in the SEBI/RBI approval.	
8.	The name of HSBC's client should be as per that appearing in the Custody Agreement.	
9.	The name of HSBC should be mentioned as "The Hongkong and Shanghai Banking Corporation Limited"	
11.	Date of execution and date of notarisation should be same.	
12.	Where there is separate sheet of paper on the Indian consulate letterhead, it will bear a number, which represents the document attested by the notary. This number needs to be the same as the one appearing on the notary's document.	
13.	All pages on the POA should bear the signature of the signatory.	
14.	Any striking in the POAs should be authenticated by the Authorised Signatory.	
15.	No sentences should be blanked off with white ink without appropriate authentication.	
16.	The Notary should be located in the same city as the entity issuing the POA	

Appendix A: Criteria considered by SEBI for grant of registration

Regulation 6 of SEBI (Foreign Institutional Investors) Regulations, 1995

6 (1) For the purpose of the grant of certificate the Board shall take into account all matters which are relevant to the grant of a certificate and in particular the following, namely:

- (a) The applicant's track record, professional competence, financial soundness, experience, general reputation of fairness and integrity; Provided that in case of a newly established fund, the track record of the investment manager of the fund who has promoted it may be taken into consideration: provided further that such investment manager shall furnish the details in respect of disciplinary action, if any, taken against it.
- (b) Whether the applicant is regulated by an appropriate foreign regulatory authority; Provided that university funds, endowments, foundations, charitable trusts and charitable societies may be considered for registration even though they are not regulated by a foreign regulatory authority.
- (c) Whether the applicant has been granted permission under the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973) by the Reserve Bank of India for making investments in India as a Foreign Institutional Investor;
- (d) Whether the applicant is –
 - (i) An institution established or incorporated outside India as a pension fund, mutual fund, investment trust, insurance company or reinsurance company; or
 - (i-a) a International or Multilateral Organisation or an agency thereof or a Foreign Governmental Agency or a Sovereign Wealth Fund or a Foreign Central Bank;”
 - (ii) An asset management company, investment manager or advisor, bank or institutional portfolio manager, established or incorporated outside India and proposing to make investments in India on behalf of broad based funds and its proprietary funds, if any; or
 - (iii) A trustee of a trust established outside India and proposing to make investments in India on behalf of broad based funds and its proprietary funds, if any
 - (iv) University fund, endowments, foundations or charitable trusts or charitable societies.
Provided that while considering the application from the applicants under clause (iv) the Board may take into account the following namely:
 - (a) Whether the applicant has been in existence for a period of at least 5 years.
 - (b) Whether it is legally permissible for the applicant to invest in securities outside the country of its incorporation or establishment;
 - (c) Whether the applicant has been registered with any statutory authority in the country of their incorporation or establishment;
 - (d) Whether any legal proceeding has been initiated by any statutory authority against the applicant.]
 - (e) Whether the applicant has been serving public interest.

Explanation:

For the purposes of this regulation, "broad based fund" means a fund, established or incorporated outside India, which has at least twenty investors, with no single individual investor holding more than forty nine cent of the shares or units of the fund.

Provided that if the broad based fund has institutional investor(s) it shall not be necessary for the fund to have twenty investors:

Provided further that if the broad based fund has an institutional investor who holds more than forty nine percent of the shares or units in the fund, then the institutional investor must itself be a broad based fund; or

- (e) Whether the grant of certificate to the applicant is in the interest of the development of the securities market

(f) Whether the applicant is a fit and proper person

A copy of the complete SEBI (FII) Regulations is available on the SEBI website www.sebi.gov.in

Appendix B: Application Form for Registration of an FII (FORM A)

Form A
Application Form for Grant of Certificate of Registration as
Foreign Institutional Investor (FII)
[See Regulation 3(2)]

1 Details of the applicant

1.1 Name of the applicant:

--

The client needs to mention the name in which they intend to carry out investment activities in India. It should also be the same in which they have sought registration with their local regulatory bodies.

1.2 Address of the Applicant:

Address			
Postal Code:		Country:	
Telephone No.		Fax No.	
Web-site			

1.3 Date of Incorporation / establishment

The applicant needs to provide the date when the applicant was set up in dd/mm/yyyy format.

1.4 Place and Country of Incorporation:

Place:		Country:	
--------	--	----------	--

The applicant needs to provide the place where the applicant was set up.

1.5 Legal form of the applicant and the law under which it is incorporated, established or registered, if any:

The client needs to mention the legal form of the applicant and the law under which it is incorporated.

1.6 Brief description of the principal activities:

The client needs to mention in brief the nature of business activities carried out by them for e.g. The client can mention that their current assets are USD And that they have

been carrying out the (brief description of the activities) since ... (date of commencement of activities).

(Please attach annexure if this space is insufficient)

1.7 Date of commencement of such activities

The applicant needs to provide the date when the above activities were set up in dd/mm/yyyy format.

1.8 Brief description of the group, if any, to which the applicant belongs

If the client belongs to a larger group of companies, umbrella fund etc they need to mention the name of the group. In case the client has not completed 12 months from the date of registration then SEBI considers the track record of the group while processing the application.

(Please attach annexure if this space is insufficient)

1.9 Information pertaining to Compliance Officer:

The client needs to mention the details of the Compliance officer and give the following details.

Name			
Job Title			
Telephone No.		Fax No.	
E-mail id			

2. Category of the applicant

2.1 If the applicant is a fund:

- | | |
|--|---|
| <input type="checkbox"/> Pension Fund | <input type="checkbox"/> University fund |
| <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Endowment |
| <input type="checkbox"/> Investment Trust | <input type="checkbox"/> Foundation |
| <input type="checkbox"/> Bank | <input type="checkbox"/> Charitable Trust |
| <input type="checkbox"/> Charitable society | <input type="checkbox"/> Insurance/Reinsurance Company |
| <input type="checkbox"/> Foreign Central Bank | <input type="checkbox"/> Foreign Governmental Agency |
| <input type="checkbox"/> Sovereign Wealth Fund | <input type="checkbox"/> International/Multilateral/organization/agency |
| <input type="checkbox"/> Broad Based Fund (only if it does not satisfy any other category) | |

If the applicant is a fund, it needs to apply under one of the categories stated above by ticking (✓) at the relevant category. If the investor does not fall into any categories, the applicant should provide the details of the structure of the applicant and the nature of business.

(Please state the corpus of the fund, Generic type and Number of investors in the fund along with their respective proportionate holdings in a separate annexure in the following format) *These details needs to be provided for all the above categories. Sr. No is a short form of serial number denoting the numbering of the points like 1,2, 3 etc.,.The Generic Type of Investors means the various type of investors who are holding the investments in the FII i.e. retail investors, bank, pension fund etc along with the*

percentage of holding. Please also confirm from the client that no single investor holds more than 49% of the holding in the total amount invested by the applicant. If any investor/s are holding more than 49% then they need to provide a confirmation below the table, as a note that this investor meets the broad-based criteria. Additionally, please request the client to mention the total amount, with currency, to be invested in the corpus of the fund column

Sr. No.	Generic Type of Investors	No. of Investors	Percentage of Holding
Total Corpus of the Fund			

2.2 If the applicant is not a fund:

- Asset Management Company Institutional Portfolio Manager
 Investment Manager/Advisor Trustee of a Trust

If the applicant is not a fund; it needs to apply under one of the categories stated above by ticking (✓) at the relevant category. If the investor does not fall into any categories, the applicant should provide SEBI with details of the structure of the applicant and the nature of business.

3. Classification of the applicant:

*This is a mandatory field and thus the applicant needs to mention the appropriate details. Earlier SEBI wanted any one of the below suitable to be selected but the recent change in the regulations has given the option of applicant investing either in 100 % debt **OR** Equity: Debt (without any particular ratio). Thus the client can mention their classification by cancelling the 70:30 option, if need be, but we cannot change the forms currently as SEBI has verbally advised that they shall change these forms and inform us.*

- ~~70:30~~ (Equity: Debt) 100 % Debt

4. Details of regulatory authority by which the applicant is regulated

As per SEBI's requirements, the entity which is seeking registration as a FII should be regulated by an "acceptable" regulator. While the way of deciding acceptable regulator is not given in SEBI's FII regulations, the practice which SEBI has been following recently is that entities which are registered as "Ordinary Member" of International Organization of Securities Commissions (IOSCO) are considered to be in order. You may visit the site, www.iosco.org, for further details on IOSCO

4.1 Contact Details

Name			
Country		Web-site	

The client needs to mention the name and the country of the Regulator.

4.2 Registration Number/Code:

The applicant should mention the registration number /code allotted by the home regulator authority whose details have been provided in Item No. 4.1.

4.3 Please mention briefly the activities which the applicant is permitted to undertake under the registration/license granted by the regulatory authority

5. Details of Proposed Investments to be made in Indian Securities markets:

5.1. Nature of Investments to be made by the applicant:

Please duly fill this mandatory section. For all the applicants with broad-based sub-accounts should either fill

On behalf of self' - the applicant who is either investing on its own or along with its proprietary based sub-account/s

'On behalf of client(s)/fund(s)' - the applicant is investing on behalf of its sub-account/s

'Both' - the applicant is investing along with its sub-account/s.

On behalf of Self

On behalf of client(s)/fund(s)

Both

5.2 In case of investments being made on behalf of clients/ funds, details of the same

This section has to be filled only if the applicant is getting the sub-accounts under them and accordingly mention the sub-account/s details

NAME	CATEGORY	COUNTRY
<i>Mention the sub-account name as per the section 1.1 in Form AA</i>	<i>Mention the category of sub-account as per the section 2.2 in Form AA</i>	<i>Mention the country of the sub-account as per the section 1.3 in Form AA</i>

6. Disciplinary History

Whether there has been any instance of violation or non-adherence to the securities laws, code of ethics/conduct, code of business rules, for which the applicant, or its parent / holding company or affiliate may have been subjected to economic or criminal liability or suspended from carrying out its operations or the registration, has been revoked, temporarily or permanently.

Yes

No

If yes, then please provide details:

The client needs to tick (✓) at the relevant option. If there have been any instances of violation, full details should be provided.

7. Details of domestic custodian and designated bank appointed

7.1 Details of the domestic custodian

Name of the Bank and Branch	The Hongkong and Shanghai Banking Corporation Limited (HSBC)
SEBI Reg. No.	IN/CUS/009

7.2 Details of designated bank:

Name	The Hongkong and Shanghai Banking Corporation Limited (HSBC)
Address	52 / 60, M.G Road, Fort
	Mumbai
Postal Code	400 001
Country	India

8 Details of prior association with the Indian Securities market

8.1 Whether the applicant was anytime registered as FII or sub-account with "SECURITIES AND EXCHANGE BOARD OF INDIA"

Yes

No

The client needs to tick (√) at the relevant option.

If yes, then please provide details:

Name of the entity	Registered as	SEBI Registration No.	Period of registration	
			From	To
			dd/mm/yyyy	dd/mm/yyyy
			dd/mm/yyyy	dd/mm/yyyy
			dd/mm/yyyy	dd/mm/yyyy
			dd/mm/yyyy	dd/mm/yyyy

(Please attach separate sheet, in the same format, if the space provided here is not sufficient)

The applicant should provide details in the format provided, of its associate/s or group company/s if they have any office in Indian and have ever been registered with SEBI.

8.2 Whether any of your associate/s or group company/s, having office in India, have ever been registered with "SECURITIES AND EXCHANGE BOARD OF INDIA"

Yes

No

The client needs to tick (√) at the relevant option.

If yes, then please provide details:

Name of the entity	Registered as	SEBI Registration No.	Period of registration	
			From	To
			dd/mm/yyyy	dd/mm/yyyy

			dd/mm/yyyy	dd/mm/yyyy
			dd/mm/yyyy	dd/mm/yyyy
			dd/mm/yyyy	dd/mm/yyyy

(Please attach separate sheet, in the same format, if the space provided here is not sufficient)

The applicant should provide details in the format provided, of its associate/s or group company/s if they have any office in Indian and have ever been registered with SEBI.

9. Declaration and Undertaking

We declare that:

- a. No winding up orders have been passed against the applicant.
- b. no order suspending or debarring the applicant from permanently carrying on activities in the financial sector has been passed by any regulatory authority;
- c. no order withdrawing or refusing to grant any license/approval to the applicant which has a bearing on the securities market has been passed by any authority in the preceding five years;
- d. any penalty imposed (including monetary penalty) by any regulatory authority has been undergone or paid.
- e. the information supplied in the application, including the attachment sheets, is complete and true.

Undertaking:

We undertake to:

- 1. notify the Securities and Exchange Board of India and the Reserve Bank of India of any change in the information provided in the application promptly.
- 2. comply with the provisions of the Act, and regulations issued there under and all other relevant laws including guidelines issued by the Reserve Bank of India and the Government of India.
- 3. abide by operational instructions/ directives as may be issued by Securities and Exchange Board of India and by the Reserve Bank of India from time to time under provisions of the Act or any other law for the time being in force.
- 4. be held responsible and liable for all acts of commission and omission of all its sub-accounts and other deeds and things done by such sub accounts under these regulations, irrespective of whether discretion is exercised by us in respect of the sub-account.

For and on behalf of

(Name of the applicant)

Signature of Authorized Signatory	
Name	

Designation	
Date	dd/mm/yyyy

NOTE: - PLEASE DELETE THE EXPLANATORY COMMENTS, MENTIONED IN RED, FROM THE ORIGINAL DOCUMENT AS THIS IS ONLY FOR INFORMATION

Notes:

1. Securities and Exchange Board of India (SEBI) and Reserve Bank of India (RBI) reserve the right to call for any further information from the applicant regarding this application.

2. Applications along with necessary documents should be submitted at:

Securities and Exchange Board of India,
Division of Foreign Institutional Investors & Custodians,
Plot No. C4-A, "G" Block,
Bandra Kurla Complex,
Mumbai-400051.

3. Documents & Instruments to be enclosed with the application:

- (i) Certified copy of the relevant clause of Articles of the Memorandum and Articles of Association or the agreement authorizing the applicant to invest on behalf of its clients.
- (ii) Audited financial statements/ annual report for the previous financial year, (period covered shall not be less than twelve months)
- (iii) Draft of US \$ 10,000 in favor of 'Securities and Exchange Board of India' payable in New York.

Appendix C: Application Form for Registration of Sub Account

Form AA
Application Form for Grant of Certificate of Registration as Sub-account
[See regulation 12(1)]

1. Details of the applicant

1.1 Name and address of the Applicant:

Name			
Address			
Postal Code:		Country:	
Telephone No.		Fax No.	

The client needs to mention the name in which they intend to carry out investment activities in India. It should also be the same in which they have sought registration with their local regulatory bodies. Also mention applicant address

1.2 Date of Incorporation / establishment

The applicant needs to provide the date when the applicant was set up in dd/mm/yyyy format.

1.3 Place and Country of Incorporation:

Place:		Country:	
--------	--	----------	--

The applicant needs to provide the place where the applicant was set up.

1.4 Legal form of the applicant:

The client needs to mention the legal form of the applicant

2. Category of the applicant

2.1 Please select the most appropriate category of the applicant:

- | | |
|---|--|
| <input type="checkbox"/> Broad Based Fund | <input type="checkbox"/> Broad Based Portfolio |
| <input type="checkbox"/> Proprietary fund of the FII | <input type="checkbox"/> University Fund |
| <input type="checkbox"/> Foreign Corporate | <input type="checkbox"/> Endowment |
| <input type="checkbox"/> Foundation | <input type="checkbox"/> Charitable Trust |
| <input type="checkbox"/> Charitable Society | <input type="checkbox"/> Sovereign Wealth Fund |
| <input type="checkbox"/> Foreign Individual (Please furnish requisite information in 2.4) | |

The applicant needs to apply in one of the categories stated above. If the investor does not fall into any categories, the applicant should provide SEBI with details of the structure of the applicant and the nature of business

2.2. In case of broad based fund / broad based Portfolio, please specify the constitution:

- | | |
|---|---|
| <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Pension Fund |
| <input type="checkbox"/> Insurance | <input type="checkbox"/> Investment trust |
| <input type="checkbox"/> Others (only if it does not satisfy any other category): | |

Please tick the appropriate box above.

(Please state the corpus of the fund, Generic type and Number of investors in the fund along with their respective proportionate holdings in a separate annexure in the following format)

These details need to be provided for all the above categories. Sr. No is a short form of serial number denoting the numbering of the points like 1,2, 3 etc.,.The Generic Type of Investors means the various type of investors who are holding the investments in the FII i.e. retail investors, bank, pension fund etc along with the percentage of holding. Please also confirm from the client that no single investor holds more than 49% of the holding in the total amount invested by the applicant. If any investor/s is holding more than 49% then they need to provide a confirmation below the table, as a note, that this investor meets the broad-based criteria. Additionally, please request the client to mention the total amount, with currency, to be invested in the corpus of the fund column

Sr. No.	Generic Type of Investors	No. of Investors	Percentage of Holding
Total Corpus of the Fund			

2.3 In case of Foreign Corporate please specify the name of the Exchange/s where the applicant is listed:

Please mention the name of the exchange/s only if the client is applying for as a Foreign Corporate else mention 'N/A'

2.4 In case of an Foreign Individual applicant, please specify the nationality and passport no. of the applicant:

Please mention these details only if the client is applying for as a Foreign Individual else mention 'N/A'

2.5 Classification of the applicant:

*This is a mandatory field and thus the applicant needs to mention the appropriate details. Earlier SEBI wanted any one of the below suitable to be selected but the recent change in the regulations has given the option of applicant investing either in 100 % debt **OR** Equity: Debt (without any particular ratio). Thus the client can mention their classification by cancelling the 70:30 option, if need be, but we cannot change the forms currently as SEBI has verbally advised that they shall change these forms and inform us.*

~~70:30~~ (Equity: Debt) 100 % Debt

2.6 If the applicant is applying as a Proprietary fund of the FII, whether such funds would be invested through Multi-Managed Structure?

Please mention 'N/A' if applicant applying as a broad-based fund

YES NO

3. Details of taxation authority

We have observed that SEBI requires the below details irrespective of the client falls under the zero taxation bracket

Please provide following details of the authority where the applicant is subject to taxation.

Name			
Address			
Postal Code:		Country:	
Telephone No.		Fax No.	
Web-site			
E-mail id, if any			

3.2 Unique Taxation-Id/Number (if any):

Details of the number or the code provided by the tax authority is to be mentioned by the client

4.1 Details of the domestic custodian

Name of the Bank and Branch	The Hongkong and Shanghai Banking Corporation Limited (HSBC)
SEBI Reg. No.	IN/CUS/009

4.2 Details of designated bank:

Name	The Hongkong and Shanghai Banking Corporation Limited (HSBC)
Address	52 / 60, M.G Road, Fort
	Mumbai
Postal Code	400 001
Country	India

5. Declaration to be furnished by the Foreign Institutional Investor

A. We declare that:

- no winding up orders have been passed against the applicant.
- no order suspending or debaring the applicant from permanently carrying on activities in the financial sector has been passed by any regulatory authority;
- no order withdrawing or refusing to grant any license/approval to the applicant which has a bearing on the securities market has been passed by any authority in the preceding five years;
- any penalty imposed (including monetary penalty) by any regulatory authority has been undergone or paid.

B. In case the sub-account applicant is a Foreign Corporate:

- its securities are listed on a stock exchange outside India;
- it has a asset base of not less than two billion US dollars;
- it has an average net profit of not less than fifty million US dollars during the three financial years preceding the date of the application;

OR

In case the sub-account applicant is a Foreign Individual:

- has a networth of not less than fifty million US dollars;

- b) holds the passport of a foreign country for a period of at least five years preceding the date of application;
- c) holds a certificate of good standing from a bank;
- d) is a client of the foreign institutional investor or any other entity which belongs to the same group as the foreign institutional investor, for a period of at least three years preceding the date of the application;

6. Undertakings

A. Undertakings to be submitted by FII

- (i) In case the sub-account applicant is a broad based fund:

"We undertake that the proprietary funds of *(give name of the Foreign Institutional Investor)* shall not be invested through _____ *(give name of the sub-account applicant)*."

OR

- (ii) In case the sub-account applicant is a proprietary fund of the Foreign Institutional Investor:

"We undertake that only the proprietary funds of the *(give name of the Foreign Institutional Investor)* shall be invested through _____ *(give name of the sub-account applicant)*."

(Please Strike off which is not applicable)

B. Further declaration and undertaking:

- 1. We further declare that:

- a. the Foreign Institutional Investor through whom an application for registration of sub-account is made, is authorized to invest on behalf of the sub-account;
- b. the income of the applicant is from known and legitimate sources;
- c. the applicant is not a non-resident Indian.
- d. the foreign institutional investor through whom the application for registration of sub-account is made shall be responsible and liable for all acts of commission and omission of this sub-account and other deeds and things done by such sub accounts under these regulations, irrespective of whether discretion is exercised or not by the foreign institutional investor in respect of the sub-account.
- e. the above obligation of the foreign institutional investor shall, however, not be deemed to detract from any responsibility or liability which the sub account shall incur under the Regulations made by the Board or under any law for the time being in force in India.

- 2. We hereby agree and declare that the information provided and the undertakings given above are complete and true.

- 3. We further undertake that we will immediately notify the Securities and Exchange Board of India and the Reserve Bank of India of any change in the information provided.

<hr/> Authorized Signatory of the Sub Account Applicant <i>(Please mention the name of the sub account)</i>		<hr/> Authorized Signatory of the Foreign Institutional Investor <i>(Please mention the name of the FII)</i>	
Name:		Name:	
Date:		Date:	

NOTE: - PLEASE DELETE THE EXPLANATORY COMMENTS, MENTIONED IN RED, FROM THE ORIGINAL DOCUMENT AS THIS IS ONLY FOR INFORMATION

Note:

Securities and Exchange Board of India (SEBI) and Reserve Bank of India (RBI) reserve the right to call for any further information from the applicant regarding his application.

Applications along with necessary documents should be submitted at "SECURITIES AND EXCHANGE BOARD OF INDIA, Plot No.C4-A,'G' Block,Bandra Kurla Complex, Bandra(East), Mumbai 400051, INDIA"

Based on our discussions with SEBI, we have prepared a detailed note in question and answer (Q&A) format to help address issues that clients may have with regard to the MIM structure.

Q. What is MIM structure that has been approved by SEBI? Which FIIIs are allowed such structure?

A. SEBI allows a fund, which is managed by more than one investment manager (IM), to obtain registration as a FII, and to register the separate pools of funds managed by separate IMs as sub-accounts of this FII.

Only those FIIIs, which are, fund themselves are allowed to register under MIM structure. FIIIs which are investment managers / asset management companies are not allowed to have MIM structure.

Q. What are the restrictions applicable to FIIIs / sub-accounts registered under MIM structure?

A. A fund, which is registered, as a multi-managed FII must ensure the following:

- i. The collective investment of its sub-accounts in a company should not exceed 10 per cent of the share capital of the company, and
- ii. All its sub-accounts must use the same local custodian in India.

Q. What is the convention for nomenclature of the accounts?

A. SEBI has not prescribed any nomenclature. From our experience, we find that the example given below depicts a suitable naming convention.

Let's say, "Fund A" is managed by two fund managers, "XYZ" and "PQR"

- The FII will be named "Fund A", and
- The sub - accounts can be named as "Fund A - XYZ" and "Fund A - PQR".

It is advisable that the name of the fund and the investment manager both be mentioned in sub-accounts.

Q. What is the process of applying for such a registration?

A. The application formalities and fee are same as in case of normal FIIIs / sub-accounts. The fund will have to complete the FII application form and as many sub-account application forms as the number of IMs managing the fund. There is no limit on the number of IMs that can operate in the market for one fund.

In addition, the fund should mention in their cover letter to SEBI, or in the body of the application, that they wish to register as a multi-managed fund.

It is important to note that all the sub-accounts of a multi-managed FII must appoint the same local custodian in India. Also, the sub-account application form should indicate that the proprietary funds of the FII are being invested.

Q. What about entities which are already registered in the market as FIIIs or sub-accounts of FIIIs and wish to convert themselves into multi-managed FIIIs?

A. This is best answered by considering the various possible scenarios for existing structures, which are detailed below:

a) *FII investing on their own behalf (i.e. without sub accounts)* - An existing FII investing on its own behalf may register with multiple IMs managing its proprietary funds. Such an FII will have the option of continuing its investments as an FII or converting the investments to those of a sub account. The pools of funds that are managed by the various IMs would however need to register themselves as sub-accounts under the FII.

For example, if the FII is presently registered as A, then the FII may continue making investments through the FII as A and have multiple sub accounts as A-XYZ, A-PQR, etc. where XYZ and PQR are the other IMs. Alternatively the FII can register as a sub-account, A-A with the other sub-accounts as A- XYZ, A-PQR, etc.

b) *FII that maintain only one account in India but are presently being managed by multiple managers outside India* - SEBI have indicated that they will consider applications to split the present investments into various sub-accounts where the sub-accounts will be pools of funds managed by different IMs.

For example, if the FII is presently registered as a fund, say A, with investment managers XYZ and PQR then they may apply to SEBI for sub-accounts A-XYZ and A-PQR and seek approval to split the current investments into the two sub-accounts. Discussions indicate that SEBI will permit free of payment transfer of such investments.

c) *FII managing third party sub-accounts* - If a third-party sub-account is managed by multiple IMs, the sub-account will need to register itself as an FII.

Therefore, the sub-account will need to convert itself to an FII with the pools of funds managed by multiple IMs as its sub-accounts. It will also need to seek approval from SEBI to transfer securities free of payment from the present structure to the new structure.

For example, say an FII, A, has two sub-accounts A1 and A2, where both the sub-accounts are multi-managed, then both A1 and A2 would need to individually register themselves as FIIs with multiple managers.

d) *Umbrella funds as FII and sub-funds as sub-accounts* - If the sub-funds are managed by multiple IMs, then the sub-funds can convert themselves into multi-managed FIIs. Alternatively, the umbrella fund can continue as the FII with the various pools of funds managed by multiple IMs being registered as sub-accounts. In the latter case it is possible that the investments of various sub-funds would be commingled and identified at the IM level.

To illustrate the alternate structure with an example, say an umbrella fund, A, has sub-funds A1, A2 and A3, which are managed by multiple IMs as follows:

A1 - X and Y
A2 - X and Z
A3 - Y and Z

Where X, Y and Z are IMs.

Then A will be registered as the FII and A-X, A-Y and A-Z will be the registered sub-accounts. A-X's investments would then be the commingled investments of sub-funds A1 and A2. Similarly A-Y and A-Z would be the commingled investments of A1 and A3, and A2 and A3 respectively.

e) *FII investing their own funds, where the investing entity is registered as a proprietary sub-account under the FII.* - To illustrate with an example, say the FII, A, has a sub-account ABC which is a proprietary sub account and now wishes to have its proprietary funds managed by two different IMs including itself, i.e. A and B.

Then, ABC would need to register itself as a new FII with ABC-A and ABC-B as its multi-managed sub-accounts.

The application process would follow a procedure similar to a new application. We understand that SEBI will consider permitting the free of payment transfer of assets from the existing sub account to new accounts set up as ABC-A and ABC-B.

We understand that the reason why SEBI has requested for the proprietary sub-account to register as an FII is that the structure they have permitted is for the fund to be registered as the FII and the IM managed pools as the sub accounts.

Q. What will be the disclosure requirements for a fund that is multi-managed?

A. The disclosure requirements under the SEBI (Substantial Acquisition of Shares and Takeover) Regulations 1997, i.e. the Takeover Code, remain unchanged. The FII will continue to disclose its shareholding at the 5 per cent limit i.e. across all multiple managed sub-accounts.

The disclosure requirement under the Insider Trading Regulations will be at the FII level for such a structure and not at the sub account level. Therefore, while in a non-multiple IM structure a disclosure is required only when a sub account reached the limit of 5 per cent of the shares of the company, in a multi-managed FII structure a disclosure will be required when the aggregate investments of the FII reach 5 per cent.

Appendix E: POWER OF ATTORNEY (FII to HSBC)

TO ALL TO WHOM THESE PRESENTS SHALL COME, we, (please insert the full name of the FII) of registered address in (please mention the Registered address of the FII) having registered with the SEBI as Foreign Institutional Investors (FIIs) and authorised to invest in Indian stock markets, SEND GREETINGS.

AND WHEREAS we(Please insert the full name of the FII) have entered into a custodial agreement with, (please insert the full name of the Global Custodian) and.(Please insert the registered address of the global custodian) to act as such Global Custodian.

AND WHEREAS the.....(please insert the full name of Global Custodian) being the Global Custodian has entered into a sub-custodian agreement with The Hongkong and Shanghai Banking Corporation Limited having an office in India at 52 / 60, M.G Road, Fort, Mumbai 400 001, India to act as local/sub-custodian in India.

AND WHEREAS the transactions intended to be completed warrant a power of attorney to be granted in favour of the local sub-custodian.

NOW KNOW YE ALL AND THESE PRESENTS WITNESS that we, the (please insert the full name of the FII), hereby appoint The Hongkong and Shanghai Banking Corporation Limited as our attorneys in our name and on our behalf to make and sell investments, only in accordance with the instructions of the Global Custodian, to hold investment or any one or more of them in the safe custody, account of the bank and for this purpose execute Transfer Deeds for purchase or sale as the case may be and keep in the safe-custody account of the Bank to operate upon such specific bank accounts as may be designated by us for the purpose of giving effect to the immediately foregoing powers or any of them, to demand, recover, enforce payment of, collect, receive and give good and sufficient receipts, discharges and indemnities for and in respect of all dividends, interest, income debts, sums due under any such investments, securities, rights and things to which we are or may be entitled whether solely or jointly with any other person or persons or corporation; to credit the amounts so realized to such specific bank accounts as may be designated by us for the purpose, in accordance with our instructions; **to request for dematerialisation and/ or rematerialisation of securities held by the Bank on our behalf and sign all related deeds, documents and papers as may be required in relation to the same;** to attend and vote or appoint any person to attend and vote as our proxy at meetings and to effect, sanction or oppose any exercise or modification of rights relating to the said investments or any of them, in accordance with our instructions; to attend and vote or appoint any person to attend and vote as proxy at any meetings of creditors in relation to the said investments or any of them, in accordance with our instructions; to delegate to such person/body corporate to be appointed Constituted Attorney in our name and that of our attorneys with the power to do all acts, things and deeds set out in these presents; to make and file proofs of claim and generally to represent us in any liquidation, bankruptcy, or insolvency all in relation to the aforesaid investments or any of them; to sign, seal, execute, deliver and to do such deeds, transfers, agreements, receipts, releases, discharges, instruments, acts and things as may be necessary in relation to the powers hereby granted or any of them; and to concur with any other person or persons or corporation in the doing of any act or thing hereby authorised, including appointment of legal advisors, on our behalf and in our name sign and execute Vakalatnamas, Pleadings, Affidavits and appeals and to commence or defend any action in relation to the powers hereby granted as our attorneys may deem fit.

Initial_____

AND we, hereby undertake for ourselves, our executives and administrators and assigns to ratify and confirm everything that our said attorneys and constitutive attorneys shall have so far done or do or purport to do by virtue of these presents.

ALL costs, charges and expenses reasonably and bonafide incurred by our attorneys as a consequence of any act, deed, matter or thing done in pursuance to the powers or any of them herein contained shall be borne and paid by us.

We hereby waive and agree not to prefer any claims or demands, actions, suits, reckonings, and proceedings, costs, charges and expenses and losses and damages against the attorneys by reason of any loss and/or damage that may be suffered by us by reason of any act, deed, matter or thing done by the attorneys without negligence and in good faith and in pursuance to the powers or any of them herein contained and agree to indemnify and keep indemnified the attorney from all claims and demands, actions, suits, reckonings and proceedings, costs, charges and expenses and losses or damages that may be brought against and/or suffered by us and/or them by reason of any act, deed, matter or thing done by the attorneys without negligence and in good faith and in pursuance to the powers or any of them herein contained.

We do hereby agree to be responsible in respect to, and unconditionally agree and undertake to reimburse the Attorney forthwith upon first demand, all payments made by the Attorney to the Government of India or any other Governmental body in respect to any Capital Gains Tax however arising and which is assessed by the Indian Tax Authorities on ourselves and / or on or in respect of any sales of shares, securities and stocks in India by or on behalf of ourselves, and against all costs, liabilities, claims, penalties, interest and consequences howsoever arising there from or in connection therewith. For the avoidance of doubt, we acknowledge that the Indian Tax Authorities are presently entitled to claim additional tax at any time during the following three financial years from the assessment year, or at any time thereafter for valid reasons, and that our responsibilities for payment and reimbursement shall continue to apply in any such event and notwithstanding the termination of any relevant agreement.

In witness whereof we have hereunto set our hand this _____ day of _____ 20XX_.

Signed by

Authorised signatory of (name of FII)

NOTE:

- THE POA SHOULD BE NOTARISED AND CONSULARISED –
 - (i) CONSULARISATION IS NOT REQUIRED IF THE DOCUMENT HAS BEEN EXECUTED IN A COMMONWEALTH COUNTRY.
 - (ii) CONSULARISATION CAN BE SUBSTITUTED BY AN APOSTILLE CERTIFICATE IF THE DOCUMENT IS EXECUTED IN JURISDICTIONS WHICH ARE MEMBERS OF THE HAGUE CONVENTION ABOLISHING THE REQUIREMENTS OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS)
- ALL PAGES OF THE POA ARE TO BE INITIALLED BY THE PERSON SIGNING THE POA

Appendix F: POWER OF ATTORNEY (Sub-Account to HSBC)

TO ALL TO WHOM THESE PRESENTS SHALL COME, we, (insert the full name of the Sub Account) of registered address in (please insert the Registered address of the sub account) have been authorised to invest in Indian stock markets, SEND GREETINGS.

AND WHEREAS the (please insert the full name of the FII) of registered address in (please insert the FII Registered address) is a Foreign Institutional Investor in India registered with the SEBI.

AND WHEREAS the, (please insert the full name of the FII) has entered into a custodial agreement with the (please insert the full name and registered address of Global Custodian to act as such Global Custodian

OR

AND WHEREAS we, (please insert the full name of sub-account name) have entered into a custodial agreement with the (please insert full name and registered address of Global Custodian) to act as such Global Custodian.

AND WHEREAS, (please insert full name of Global Custodian) being the Global Custodian has entered into a sub-custodian agreement with The Hongkong and Shanghai Banking Corporation Limited having an office in India at 52 / 60, M.G Road, Fort, Mumbai 400 001, India, to act as local/sub-custodian in India.

AND WHEREAS the transactions intended to be completed warrant a power of attorney to be granted in favour of the local sub-custodian.

NOW KNOW YE ALL AND THESE PRESENTS WITNESS that we, (please insert the name of sub-account), hereby appoint The Hongkong and Shanghai Banking Corporation Limited as our attorneys in our name and on our behalf to make and sell investments, only in accordance with the instructions of the Global Custodian, to hold investment or any one or more of them in the safe custody, account of the bank and for this purpose execute Transfer Deeds for purchase or sale as the case may be and keep in the safe-custody account of the Bank to operate upon such specific bank accounts as may be designated by us for the purpose of giving effect to the immediately foregoing powers or any of them, to demand, recover, enforce payment of, collect, receive and give good and sufficient receipts, discharges and indemnities for and in respect of all dividends, interest, income debts, sums due under any such investments, securities, rights and things to which we are or may be entitled whether solely or jointly with any other person or persons or corporation; to credit the amounts so realized to such specific bank accounts as may be designated by us for the purpose, in accordance with our instructions; to request for dematerialisation and/ or rematerialisation of securities held by the Bank on our behalf and sign all related deeds, documents and papers as may be required in relation to the same; to attend and vote or appoint any person to attend and vote as our proxy at meetings and to effect, sanction or oppose any exercise or modification of rights relating to the said investments or any of them, in accordance with our instructions; to attend and vote or appoint any person to attend and vote as proxy at any meetings of creditors in relation to the said investments or any of them, in accordance with our instructions; to delegate to such person/body corporate to be appointed Constituted Attorney in our name and that of our attorneys with the power to do all acts, things and deeds set out in these presents; to make and file proofs of claim and generally to represent us in any liquidation, bankruptcy, or insolvency all in relation to the aforesaid investments or any of them; to sign, seal, execute, deliver and to do such deeds, transfers, agreements, receipts, releases, discharges, instruments, acts and things as may be necessary in relation to the powers hereby granted or any of them; and to concur with any other person or persons or corporation in the doing of any act or thing hereby authorised, including appointment of legal advisors, on our behalf and in our name sign and execute Vakalatnamas, Pleadings, Affidavits and appeals and to commence or defend any action in relation to the powers hereby granted as our attorneys may deem fit.

AND we, hereby undertake for ourselves, our executives and administrators and assigns to ratify and confirm everything that our said attorneys and constitutive attorneys shall have so far done or do or purport to do by virtue of these presents.

ALL costs, charges and expenses reasonably and bonafide incurred by our attorneys as a consequence of any act, deed, matter or thing done in pursuance to the powers or any of them herein contained shall be borne and paid by us.

We hereby waive and agree not to prefer any claims or demands, actions, suits, reckonings, and proceedings, costs, charges and expenses and losses and damages against the attorneys by reason of any loss and/or damage that may be suffered by us by reason of any act, deed, matter or thing done by the attorneys without negligence and in good faith and in pursuance to the powers or any of them herein contained and agree to indemnify and keep indemnified the attorney from all claims and demands, actions, suits, reckonings and proceedings, costs, charges and expenses and losses or damages that may be brought against and/or suffered by us and/or them by reason of any act, deed, matter or thing done by the attorneys without negligence and in good faith and in pursuance to the powers or any of them herein contained.

We do hereby agree to be responsible in respect to, and unconditionally agree and undertake to reimburse the Attorney forthwith upon first demand, all payments made by the Attorney to the Government of India or any other Governmental body in respect to any Capital Gains Tax however arising and which is assessed by the Indian Tax Authorities on ourselves and/or on or in respect of any sales of shares, securities and stocks in India by or on behalf of ourselves, and against all costs, liabilities, claims, penalties, interest and consequences howsoever arising there from or in connection therewith. For the avoidance of doubt, we acknowledge that the Indian Tax Authorities are presently entitled to claim additional tax at any time during the following three financial years from the assessment year, or at any time thereafter for valid reasons, and that our responsibilities for payment and reimbursement shall continue to apply in any such event and notwithstanding the termination of any relevant agreement.

In witness whereof we have hereunto set our hand this _____ day of _____ 20XX.

Signed by..... (

Authorised signatory of (name of sub-account)

NOTE:

- THE POA SHOULD BE NOTARISED AND CONSULARISED –
 - (i) CONSULARISATION IS NOT REQUIRED IF THE DOCUMENT HAS BEEN EXECUTED IN A COMMONWEALTH COUNTRY.
 - (ii) CONSULARISATION CAN BE SUBSTITUTED BY AN APOSTILLE CERTIFICATE IF THE DOCUMENT IS EXECUTED IN JURISDICTIONS WHICH ARE MEMBERS OF THE HAGUE CONVENTION ABOLISHING THE REQUIREMENTS OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS)
- ALL PAGES OF THE POA ARE TO BE INITIALLED BY THE PERSON SIGNING THE POA

Appendix G: Format of Letter / SWIFT / Fax intimating appointment of Tax Consultant

We have appointed.....(mention the name of the tax consultant) as the tax consultant of.....(mention name of the FII / Sub account).

Please arrange to:

1. Release all trade related information, cashier order for payment of taxes pertaining to the above mentioned sub account to (name of tax consultant).
1. Accept communications from.....(name of tax consultant) including tax computations and certificates and act on basis of such communications.
3. Release details of all previous trades and historical information required by.....(name of Tax consultant) when requested by them for the purpose of computation of tax.

Appendix H: Format of an account opening instruction for an FII / sub-account

Please arrange to open cash, securities and depository accounts for the.....(mention name of the FII / Sub account). Please also arrange to apply for the UCC on our behalf.

(If a depository account on CDSL is required, client may specify in the account opening instructions, otherwise we will open a depository account on NSDL only)

Where clients wish to invest in Indian Mutual funds.

With effect from 1 February 2008 new investments of INR 50000 and above in Indian Mutual Funds (IMFs) can be made only after completion of the Know Your Customer (KYC) procedures established by the Association of Mutual Funds of India (AMFI). Investors making a fresh investment or additional purchase for amounts equal to and greater than INR 50,000 in IMFs will be required to complete the KYC verification process established by the Association of Mutual Funds India (AMFI). Clients can instruct us to complete the AMFI's KYC process by providing us the following instructions.

Please arrange to complete the KYC process required for investment in Indian mutual funds. We confirm that we have read the declaration as stated in the KYC application form and have understood and agree with the instructions / terms / conditions mentioned therein.

(We have attached a copy of the KYC application form for your reference.)



Adobe Acrobat 7.0
Document

Appendix I: Observations from recent experience on FII/sub-account registration

In the recent past we have observed a certain pattern in the additional information that SEBI has been seeking from certain types of FII/sub-account applicants. We provide below our observations on the same. We wish to emphasise that these are not resulting from any changes in the regulations, the application forms or the supporting documentation. As has been the case earlier, SEBI is within its rights to seek additional information from every applicant.

Case A

An FII has applied to seek sub-account registration in the category of “broad-based fund” for a Fund, which has not yet been launched or set up

SEBI is likely to ask the FII whether the proposed Fund is an “India-dedicated” fund i.e. whether the Fund is intended to invest only in the Indian capital markets and not in any other market. If the FII confirms that the Fund will invest only in India, then SEBI is likely to grant registration to the proposed Fund as a broad-based sub-account.

If the FII responds to SEBI that the proposed Fund will invest in markets other than India as well, it is likely that SEBI will ask the FII to launch the Fund in the other markets, attain broad-based status and only then re-apply to SEBI for sub-account registration.

SEBI's view is that at the time of making the application in the category of “broad-based fund”, the proposed sub-account should fulfil the criteria of being a broad-based fund. They do appreciate, however, that if a Fund is meant to invest only in India, then it cannot assume broad-based status till it is actually launched and starts investing. Therefore they have made a concession for India-dedicated Funds, and in some cases for Funds whose mandate is to invest in only a few countries other than India e.g. a BRIC markets Fund.

Case B

An FII, registered in the category of a “Trustee”, has applied to seek sub-account registration in the category of “broad-based fund” for a Fund

SEBI is likely to ask the following questions:

- a. Who is the investment advisor/manager for the sub account applicant?
- b. With which regulatory authority is the investment advisor/manager registered?

Only if the Trustee FII provides the name of the investment advisor/manager and if such investment advisor / manager is regulated by an appropriate overseas regulatory authority, SEBI is likely to grant sub-account registration.

SEBI's view is that in the case of Trustee FIIs, only those sub-accounts should be granted registration whose investment managers/advisors would be eligible to be FIIs if they were to apply for FII status.

Case C

An FII applicant has provided the English translation of only an extract of its Annual Report and not of the entire Annual Report.

SEBI is likely to ask for an English translation of the entire Annual Report.

Please note that above, by no means, is an exhaustive list of the clarifications being sought by SEBI or of the cases where we have seen additional questions being asked by SEBI.

In addition to the above, there have been some cases where SEBI has rejected applications or delayed approvals. We wish to share these observations with our clients

Case D

Registration of sub-accounts with a reference to "real estate" or "infrastructure" in their names

In the past few months, there have been several applications made by FIIs to register sub-accounts, which have a reference to "real estate" or "infrastructure" in their names. SEBI has not approved these applications nor has it returned the applications citing reasons why they cannot be approved.

From informal discussions, we understand that these applications have been put "on hold" pending further clarity from the Reserve Bank of India and/or the Ministry of Finance with respect to the Government's stand on foreign investments in the real estate sector.

Case E

Applications for FIIs from entities registered in jurisdictions such as Cayman Islands, British Virgin Islands, etc

While the current FII regulations do not discourage applicants from any jurisdiction; in practice, SEBI is not known to have approved FII applications from jurisdictions where regulators are not "ordinary members" of the IOSCO. SEBI had suggested that clients from such jurisdictions had an option to register a fund manager regulated in a jurisdiction like USA, UK, etc. as the FII and then register the Cayman or BVI funds as broad-based sub-accounts of that FII.

However, in our recent experience SEBI has started according FII registration to Investment Managers who though domiciled in Cayman Islands, are registered with the US Securities Exchange Commission as Investment Advisors.

Case F

Third Party Sub Accounts

SEBI has verbally advised that they have decided to allow 'Third-party sub-accounts' to invest in India. To enable SEBI to do so such FII's are required to provide an undertaking to SEBI whereby the FII assumes all regulatory obligations related to such "third-party" sub-accounts. SEBI has verbally communicated the following format of the undertaking, which needs to be provided on the letterhead of the FII -

Quote

We (name of the FII and SEBI Reg No), the FII for (sub-account name) undertake to remain responsible and liable for all acts of commission and omission and other deeds done by (sub-account name) in our capacity as its FII.

This undertaking will remain valid irrespective of whether the FII exercises discretion in respect of the funds of the sub account.

Unquote

Case G

Hedge Fund applications

In late September 2007, SEBI had announced that hedge fund managers and hedge funds can invest in India provided they meet the standard criteria for getting registered as FII and sub-account. One of the criteria is that the FII applicant has to provide its audited financial statements along with the application to SEBI. Of late, SEBI has adopted a liberal view in cases where the FII applicant does not have audited financial statements; they have considered the audited financial statements of the fund managed by the FII applicant provided a sub-account application has been filed for that fund (whose audited financial statements are available and have been provided to SEBI).

Case H

Entities based in Mauritius who apply for FII registration under the category of "Investment Manager / Advisor"

SEBI has verbally advised HSBC that entities based in Mauritius who apply for FII registration under the category of "Investment Manager / Advisor", henceforth need to submit the application along with the following documents:

1. Certified true copy of the Certificate of Registration issued by the Financial Services Commission (FSC), Mauritius
2. Certified true copy of the license for Investment Advisor issued by the FSC, Mauritius

We understand that the first document may be requested for all Mauritius based FII applications.

Case I

FII applying as a fund

SEBI has verbally advised HSBC that any FII, applying as a fund (section 2.1 in FORM A) must be broad based in nature at the time of making the application. If the FII applicant is not a fund, then a broad based sub-account must be registered along with the FII.

In May 2008, SEBI had amended the FII regulations as per which, a broad based fund is a fund, established or incorporated outside India, which has at least twenty investors with no single individual investor holding more than 49 percent of the shares or units of the fund. If the broad based fund has institutional investors it is not necessary for the fund to have twenty investors and the fund may still apply as a broad based fund. However, if the fund has an institutional investor who holds more than forty nine percent of the shares or units in the fund, then the institutional investor must itself be a broad based fund.